

SECTION 20. ADMINISTRATION-AMENDMENTS, CONDITIONAL USE PERMITS, VARIANCES, AND APPEALS, AND NONCONFORMING USES

Subsection 1. Procedure

- (A) Three (3) copies of a request for a zoning amendment, conditional use permit, variance, or appeal shall be filed with the City Clerk. This request shall be accompanied by an application fee as determined by the City Council. This fee cannot be refunded. The request shall include detailed written and graphic materials fully explaining the proposed change, development, or use, and a list of adjacent property owners. The City Council will initiate action on the request when all the information requirements have been complied with.
- (B) A public hearing is required for all zoning amendments, conditional use permits, variance requests, or appeals. Adjacent landowners within three hundred fifty (350) feet must be notified about the hearing ten days prior to the date on which it will occur.
- (C) The City Council shall consider possible adverse affects of the proposed amendment, conditional use, or variance. Its judgment shall be based upon (but not limited to) the following factors:
 - (1) The proposed action shall be consistent with the policies and plans in the City's Comprehensive Guide Plan.
 - (2) The proposed action shall be consistent with performance standards as outlined in Section 4 and in the applicable districts as described in this Ordinance.
 - (3) The proposed use can be accommodated with existing public services and will not overburden the City s service capacity.
- (D) Approval of a request shall require passage by a majority vote of the City Council except for a rezoning amendment from residential to commercial or industrial zoning which requires at least a 2/3 majority vote.

Subsection 2. Amendments to Zoning Text or Zoning Map (Rezoning)

- (A) The City Council may initiate a request to amend the text or the district boundaries of this Ordinance. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate.
- (B) All applications to change the boundaries of any Zoning District shall include the following information:
 - (1) The information requested on the Zoning Amendment form.
 - (2) A statement explaining the reason for the requested change in zoning.
 - (3) A statement regarding the compatibility of the requested change with the City's Comprehensive Plan.

- (4) A map, plot plan or survey plot of the property or properties to be rezoned which illustrates the location, dimensions, zoning, existing uses, and buildings located on adjacent properties within three hundred fifty (350') feet.
- (C) The planning commission shall not recommend, nor the City Council approve or deny, a petition to rezone property unless findings are made that the petition is consistent with the intent of the comprehensive plan and that the new zoning district permits uses that are consistent with the trend of development in the area near the property to be rezoned.
- (D) Zoning amendments shall not become effective until such time as the City Council approves an ordinance reflecting said amendment and after said ordinance is published in the official newspaper.

Subsection 3. Conditional Use Permits

- (A) The conditional use permit application shall be accompanied by a site plan which shall include the following information:
 - (1) Location of all buildings on lots including both existing and proposed structures.
 - (2) Location and number of existing and proposed parking spaces.
 - (3) Lot dimensions and area.
 - (4) Existing and proposed setbacks of all buildings to be located on the property in question.
 - (5) A legal description of property under consideration.
 - (6) The information requested on the Sketch Plan form, when applicable.
- (B) In making its determination on a proposed conditional use, the City may consider the nature of the adjoining land or buildings, whether or not a similar use is already in existence and located on the same premises or on other lands in close proximity, the effect upon traffic into and from the premises, and any other factor(s) the City deems necessary in its consideration for determining the effect of the use on the general welfare, public health, and safety.
- (C) Lapse of a Conditional Use Permit
 - (1) A violation of any condition set forth in a Conditional Use Permit shall be a violation of this ordinance. Failure to correct said violation after thirty (30) days following official notice of the violation shall be cause for termination of the permit
 - (2) A conditional use permit shall become null and void one (1) year after being granted by the City Council unless the applicant has used the permit, or if such use was begun by the applicant within one year of having the permit approved but then discontinued the use for more than ninety (90) days, then the permit shall also become null and void.

^{14, 15} Subsection 4. Variances

- (A) Establishment of Board Adjustment. The City Council is hereby established as the Board of Adjustment and vested with such authority as is provided by Minnesota Statutes. The findings and rulings of the Board of Adjustment shall be final.
- (B) Purpose. Request for variance from the literal provisions of this Ordinance, including variances in the Cannon Recreational River District, may be made in instances when the applicant establishes that there are practical difficulties in complying with the zoning ordinance. “Practical difficulties”, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. A variance for a use that is not allowed under the zoning ordinance for property in the zone where the affected person’s land is located is not permitted.
- (C) In acting upon the request for a variance the City Council shall make the following findings of fact:
 - (1) The proposed variance will not impair an adequate supply of light and air to adjacent property.
 - (2) The proposed variance will not unreasonably increase the congestion in the public street.
 - (3) The proposed variance is in harmony with the general purposes and intent of the ordinance and is consistent with the comprehensive plan.
 - (4) The need for a variance is due to circumstances unique to the property and is not created by the landowner.
 - (5) The applicant experiences practical difficulties, other than economic hardship alone, in complying with the existing zoning ordinance.
 - (6) Conditions imposed in the granting of a variance are directly related to and bear a rough proportionality to the impact created by the variance.
- (D) Limitations:
 - (1) A violation of any condition set forth in granting a variance shall be a violation of this ordinance and automatically make the variance null and void.
 - (2) Unless within one (1) year from the date the variance is approved, a building permit has been issued, and the work as permitted by the variance has been substantially completed, then such variance shall be null and void.
 - (3) A variance is valid only for the particular project for which it was granted.

