

SECTION 547 - ZONING: ADMINISTRATION

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SECTION 547 - ZONING: ADMINISTRATION
(ADDED, BILL NO. 2007-19)

547.01. Purpose. This chapter establishes procedures and standards to help ensure fair and consistent administration of zoning regulations.

547.03. Administration of Zoning Code. The Director shall be responsible for the administration and enforcement of this code. The Director may designate additional persons as may be necessary or convenient to administer and enforce this code. The Director may institute, in the name of the City, any appropriate actions or proceedings against a violator of this code as provided in Sections 115 and 320 of the City Code or any applicable statute. Any person aggrieved by any procedure or decision of the Director may appeal to the Board of Adjustments and Appeals.

547.05. Board of Adjustments and Appeals. Subdivision 1. Establishment. The Board of Adjustments and Appeals is established and continued pursuant to Minnesota Statutes, Section 462.354.

Subd. 2. Short name. The Board of Adjustments and Appeals shall be referred to as the "Board" in this Section 547.

Subd. 3. Council as Board. The City Council shall serve as the Board of Adjustments and Appeals.

Subd. 4. Powers. The Board shall have the following powers:

- a) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Director in the interpretation or enforcement of this code;
- b) To hear and decide variances to the literal provisions of this code upon the expiration of authority of the Committee of Hearing Examiners established by Section 547.11 of this code; and
- c) To hear and decide variances to the literal provisions of this code when said variances are processed in conjunction with another planning and zoning application that requires the approval of the City Council;
- d) To hear and decide appeals of any decision made final by the Planning Commission or by a Hearing Examiner. (Amended, Bill No. 2007-7)

Subd. 5. Application. Except as otherwise provided for by this code, an application/request for an adjustment or appeal shall be made to the Director by written notice within 10 days of the decision.

Subd. 6. Fee. The fee for an appeal is set by Appendix D of the City Code.

Subd. 7. Public hearing. Upon receipt of a written notice requesting an adjustment or appeal, the Board may set a time and place for a public hearing on the request. At least 10 days before the date of any such hearing, a notice of the hearing shall be published once in the official newspaper.

Subd. 8. Procedures. The Director shall prepare reports and other necessary information for the Board. The Board shall make a decision regarding any matter before it by adopting findings within the time period required by State law. A copy of the Board's decision shall be served by mail upon the person requesting the adjustment or appeal.

Subd. 9. Compliance. In all cases in which adjustments or appeals are granted under the provisions of this subsection, the Board may require such evidence and guarantees as it deems necessary to ensure compliance with any conditions placed upon such granting.

547.07. Zoning map or text amendments. Subdivision 1. Initiation of amendment.
An amendment of this code may be initiated by:

- a) A petition of at least 51 percent the owners of the land proposed to be rezoned;
- b) The Planning Commission; or
- c) The Council upon its own initiative or upon recommendation of the Director.

Subd. 2. Application. An application for a change in the boundaries of a zoning district made by the owner of the property shall be submitted to the Director on forms provided by the City. An application shall not be considered complete until submittal or completion of the following:

- a) A detailed plan of the proposed use of the land;
- b) If the proposed use requires a conditional use permit, site plan review, or any other administrative permit or approval, an application for such permit or approval shall be submitted with the rezoning application; and
- c) An Administrative Review Committee (ARC) meeting is held between the applicant and staff, or the Director determines that such a meeting is not necessary. Applications must be submitted for the ARC meeting at least 28 days before the scheduled Planning Commission meeting to be considered for the agenda. An application must be *complete* at least 14 days before the scheduled Planning Commission meeting to be placed on the agenda.

Subd. 3. Public Hearing and Planning Commission review. After receipt of a completed application, a date shall be set for a public hearing. Not less than 10 days prior to the public hearing, notice shall be published once in the official newspaper. If the application involves a change in district boundaries of 5 acres or less, notice must also be sent by mail to all the owners of properties located wholly or partially within 350 feet of the property to which the amendment relates. The Planning Commission shall make a recommendation to the Council regarding the application.

Subd. 4. City Council review. After receipt of the recommendation of the Planning Commission, the Council shall consider the matter at a first reading. If the application is approved for first reading, the Council shall set a date for a second reading. The Council may offer whatever public notice of its first and second reading reviews that it deems necessary. The Council shall act upon the amendment within the time period required by State law. The Council may adopt an amendment to this code upon an affirmative vote of a majority of all its members. The adoption or amendment of any portion of a zoning ordinance that changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the Council.

