

Section 10.23. Administration-Amendments and Conditional Use Permit.

Subd. 1. **Procedures.**

A. Request for amendments or conditional use permits, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as outlined in Section 10.27. This fee shall not be refundable. Such application shall also be accompanied by complimentary copies or detailed written and/or graphic materials that will fully explain the proposed change, development, or use. The Zoning Administrator shall refer this said application, along with all related information, to the City Planning Commission for its consideration.

B. The Zoning Administrator, on behalf of the Planning Commission, shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. Such notice shall also be mailed not less than ten (10) days to all property owners of record according to the County tax records within three hundred and fifty (350) feet of the property to which the request relates. If the request relates to the "S" Shoreland District or the "FP" Flood Plain District, said notice shall be also mailed to the Commissioner of the Minnesota Department of Natural Resources or his authorized agent at least ten (10) days prior to such hearings. A copy of the notice and a list of property owners and addresses to which the notice was sent shall be attested to by the Zoning Administrator or the City Clerk and made a part of the official record. The failure to give mail notice to individual property owners, or defects in notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with the subsection has been made.

Source: Ord. 547-2<sup>nd</sup> Series  
Effective Date: 2/14/05

C. The Planning Commission shall consider requests accompanied by a complete application and hold a public hearing at its regularly scheduled meeting unless the filing date falls within twenty (20) working days of said meeting, in which case the request will be placed on the agenda and considered at the regular meeting following the next regular meeting. The Zoning Administrator shall refer said application, along with all related information, to the

Planning Commission for its consideration. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed amendment or conditional use.

Source: Ord. 547-2<sup>nd</sup> Series  
Effective Date: 2/14/05

D. The Planning Commission shall consider possible effects of the proposed amendment or conditional use. Its judgment may be based upon but not limited to the following findings of fact:

1. the relationship to the City's Future Land Use Plan.
2. the geographical area involved.
3. whether such use will tend to or actually depreciate the area in which it is proposed.
4. the character of the surrounding area.
5. the availability and design capabilities or capacities of the existing and proposed utilities.
6. the adequacy of existing and proposed street systems.
7. whether such use will place undue financial burden on the City.

E. The Planning Commission and the City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony at the expense of the applicant.

F. Within sixty (60) days from the date of the public hearing, the Planning Commission shall make a findings of fact and recommend such action or conditions relating to the request of the City Council. For all conditional uses, the following conditions may be required by the Planning Commission:

1. The land area and setback requirements of the property containing such a use or activity be the minimum established for the district.

2. When abutting a residential use in a residential district, the property be screened and landscaped in compliance with Section 10.03, Subd. 2G of this ordinance.

3. When applicable, all City, State and Federal laws, regulations and Ordinances be complied with and all necessary permits secured.

4. All signs be in compliance with Section 10.24 of this ordinance.

5. Adequate off-street parking be provided in conformance with Section 10.03, Subd.5. Such parking be screened and landscaped from abutting residential uses in compliance with Section 10.03, Subd. 2G of this Ordinance.

6. The proposed water, sewer and other utilities be capable of accommodating the proposed use.

7. The street serving the use or activity be of sufficient design to accommodate the proposed use or activity and such use or activity not generate such additional traffic to create a nuisance or hazard to existing traffic or to surrounding land uses.

8. All access roads, driveways, parking areas, and outside storage, service or sales areas be screened from view from the public streets and abutting residential uses or districts.

Source: Ord. 338-2<sup>nd</sup> Series  
Effective Date: 2/08/93

9. That no outdoor storage, display, service, sales and rental as authorized by Section 10.11 and 10.15 be allowed except in conformance with Section 10.03, Subdivision 2D of this Ordinance.

Source: Ord. 646-2<sup>nd</sup> Series  
Effective Date: 10/13/09

10. All lighting be designed as to have no direct source of light visible from adjacent residential areas or from the public street.

11. The use or activity be properly drained to control surface water run-off as set forth in Section 10.03, Subd. 2E or this Ordinance.

