



City of North St. Paul
Planning Commission
Regular Meeting Agenda

**August 3, 2023
6:30 PM**

The Planning Commission Meeting will be conducted on **August 3, 2023** at 6:30 p.m. in the City Council Chambers of City Hall, located at 2400 Margaret St., North St. Paul.

The Planning Commission also meets via interactive TV under Minn. Stat. 13D.02. Members of the public interested in attending remotely can log in with the following information:

The **August 3, 2023 Zoom meeting can be accessed via:** <https://tinyurl.com/NSPplanning>
(from a PC, Mac, tablet, iPhone or Android device)

Meeting ID: 821 4097 2224 | Password: 362656 or by phone at 1-929-205-6099

*Participants accessing the meeting by phone please use the following meeting ID:
87556902183*

**You can also watch the meeting on our YouTube channel
here:** <https://tinyurl.com/NSPYouTube>

The Planning Commission Zoom meeting will be 'open to the public to listen in, but will be muted from contributing at all times with the exception of the Public Forum or a Public Hearing.

Please join the meeting early to test your audio and video settings. If you join via a device and your audio is not working, you may need to use the dial-in phone number option in order to be heard.

I. Call to Order

II. Roll Call

COMMISSION

Patrick Blees, Chair

Andrew Wise, Vice-Chair

Erik Brenna, Commissioner

Cameron Muhic, Commissioner

Jim Rathe, Commissioner

Jason Nordby, City Council Liaison

STAFF

Brandy Howe, Community Development Director

Chris Cherne, Planning Commission Secretary

III. Adopt Agenda

IV. Approval of Minutes

A. Approval of July 6, 2023 Meeting Minutes

V. Meeting Open to the Public

VI. Public Hearings

VII. Commission Business, Action Items & Recommendations

A. Zoning Code Update

VIII. Reports

IX. Adjournment

The next regularly scheduled Planning Commission meeting is September 7, 2023 at 6:30 PM.



**Planning Commission
Regular Meeting Minutes
July 6, 2023
6:30 PM**

North St. Paul City Hall – Council Chambers
2400 Margaret Street

I. CALL TO ORDER

Chair Patrick Blees called the special meeting to order at 6:30 PM.

II. ROLL CALL

COMMISSION

Patrick Blees, Chair

Andrew Wise, Vice-Chair

Erik Brenna, Commissioner Absent

Cameron Muhic, Commissioner

Jim Rathe, Commissioner

Jason Nordby, City Council Liaison Absent

STAFF

Brandy Howe, Community Development Director

III. ADOPT AGENDA

Blees asked for a motion to adopt the 07-06-2023 meeting agenda.

M/Wise, S/Rathe.

Motion carried 4-0.

IV. APPROVAL OF MINUTES

A. Approval of June 3, 2023 Special Meeting Minutes

Blees asked for a motion to approve the June 3, 2023 special meeting minutes.

M/Rathe, S/Wise.

Motion carried 3-0, with Muhic abstaining.

V. MEETING OPEN TO THE PUBLIC

There were no public comments.

VI. PUBLIC HEARINGS

There were no public hearings scheduled.

VII. COMMISSION BUSINESS, ACTION ITEMS & RECOMMENDATIONS

A. Zoning Map Amendment Discussion



The Planning Commission continued their discussion from the May 4, 2023 meeting and discussed a variety of inconsistencies between the current zoning map and future land use (FLU) map. The Commission reviewed the potential rezoning of the following areas of the city:

Area 10: South Side of 7th Ave Between McKnight and 2nd St

The site is currently zoned Single Family and the FLU designation is Medium Density. If the properties are rezoned, it would give a signal to developers that the City is ready for higher density development. On the contrary, if the parcels were not to be rezoned, it would send a signal that the City is happy with keeping single family housing in that particular area. The Commissioners discussed dwelling units per acre and the long-term benefits of rezoning the parcels to higher density. Blees recommended the Commission consider what the property owners feel about the FLU designation and the potential of rezoning. Muhic stated that since 7th Ave is one of the main corridors in North St. Paul, this area is more prone for redevelopment. Rezoning the parcels would bring it into conformity with other parcels along 7th Ave. Wise agreed and stated apartments are not inherently bad and that cities need them to thrive. The Commissioners agreed to mark Area 10 for potential rezoning.

Area 11: South Side of 7th Ave Between 2nd St and 1st St

The site is currently zoned Medium Density and the FLU designation is High Density. The Commissioners discussed the practicalities of rezoning the parcels to higher density and issues such as transit and parking. The Commissioners ultimately agreed to mark Area 11 for potential rezoning.

Area 12: Block Between 1st Street/Helen St and 3rd Ave/2nd Ave

The site is currently zoned Single Family and the FLU designation is Medium Density. The area is adjacent to parcels zoned for a higher density. The Commissioners agreed to mark Area 12 for rezoning.

Area 13a: Downtown Private Parking

The site is currently zoned High Density and Corridor Mixed Use and the FLU designation is Downtown Mixed Use and High Density. The Commissioners agreed that zoning should match the adjacent multi-use building it serves and marked Area 13a for potential rezoning.

Area 13b: Downtown Private Parking

The triangular parcel is currently zoned High Density and the FLU designation is Downtown Mixed Use. The Commissioners agreed that zoning should match the adjacent building it serves and marked Area 13b for potential rezoning.

Area 14: Area abutting Parking Facility on Corner of 5th Ave and Charles St

The site is currently zoned Single Family and the FLU designation is High Density for the northern parcels and Medium Density for the southern parcels. The Commissioners agreed with the FLU designation of the area and marked Area 14 for potential rezoning.

Area 15a: Area between Charles St and Henry St abutting 7th Ave

The site is currently zoned High Density and the FLU designation is Downtown Mixed Use. The Commissioners agreed to mark Area 15a for potential rezoning.

Area 15b: Area between Charles St and Henry St abutting 8th Ave

The site is currently zoned Single Family and the FLU designation is Medium Density. The Commissioners agreed to mark Area 15b for potential rezoning.

Area 16: Area between 10th Ave and 9th Ave abutting Hwy 120

The site is currently zoned Single Family and the FLU designation is Medium Density. The Commissioners agreed to mark Area 16 for potential rezoning.



Area 17: Area Owned by Old National Bank

The site is currently zoned Downtown Mixed Use and the FLU designation is Corridor Mixed Use. The Commission discussed the benefits of development in this area of the City. The Commissioners agreed to mark Area 17 for potential rezoning.

Area 18: Back Portion of City Hall and the Police/Fire Station

The site is currently zoned Corridor Mixed Use and the FLU designation is Downtown Mixed Use. The Commissioners agreed to mark Area 18 for potential rezoning.

Area 19: Community Center Building, Parking Lot and Stormwater Facility Pond

The site is currently zoned Corridor Mixed Use and the FLU designation is Park and Single Family. The Commissioners agreed to not consider Area 19 for rezoning at this time.