Subd. 5. Issuance of building permit. No building permit for any building or structure may be issued while proceedings for rezoning of the land wherein the structure is located or to be located are pending, unless the permit would be permitted under both the existing zoning classification and the proposed zoning classification for such area, or unless Council approval is first obtained.

Subd. 6. Time limitation. Not more than one petition for the rezoning of any particular piece of land shall be made within any 12 month period.

Subd. 7. Fee. The fee for a petition to rezone land is set by Appendix D of the City Code.

Subd. 8. Effective date. Amendments to this code shall be effective in accordance with Section 3.09 of the Richfield City Charter.

547.09. Conditional use permits. Subdivision 1. Permit required. It shall be unlawful to engage in any use listed in this code as a conditional use without first obtaining a conditional use permit (CUP) from the City pursuant to this subsection.

Subd. 2. Limitations. A conditional use permit may not be issued for the purpose of granting an adjustment or appeal, or for any use prohibited in the zoning district for which the permit is sought.

Subd. 3. Application. Application for a conditional use permit shall be made to the Director on forms provided by the City. Applications shall not be considered complete until an Administrative Review Committee (ARC) meeting is held between the applicant and staff, or the Director determines that such a meeting is not necessary. Applications must be submitted for the ARC meeting at least 28 days before the scheduled Planning Commission meeting to be considered for the agenda. An application must be *complete* at least 14 days before the scheduled Planning Commission meeting to be placed on the agenda.

Subd. 4. Public Hearing and Planning Commission review. After receipt of a completed application, a date shall be set for a public hearing. Not less than 10 days prior to the public hearing, notice shall be published once in the official newspaper and sent by mail to all the owners of properties located wholly or partially within 350 feet. The Planning Commission shall make a recommendation to the City Council regarding the application.

Subd. 5. City Council review. After receipt of the recommendation of the Planning Commission, the Council shall make the final determination on the application, and in doing so shall make findings regarding its review. The Council may impose conditions and require guarantees on the granting of the permit in order to insure compliance with the conditions designated in connection therewith. The Council shall make a decision within the time period required by State law.

Subd. 6. Conditions for issuance. The Council may not grant a conditional use permit unless it finds that all of the following conditions will be met:

- a) The proposed use is consistent with the goals, policies, and objectives of the City's Comprehensive Plan;
- b) The proposed use is consistent with the purposes of the Zoning Code and the purposes of the zoning district in which the applicant intends to locate the proposed use;
- c) The proposed use is consistent with any officially adopted redevelopment plans or urban design guidelines;
- d) The proposed use is or will be in compliance with the performance standards specified in Section 544 of this code;
- e) The proposed use will not have undue adverse impacts on governmental facilities, utilities, services, or existing or proposed improvements;
- f) The use will not have undue adverse impacts on the public health, safety, or welfare;
- g) There is a public need for such use at the proposed location; and
- h) The proposed use meets or will meet all the specific conditions set by this code for the granting of such conditional use permit.

Subd. 7. Security deposit. Security deposits shall be provided in accordance with Section 547.17 of this code.

Subd. 8. Recording of CUP. Upon commencement of an approved conditional use, a certified copy of the conditional use permit shall be filed by the applicant with the Hennepin County Recorder or Registrar of Titles. The permit shall contain the legal description of the property.

Subd. 9. Expiration of CUP. A conditional use permit shall expire one year after it has been issued unless:

- a) The use for which the permit was granted has commenced within the one year period; or
- b) Upon written request of the person or corporation holding the CUP, the Council extends the expiration date for an additional period not to exceed one year.

Subd. 10. Term of CUP. A conditional use permit shall remain in effect for so long as the conditions regulating it are observed, unless specifically stated otherwise. A conditional use permit shall expire if normal operation of the use has been discontinued for 12 or more months. Time shall be calculated as beginning on the day following the last day in which the use was in normal operation and shall run continuously thereafter.

Subd. 11. Amendment to CUP. Holders of a conditional use permit may propose amendments to the permit by following the procedure set in this subsection for issuance of a new permit. Amendments to a conditional use permit shall be administered in the same manner as site plan amendments, as described in Subsection 547.13 Subd. 11 of this code.

Subd. 12. Fee. The fee for a conditional use permit or amendment thereto is set by Appendix D of the City Code.

Subd. 13. Revocation of CUP. The Council may review conditional use permits periodically and may revoke a permit upon violation of any condition of the permit.

