

3.0 ZONING PERMITS

3.1 CONDITIONAL USE PERMITS

- A. Purpose. The purpose of this permit is to allow the proper integration into the City of essential or desired uses which may be suitable only in certain locations or zoning districts, or only provided that said uses are designed or arranged on a site in a particular manner.
- B. Procedure. Request for a conditional use permit, as provided within this title, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by copies of detailed written and graphic materials fully explaining the proposed change, development, or use. The Zoning Administrator shall refer said application, along with all related information, to the Planning Commission for consideration at its next regular meeting, provided that adequate time exists between the filing date and meeting date to allow for notification of public hearing as required by law. If there is not adequate time between the filing date and meeting date, the requests will be considered at the next regular meeting of the Planning Commission.
- C. Application. The application shall be accompanied by five sets of the site plan, at a scale not less than 1"=100', and a reduced set (11"x17") of plans capable of being reproduced. The plan shall describe the proposed use showing such information as may be necessary or desirable, including, but not limited to Items (1) through (15) below. Within ten (10) working days of receipt of all of the following items, 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. For projects that require design review refer to Section 3.5, for description of submittal requirements.
1. Site plan drawn at a scale showing parcel with lot dimensions, setback and building dimensions, landscape plan, lighting plan, and building design details (elevations).
 2. Locations and designated use of all proposed and existing buildings and their square footage.
 3. Curb cuts, driveways, access roads, parking spaces and off-street loading areas.
 4. Existing topography. (2 foot contours)
 5. Final grading and drainage plan including first floor elevation for each structure on each lot and for residential structures, type of residence (walkout, lookout, full basement).
 6. Erosion control plan showing erosion measure according to city specifications.
 7. Type of business or activity and proposed number of employees.

8. Proposed floor plan of any building and use indicated.
 9. Sanitary sewer and water plan with estimated daily use, as required by City.
 10. Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome said limitation or limitations, shall be made part of the permit application, as required by City.
 11. A location map showing the general location of the proposed use within the City.
 12. A map showing all owners of record and land uses within 350 feet of the parcel for which application is being made, provided by City, paid for in application fee.
 13. Certified mailing list of all owners of record of properties with 350 ft of the exterior boundary of the property for which the application is being made, provided by City, paid for in application fee.
 14. Recorded easements and right of ways.
 15. Any other information deemed necessary by the Zoning Administrator, Planning Commission or their designed representative.
- D. Review and Decision. The Planning Commission shall consider the conditional use permit request at a public hearing. The following general factors and other requirements of this Title or Comprehensive Plan shall be considered in the review.
1. The use is in conformity with the Comprehensive Plan and development policies of this Title.
 2. The use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
 3. The use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development will not be depreciated in value and there will be no deterrence to development of vacant land.
 4. The structure and site will have an appearance that will not have an adverse effect upon adjacent properties.
 5. The use, in the opinion of the City, is reasonably related to the overall needs of the City and to the existing land use.

6. The use will be consistent with the purpose of this and other City Ordinances.
7. The use will be located, designed, maintained, and operated to be compatible with the existing or intended character of the zoning district in which it is to be located.
8. The use will generate only minimal vehicular traffic on local streets and shall not create traffic hazards or unsafe access or unmet parking needs.
9. Existing businesses nearby will not be adversely affected because of the curtailment of customer trade brought about by intrusion of noise, glare, or general unsightliness.
10. The establishment or maintenance of the use shall not be detrimental to the public health, safety or general welfare.
11. The use will not be hazardous, detrimental, or disturbing to present and potential surrounding land use due to water pollution, odor, fumes, general unsightliness or other nuisances.
12. The use will preserve and incorporate the site's important natural, scenic, and historical features into the development design
13. The use will cause minimal adverse environmental effects.

E. Finding of Fact. Upon review of the conditional use permit request the Planning Commission and City Council shall make a finding of fact. The findings are that the project as proposed or as approved contains the following conditions:

1. Conforms to the requirements and intent of this Title and the Comprehensive Plan;
2. That any conditions necessary to protect the public interest have been imposed; and
3. That such use or structure will not constitute a nuisance or be detrimental to the welfare of the surrounding neighborhood or community.

F. Conditions of Approval. In issuing a conditional use permit, conditions of approval may be imposed. These conditions, may include, but not be limited to:

1. Matters relating to the architecture or appearance.
2. Establishing hours of operation.
3. Increasing the required lot size or yard dimension.
4. Limiting the height, size or location of buildings.
5. Controlling the location and number of vehicle access points.
6. Increasing the street width.
7. Increasing the number of required off-street parking spaces.
8. Limiting the number, size, location or lighting of signs.
9. Requiring dikes, fences, screening, landscaping or other facilities to protect adjacent or nearby property.
10. Designating additional sites for open space.