The Commission suggested an informal presentation be given to City Council at an upcoming workshop meeting to receive some initial input. Howe agreed. The presentation can be expected to be given in fall/early winter. Once initial input has been received, the Planning Commission will revisit this topic.

VIII. REPORTS

Howe reported that per the Commission's direction, she had a meeting with the owners of 2264 7th Street regarding the future land use designation of their land. The property owners preferred to keep their existing R-1 zoning and that no action to rezone be made at this time.

Howe reported she is in the early stages of updating the zoning code and plans to begin updating it with the Planning Commission at next month's meeting.

The Parks & Recreation Commission have a parks and open space community survey and asked to spread the word.

Blees, Muhic and Wise praised the Public Works Department for their timely response to issues regarding signs, potholes and meters.

IX. ADJOURNMENT

Blees asked for a motion to adjourn the meeting at 7:43 PM.

M/Rathe, S/Muhic.

Motion carried 4-0.

The next regularly scheduled Planning Commission Meeting is Thursday, August 8, 2023 at 6:30 PM.

Members, please notify any planned absences to:

Chris Cherne
Planning Commission Secretary
651-747-2440
chris.cherne@northstpaul.org



To	Date
Planning Commissioners	August 3, 2023

Agenda Placement #
Commission Business, Action Items & Recommendations

Subject
Zoning Code Update

Background/Facts
Refer to enclosed staff report

Recommended Action
N/A

Attachments

1. PC Staff Report 08-03-23
2. DRAFT Zoning Ordinance Update
3. Existing Zoning Ordinance

Respectfully submitted,
Brandy Howe, Community Development Director

City of North St. Paul

Planning Commission Report

From: Brandy Howe, Community Development Director
Meeting Date: August 3, 2023
Agenda Item: Zoning Code Update



GENERAL INFORMATION

The North St. Paul zoning ordinance was most recently updated in 2015. The 2015 update focused on implementing the Comprehensive Plan, Redevelopment Master Plan, Living Streets Plan, and Downtown Design Manual to promote sustainable development practices and insert smart growth and form-based principles into the ordinance. Key changes from the 1999 to the 2015 ordinance included the establishment of mixed-use districts in lieu of commercial and industrial districts.

The intent of the zoning 2023-24 update is not to discard the carefully considered policy direction set in 2015. This update will be focused on improving organization, clarity, and usability; addressing issues that were not identified in the earlier update; eliminate contradictory and unnecessary standards; streamline the procedures with respect to OpenGov (online permitting); and implement the updated Comprehensive Plan and Redevelopment Master Plan (both adopted after the 2015 zoning code).

The process to update the zoning ordinance will take many months to complete. The Planning Commission will serve as the task force that review draft chapters and provide policy direction for recommendation to the City Council. Once a complete draft document has been prepared, the City Council will review the document during work session(s) to consider the proposed new ordinance. A minimum of one public hearing will be held by the Planning Commission when a complete draft is ready for review by City Council. Additional public review on policy items may require a higher level of public scrutiny.

PROPOSED AMENDMENTS

The remainder of this memo will describe proposed changes to the zoning ordinance. The zoning code is available online [here](#). In the sections that follow, the proposed section numbers are depicted in ***bold italics***. Note that these proposed ordinance changes have not been reviewed by the city attorney's office. Legal review will be completed before the ordinance is brought forward for public hearing near completion of the project.

Overall Changes

An overall change to the zoning ordinance is the creation of Articles (i.e. subchapters). These additional headings will improve the online navigation substantially. The proposed table of contents for the zoning ordinance is as follows:

- Article I – Introduction
- Article II – Definitions
- Article III – Administration and Enforcement
- Article IV – Establishment of Zoning Districts
- Article V – Land Use Regulations
- Article VI – Design and Performance Standards
- Article VII – Nonconformities

Article I – Introduction

1. Created Section ***154.001 Title***, the content of which is derived from former Section 154.002(A).
2. Added Section ***154.002 Authority***.

3. Streamlined **Section 154.003 Purpose and Intent**. Many of the items listed in the current ordinance are policy objectives that are included in the Comprehensive Plan. This section has been modified to focus on the areas that the zoning ordinance can affect.
4. Added **Section 154.004** to identify the relationship between the zoning ordinance and the comprehensive plan, per state statute.
5. Renamed former Section 154.002 Introductory Provisions to **Section 154.005 Interpretation** and made the following modifications to this section:
 - a. Moved former subsection (D) to Section 154.017(C)1 as it relates to zoning map amendment procedures.
 - b. Eliminated subsection (E), the intent of which is captured under **Section 154.004**.
 - c. Moved former subsection (B)3 to **Section 154.006 Conformity**.
 - d. Moved former subsection (F) to **Section 154.007 Repeal of Conflicting Ordinances**.
 - e. Policy consideration: **Section 154.005(C)2** states that measured distances shall be measured to the nearest tenth of a foot. This is retained from the existing ordinance. Please consider if this rule is appropriate or too restrictive.
 - f. Policy consideration: **Section 154.005(C)4** states that a use which is not allowed is prohibited. This is retained from the existing ordinance. Consider whether this rule is appropriate. Staff suggest some flexibility be given to the zoning administrator to determine if uses not imagined are in alignment with ones listed in the use table.
6. Moved former subsection (G) to **Section 154.008 Severability**.

Article II – Definitions

7. Definitions will be added at a future date based on the content of the ordinance.

Article III – Administration and Enforcement

This article is based off Section 154.004 Administration in the current zoning ordinance. It has been modified substantially to improve organization, eliminate redundancies, and ensure adherence to statutory requirements.

8. Eliminated former Section 154.004(I) Design Review as a specific zoning review procedure. Design will be considered to the extent authorized under the zoning ordinance during site plan review and any review that would go before the Planning Commission and City Council for approval.
9. **Section 154.009** clarifies that the zoning administrator is the enforcing officer of the ordinance, and that such person is appointed by the City Manager rather than City Council.
10. Removed Subsection 154.004(B) on advisory bodies. The Planning Commission and Parks and Recreation Commission are established in Chapter 32 of the City Code. The Design and Historical Review Commission no longer exists.
11. Created **Section 154.010 Fees** which sets expectations for customers and staff on what fees the city has the authority to collect and procedures for doing so.
12. Create **Section 154.011 Recovery of City Costs and Expenses** to set expectations for costs for which the city can recover related to plan review, legal publication, and inspections, etc.
13. **Section 154.012 Requirements for Zoning Applications** is based on former section 154.004(C), but streamlined.
14. Created **Sections 154.013 – 154.017** which address procedures and review criteria specific to zoning applications, including conditional use permits, interim use permits, site plan review, variances, and zoning map and text amendments. Previously, former 154.004(C) was intended to set the procedures for each of these application types, however statutory requirements and local processes are not the same for each type. The new sections improve clarity and ease of use.
15. Modified the site plan review process per **Section 154.015** to make this a staff-level review rather than require applicants to receive Planning Commission and City Council approval. The rationale behind this policy change is that applications that meet the ordinance without the need for other approvals (i.e. variance, planned unit development, rezoning, etc.) should not be required to undergo additional scrutiny that could lead to subjective decisions.
16. Created **Section 154.018 Zoning Permits** to codify the types of zoning permits that the processes to ensure compliance with the zoning regulations.

