

SECTION 1103.00 ZONING ADMINISTRATION.

1103.01 POWERS GIVEN TO THE CITY COUNCIL.

The City Council may on its own motion, or on request of the Planning Commission or on petition of the affected property owners, and in accordance with Section 1103.09:

1. Change the zoning of a parcel of land from one classification to another by amending the zoning ordinance. Adoption of an amendment which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds (2/3) vote of all members of the City Council.
2. Change any of the regulations of this Ordinance as to the use of land in any district or as to the restrictions upon buildings or structures therein, by amendment to this Ordinance.
3. Review and approve conditional use permits.
4. Review site plans for multiple-family buildings (three (3) or more units), commercial development or industrial development and mandate the inclusion or alteration of elements of the plans to protect adjacent properties. When a variance, conditional use or rezoning is requested, the site plan must be reviewed by the Planning Commission and City Council.
5. Hear and decide requests for variances from the literal provisions of this Ordinance.
6. Hear and decide appeals by any person affected by any alleged error in any order, requirement, decision or determination made by any administrative officer in the enforcement of this Ordinance.
7. Where the street or property layout existing on the ground is at variance with that shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the City Council shall interpret the district boundaries in accordance with this Section.

1103.02 ENFORCEMENT.

This Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may institute, in the name of the City of Belle Plaine, any appropriate actions or proceedings against a violator as provided by law.

Any person who violates any of the provisions of this Ordinance shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under State law. Each day that a violation is permitted to exist shall constitute a separate offense.

1103.03 ENFORCEMENT OFFICER.

This Ordinance shall be administered and enforced by the Zoning Administrator, who shall be the City Planner, unless the City Council specifically appoints someone else. The Zoning Administrator shall be responsible for the enforcement of this Ordinance. The Zoning Administrator is authorized to do the following:

1. Examine all applications pertaining to the use of land, buildings or structures, and grant approval of, and issue permits or take other appropriate action on, such applications when in conformance with the provisions of this Ordinance.
2. Periodically inspect buildings, structures and uses of land to determine compliance with the terms of this Ordinance.
3. Notify, in writing, any person responsible for violating a provision of this Ordinance, indicating the nature of the violation and ordering the action necessary to correct it.
4. Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions or alterations; order discontinuance of illegal work being done; or take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Maintain permanent and current records of this Ordinance, including maps, amendments, conditional uses and variances.
6. Maintain a current file of all permits, zoning certificates, certificates of occupancy and notices of violation, discontinuance or removal for such time as necessary to insure continuous compliance with the provisions of this Ordinance and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.
7. Maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures in the Flood Plain Districts; and shall also maintain a record of the elevations to which structures or additions to structures are floodproofed.
8. File a certified copy with the County Recorder of conditional use permits granted.

1103.04 APPEALS.

1. The City Council shall serve as the Board of Appeals.
2. A majority vote of the Board of Appeals shall be required to reverse any decision of an administrative officer in the interpretation of this Ordinance.
3. An appeal from the ruling of an administrative officer of the City shall be filed by the property owner or his or her agent, within thirty (30) days after the decision of the administrative officer.
4. The procedure for making such an appeal shall be as follows:
 - A. The property owner or his or her agent shall file with the Zoning Administrator a notice of appeal stating the specific grounds upon which the appeal is made.
5. All decisions by the Board of Appeals shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision with the Scott County District Court.

1103.05 VARIANCES.

1103.05 SUBD. 1. AUTHORITY AND CONDITIONS.

The City Council may allow a variance from the terms of the zoning regulations, including restrictions placed on nonconformities, 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan, and; 3) the applicant establishes that there are practical difficulties in complying with the zoning code.

1103.05 SUBD. 2. REVIEW CRITERIA.

1. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, “practical difficulties” means:
 - A. The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;
 - B. The plight of the property owner 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.

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.

2. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property.
3. The Board of Adjustments and Appeals may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.

1103.05 SUBD. 3. PROCEDURES.

1. An application for a variance shall be submitted to the Zoning Administrator. A nonrefundable application fee, established from time to time by the City Council to cover administrative costs and costs of the hearing, shall accompany each application. The application shall contain the following information, as well as such additional information as may be required by the Zoning Administrator:
 - A. The applicant’s name and address.
 - B. A site plan drawn to scale showing the property dimensions, existing and proposed buildings and other structures, existing and proposed grading, landscaping, easements and location of utilities, as applicable. The Zoning Administrator may require the applicant to obtain a certified survey at the time of application.