The procedure for revocation set out in Subd. 14 of this Subsection shall be followed. If it is discovered after approval of the conditional use permit that the City's decision was based at least in part on fraudulent information, the Council may revoke the permit, modify the conditions, or impose additional conditions.

Subd. 14. Procedure for revocation. The procedure for revocation of a conditional use permit shall be as follows:

- a) Complaint. The Director shall review any complaints received by the City or any other party involving property which is subject to a conditional use permit, and shall determine whether, in the Director's judgment a violation of the terms or conditions of any conditional use permit appears to have occurred.
- b) Notice of apparent violation. If the Director determines that an apparent violation of such terms and conditions exists, the Director shall cause a notice of violation to be mailed to the owner of the property or owner's agent and to any other person known to the City to be conducting the use for which the conditional use permit was granted. The notice shall:
 - i. Be in writing;
 - ii. State the violation or violations found to apparently exist and state the remedial actions which must be taken to achieve compliance with the terms and conditions of the conditional use permit;
 - iii. Provide a reasonable time, but not less than ten days, for the recipient to remedy the violation or violations stated in the notice; and;
 - iv. Inform the recipient that if the stated violations are not remedied within the stated time period, the Director will request the Council to consider revocation of the conditional use permit.
- c) Failure to comply. When notice has been given in accordance with "clause b" above and the recipient has failed to correct the violations stated in the notice within the time allowed, the Director shall refer the matter to the Council with a recommendation that a hearing be held to consider the revocation of the conditional use permit. A copy of the Director's recommendation shall be mailed to the same persons who previously were mailed the notice of violation.
- d) Scheduling of hearing. A hearing shall be scheduled before the Council to consider revocation of the conditional use permit. The date of the hearing shall be as soon as is reasonably convenient.
- e) Notice of hearing. Upon the scheduling of the hearing, the Director shall furnish mailed notice of such to the same persons who were mailed notice of the violation. The notice shall:
 - i. State the time, date and location of the hearing;
 - ii. Describe all violations, which will form the basis of the Director's recommendation to the Council;
 - iii. Describe the recommendation which the Director intends to make to the Council with respect to revocation; and

- iv. Inform the recipient of its opportunity to be present at the hearing, to be represented by legal counsel during the hearing, and to present testimony and evidence.
- f) Public notice. The Director shall also provide a mailed notice containing the information described in subclauses i, ii, and iii of “clause e” above to all other persons who would have been entitled to notice had the hearing been to consider the granting of the conditional use permit.
- g) Determination. At the conclusion of the hearing, or as soon thereafter as is reasonably possible, the Council shall render its written decision. The decision shall state the terms and conditions of the conditional use permit found to have been violated; and shall state the determination of the Council with regard to revocation of the conditional use permit. The Council may, in lieu of revocation, permit the conditional use permit to continue subject to such further or additional terms and conditions as in its judgment are necessary to insure compliance with the conditional use permit. The Council’s written findings and determination shall be mailed to the persons who were mailed the Director’s notice of violation. If a conditional use permit is revoked, all uses and activities which are permitted only by such conditional use permit shall immediately cease. In addition, all other licenses and permits issued by the City which require, as a condition of their issuance, the existence of the conditional use permit, shall be subject to termination in the manner set forth in the City Code or other applicable law.

Subd. 15. Other remedies for violation of CUP. In addition to the procedure set forth in Subd. 13 above, the City may exercise, with or separately from such procedure, all and any other remedies and actions available to the City including, but not limited to those contained in Sections 115 and 320 of the City Code.

547.11. Variances. Subdivision 1. Limitations. The following limitations apply to variances:

- a) A variance may be granted from the literal provisions of this code only in instances where such action would be consistent with the general purpose and intent of this code and all the following criteria are found to exist:
 - i. Strict enforcement of this code would cause an undue hardship. “Undue hardship” as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by this code. Economic considerations alone shall not constitute an undue hardship if reasonable use of the property exists under the terms of this code. Undue hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems;
 - ii. Unusual or unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and such circumstances were not created by any persons presently having interest in the property;

- iii. The variance, if granted, would not alter the character of the neighborhood. The completed project would not impair an adequate supply of light and air to adjacent properties, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish property values, or have a detrimental or injurious impact on surrounding properties; and
- iv. The variance requested is the minimum variance that would alleviate the undue hardship.

b) use variances shall not be granted.