Subsection 5: Appeals From The Decisions Of The Zoning Officer Or Administrator

- (A) Purpose: The purpose of this provision is to allow the Board of Adjustment to resolve disputes concerning the interpretation of the provisions in the code.
- (B) Any affected party may appeal an administrative decision or interpretation of zoning code provisions made by the zoning officer of administrator.
- (C) Decisions Final: The decision of the Board of Adjustment shall be final.

Subsection 6: Nonconforming Buildings, Structures, and Uses

- (A) Purpose. The purpose of this section is to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. It is the intent of this section that all nonconforming uses shall be eventually brought into conformity.
- (B) General Provisions
 - (1) Any structure or use lawfully existing upon the effective date of this Ordinance may be continued through repair, replacement, restoration or improvement at the size and in the same manner of operation existing upon such date. Furthermore, an expansion of the nonconformity may be permitted by the Board of Adjustment provided reasonable regulations to prevent and abate nuisances and to protect the public health, welfare , and safety are included as conditions of the expansion.
 - (2) If a nonconforming building, structure, or use is destroyed to the extent of more than fifty (50) percent of its fair market value, said value to be determined by the County Assessor, and no building permit has been applied for within 180 days of when the property is damaged, then the building and the land on which such building was located shall be subject to all the regulations specified by this zoning ordinance for the district in which it is located. If the damage is less than fifty (50) percent, the building may be restored to its former condition, if it is reconstructed within twelve (12) months after the date of said damage.
 - (3) Normal maintenance of a building or other structure containing or relating to a lawful nonconforming use is permitted, as long as such repairs or alterations do not physically extend or intensify the nonconforming use.
 - (4) In the event that a non-conforming use of any building or building and land is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
- (C) Nonconforming Uses in the Floodplain
 - (1) A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued, subject to the following conditions:

- (a) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- (b) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in 11.13 below.
- (c) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty (50%) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50%) percent of the current market value of the structure, then the structure must meet the standards of Section 4.0 or 5.0 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.
- (d) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.
- (e) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (50%) percent or more if its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 4.0 or 5.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

(D) Nonconforming Uses in the Cannon River Recreational District

- (1) Nonconforming uses shall not be intensified, enlarged, or expanded beyond the permitted or delineated boundaries of the use or activity. No structural alteration, addition or repair to a nonconforming structure shall exceed 50% of the assessed value of that structure.
- (2) Nonconforming sanitary systems inconsistent with the minimum performance standards of the Minnesota Pollution Control Agency and the Minnesota Department of Health shall be brought into conformity or discontinued within five (5) years of the date of enactment of this ordinance.
- (3) Substandard structures in existence prior to the effective date of enactment of this ordinance that do not meet the minimum setbacks or other dimensional requirements of this ordinance are substandard structures. All substandard structures shall be allowed to continue, except that any structural alteration or addition to a substandard structure that will increase the substandard dimensions shall not be allowed.

- (4) Substandard lots of record in the Office of the County Register of Deeds (or Registrar of Titles) prior to the date of enactment of this ordinance which do not meet the lot size requirements of Section 4.2 of this ordinance may be allowed as building sites provided:
 - (a) Such use is permitted in the zoning district;
 - (b) The lot is in separate ownership from abutting lands; and
 - (c) All other sanitary and dimensional requirements of this ordinance are complied with insofar as practical.

¹³ Subsection 7: Interim Uses

- (A) Purpose. The purpose of allowing interim uses is:
 - (1) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
 - (2) To allow a use that 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 anticipated long range change to 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.
 - (1) Existing Uses: Uses defined as interim uses which presently exist as a legal use or a legal nonconforming use within a respective zoning district shall be considered approved and shall be treated as allowed uses.
 - (2) New Uses: Uses defined as interim uses which do not presently exist within a respective zoning district shall be processed according to the standards and procedures for a conditional use permit as established by Subd. 05 of this Chapter.
- (C) General Standards. An interim use shall comply with the following:
 - (1) Existing uses shall be in conformance with zoning and building standards in effect at the time of initial construction and development and shall continue to be governed by such regulations in the future.
 - (2) New Uses: New uses shall meet the following criteria:
 - (a) Meet the standards of a conditional use permit set forth in Subsection 3 of this Section.

- (b) Conform to the applicable performance standards of this Ordinance.
 - (c) The use must be allowed as an interim use in the respective zoning district.
 - (d) The date or event that will terminate the use can be identified with certainty.
 - (e) The use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
 - (f) The user shall agree to any conditions that the City Council deems appropriate for permission of the proposed use.
- (D) Termination. An interim use shall terminate on the happening of any of the following events, whichever first occurs:
- (1) The date or event stated in the permit.
 - (2) Upon violation of conditions under which the permit was issued.
 - (3) Upon change in the City's zoning regulations which renders the use non-conforming.
 - (4) 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.