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- C. The particular requirements of this zoning code which prevent the proposed use or construction.
 - D. The characteristics of the subject property which prevent compliance with the said requirements of this zoning code.
 - E. The minimum reduction of the requirements of this zoning code which would be necessary to permit the proposed use or construction.
 - F. The practical difficulties which would result if said requirements of this zoning code were applied to the subject property.
 - G. If the variance is part of an application for Commercial, Industrial, or Multiple-Family Residential Site Plan Approval, all of the submittal requirements for a Site Plan, Section 1103.07, shall also apply.
2. A public hearing shall be set, advertised, and conducted by both the Planning Commission and City Council in accordance with Section 1103.09 of this Ordinance.
 - A. For a variance in the Flood Plain District, the Zoning Administrator shall submit to the Commissioner of Natural Resources a copy of the application for proposed variances located in the Flood Plain District sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
 - B. For a variance adjacent to Trunk Highway 169, State Highway, or Scott County right-of-way, the Zoning Administrator shall submit to the appropriate office a copy of the application for proposed variances located in the highway right-of-way sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
 3. The applicant or representative shall appear before the Planning Commission and City Council to answer questions concerning the proposed variance.
 4. Within the time frame established by Minnesota Statutes section 15.99, following receipt of the completed application, the City Council shall render its decision granting or denying the variance. Such decision shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed variance. Such plans and specifications shall remain a part of the permanent records of the City Council. The findings of fact shall specify the reason or reasons for granting or denying the variance. The terms of relief granted shall be specifically set forth in a conclusion or statement separate from the findings of fact. In extenuating circumstances, extension of the sixty (60) days may be granted upon receipt of signed request from applicant.
 5. The City Council should not grant a variance until they have received a report and recommendation from the Planning Commission.
 6. All decisions by the Council involving a variance request shall be final except that an aggrieved person or persons shall have the right to file an appeal within thirty (30) days of the decision to the Scott County District Court.

7. Whenever an application for a variance has been considered and denied by the City Council, a similar application and proposal for the variance affecting the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than two-thirds (2/3) vote of the full City Council.
8. Motions on variances require a simple majority of the Planning Commission or City Council for passage.
9. A copy of all decisions granting a variance shall be forwarded to the appropriate office as listed in Section 1103.05 Subd. 3, Procedures, (2) (A) and (B), within ten (10) days of such action.

1103.05 SUBD. 4. LAPSE OF VARIANCE.

If within one (1) year after granting a variance the use, as allowed by the variance, shall not have been initiated or utilized, then such a variance shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the use permitted in the variance. Such petition shall be presented to the Council for decision.

(Ord. 11-09, Section 1103.05, Subd. 1, 2, 3, Adopted September 19, 2011.)

1103.06 ORDINANCE AMENDMENTS AND LAND REZONINGS.

1103.06 SUBD. 1. AUTHORITY.

This Ordinance and the Zoning District Map may be amended from time to time by ordinance duly enacted by the City Council; provided, however, that no such amendment shall be enacted except in accordance with the procedures of Section 1103.09, Public Hearings.

1103.06 SUBD. 2. INITIATION.

Proposed amendments or rezonings may be initiated by the City Council, by the Planning Commission or by any one or more owners of real estate in the area to be affected by the amendment or rezoning, or by the owner of an enforceable option to purchase property in the area affected by the amendment or rezoning.

1103.06 SUBD. 3. PROCEDURE.

1. When any proposed amendment or rezoning is initiated by the City Council, the Council shall transmit its proposal to the Planning Commission for a public hearing and report thereon.
2. When any proposed amendment or rezoning is initiated by an owner or owners of real estate in the City, an application for such amendment or rezoning, addressed to the City Council, shall be filed with the Zoning Administrator. A nonrefundable application fee, established from time to time by the City Council to cover administrative costs, shall accompany the application.

The application shall be in such form and contain such information as shall be prescribed from time to time by the Planning Commission, but shall in all instances contain the following information:

- A. The applicant's name and address;
- B. The precise wording of any proposed amendment to the text of this Ordinance; and
- C. In the case of a rezoning:
 1. A legal description and street address of the property proposed to be reclassified,
 2. The name and address of the property owner or owners of the said property,
 3. The present zoning classification and existing uses of the property to be reclassified,
 4. The area of the property proposed to be reclassified, stated in square feet or acres, or fraction thereof, and
 5. A map, drawn to scale, clearly showing the property proposed to be rezoned, its present zoning classification, existing uses, and its initial use under the proposed zoning and, if deemed necessary by the Zoning Administrator, a land survey will be required.