Subd. 2. Committee of Hearing Examiners. The Committee of Hearing Examiners is a special committee of the Board of Adjustments and Appeals, and shall be administered by the Director. The specific duties of this Committee are to hear and decide requests for variances from the literal provisions of this code. This Committee of at least two Examiners is appointed by the City Manager for a term of two years subject to confirmation by the Council. During the term of appointment members serve at the pleasure of the City Manager.

Subd. 3. Application. Application for a variance shall be made to the Director on forms provided by the City. Applications shall not be considered complete until an Administrative Review Committee (ARC) meeting is held between the applicant and staff. This requirement may be waived for residential variances or if the Director determines that such a meeting is not necessary. Applications must be submitted for the ARC meeting at least 28 days before the scheduled hearing to be considered for the agenda. Applications must be *complete* at least 14 days before the scheduled variance hearing to be placed on the agenda.

Subd. 4. Public hearing. Upon receipt of a completed application, the Director shall assign the application to one Hearing Examiner and a date shall be set for a public hearing before the Hearing Examiner. If the variance requires some other approval by the City Council in conjunction with another planning and zoning application, the Director shall assign the application to the Board of Adjustment and Appeals for consideration in conjunction with the other requests and a date shall be set for a public hearing before the Board. Not less than 10 days prior to the public hearing, notice shall be published once in the official newspaper and sent by mail to all the owners of property located wholly or partially within 350 feet of the subject property.

Subd. 5. Staff report. The Director shall provide a written report to the Hearing Examiner or the Board outlining the proposal and enumerating the various reasons for a recommendation to either approve or deny the variance request. The written report shall be filed with the Hearing Examiner or the Board at least 72 hours prior to the date of the hearing. Copies of the report shall be made available to the applicant, and shall be furnished to others upon request.

Subd. 6. Powers of Hearing Examiner and the Board. A Hearing Examiner or the Board may call witnesses, subpoena relevant reports, and accept any evidence and testimony, which in the judgment of the Hearing Examiner or the Board is relevant to the issues being heard. Those in attendance at the public hearing shall have the right to present testimony and evidence. The Hearing Examiner or the Board may impose limitations on the number of witnesses and on the nature and length of testimony.

Subd. 7. Record keeping. A tape recording shall be made of the hearing. The tape will be transcribed on request of the Board. The tape will also be transcribed at the request of any person upon the payment of all costs of transcription. Written minutes shall also be taken at the public hearing.

Subd. 8. Decision. Within the time period required by state law, the Hearing Examiner or Board shall render a written decision regarding the application. The decision shall be supported by findings specifically related to the applicable criteria contained in this code. The decision shall be mailed to all parties of record and filed with the City Clerk. The Hearing Examiner's decision shall be final, subject to appeal to the Board. A decision of the Board shall be final. The Hearing Examiner or the Board may impose conditions in granting variances to implement the intent of this code and to protect adjacent properties. (Amended, Bill No. 2007-7)

Subd. 9. Appeals. Any person aggrieved by the decision of the Hearing Examiner may appeal such decision if a written notice of appeal and the fee set by Appendix D of the City Code is submitted to the Director within ten days of the date of the decision. The notice of appeal shall be addressed to the attention of the Board of Adjustments and Appeals care of the Director. A decision of the Board is subject to judicial review as provided by law.

Subd. 10. Rehearing. Any applicant may within seven days of the date of filing of the Hearing Examiner or the Board's decision, apply for a rehearing of a variance request denied by the Hearing Examiner or the Board if significant new factual evidence relevant to the case not available to the applicant in the original hearing can be presented. The request for a rehearing shall be made to the Board of Adjustments and Appeals care of the Director, and shall state the nature of the new evidence and why it was not previously available. If an application for rehearing is timely made, the time to appeal will be extended until the decision on granting or denying a rehearing is made. If a rehearing is allowed, the Hearing Examiner or the Board's decision shall be withdrawn.

Subd. 11. (Repealed, Bill No. 1999-3)

Subd. 12. Expiration of variance. Any variance granted shall expire one year after it has been granted unless:

- a) The project for which the variance was granted is completed within the one year period; or

- b) Upon written request of the person or corporation holding the variance, the Council extends the expiration date for an additional period.

Subd. 13. Term of variance. If the project is completed as approved, the variance shall run with the land and remain in effect for so long as the conditions regulating it are observed.

Subd. 14. Assumed risk. Any applicant who obtains a building permit, starts construction and/or begins a use prior to the expiration of the appeal period, assumes the risk that the decision may be reversed upon appeal. When an appeal is received by the City, the applicant will be notified of the appeal and informed as to the date of the Board meeting where it will be heard.