17. Created **Section 154.019 Zoning Verification** to codify an application type that presently exists as a process and fee schedule item.

ATTACHMENTS

1. Existing Chapter 154: Zoning Regulations, Sections 154.001, 154.002, and 154.004.
2. Proposed Chapter 154: Zoning Regulations, Articles I and III

CHAPTER 154: ZONING REGULATIONS

ARTICLE I INTRODUCTION

§ 154.001 TITLE

This chapter shall be known and may be cited and referred to as the "North St. Paul Zoning Ordinance," or simply "Zoning Ordinance;" when referred to herein, it shall be known as "this chapter."

§ 154.002 AUTHORITY

This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§462.351 to 462.365, as amended from time to time.

§ 154.003 PURPOSE AND INTENT

The purpose of this chapter is to promote the public health, safety, and general welfare of North St. Paul and its people through the establishment of regulations in regard to location, construction, alteration, and use of structures and land. Such regulations are established to assist the City in:

- (A) Implementing the Comprehensive Plan and officially adopted plans;
- (B) Promoting orderly development and redevelopment;
- (C) Providing adequate light, air, and to secure property from fire, flood and other dangers;
- (D) Protect, stabilize, and enhance the value of land, buildings, and other improvements throughout the city;
- (E) Protect and preserve environmentally sensitive areas, wetlands, and shorelands; and
- (F) Provide for the effective administration and enforcement of this chapter.

§ 154.004 RELATION TO THE COMPREHENSIVE PLAN

The North St. Paul Comprehensive Plan establishes City goals, objectives, and strategies that serve as a basis for this zoning code. It is the policy of the City of North St. Paul that the enforcement, amendment, and administration of this chapter be accomplished consistent with the recommendations contained in the Comprehensive Plan, as developed and amended from time to time by the Planning Commission and City Council. In accordance with Minnesota Statutes Chapter 473, the City will not approve any rezoning or other changes in these regulations that are inconsistent with the Comprehensive Plan.

§ 154.005 INTERPRETATION

- (A) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion and protection of the public health, safety, and general welfare, and shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of North St. Paul.
- (B) When any condition imposed by any provision of this chapter is either more restrictive or less restrictive than similar conditions imposed by any provision of any other applicable law, City Code provision, statute, resolution or regulation of any kind, the more restrictive one which imposes higher standards or requirements shall prevail. This chapter is not intended to repeal any easements, restrictions, or covenants relating to the use of land or imposed on lands within the community by private declaration or agreement.
- (C) Rules.
 - 1. For the purpose of this chapter, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; and the word "shall" is mandatory and not discretionary.
 - 2. Measured distances shall be rounded to the nearest tenth of a foot.
 - 3. Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be as set forth in such definition.
 - 4. A use which is not allowed or authorized by this chapter is prohibited.

§ 154.006 CONFORMITY

Except as specifically provided for herein, no structure or land shall be used for, nor shall any structure be constructed, converted, enlarged, reconstructed or altered in any manner for any purpose which is not in

conformity with the provisions of this chapter. Any existing building or structure and any existing use of properties not in conformity with the regulations may be continued, extended or changed, subject to the special regulations herein provided with respect to nonconforming properties or uses.

§ 154.007 REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances in conflict with this zoning ordinance, or inconsistent with the provisions of this chapter, are hereby repealed to the extent necessary to give this chapter full force and effect.

§ 154.008 SEVERABILITY

Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the chapter as a whole or any other section.

ARTICLE II DEFINITIONS

To be completed.

ARTICLE III ADMINISTRATION AND ENFORCEMENT

§ 154.009 ZONING ADMINISTRATOR

The City Manager may appoint such employee or employees of the City as it may deem proper to enforce this chapter. It shall be the duty of the zoning administrator to:

- (A) Maintain permanent and current records of this chapter including, but not limited to, maps, amendments, variances and conditional uses;
- (B) Institute in the name of the city, any appropriate action or proceeding against a violator; and
- (C) Serve as an ex-officio non-voting member of the Planning Commission.

§ 154.010 FEES

- (A) All persons, firms or corporations performing work which by this chapter requires the issuance of a permit or application shall pay a fee to help defray the cost of administration, investigation, advertising, and processing. All planning and zoning fees are listed in the fee schedule adopted by the City Council.
- (B) Zoning application fees do not include and are in addition to permit fees established by the building, plumbing and electric codes.
- (C) All fees shall be established by separate resolution by the City Council from time to time as deemed appropriate.
- (D) Fees shall be payable at the time applications are filed with the appropriate officer of the City (per the requirements of this chapter), and are not refundable.
- (E) A double fee shall be charged if work is started before a permit is applied for and issued, or if a building is occupied prior to the issuance of an occupancy permit. Such double fee shall not release the applicant from full compliance with this chapter, nor from prosecution for violation of this chapter.
- (F) The city may require a financial guarantee in the form of a performance bond or escrow in an amount equal to 100% of the estimated cost to complete the public or private site and landscape plan improvements, exclusive of structures, to be filed with the city.

§ 154.011 RECOVERY OF CITY COSTS AND EXPENSES

- (A) General provisions. In addition to any other fees required to be paid in conjunction with the filing of an application, the applicant shall compensate the City for all costs and expenses the City incurs in the review, administration, investigation, and consideration of any such application or request, including the cost of retaining the services of professional consultants. The obligation to compensate the City for its costs or expenses shall extend to pre-submission discussions with the City or its representatives which precede an application to the City.
- (B) Applicant Cost Recovery Agreement. Before the City shall incur any costs or expense in consideration of any application as described in this chapter, the applicant shall sign a cost recovery agreement acknowledging the applicant's responsibility for all City costs and expenses directly or

indirectly related to the applicant's request. The original of said acknowledgment and certificate shall be kept on file with the clerk. A copy shall be given to the applicant at the time of signing.

- (C) Costs Recoverable. All costs incurred by the City in the consideration of any requests by an applicant related to the zoning ordinance shall be recoverable, including, without limitation by enumeration, the following:
1. All professional and technical consultant services and fees retained by the city and rendered in review of any application, including, but not limited to, the engineer, planner, attorney, or any other professional or expert hired by the City for purposes of review of the application or pre-submission request.
 2. Legal publication costs.
 3. Copy reproduction.
 4. Postage.
 5. Inspection fees incurred by the building inspector.
 6. Document recordation (if required).
- (D) Escrow. The applicant shall submit an escrow to the city as established by City Council at the time of application. The City Council may require an applicant to submit an additional cash deposit against future billings by the City should the initial escrow be depleted. Surplus deposits shall be returned to the applicant at the conclusion of the project if such deposit exceeds the billing amount for recoverable costs. Any billed costs from the City unpaid at the expiration of said ten-day period shall bear interest at the rate of 18 percent per annum.
- (E) Condition of all applications. Notwithstanding anything in the City Code of Ordinances to the contrary, payment in full of all recoverable costs pursuant to this chapter shall be a precondition to the final approval of any application. This precondition shall extend to any City Council request for an advance deposit against future billings for recoverable costs as called for herein.
- (F) Enforcement. In the event the City is not paid billed recoverable fees as called for herein, the City shall be entitled to recover all actual attorney fees, litigation expenses, witness fees, filing fees, expert witness fees, and all other costs or expenses incurred by the City in the prosecution of a violation of this chapter regardless of whether the city prevails in such prosecution or not.