3. A public hearing shall be set, advertised and conducted by the Planning Commission and City Council in accordance with Section 1103.09 of this Ordinance.
4. The Planning Commission shall consider possible adverse effects of the proposed amendment. Its judgment shall be based upon, but not limited to, the following factors:
 - A. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
 - B. The proposed use is or will be compatible with present and future land uses of the area.
 - C. The proposed use conforms with all performance standards contained herein.
 - D. The proposed use will not tend to or actually depreciate the property values in the area in which it is proposed.
 - E. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
 - F. Traffic generation by the proposed use is within capabilities of streets serving the property.
5. Within thirty (30) days following the conclusion of the public hearing, the Planning Commission shall transmit to the City Council its recommendation in the form of a written report. Such report shall be accompanied by the findings of fact specifying the reasons for the recommendation.
6. Within the time frame established by Minnesota Statutes section 15.99 following receipt of the completed application, the City Council shall render its decision granting or denying the ordinance amendment and/or land rezone. Such decision shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed amendment or rezone. Such plans and specifications shall remain a part of the permanent records of the City Council. The findings of fact shall specify the reason or reasons for granting or denying the ordinance amendment and/or land rezone.
7. Approval of a proposed amendment shall require passage by a two-thirds (2/3) vote of the entire City Council when the amendment changes all or part of an existing classification of a zoning district from residential to either commercial or industrial.
8. The City Council may apply a condition to a rezoning that would revert the site to the previous zoning classification if substantial development activity has not commenced on the site within one (1) year of the date of rezoning approval.
9. Whenever an application for an amendment has been considered and denied by the City Council, a similar application and proposal for the amendment affecting the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months.

10. The Flood Plain designation on zoning maps shall not be removed from the flood plain areas unless it can be shown that the designation is in error or that the areas are filled to an elevation at or above the flood protection elevation and are contiguous to other lands lying outside the Flood Plain District. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he/she determines that, through other measures, lands are protected adequately for the intended uses.

All amendments to either the Flood Plain designation on the official zoning map or Flood Plain provisions of this Ordinance must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.

11. Whenever an application for an amendment has been considered and denied by the City Council, a similar application and proposal for the amendment affecting the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months.
12. The amendment 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.

1103.07 SITE PLAN REVIEW.

1103.07 SUBD. 1. REQUIREMENTS.

The City Council declares it necessary and appropriate to require site plan approval of development in certain zoning districts to preserve and promote attractive, well-planned stable urban conditions. This includes all proposed multiple-family buildings (three (3) or more units), commercial developments, industrial developments and all proposed developments in the Flood Plain District. Site plan approval by the City Council must be obtained before a building permit is issued. True and accurate representation of the following requirements are the responsibility of the applicant.

1. Application for Site Plan Approval.

Applications for Site Plan Approval shall be on a form provided by the Zoning Administrator and shall include the fee as set by City Council resolution. The application and copies of the site plan shall be submitted to the Zoning Administrator. In all cases, the Site Plan shall contain:

- A. Name of project.
- B. Location of project, including a vicinity map.
- C. Name and mailing address of developer/owner.
- D. Name, telephone number, and mailing address of the project engineer and/or architect.
- E. Date of plan preparation.
- F. North point and graphic scale.
- G. Boundary line of project site with dimensions. All site plans shall be drawn at an engineering scale (e.g. 1"=40').
- H. A Registered Land Survey if deemed necessary by Zoning Administrator.

The site plan shall also contain the following features, both existing and proposed, drawn by a Registered Engineer, Architect, Landscape Architect and/or Land Surveyor:

- 1. Topographic contours at a minimum interval of (2) two feet.
- 2. Adjacent and on-site streets and street rights-of-way. Any access onto County or State roads must be approved by such authority prior to City Council approval.
- 3. Utilities and utility right-of-way easements, man-hole rim elevations and pipe elevations and sizes.
- 4. Buildings, signs and light poles.
- 5. Parking and loading facilities.
- 6. Surface water collection and conveyance features including arrows indicating the direction of surface water flow over the map of proposed contours.
- 7. Surface water ponds, ditches and wetlands.
- 8. Sidewalks and trails.
- 9. The location of tree cover, including the designation of trees of fifteen (15) inches in diameter or more.