11. Limiting the duration of the use.
12. Regulating storm water runoff.
13. Limiting the amount of signage.
14. Controlling exterior building or parking lot lighting.

3.2 INTERIM USE PERMIT

- A. Purpose: These uses may be permitted as a temporary use of property in the following cases:
1. To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction.
 2. To allow a use which is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
 3. To allow a use which is reflective of long-range change in an area and which is in compliance with the Comprehensive Plan, provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.
- B. Procedure: Interim uses shall be processed according to the standards and procedures for a conditional use permit as established in Section 3.1
- C. Qualifications and Requirements: The following uses shall be deemed interim uses:
1. An interim use permit may be granted to the following conditional uses in the respective zoning district
 - a. Licensed Day Care facilities.
 - b. Recreational vehicles and equipment parking and outdoor storage as regulated by Section 6.5 .
 - c. Horticultural uses.
 - d. Home Occupations
 - e. All auto or related repair shops
 - f. Outside display of merchandise or sales area, excluding temporary sidewalk sales or special events sales.
 2. Existing home occupations or business in a residential district that in the opinion of the City Administrator, Planning Commission or City Council has changed, expanded, and/or may be disruptive to the adjacent neighbors.
 3. Other uses in the opinion of the City Council are of the same general character, uses may be permitted as authorized by the City Council.
- D. General Standards: In granting an interim use permit, the Planning Commission and City Council shall consider the effect of the proposed use upon the health, safety and general welfare of occupants of surrounding properties. The Planning Commission and City Council shall consider and make findings regarding the following factors:
1. The proposed use meets the standards of the conditional use permit set forth in section 3.1 of this chapter.
 2. The date or event that will terminate the use can be identified with certainty.
 3. The use will not impose additional unreasonable costs on the public.

4. The proposed use will be subjected to, an agreement with the property owner, any conditions the City Council deems appropriate for permission of the proposed interim use, including a condition that the owner will provide an appropriate surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use.
- E. Conditions of approval: In permitting a new interim use permit or amending an existing interim use permit, the Planning Commission may recommend and the City Council may impose, in addition to the standards and requirements expressly specified by this section, additional conditions which the Planning Commission or City Council consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:
1. Matters relating to the architecture or appearance.
 2. Establishing hours of operation.
 3. Increasing the required lot size or yard dimension.
 4. Limiting the height, size or location of buildings.
 5. Controlling the location and number of vehicle access points.
 6. Increasing the street width.
 7. Increasing the number of required off-street parking spaces.
 8. Limiting the number, size, location or lighting of signs.
 9. Requiring dikes, fences, screening, landscaping or other facilities to protect adjacent or nearby property.
 10. Designating additional sites for open space.
 11. Limiting the duration of the use.
 12. Regulating storm water runoff.
 13. Limiting the amount of signage.
 14. Controlling exterior building or parking lot lighting.
- F. Termination: An approved interim use shall terminate upon the occurrence of any of the following events:
1. The termination date or event specified with approval of the interim use.
 2. Any violation of the conditions under which the interim use was approved.
 3. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.
- G. Review of Permit: All interim use permits shall be reviewed annually or on a complaint basis by the Planning Commission. A public hearing may be held at the Planning Commission's discretion.

3.3 HOME OCCUPATION

It is the purpose of this section to provide for the interim use of the home in a residential district as a place for limited operation of a business or profession, provided the occupation is clearly secondary to the principle use of the home as a residence and does not alter the character appearance or residential atmosphere of the neighborhood.

- A. Interim Use Permit Required. A Tier II and III Home occupation shall require an interim use permit as regulated in section 3.2.
- B. Tier I Home Occupations. Tier I Home occupation are permitted uses within the residential district without an interim use permit who conform to the following standards:
 - 1. Does not require the use of an accessory structure or garage.
 - 2. Does not generate noise or odors
 - 3. Does not require additional parking or generate additional traffic.
 - 4. Does not require any signage
 - 5. Do not employ workers who do not reside in the house.
 - 6. Does not store any equipment or materials for their business outside except for one personal automobile, truck, or van not exceeding twenty-five (25) feet in length or a gross vehicle weight rating of fifteen-thousand (15,000) pounds may be parked on the premises.
- C. Tier II Home Occupation. Tier II home occupations are permitted in all residential districts and shall conform to the following performance standards:
 - 1. The conduct of the home occupation does not require or result in alteration to the residence except where required to comply with State fire and building code regulations.
 - 2. Only those residing in the home and up to five (5), or at the discretion of the City Council other persons may be employed on the site or report to the site.
 - 3. Signage shall consist of one sign, 2 square foot maximum.
 - 4. No outdoor storage or display of goods, machinery or other related business items without adequate buffering.
 - 5. All needed parking shall be provided on site and not be more than 3 spaces (as defined by Sections 6.7 and 9.0)
 - 6. All business operation shall begin operation no earlier than 7:00 am and shall close by 9:00 pm
 - 7. Should the home occupation be a repair business, the repair operation shall take place within the residence, an accessory structure or garage.
 - 8. The home occupation shall not generate noise or noxious fumes or cause a fire hazard.
 - 9. The home occupation shall not generate excessive traffic.
 - 10. The home occupation shall not occupy more than 15% of the residence floor space or 200 sq. feet whichever is less.
- D. Tier III Home Occupation. Tier III home occupations are permitted in Residential districts of 1 acre or more and shall conform to the following performance standards:

1. The conduct of the business does not require or result in alteration to the residence except where required to comply with State fire and building code regulations.
 2. No retail sales permitted.
 3. Signage shall be limited to one free-standing sign no more than twelve (12) square feet in area and six (6) feet in height. The sign shall be no closer than ten (10) feet from the public right-of-way. The exact location of the sign shall be as approved through the Interim use permit process.
 4. Outdoor storage of goods, machinery or other related business items shall be limited and screened from the lakes, adjacent and nearby properties and must be placed more than 75 feet from the ordinary high water.
 5. All needed parking shall be provided on site.
 6. All business operation shall begin operation no earlier than 7:00 am and shall close by 9:00 pm
 7. Should the business be a repair shop, the repair operation shall take place within an accessory structure or garage.
 8. The business shall not generate noise or noxious fumes or cause a fire hazard.
 9. The business shall not generate excessive traffic.
 10. The office shall not occupy more than 15% of the residence floor space or 200 sq. feet whichever is less.
- E. Review of Permit. All home occupation permits either permitted or interim use permits shall be reviewed on a complaint basis by the Planning Commission. A public hearing may be held at the Planning Commissions discretion.

3.4 VARIANCE

- A. Purpose. A variance is the modification or variation of the Zoning Ordinance development standards where it is determined that there are practical difficulties in complying with the strict enforcement of this Title. Practical difficulties as used in connection with the granting of a variance, means that the proposed use in a reasonable manner is not permitted by this title without a variance.
- B. Procedure. Requests for a variance, as provided within this title, shall be filed with the Zoning Administrator on an official application form and shall follow the procedures as required in Section 2.0. Such application shall also be accompanied by copies of detailed written and graphic materials fully explaining the proposed variance request. The Zoning Administrator shall refer said application, along with all related information, to the Planning Commission for consideration at its next regular meeting, provided that adequate time exists between the filing date and meeting date to allow for notification of public hearing as required by law. If there is not adequate time between the filing date and meeting date, the requests will be considered at the next regular meeting of the Planning Commission. Unless the applicant requests a special meeting and one is able to be scheduled the applicant shall pay the costs of the special meeting.
- A. Application. The application shall be accompanied by a site plan of the proposed variance showing such information as may be necessary or desirable, including, but not limited to items (1) through (8) below. Within ten (10) working days of receipt of all of the following items, 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.
1. Evidence that the applicant is the owner of the property which is subject to the variance request or if not the owner that the applicant has been granted authority to make and proceed with the application.
 2. A detailed site plan drawn to scale showing parcel with lot dimensions, setbacks, building location and dimensions, and dimensional variance(s) requested.
 3. Locations and designated use of all proposed and existing buildings and their square footage.
 4. A location map showing the general location of the proposed use within the City.
 5. A map showing all owners of record and land uses within 350 feet of the parcel for which application is being made, provided by the City, paid for in the application fee.
 6. Mailing list of all owners of record of properties with 350 feet of the exterior boundary of the property for which the application is being made, provided by the City, paid for in the application fee.
 7. Recorded easements and right of ways.
 8. Any other information deemed necessary by the Zoning Administrator or Planning Commission.
- B. Variance Conditions. The following conditions will be considered in addressing the application for the variance.