§ 154.012 REQUIREMENTS FOR ZONING APPLICATIONS

- (A) Initiation of Application. Zoning permits or applications may be submitted by any member of the general public, by recommendation of the planning commission, or by action of the City Council. If the property owner is not the applicant, owner consent shall be submitted with the application.
- (B) Procedure. All zoning applications subject to the requirements of Minn. Stat. §15.99 shall be reviewed by the City according to the process required therein. These procedures apply to any application unless a different procedure is established for the application elsewhere in this chapter. No application is complete unless all of the required information is included and all application fees have been paid.
- (C) Public notice. Unless otherwise specified in this chapter, a public notice is required for most zoning applications. Notice of said hearing shall be published in the official newspaper at least ten days prior to the hearing. The notice shall include the time, place and purpose of the hearing. Notice shall also be mailed to all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.
- (D) Reapplication. No application shall be resubmitted for a period of one year from the date of an order of denial unless the new application has been modified to eliminate the objections to the requested basis for denial or a change in circumstances warrants it.
- (E) Submittal requirements. Submittal requirements for all zoning applications are listed in Table 2.
- (F) Administration. The zoning administrator shall maintain a record for all permits and approvals issued, including information on the use, location, conditions imposed, if any, and such other information as may be appropriate.

§ 154.013 CONDITIONAL USE PERMIT

- (A) Purpose. Pursuant to Minn. Stat. §462.3595, the purpose of this section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses.

- (B) Review Criteria. The City Council may grant a conditional use permit after considering the recommendation of the Planning Commission and if the use at the proposed location is compliant with the following findings:
1. The use is consistent with the general purposes and intent of the Comprehensive Plan;
 2. The use is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposed use;
 3. The use will not adversely affect the health, safety, or general welfare of the city;
 4. The use is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;
 5. The use can be adequately supported by public services;
 6. The use will not create an intrusion of excessive noise, glare, or general unsightliness; and
 7. If applicable, the proposed use is consistent with officially adopted city plans and overlays.
- (C) Review Procedure.
1. Public Hearing Requirement. Refer to ##.
 2. Planning Commission. The planning commission shall hold a public hearing on the application and may make a written report to the City Council or may state in the minutes its recommendation regarding the application.
 3. City Council.
 - a. The City Council shall consider the planning commission's recommendation regarding the conditional use permit as well as the review criteria listed above.
 - b. Neighborhood opinion alone is not a valid basis for granting or denying a conditional use permit.
 - c. In permitting a new conditional use, the City Council may impose, in addition to the requirements set forth in the chapter, conditions considered necessary or appropriate to protect the public health, safety and general welfare of the city.
 - d. If the applicant meets all ordinance standards, the city usually has no legal basis to deny the conditional use permit.
 4. Recordation. A certified copy of any conditional use permit shall be recorded with the county recorder or registrar of titles of the county or counties in which the municipality is located for record. The conditional use permit shall include the legal description of the property included.
- (D) Duration. A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but nothing in this section prohibits the city from enacting or amending official controls to change the status of conditional uses.
- (E) Modification. Any change to a conditional use permit that involves structural alteration, enlargement, or intensification of the use or any similar change not specifically permitted by the issued permit shall require an amendment to the conditional use permit. A request for an amendment shall be processed in the same manner and all procedures shall apply as if a new permit were being requested.
- (F) Violation. In the event the applicant violates any of the conditions set forth in the permit, the City Council shall have the authority to revoke said permit. The revocation must be based upon factual evidence, after appropriate notice per ## and a public hearing.

§ 154.014 INTERIM USE PERMIT

- (A) Purpose. The purpose of an interim use permit is:
1. To allow a use for a limited period of time that reasonably utilizes the property in the manner not permitted in the applicable zoning district; or
 2. To allow for a use that is not otherwise identified as a permitted, accessory, or conditional use, but may be appropriate in a particular district, is closely related to another permitted or conditional use, and/or the zoning administrator determines the use to be appropriate.
- (B) Review Criteria. The City Council may grant an interim use permit if:
3. The use conforms to the zoning regulations.
 4. The date or event that will terminate the use can be identified with certainty.
 5. Permission of the use will not impose additional costs on the public.
 6. The user agrees to any conditions that the governing body deems appropriate for permission of the use.
- (B) Review Procedure.
1. Public Hearing Requirement. Refer to ##.

2. Planning Commission. The Planning Commission shall hold a public hearing on the application and may make a written report to the City Council or may state in the minutes its recommendation regarding the application.
3. City Council.
 - a. The City Council shall consider the planning commission's recommendation regarding the conditional use permit as well as the review criteria listed above. Neighborhood opinion alone is not a valid basis for granting or denying an interim use permit.
 - b. In permitting an interim use, the City Council may impose, in addition to the requirements set forth in the chapter, conditions considered necessary or appropriate to protect the public health, safety, and general welfare of the city, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit.
 - c. If the applicant meets all ordinance standards, the city usually has no legal basis to deny the conditional use permit.
- (C) Modification. Any change to an interim use which involves structural alteration, enlargement, or intensification of use or any similar change not specifically permitted by the issued permit shall require an amendment to the interim use permit. A request for an amendment shall use the same process and the appropriate approval criteria.
- (D) Expiration. Any interim use may be terminated by a change in zoning regulations.

§ 154.015 SITE PLAN REVIEW

- (A) Purpose. The purpose of this section is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this section are designed to ensure that all proposed land use and development activity complies with the requirements of this chapter.
- (B) Applicability. In order to administer the provisions of this Zoning Code and to evaluate site plans in the interest of the public health, safety and general welfare, this subchapter shall apply to all new development activity proposed within the City, including redevelopment and expansions, except for individual single-family dwellings and two-family dwellings (duplexes and twin houses).
- (C) Review Procedure.
 1. Public hearing requirement. None.
 2. The zoning administrator shall conduct the administrative review of all applications for administrative site plan review. The zoning administrator shall make each of the following findings before approving a site plan review application:
 - a. The site plan conforms to all applicable standards of this chapter.
 - b. The site plan conforms to all applicable regulations of this zoning ordinance and is consistent with the applicable policies of the comprehensive plan and applicable small area plans adopted by the city council.
 3. All findings and decisions of the zoning administrator shall be final, subject to appeal to city planning commission.
 4. When the zoning administrator deems necessary, for alternative compliance per (D), below, or any other reason, the application may be submitted to the planning commission for review and recommendation to City Council.
- (D) Alternative Compliance. The zoning administrator may approve alternatives to any site plan review requirement upon finding any of the following:
 1. The alternative meets the intent of this chapter and the site plan includes on or off-site amenities or improvements that address any adverse effects of the alternative. Amenities may include but are not limited to additional open space, additional landscaping and screening, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, transit facilities, bicycle facilities, preservation of natural features, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.
 2. Strict adherence to the requirements is impractical because of site location or conditions.
 3. The proposed alternative is consistent with applicable development objectives adopted by the city council.