12. The architectural appearance and functional plan of the building site not be so dissimilar to the existing buildings or areas to cause impairment to property values or constitute a blighting influence.

13. In "S" Shoreland areas additional evaluation criteria and conditions need to be considered as set forth in Section 10.20, Subd. 5G of this Ordinance.

14. Environmental studies be conducted in compliance with Section 10.29 of this Ordinance.

15. Waste transfer stations authorized by Section 10.15 of this Ordinance shall provide:

a. That all waste be held and waste transfers take place inside of a fully enclosed building,

b. That no waste remain on-site in excess of 72 hours,

c. That the City retains the right of inspection at reasonable times to determine compliance with its rules, regulations, ordinances, etc., and

d. That no outdoor storage be allowed except in conformance with Section 10.15, Subdivision 4A of this Ordinance.

Source: Ord. 373-2nd Series

Effective Date: 6/26/95

16. Open and outdoor sales and rental of motor vehicles authorized by Sections 10.11 and 10.15 of this Ordinance shall provide:

Source: Ord. 646-2<sup>nd</sup> Series

Effective Date: 10/13/09

a. A minimum of 2000 square feet of paved, off-street surface for the display of vehicles to be sold or rented, customer and employee parking and ingress and egress lanes, and;

b. An average of 200 square feet of paved, off street surface for each vehicle to be displayed.

c. No display of vehicles to be sold or rented in the boulevard area of a public street or right-of-way.

All conditions pertaining to a specific site are subject to change when the Planning Commission or City Council, upon investigation, finds that the community safety, health, welfare and public betterment can be served or as well or better by modifying the conditions.

G. Upon receiving the report and recommendation of the Planning Commission, or until sixty (60) days after the first (1st) Planning Commission meeting at which the request was considered, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Such report and recommendation shall be entered into and made part of the permanent record of the City Council meeting.

H. Upon receiving the report and recommendation of the Planning Commission, the City Council shall either:

1. approve or disapprove the request as recommended by the Planning Commission, or

2. approve or disapprove the recommendation of the Planning Commission with modifications, alterations or differing conditions. Such modifications, alterations or differing conditions shall be in writing and made part of the Council's records, or

3. refer the recommendation back to the Planning Commission for further consideration.

Approval of a request for a conditional use permit shall require passage by a majority vote of the full Council. Approval of a request for a zoning amendment shall require passage by a four fifths (4/5) vote of the full Council. The Zoning Administrator or the City Clerk shall notify the applicant of the Council's action and if such action relates to the land located in the "S" Shoreland District or in the "FP" Flood Plain management District to the Commission or Minnesota Department of Natural Resources of his authorized agent within ten (10) days of the final decision.

I. The decisions of the Planning Commission shall be advisory to the City Council. The decisions of the City Council shall be final subject to appeal to the Board of Appeals as set forth in Section 10.25 and subject to judicial review.

Subd. 2. **Amendments - Initiations.** The City Council or Planning Commission may upon their own motion initiate a request to amend the text or the district boundaries of this Ordinance. Any person, or agent owning real estate or having an interest with property within the City may initiate a request to amend the district boundaries or the text of this Ordinance so as to affect said real estate.

Subd. 3. **Lapse of Conditional Use Permit by Non-Use.**

Whenever within one (1) year after granting a conditional use permit, the work as permitted by the permit should not have been completed, then such permit shall become null and void unless a petition for extension shall be requested in writing and filed with the Zoning Administrator or City Clerk before the expiration of the original conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for final decision.

Subd. 4. **Certified Copies Required.**

A certified copy of every ordinance, resolution, map, regulation, or amendment of the Zoning Ordinance shall be filed with the Recorder's Office of Douglas County. Ordinances, resolutions, maps, regulations, or amendments so filed pursuant to this subdivision do not constitute encumbrances on real property.

Effective Date: 2/08/93  
Source: Ord. 338-2<sup>nd</sup> Series