1. No variance may be granted that would allow any use that is not permitted or conditionally permitted in the Zoning district in which the subject property is located.
2. The property in question cannot be used in a reasonable manner similar to other properties within zoning district under the conditions allowed by this Title.
3. The use is allowed in the zoning district in which the subject property is located.
4. The variance shall only be permitted when it is in harmony with the general purpose and intent of the ordinance and the comprehensive plan.
5. The applicant has established that there are practical difficulties in complying with the zoning ordinance.
6. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from physical conditions such as lot size or shape, topography, or other circumstances over which the owners of property, since enactment of this Title, have had no control.
7. The literal interpretation of the provisions of this Title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Title.
8. The special conditions or circumstances do not result from actions of the applicant.
9. The property is compatible with the adjacent property and the other properties in the vicinity.
10. The variance will not result in significant increases in adverse off site impacts such as noise, dust, odors and parking congestion.
11. Granting the variance will improve the appearance or stability of the vicinity.
12. Granting the variance will improve the quality of runoff into the lakes and wetlands.
13. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Title to owners of other lands, structures, or buildings in the same district.
14. The variance requested must consider the minimum variance which would alleviate the practical difficulties.
15. The variance would not be materially detrimental to the purposes of this Title, or to property in the same zone.

16. Economic conditions or circumstances alone do not constitute the granting of a variance request if a reasonable use of the property exists under the terms of the ordinance.
 17. In the Flood Plain district, no variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by state law.
 18. Variances shall be granted for earth-sheltered dwellings according to state statutes when in harmony with this Title.
- C. Finding of Fact. In considering requests for variances, the Planning Commission and City Council shall make findings of fact. The findings are that the project, as proposed or as approved, with conditions meets the application and procedural requirements of this Section 3.4, meets the conditions set forth in Subsection D above and will not:
1. Impair an adequate supply of light and air to adjacent property.
 2. Unreasonably increase the congestion in the public right-of-way.
 3. Increase the danger of fire or endanger the public safety.
 4. Unreasonably diminish or impair established property values within the neighborhood.
 5. Cause an unreasonable strain upon existing municipal facilities and services.
 6. Be contrary, in any way, to the spirit and intent of this Title.
 7. Have a negative (direct or indirect) fiscal impact upon the City or school district, unless the proposed use is determined to be in the public interest.
- D. Conditions of Approval. In issuing a variance, conditions of approval may be imposed to reduce the impact of the request.
- E. Precedents. A previous variance shall not be considered to have set a precedent for granting of further variances; each case must be considered on its individual merits.

3.5 DESIGN PERMIT/HISTORIC GUIDELINES

- A. Purpose. The purpose of the design permit is to promote the public health, safety and general welfare through the review of architectural and site development plans and through application of recognized principles of design, planning and aesthetic qualities.
- B. General Provisions. A design permit shall be required for the following:
1. Multifamily dwellings containing 4 or more dwelling units.
 2. New or remodeled structures intended for commercial or industrial use.
 3. As required in the Zoning Ordinance.
- C. Procedure. Applications for design permits shall be reviewed by the Planning Commission and other agencies as specified by the Zoning Administrator. The Planning Commission shall make recommendation for design permit review to the City Council and the Council shall take final action. Every person, before commencing construction or major alterations of a structure, except one and two family dwellings and building accessories, shall submit to the City Administrator the following:
1. A detailed drawing drawn to scale showing pertinent existing conditions.
 2. A complete set of scaled preliminary drawings that include at least the following:
 - a) An accurately scaled and dimensioned site plan indicating parking layout including access provisions, designation and locations of principle and accessory buildings, landscaping, including trees and shrubbery with an indication of species, planting size and location.
 - b) Fences, walls or other screening, including height and type of material.
 - c) Lighting plan with type and location.
 - d) Curbs
 - e) Building elevations including materials proposed.
 - f) Existing and proposed land elevations and drainage plans.
 - g) Location of all existing and proposed utilities including, but not limited to, location and size of water mains, storm and sanitary sewers, fire hydrants, gas lines, electric and telephone poles, street lights, curbs, gutter, culverts, catch basins, manholes and other facilities.
 - h) Complete plans for storage of waste and garbage.
 - i) Boundary line of property, clearly indicated, along with identifying any adjacent public and private streets, sidewalks, and drainage and utility easements and any other easements and their purpose.
 3. The developer or applicant shall establish an escrow account with the City to pay for design review application and review costs, and inspection of grading, paving, utilities, and other civil improvements. The escrow amount shall be set by the City Council by resolution. Any escrowed funds remaining after City acceptance of the site improvements and issuance of a Certificate of Occupancy, or the developer canceling the project, shall be returned to the developer. If the initial escrowed amount

is insufficient to complete design review and inspection of site civil improvements, the developer shall provide additional funds to be escrowed as required by the City.