- (E) Developer's agreement. Prior to issuing a building permit, the zoning administrator may require the developer or builder to sign an agreement with the City which assures that particular elements of the site plan approval application, either proposed by the applicant or imposed by the zoning administrator, city engineer or planning commission, shall be carried out. A performance bond or irrevocable letter of credit may be required to ensure that certain improvements are implemented.
- (F) Site plan amendment. Any modification deemed not to be minor by the zoning administrator shall be required to complete a site plan amendment. A site plan amendment is subject to all conditions and approvals required for a new site plan review.
- (G) Expiration. Unless otherwise specified, the approved site plan shall become null and void within one year of the date of approval unless the property owner or applicant received a building permit and commenced construction of improvements on-site. Extension requests shall be submitted in writing at least 30 days prior to expiration of the site plan and shall state facts showing a good faith effort to complete work permitted under the original approval.

§ 154.016 VARIANCES

- (A) Purpose. A variance is a permitted departure from strict enforcement of this chapter as applied to a particular piece of property. A variance is generally for a dimensional standard (such as setbacks or height limits). State law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located (Minn. Stat. §462.357, subd 6).
- (B) Review Criteria. The city may grant a variance if the proposed request is compliant with the following findings:
 1. The variance is in harmony with the general purposes and intent of the ordinance.
 2. The variance is consistent with the Comprehensive Plan.
 3. The applicant has demonstrated that there are "practical difficulties" in complying with the zoning ordinance. Practical difficulties are outlined below:
 - a. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
 - c. The variance, if granted, will not alter the essential character of the locality.
 - d. Economic considerations alone do not constitute practical difficulties.
 4. The variance requested is the minimum variance necessary to alleviate the practical difficulty.
- (C) Review Procedure.
 1. Public Hearing Requirement. Refer to ##.
 2. Planning Commission. The planning commission shall hold a public hearing on the application and may make a written report to the City Council or may state in the minutes its recommendation regarding the application.
 3. City Council.
 - a. The City Council shall consider the planning commission's recommendation regarding the variance request as well as the review criteria listed above.
 - b. Neighborhood opinion alone is not a valid basis for granting or denying a variance.
 - c. In permitting a variance, the City Council may impose, in addition to the requirements set forth in this chapter, conditions which are directly related to and must bear a rough proportionality to the impact created by the variance.
 - d. A variance may be denied by the City Council, such motion and action shall constitute a finding and determination that the conditions required for approval do not exist. Procedure as outlined in M.S. §15.99 shall be followed.
 4. Recordation. A certified copy of any approved variance shall be recorded with the county recorder or registrar of titles of the county in which the municipality is located for record. The variance shall include the legal description of the property included.
- (G) Duration. A variance shall remain in effect as long as the conditions agreed upon are observed, but nothing in this section prohibits the city from enacting or amending official controls to change the status of variances.
- (D) Modification. Any change which is not specifically permitted by the issued variance shall require an amendment. A request for an amendment shall be administered in the same manner and all procedures shall apply as if a new variance were being requested.

§ 154.017 ZONING MAP AND TEXT AMENDMENTS

- (A) Purpose. Pursuant to Minn. Stat. §462.357, the purpose of this section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed zoning map and text amendments.
- (B) Review Criteria. The City may grant a zoning text or map amendment if the proposed amendment:
1. Is consistent with the general purposes and intent of the Comprehensive Plan;
 2. Will not adversely affect the health, safety, or general welfare of the city;
 3. Is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;
 4. Is compatible with adjacent properties;
 5. Can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems; and
 6. Is consistent with officially adopted city plans and overlays.
- (C) Review Procedure.
1. Review Coordination. Any zoning district classification change to land adjacent to or across a public right-of-way from an adjoining county or community shall be referred to that county/community's governing unit for review and comment prior to final action by the City Council. A period of at least 10 days shall be provided for receipt of comments; such comments shall be considered as advisory only.
 2. Public Hearing Requirement. Refer to ##.
 3. Planning Commission. The Planning Commission shall hold a public hearing on the application and may make a written report to the City Council or may state in the minutes its recommendation regarding the application.
 4. City Council. The City Council shall consider the planning commission's recommendation regarding the proposed amendment. Any action to amend the zoning ordinance or zoning map requires majority vote of all its members.
- (D) Effect of Denial. No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.

§ 154.018 ZONING PERMITS

- (A) Purpose. A zoning permit certifies that the proposed project is in compliance with this chapter.
- (B) Applicability. Except as provided, no person, firm or corporation shall construct, erect, alter, wreck or move any building or structure or any parts within the corporate limits of the City without first securing a zoning permit from the City.
- (C) Improvements Requiring a Zoning Permit. A zoning permit is required for any new residential, commercial and/or industrial construction as well as any improvement which will enlarge the physical exterior of the existing structure. Zoning permits fall within the following categories:
1. Accessory structures
 - a. Egress windows installation or replacement
 - b. Patios or deck installation or replacement
 - c. Porch or deck installation or replacement
 - d. Swimming pools and spas
 - e. Utility shed permits are required for assembly or moving onto lot
 2. Fences
 3. Paving
 - a. Driveways (grading plan required)
 - b. Parking lot repaving
 - c. Sidewalk or path

§ 154.019 ZONING VERIFICATION LETTER

- (A) Purpose. A zoning verification letter is generally a request from homeowners, mortgage lenders, appraisers, and legal advisors. A zoning letter demonstrates that the use of the property complies with all municipal zoning code regulations and whether the use and/or property has obtained any zoning permits that could further impact future development of the subject property.

- (B) Public hearing requirement. None.
- (C) Submittal Requirements.
 - 1. Legal address
 - 2. Property identification number(s) (PINs)
 - 3. Current or proposed use of the property
 - 4. To whom the letter should be addressed
 - 5. Required fee per the approved fee schedule.

§ 154.020 VIOLATIONS AND PENALTIES

- (A) Violation of this Chapter. Any person who violates or fails to comply with any of the provisions of this chapter shall, upon conviction thereof, be subject to the penalties set forth in this section.
- (B) Investigation and Notice of Violation. The zoning administrator or designee is responsible for conducting the necessary inspection and investigation to ensure compliance with this chapter and, through field notes, photographs and other means, documenting the presence of violations. The zoning administrator shall notify property owners of violations via certified letter the responsible parties and those potentially liable.
- (C) Penalty. Any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Minn. Stat. §462.362 of this code of ordinances. Each day that the violation is permitted to exist constitutes a separate offense.

§ 154.001 INTENT AND PURPOSE.