10. Fences and retaining walls.
11. Shielded exterior refuse collection areas.
12. Landscaping, including species and minimum size (refer to Section 1107.03 Screening and Landscaping).
13. Traffic flow on- and off-site.
14. Height above mean sea level of buildings.
15. Project data including square footage of buildings and number of parking spaces.
16. A description of proposed exterior finish materials.
17. The current zoning of the property and a listing of all required federal, state, and city permits and the status of such applications.

The Zoning Administrator may require the developer to submit the following items if he or she feels that they are important for adequate understanding of the project by the Planning Commission, City Council and/or public:

- a. Aerial photograph(s) of the site.
- b. Cross-section drawings.
- c. Perspective sketch(es).
- d. A professional analysis of traffic impact or other infrastructure impact (e.g., storm sewer, water, sanitary sewer).

2. Review and Recommendation.

In considering applications for Site Plan Approval under this Ordinance, the Zoning Administrator, Planning and Zoning Commission, Design Review Committee and City Council shall consider the following:

- A. How the site plan relates to conditions both on and off the site.
- B. Conformance with the Belle Plaine Comprehensive Plan.
- C. The impact of the site plan on the existing and anticipated traffic and parking conditions.
- D. Building location and height.
- E. Sanitary sewer, water, and drainage conditions, landscaping, lighting, open space, signage, setbacks, and related matters.
- F. The design guidelines as outlined in the Belle Plaine Design Manual. (*Ord. 08-06, Section 1103.07 Subd. 1, Adopted October 20, 2008.*)

3. Developer's/Builder's Agreement.

Prior to issuing a building permit, the Zoning Administrator may require the developer/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 City Council, shall be carried out. The City Council may require the applicant to provide a performance bond or irrevocable letter of credit to ensure that certain improvements are implemented.

1103.08 CONDITIONAL USES.

1103.08 SUBD. 1. PURPOSE.

The purpose of a conditional use permit is to provide the City of Belle Plaine with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining roads and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

1103.08 SUBD. 2. AUTHORITY.

The City Council may, after review and recommendation by the Planning Commission, grant a conditional use permit or overturn the vote of the Planning Commission with a two-thirds (2/3) vote.

1103.08 SUBD. 3. PROCEDURE.

An application for a conditional use permit shall be submitted to the Zoning Administrator. A nonrefundable application fee, as established from time to time by the City Council to cover administrative costs and costs of the hearing, shall accompany each application.

The application shall contain the following information and any such additional information as requested by the Zoning Administrator:

1. Site Development Plan:

- A. Location of all buildings on lots including both existing and proposed structures.
- B. Location of all adjacent buildings located within three hundred fifty (350) feet of the exterior boundaries of the property in question.
- C. Location and number of existing and proposed parking spaces.
- D. Vehicular circulation.
- E. Architectural elevations (type and materials used in all external surface).
- F. Location and type of all proposed lights.
- G. Curb cuts, driveways, number of parking spaces.

2. Dimension Plan:

- A. Lot dimensions and area.
- B. Dimensions of proposed and existing structures.
- C. "Typical" floor plan and "typical" room plan.
- D. Setbacks of all buildings located on property in question.
- E. Proposed setbacks.
- F. Sanitary sewer and water plan with estimated use per day.

3. Grading Plan:

- A. Existing contours.
- B. Proposed grading elevations.
- C. Drainage configuration.
- D. Storm sewer catch basins and invert elevations.
- E. Spot elevations.
- F. Proposed road profile.

4. Landscape Plan:

- A. Location of all existing trees including the type, diameter and potential removal.
- B. Location, type and diameter of all proposed plantings.
- C. Location and material used of all screening devices.

5. Legal description of property under consideration.

6. Proof of ownership of the land for which a conditional use permit is requested.

1103.08 SUBD. 4. REVIEW.

1. The Planning Commission and City Council shall consider possible adverse affects of the proposed conditional use. Their judgment shall be based upon, but not limited to, the following factors:

- A. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Land Use Plan.
- B. The proposed use is, or will be, compatible with present and future land uses of the area.
- C. The proposed use conforms with all performance standards contained herein.
- D. The proposed use will not tend to or actually depreciate the property values of the area in which it is proposed.
- E. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
- F. Traffic generation by the proposed use is within capabilities of streets serving the property.

2. A public hearing shall be set, advertised and conducted by both the Planning Commission and City Council in accordance with Section 1103.09 of this Ordinance.

