

SECTION 1103.00 ZONING ADMINISTRATION.

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.)

(Ord. 14-06, Section 1103.04 Appeals, Adopted October 20, 2014).

(Ord. 17-02, Section 1103.08, Adopted March 20, 2017.)

(Ord. 17-03, Section 1103.07, Adopted March 20, 2017.)