This chapter divides the city into zoning districts, establishes minimum requirements to achieve its intent and purpose, and establishes regulations which control the location, construction, reconstruction, alteration and use of structures and land. The intent and purpose of this chapter is to:

- (A) Promote and protect the public health, safety, morals, and general welfare of the city;
- (B) Promote land uses and development patterns that are consistent with the implementation of goals, policies and plans established in the city's Comprehensive Plan and officially adopted plans and overlays;
- (C) Preserve the overall quality of life for residents and visitors;
- (D) Promote the most appropriate phased and orderly growth and development of land for residential, commercial, industrial, recreational, and public areas;
- (E) Provide adequate light, air, open space and convenience of access to property;
- (F) Prevent or limit congestion in the public right-of-way;
- (G) Promote pedestrian, bicycle and transit use as well as provide for off-street parking and loading areas;
- (H) Foster a strong and balanced tax base for the economic vitality of the city;
- (I) Protect, stabilize, and enhance the value of land, buildings and structures throughout the city;
- (J) Protect and preserve the natural environment and resources of the city including environmentally sensitive areas, wetlands and shorelands;
- (K) Protect against fire, natural hazards, flooding, contamination and other dangers;
- (L) Encourage the protection, conservation, restoration and enhancement of historic resources in the city;
- (M) Encourage energy conservation through the use of renewable and alternative energy systems;
- (N) Enhance the aesthetic desirability of the city through the design and appearance of buildings, compatible land uses, and design and development standards in relation to surrounding properties;
- (O) Require developments to have adequate provisions for city water, city public sanitary sewer, and other public services;
- (P) Encourage reinvestment in the city's established residential neighborhoods while protecting their character and creating a sense of place;
- (Q) Maintain a variety and range of housing and commercial building options to satisfy the city's social and economic goals;
- (R) Define the powers and duties of the administrative officers and bodies, as provided hereinafter; and
- (S) Provide effective administration and enforcement of this chapter.

(Ord. 739, passed 8-18-2015; Am. Ord. 806, passed 7-26-2022)

§ 154.002 INTRODUCTORY PROVISIONS.

(A) *Title.* This chapter shall be known and may be cited and referred to as the "North St. Paul Zoning Ordinance," when referred to herein, it shall be known as "this chapter."

(B) *Application.*

1. *Interpretation.* The provisions of this chapter shall be held to be the minimum requirements for the promotion and protection of the public health, safety, morals, and general welfare.

2. *Scope.* When any condition imposed by any provision of this chapter is either more restrictive or less restrictive than similar conditions imposed by any provision of any other applicable law, City Code provision, statute, resolution or regulation of any kind, the more restrictive one which imposes higher standards or requirements shall prevail. This chapter is not intended to repeal any easements, restrictions, or covenants relating to the use of land or imposed on lands within the community by private declaration or agreement.

3. *Conformity.* Except as specifically provided for herein, no structure or land shall be used for, nor shall any structure be constructed, converted, enlarged, reconstructed or altered in any manner for any purpose which is not in conformity with the provisions of this chapter. Any existing building or structure and any existing use of properties not in conformity with the regulations may be continued, extended or changed, subject to the special regulations herein provided with respect to nonconforming properties or uses.

(C) *Rules.*

1. For the purpose of this chapter, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word "building" shall include the word "structure" the word "lot" shall include the word "plot" and the word "shall" is mandatory and not discretionary.

2. All measured distances shall be to the nearest tenth of a foot.

3. Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be as set forth in such definition.

4. A use which is not allowed or authorized by this chapter is prohibited.

(D) *Zoning coordination.* Any zoning district classification change to land adjacent to or across a public right-of-way from an adjoining county or community shall be referred to that county/community's governing unit for review and comment prior to final action by the City Council. A period of at least ten days shall be provided for receipt of comments; such comments shall be considered as advisory only.

(E) *Zoning and the Comprehensive Plan.* The North St. Paul Comprehensive Plan establishes the goals, objectives and strategies that serve as a basis for this zoning code. All regulations or amendments adopted pursuant to this chapter shall be generally consistent with the Comprehensive Plan as adopted and revised or updated. The Comprehensive Plan will be modified and updated from time to time based on the requirements of state statutes and the rules of the Metropolitan Council. A plan amendment may be initiated by the City Council, the Planning Commission or upon application of a property owner. The process for application, review, and amendment shall be consistent with state law and with policy adopted by the city.

(F) *Repeal of conflicting ordinances.* All ordinances or parts of ordinances in conflict with this zoning ordinance, or inconsistent with the provisions of this chapter, are hereby repealed to the extent necessary to give this chapter full force and effect.

(G) *Validity.* Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the chapter as a whole or any other section.

(Ord. 739, passed 8-18-2015)

§ 154.004 ADMINISTRATION.

(A) *Enforcing Officer.* The office of the Zoning Administrator is established, for which the City Council may appoint such employee or employees of the city as it may deem proper. It shall be the duty of the Zoning Administrator to enforce this chapter and shall:

1. Maintain permanent and current records of this chapter including, but not limited to, maps, amendments, variances and conditional uses;
2. Institute in the name of the city, any appropriate action or proceeding against a violator; and
3. Serve as an ex-officio non-voting member of the Planning Commission.

(B) *Advisory bodies.* The Planning Commission, Design and Historical Review Commission, Parks and Recreation Commission, and Board of Appeals and Adjustments, as established and empowered in Chapter 32 of this City Code, shall serve as advisory bodies to review and provide recommendations, as called forth in this section.

(C) *Requirements for all zoning applications.*

1. *Eligible applicant.* Unless otherwise specified, any person, firm, corporation, organization, or unit of government that has an interest in the subject property or application. The property owner must be an applicant or co-applicant to all zoning applications. Eligible applicants may apply for any zoning application, as outlined in this section.

2. *Procedure.*

a. All zoning applications subject to the requirements of M.S. § 15.99 shall be reviewed by the city according to the process required therein.

b. All zoning applications outlined in this section shall follow procedures necessary, as indicated on Table 1.

c. *Pre-application meeting.* Before an application is filed, the applicant is strongly encouraged to attend a pre-application meeting with the Community Development Department. The purpose of the pre-application meeting is to discuss, in general, the procedures and requirements for an application.

d. *Application submittal.* The applicant shall complete the appropriate zoning application and pay associated fee, as provided by the Zoning Administrator. The applicant shall pay all costs incurred by the city for legal services, engineering services, and services of other persons or entities employed by the city for, or in any way involved in, the review of an application. The applicant shall submit an escrow to the city as established by City Council at the time of application. Under no condition shall the fee be refunded or waived for failure of the city to approve the application.

e. *Completeness review.* These procedures apply to any application unless a different procedure is established for the application elsewhere in this chapter.

f. No application is complete unless all of the required information is included and all application fees have been paid.

g. The Zoning Administrator may establish a schedule for filing an application that requires action by a board, commission or City Council. Completed applications shall be filed according to any posted schedule of the Zoning Administrator.

h. Public notice. The notice shall include the time, place and purpose of the hearing. The type of notice required for certain applications is established below:

i. Legal newspaper. Notice of said hearing shall be published in the official newspaper at least ten days prior to the hearing.

ii. Property owners. The City Clerk shall notify all property owners within the affected zone and within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.

i. Additional commission review. If necessary, additional City Commission(s) shall hold a meeting to review the proposal. The Commission(s) shall make a report to the City Council recommending approval, denial or approval with conditions. See § 154.004(A).

j. Planning Commission. A public hearing shall be held by the Planning Commission who shall make its report to the City Council following the hearing recommending approval, denial or approval with conditions.

k. City Council Action. The City Council shall take action on the application referral by the Planning Commission, M.S. § 462.357.

l. Notification. Following City Council action, the applicant shall be notified of the action taken.

m. Reapplication. No application shall be resubmitted for a period of one year from the date of an order of denial unless the new application has been modified to eliminate the objections to the requested basis for denial or a change in circumstances warrants it.