When a Flood Plain District is involved, the Planning Commission shall submit to the Commissioner of Natural Resources a copy of the application for a proposed conditional use permit sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

3. Within the time frame provided by Minnesota Statutes section 15.99 following receipt of the completed application, the City Council shall render its decision granting or denying the conditional use permit. Such decision shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed conditional use permit. Such plans and specifications shall remain a part of the permanent records of the City Council. The findings of fact shall specify the reason or reasons for granting or denying the conditional use permit.
 - A. For a conditional use permit adjacent to Trunk Highway 169, State Highway, or Scott County right-of-way, the Zoning Administrator shall submit to the appropriate office a copy of the application for proposed conditional use permit located in the highway right-of-way sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
4. If an application for a conditional use permit has been considered and denied by the City Council, a similar application for the conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than two-thirds (2/3) vote of the full City Council.

1103.08 SUBD. 4. LAPSE OF CONDITIONAL USE PERMIT BY NON-USE.

Whenever within one (1) year after granting a conditional use permit, the use as allowed by the permit shall not have been initiated or utilized, then such permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use that has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

1103.08 SUBD. 5. PERFORMANCE SECURITY.

1. Except in the case of non-income producing residential property (excluding relocated structures), upon approval of a conditional use permit the City shall be provided, where deemed necessary, with a surety bond, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the City.

2. The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or City Building Official's estimated costs of labor and materials for the proposed improvements or development. Said project can be handled in stages upon the discretion of the City Engineer and Building Official.
3. The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and ordinances of the City has been issued by the City Building Official.
4. Failure to comply with the conditions of the conditional use permit or the ordinances of the City shall result in forfeiture of the security.

1103.09 PUBLIC HEARINGS.

1103.09 SUBD. 1. SETTING OF HEARINGS.

For all requests brought before the City Council or the Planning Commission for which a public hearing is required by this Ordinance, the public hearing shall be held at a reasonable time as set by the City in the City Council Chambers, or such designated site.

1103.09 SUBD. 2. NOTICE OF HEARINGS.

1. Notice of public hearings shall be given not more than thirty (30) days and not less than ten (10) days before the hearing by publication at least once in the official newspaper of the City. Such notice shall include the time and place of the hearing, a description of the contents of the request to be heard and the address or location of the property to which the request applies.
2. In addition to the general notice to the public, separate notice by letter shall be required for all property owners residing within the area, and for a distance of three hundred fifty (350) feet from the boundaries of such area, where a request concerning property will be the subject of the hearing. Such notices shall be sent by the City and addresses taken from current City records shall be deemed sufficient for such notification.
3. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.

1103.09 SUBD. 3. CONDUCT OF HEARING.

Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, or by a written, signed letter.

1103.09 SUBD. 4. REFERRAL BACK TO THE PLANNING COMMISSION.

If, upon receiving said reports and recommendations of the Planning Commission, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council will differ from that of the Planning Commission, the City Council may before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

1103.10 ADMINISTRATION - CERTIFICATE OF OCCUPANCY.

1103.10 SUBD. 1. REQUIREMENT.

No building or structure hereafter erected or moved shall be occupied or used in whole, or in part, for any purpose whatsoever until a certificate of occupancy has been issued by the Building Official stating that the building or structure complies with all of the provisions within this Ordinance and applicable state building code sections.

1103.10 SUBD. 2. APPLICATION.

Said certificate is applied for coincident with the application for a building permit and issued following satisfactory final inspection by the Building Official.

1103.11 FEES, CHARGES AND EXPENSES.

SUBD. 1. ESTABLISHMENT.

The City Council by ordinance shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, certificates of occupancy, conditional use permits, variances, amendments, site plan review, appeal application and other matters pertaining to this Ordinance. This schedule of fees shall be available in the office of the Zoning Administrator and may be altered by resolution of the City Council.

SUBD. 2. PAYMENT REQUIRED.

No application shall be reviewed until fees have been paid in full, nor shall any action be taken on proceedings before the Planning Commission, City Council or Board of Appeals until charges and fees have been paid in full.

1103.12 INTERIM USES.

1103.12. SUBD.01 PURPOSE.

The purpose and intent of allowing interim uses are:

1. To allow 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.

1103.12. SUBD. 02 AUTHORITY.

The City Council may, after review and recommendation by the Planning Commission, grant an interim use permit or overturn the vote of the Planning Commission with a two-thirds (2/3) vote.