- D. Findings Required. All applications for design permits shall be reviewed in relation to the following criteria and standards. Applications for design review that meets the standards shall be approved.
1. The site plan shall be consistent with physical development policies of the Comprehensive Plan, zoning code or other City design standards or criteria.
 2. The exterior design and appearance of buildings and structures and the design of the site plan shall be compatible with the design and appearance of other existing buildings and structures in neighborhoods which have established architectural character worthy of preservation.
 3. Design of the site plan shall respect design principles in terms of maintaining a balance of scale, form and proportion, using design components which are harmonious, materials and colors which blend with elements of the site plan and surrounding areas. Location of structures should take into account maintenance of view; rooftop mechanical equipment shall be incorporated into roof design or screened from adjacent properties. Utility installations such as trash enclosures, storage units, traffic control devices, transformer vaults and electrical meters shall be accessible and screened from public view.
 4. Where a site plan abuts, or is in close proximity to uses other than that proposed, the plan shall take into account its effect on other land uses. Where a non-residential use abuts or is in close proximity to a residential use, the effect of the site plan should maintain the residential quality of adjacent or nearby areas through site design and building location, larger setbacks, berming, the use at landscape buffers or screening.
 5. The orientation and location of buildings, structures, open spaces and other features of the site plan shall be such as to maintain natural resources including significant trees and shrubs to the extent feasible, maintain a compatible relationship to and preserve solar access of adjacent properties, and minimize alteration of natural land forms. Building profiles, location, and orientation must relate to natural land forms.
 6. The site plan shall minimize the effect of traffic conditions on abutting streets through careful layout of the site with respect to location, dimensions of vehicular and pedestrian entrances, exit drives and walkways; through the adequate provision of off-street parking and loading facilities; through an adequate circulation pattern within the boundaries of the development; and through the surfacing and lighting of off-street parking facilities.

7. The site shall provide open space and landscaping which complement building and structures. Open space should be useful to residents, employees, or other visitors to the site. Landscaping shall be used to separate and/or screen service and storage areas, separate and/or screen parking areas from other areas, break up expanses of paved areas, define open space for usability and privacy. For commercial or industrial projects, one tree per four parking stalls shall be planted in or around the parking lot.
8. The site plan shall reasonably protect against external and internal noise, vibration and other factors which may tend to make the environment less desirable. The site plan should respect the need for privacy of adjacent residents.
9. Signs shall complement the site plan and avoid dominating the site and/or existing building on the site or overwhelming the building or structures to which they are attached. Multiple signs on a given site should be of a consistent theme.
10. In the Central Business Commercial area new development and renovation shall preserve or recreate the historic character of the area. Building height, proportions, material, orientation, window openings, signage and materials shall be compatible with the best characteristics of the area to maintain the “old-town” character.
11. For the Highway 8 Business District the design guidelines contained in the Business District plan shall be used to review development application in that area.

3.6 ZONING PERMIT REVIEW

The Zoning Administrator shall review yearly all conditional use permits (CUP) and interim use permits (IUP) in all districts. In the event the CUP or IUP are found to be non-compliant, a letter with correction date will be sent. Failure to correct will result on the City Council reviewing the CUP for non-conformity.

- A. Application. A written application and required fee shall be filed with the Zoning Administrator. The application shall be accompanied by a legal description of the property and full sets of development plans of the proposed use showing such information as may be required by the Zoning Administrator. These plans shall contain adequate information upon which the Zoning Administrator can determine the proposed development will meet all development standards if the project proceeds in accordance with such plans.
- B. Compliance. The use shall conform with the regulations specified in this Title.
- C. Issuance and Conditions. If the Zoning Administrator determines that the use is in compliance with the conditions contained in this ordinance, the Zoning Administrator shall report to the City Council the use is compliant. Conditions required by this Title shall be applied to the issuance of and incorporated into the approval process.
- E. Appeals to Denial of a Zoning Permit. If the request for a Zoning permit is denied, or conditions are imposed, not acceptable to the applicant, the applicant may appeal the decision of the Zoning Administrator to the Planning Commission.
- F. Revocation. A violation of any condition set forth in an approved zoning permit shall be a violation of this ordinance and failure to correct said violation within thirty (30) days of written notice from the Zoning Administrator shall terminate the zoning permit. The hearing procedure for said revocation shall be the same procedure as that set forth under Section 2.17 of this Title.
- G. Existing Uses. All uses existing at the time of adoption of this Ordinance that now require a zoning permit may continue in the same manner of operation as the use did upon the effective date of this Title. The Zoning Administrator may require a zoning permit for the use. Any enlargement, structural alteration or intensification of use shall require a zoning permit as provided for above. The Zoning Administrator may impose additional, reasonable conditions for the continuation of such use.

(Adopted: January 2000. Amended: June 2007, September 2007, August 24, 2010, August, 2011)