3. *Submittal requirements.* Submittal requirements for all zoning applications are listed in Table 2.

(D) *Zoning text and map amendments.*

1. *Purpose.* Zoning text and map amendments are procedures that amend the written provisions of the ordinances contained within this chapter and the zoning district boundaries. Amendments shall not be made indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the Comprehensive Plan, policies, plans or changes in conditions within the city. The amendments are defined as:

(a) Text amendment. Amendments to the text of this chapter.

(b) Map amendment. An amendment to the zoning map that changes the district classification of an area or property.

2. *Standards.* The city may grant a zoning text or map amendment if the proposed amendment is compliant with the following findings:

(a) The proposed amendment is consistent with the general purposes and intent of the Comprehensive Plan;

(b) The proposed amendment will not adversely affect the health, safety, or general welfare of the city;

(c) The proposed amendment is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;

(d) The proposed amendment is compatible with adjacent properties;

(e) The proposed amendment can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems; and

(f) If applicable, the proposed amendment is consistent with officially adopted city plans and overlays.

(E) *Variances.*

1. *Purpose.* A variance to the Zoning Code may be granted to allow a modification or variation from the literal provisions of the chapter where it is determined that their strict enforcement would cause practical difficulties to a specific piece of property.

2. *Standards.*

(a) The city may grant a variance if the proposed request is compliant with the following findings: The variance is in harmony and consistent with the general purposes and intent of the Comprehensive Plan and this chapter;

(b) The variance will not adversely affect the health, safety, or general welfare of the city;

(c) The variance is necessary due to special conditions applying to the structures or land in question that are particular to the property and do not apply generally to other land or structures in the district or vicinity in which the land is located;

(d) The variance requested is the minimum variance necessary to alleviate the practical difficulty;

(e) Practical difficulties are caused from the strict application of the Zoning Code as outlined below:

i. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Code;

- ii. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- iii. The variance, if granted, will not alter the essential character of the locality.
- iv. Economic considerations alone do not constitute practical difficulties.
- v. The variance is consistent with officially adopted city plans and overlays.

3. *Use variance.* The Board of Appeals and Adjustment may not permit, as a variance, any use that is not allowed under the Zoning Code for property in the zone where the affected person's land is located.

4. Variances may be granted for solar energy access, earth-sheltered construction, and temporary use of a one-family dwelling as a two-family dwelling.

5. *Conditions.* In permitting a variance, the City Council may impose, in addition to the requirements set forth in this chapter, conditions considered necessary to protect the public health, safety, and general welfare and which are directly related to and bear a rough proportionality to the impact created by the variance.

6. *Denial.* A variance may be denied by the City Council, such motion and action shall constitute a finding and determination that the conditions required for approval do not exist. Procedure as outlined in M.S. § 15.99 shall be followed.

7. *Modification of variance.* Any change which is not specifically permitted by the issued variance shall require an amendment. A request for an amendment shall be administered in the same manner and all procedures shall apply as if a new variance were being requested.

8. *Expiration.*

(a) A variance approved by the city shall expire one year after it has been issued unless:

- i. The City Council has set some other time limitation.
- ii. It has been made use of by the applicant or property owner within the one year timeframe.

(F) *Conditional use permits.*

1. *Purpose.* A conditional use permit may be issued for a use that may be allowed in a particular zoning district and compatible with the district's character only if controlled through additional standards and discretionary review that ensures the appropriateness of a particular use at a particular location in the district. Certain uses may have beneficial effects and serve important public interests. These uses are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public urban services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

2. *Standards.* The City Council may grant a conditional use permit after considering the recommendation of the Planning Commission and if the use at the proposed location is compliant with the following findings:

- i. The use is consistent with the general purposes and intent of the Comprehensive Plan;
- ii. The use will not adversely affect the health, safety, or general welfare of the city;
- iii. The use is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;
- iv. The use or appearance of the use is compatible with adjacent properties;
- v. The use can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems;
- vi. The use will not create an excessive burden on existing parks, schools, and other public facilities which serve or are proposed to serve the area;
- vii. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned land;
- viii. The use is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposed use;
- ix. The use will not create an intrusion of excessive noise, glare, or general unsightliness; and
- x. If applicable, the proposed use is consistent with officially adopted city plans and overlays.

3. *Conditions.* In permitting a new conditional use, the City Council may impose, in addition to the requirements set forth in the chapter, conditions considered necessary or appropriate to protect the public health, safety and general welfare of the city.

4. *Modification of conditional use permit.* Any change which involves structural alteration, enlargement, or intensification

of the use or any similar change not specifically permitted by the issued permit shall require an amendment to the conditional use permit. A request for an amendment shall be administered in the same manner and all procedures shall apply as if a new permit were being requested.

5. *Review.* The Zoning Administrator shall maintain a record for all conditional use permits issued, including information on the use, location, conditions imposed, if any, by the city, time limits, review dates and such other information as may be appropriate. The Zoning Administrator shall review each conditional use permit to determine if the development is in conformance compliance with the terms of such permit and any conditions designated on an annual basis.

6. *Duration.* A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but nothing in this section prohibits the city from enacting or amending official controls to change the status of conditional uses.

7. *Automatic conditional use status.* Over time, the zoning regulations applicable to a specific site may change. This may be a result of changes to the content of the zoning regulations for a specific zone or from a change to the zoning map, including annexation and rezonings. After one of these changes, if an existing use was allowed by right or was a nonconforming use, and is now listed as a conditional use, the use is considered an approved conditional use and may continue to operate. Any changes to the use are subject to the conditional use permit process and the appropriate approval criteria.

8. *Violation.* In the event the applicant violates any of the conditions set forth in the permit, the Council shall have the authority to revoke said permit.

(G) *Interim use permit.*

1. *Purpose.* The purpose and intent of allowing interim uses is:

i. To allow a use for a limited period of time that reasonably utilizes the property in the manner not permitted in the applicable zoning district;

ii. To allow a use that is presently acceptable, but not permitted within the zoning district and, with anticipated development, may not be acceptable in the future.

iii. To allow for a use that is not otherwise identified as a permitted, accessory, or conditional use, but may be appropriate in a particular district, is closely related to another permitted or conditional use, and/or the Zoning Administrator determines the use to be appropriate.