Zoning regulations may permit the governing body to allow interim uses. The regulations may set conditions on interim uses. The governing body may grant permission for an interim use of property if:

- (1) the use conforms to the zoning regulations;
- (2) the date or event that will terminate the use can be identified with certainty;
- (3) permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
- (4) the user agrees to any conditions that the governing body deems appropriate for permission of the use.

Any interim use may be terminated by a change in zoning regulations.

1103.12.03 PROCEDURE.

An application for an interim use permit shall be submitted to the Zoning Administrator. A nonrefundable application fee, as established by the City Council to cover administrative costs and costs of the hearing, shall accompany each application. The application shall contain the following information and any such additional information as requested by the Zoning Administrator:

1. Site Development Plan:
 - a. Location of all buildings on lots including both existing and proposed structures.

- b. Location of all adjacent buildings located within three hundred fifty (350) feet of the exterior boundaries of the property in question.
- c. Location and number of existing and proposed parking spaces.
- d. Vehicular circulation.
- e. Architectural elevations (type and materials used in all external surfaces).
- f. Location and type of all proposed lights.
- g. Curb cuts, driveways, number of parking spaces.

2. Dimension Plan:

- a. Lot dimensions and area.
- b. Dimensions of proposed and existing structures.
- c. "Typical" floor plan and "typical" room plan.
- d. Setbacks of all buildings located on property in question.
- e. Proposed setbacks.
- f. Sanitary sewer and water plan with estimated use per day.

3. Grading Plan:

- a. Existing contours.
- b. Proposed grading elevations.
- c. Drainage configuration.
- d. Storm sewer catch basins and invert elevations.
- e. Spot elevations.
- f. Proposed road profile.

4. Landscape Plan:

- a. Location of all existing trees including the type, diameter and potential removal.
- b. Location, type and diameter of all proposed plantings.
- c. Location and material used of all screening devices.

5. Legal description of property under consideration.

6. Proof of ownership of the land for which an interim use permit is requested.

1103.12.04 REVIEW.

1. The Planning Commission and City Council shall consider possible adverse affects of the proposed interim use. Their judgment shall be based upon, but not limited to, the following factors:

- a. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Land Use Plan.
- b. The proposed use is, or will be, compatible with present and future land uses of the area.
- c. The proposed use conforms with all performance standards contained herein.
- d. The proposed use will not tend to or actually depreciate the property values of the area in which it is proposed.
- e. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

f. Traffic generation by the proposed use is within capabilities of streets serving the property.

2. A public hearing shall be set, advertised and conducted by both the Planning Commission and City Council in accordance with Section 1103.09 of this Ordinance. When a Flood Plain District is involved, the Planning Commission shall submit to the Commissioner of Natural Resources a copy of the application for a proposed interim use permit sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

3. Within the time frame provided by Minnesota Statutes section 15.99 following receipt of the completed application, the City Council shall render its decision granting or denying the interim use permit. Such decision shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed interim use permit. Such plans and specifications shall remain a part of the permanent records of the City Council. The findings of fact shall specify the reason or reasons for granting or denying the interim use permit.

a. For an interim use permit adjacent to US Highway 169, State Highway, or Scott County right-of-way, the Zoning Administrator shall submit to the appropriate office a copy of the application for proposed interim use permit located in the highway right-of-way sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

4. If an application for a interim use permit has been considered and denied by the City Council, a similar application for the interim use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than two-thirds (2/3) vote of the full City Council.

1103.12.04 LAPSE OF INTERIM USE PERMIT BY NON-USE.

Whenever within one (1) year after granting an interim use permit, the use as allowed by the permit shall not have been initiated or utilized, then such permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use that has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original interim use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the interim use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

1103.12.05 PERFORMANCE SECURITY.

1. Except in the case of non-income producing residential property (excluding relocated structures), upon approval of a interim use permit the City shall be provided, where deemed necessary, with a surety bond, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall

guarantee conformance and compliance with the conditions of the interim use permit and the ordinances of the City.

2. The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or City Building Official's estimated costs of labor and materials for the proposed improvements or development. Said projects can be handled in stages upon the discretion of the City Engineer and Building Official.

3. The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the interim use permit and ordinances of the City has been issued by the City Building Official.

4. Failure to comply with the conditions of the interim use permit or the ordinances of the City shall result in forfeiture of the security.

(Ord. 08-06, Section 1103.07 Subd. 1, Adopted October 20, 2008.)

(Ord 09-01, Section 1103.12, Adopted June 1, 2009.)

(Ord. 11-09, Section 1103.05, Subd. 1, 2, 3, Adopted September 19, 2011.)