2. *Standards.* The City Council may grant an interim use permit if the use at the proposed location is compliant with the following:

i. The use is consistent with the general purposes and intent of the Comprehensive Plan;

ii. The use will not adversely affect the health, safety, or general welfare of the city;

iii. The use is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;

iv. The use or appearance of the use is compatible with adjacent properties;

v. The use can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems;

vi. The use will not create an excessive burden on existing parks, schools, and other public facilities which serve or are proposed to serve the area;

vii. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned land;

viii. The use is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposed use;

ix. The use will not create an intrusion of excessive noise, glare, or general unsightliness;

x. Will not impose, by agreement, additional costs on the public;

xi. Will terminate upon a tangible date or event specified in the resolution approving said interim use permit; and

xii. If applicable, the proposed use is consistent with officially adopted city plans and overlays.

3. *Conditions.* In permitting an interim use permit, the City Council may impose, in addition to the requirements set forth in the chapter, conditions considered necessary or appropriate to protect the public health, safety, morals and general welfare of the city and are deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit.

4. *Modification of an interim use permit.* Any change which involves structural alteration, enlargement, or intensification of use or any similar change not specifically permitted by the issued permit shall require an amendment to the interim use permit. A request for an amendment shall be administered in the same manner and all procedures shall apply as if a new

permit were being requested.

5. *Expiration.* An interim use permit shall expire consistent with conditions in statute.

(H) *Site Plan Review.*

1. *Purpose.* A procedure required for any expansion of 1,000 square feet or more or any new commercial, industrial, institutional, and multi-family development projects and to provide regulations pertaining to the enforcement of site design standards. The site plan review process is intended to, allow applicants to work in cooperation with the Commissions and City Council to arrive at a design which protects the integrity of each unique zoning district and is harmonious with the desired character of the city while maintaining and improving the city's tax base, preserving and enhancing the built environment, promoting the orderly and safe flow of traffic, ensuring compatibility with adjacent developments, proper orderly development, and compliance with this chapter.

2. *Standards.* The city may grant a site plan approval if the proposal is compliant with the following:

- (a) The proposal is consistent with the general purposes and intent of the Comprehensive Plan;
- (b) The proposal will not adversely affect the health, safety, or general welfare of the city;
- (c) The proposal is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;
- (d) The proposal or appearance of the proposal is compatible with adjacent properties;
- (e) The proposal can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems;
- (f) The proposal will not create an excessive burden on existing parks, schools, and other public facilities which serve or are proposed to serve the area;
- (g) The proposal will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned land;
- (h) The proposal is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposal; and
- (i) If applicable, the proposal is consistent with officially adopted city plans and overlays.

3. *Minor modifications.* In the case of minor modifications of the site plan, the Zoning Administrator may give approval if the decision does not modify the overall theme of the development, affect public safety, or result in the reduction of any minimum standard as provided in the Zoning Code. Nothing contained herein shall be construed to allow the Zoning Administrator to vary the provisions of any statute, ordinance, city policy, or previous directives of the City Council. The Zoning Administrator shall have the discretion to refer any minor modification requests to the Planning Commission and City Council for their review and approval. Minor modifications may include, but are not limited to, the following:

- (a) Lighting location and fixture type;
- (b) Location, height, and style of fences and walls;
- (c) Location of trash enclosures;
- (d) Location and size of building signs and monument signs;
- (e) Location and construction of on-site sidewalks, except on city right-of-way;
- (f) Location, type, and size of plantings, provided the modification would have the same effective cover and screening;
- (g) Location and construction of accessory buildings of less than 1,000 square feet;
- (h) Minor relocation or addition of driveways or parking spaces.

4. *Site plan amendment.* Any modification deemed not to be minor shall be required to complete a site plan amendment. A site plan amendment is subject to all conditions and approvals required for a new site plan review.

5. *Expiration.* Unless otherwise specified, the approved site plan shall become null and void within one year of the date of approval unless the property owner or applicant received a building permit and commenced construction of improvements on-site. Extension requests shall be submitted in writing at least 30 days prior to expiration of the site plan and shall state facts showing a good faith effort to complete work permitted under the original approval.

6. *Financial guarantee.* The city may require a performance bond or escrow in an amount equal to 100% of the estimated cost to complete the public or private site and landscape plan improvements, exclusive of structures, to be filed with the city.

(I) *Design review.*

1. *Purpose.* The design review process is intended to ensure the implementation and vision of the Comprehensive

Plan, Architectural Control and Building Materials section of this chapter and the Downtown Design Manual for properties located in the MU-1 Downtown Mixed Use District. Design review is intended to assist in offering solutions which are flexible, allowing applicants to work in cooperation with the Design and Historical Review Commission to arrive at a design which protects the integrity of the MU-1 Downtown Mixed Use District and is harmonious with the desired character of the Downtown. A design review approval shall be required as a condition to issuance of a building permit for new building construction, projects in which the building design or materials of more than 25% of any single exterior building wall or roof surface is altered, projects which alter the height of an existing building by more than two feet up or down, or projects which alter the lot coverage of an existing building by more than 10%.

2. *Standards.* The city may grant a design review approval if the proposal is compliant with the following:

- (a) The proposal is consistent with the general purposes and intent of the Comprehensive Plan;
- (b) The proposal will not adversely affect the health, safety, or general welfare of the city;
- (c) The proposal or appearance of the proposal is compatible with adjacent properties;
- (d) The proposal is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposal; and
- (e) If applicable, the proposal is consistent with officially adopted city plans and overlays.

3. *Minor modifications.* In the case of minor modifications of the design review, the Zoning Administrator may give approval if the decision does not modify the overall theme of the development, affect public safety, or result in the reduction of any minimum standard as provided in the Zoning Code. Nothing contained herein shall be construed to allow the Zoning Administrator to vary the provisions of any statute, ordinance, city policy, or previous directives of the City Council. The Zoning Administrator shall have the discretion to refer any minor modification requests to the Design Review Commission and City Council for their review and approval. Minor modifications may include, but are not limited to, the following:

- (a) Minor exterior alterations to existing building, but which do not require separate zoning permits.
- (b) Maintenance of existing buildings requiring a building permit and replacement of materials consistent with the Downtown Design Manual.

4. *Design review amendment.* Any modification deemed not to be minor shall be required to complete a design review amendment. A design review amendment is subject to all conditions and approvals required for a new design review.

5. *Expiration.* Unless otherwise specified, the approved design review shall become null and void within one year of the date of approval unless the property owner or applicant received a building permit and commenced construction of improvements on-site. Extension requests shall be submitted in writing at least 30 days prior to expiration of the site plan and shall state facts showing a good faith effort to complete work permitted under the original approval.

6. *Financial guarantee.* The city may require a performance bond or escrow in an amount equal to 100% of the estimated cost to complete the site and landscape plan improvements, exclusive of structures, to be filed with the city.

(Ord. 739, passed 8-18-2015)