Subd. 15. Specific project. A variance shall be valid only for the project for which it was granted. Construction of any project shall be in substantial compliance with the building plans and specifications reviewed and approved by the Hearing Examiner or Board.

Subd. 16. Violations. Any person who violates, fails to comply with, assists, directs, or permits a violation of the conditions of a variance shall be subject to the provisions outlined in Sections 115 and 320 of the City Code. Such violation may render the variance null and void.

Subd. 17. Fee. The fee for a variance is set by Appendix D of the City Code. In the case of a request that requires both a variance approval and some other approval by the City Council in conjunction with another planning and zoning application, no additional fee shall be required.

Subd. 18. Annual Report. The committee of Hearing Examiners shall annually prepare a report for the Council and Planning Commission outlining the activities of the Hearing Examiners and the Board and making recommendations as to possible amendments to this code to expedite the processing of variances to the literal provisions of this code.

547.13. Site plan approval. Subdivision 1. All commercial, industrial, multiple-family housing (over four units) or institutional development applications shall be reviewed under the site plan approval process as set forth in this subsection. Site plan review will be coordinated with the review of applications for preliminary plats, rezoning, conditional use permits, and variances. Provisions for the review of Planned Unit Developments (PUD) shall be dictated by Section 542 of this Code.

Subd. 2. Approval required. It shall be unlawful to do any of the following without first obtaining site plan approval:

- a) Construct a building;
- b) Move a building to any lot within the City;

- c) Expand or change the use of a building or lot or modify a building, accessory structure, or site or land feature in any manner which results in an increasing intensity of use, including the requirement for additional parking; and
- d) Take actions to prepare a lot for development, including grading or removing or adding soils to a site, except in conformance with a permit or an approved plan which complies with the City's comprehensive surface water management plan or has received a variance from the appropriate water management organization as necessary. (Amended, Bill No. 1998-2)

Subd. 3. Exception. Notwithstanding the above, site plan approval shall not be required for enlargement of a building by 25 percent or less of its gross floor area or changes in the leasable space of a multi-tenant building, provided no variances are required and the modifications do not significantly intensify use of the site. In these instances an administrative site plan review shall be performed and suitable documentation of such be placed in the property files maintained by the Community Development Department. The City may require nonconforming site improvements to be brought into conformance according to Subsection 509.25 of this Code.

Subd. 4. Application. Application for a site plan review shall be made to the Director on forms provided by the City and shall be accompanied by the following:

- a) Evidence of ownership or an interest in the property;
- b) Evidence that there are no delinquent property taxes, special assessments, penalties, interest and/or municipal utility fees due on the property;
- c) Accurate and current certificate of survey;
- d) Accurate legal description;
- e) Eight full-size legible plans regarding the following aspects of the project (All submitted plans shall be signed by a registered architect, civil engineer, landscape architect or other appropriate design professional):
 - i. Boundary survey with existing conditions;
 - ii. Site plan with proposed improvements;
 - iii. Site plan with proposed parking and parking lot improvements, in compliance with Section 544, General Building & Performance Standards;
 - iv. Building elevations;
 - v. Landscape plan, in compliance with Section 544, General Building & Performance Standards, of this Code;
 - vi. Tree protection plan;
 - vii. Grading plan;
 - viii. Drainage plan;
 - ix. Storm water management plan;
 - x. Utility plan;
 - xi. Sediment and erosion control plan;

- xii. Lighting plan;
 - xiii. Screening plans for mechanical equipment and dumpsters;
 - xiv. Signage plan; and
 - xv. Solar access plan.
- f) The fee specified in Appendix D of the City Code;
- g) All plans must meet the following requirements:
- i. A title block stating the name, address telephone number and e-mail address of the applicant;
 - ii. A north arrow and graphic scale;
 - iii. Plans for preliminary review can be 11" x 17" and to scale; and
 - iv. One set of 8-1/2" x 11" legible reductions is required for City Council and Planning Commission packets.
- h) All applications must contain the following information:
- i. Property lines, setbacks, and lot dimensions;
 - ii. Building dimensions, height;
 - iii. Building coverage;
 - iv. Impervious surface coverage (buildings + hard surface/lot size);
 - v. Access to parcel, location of medians;
 - vi. Street locations, right-of-way, driveway and drive aisle widths;
 - vii. Existing & proposed topography with spot grades & slopes in excess of 3:1;
 - viii. Parking lot layout including location of curbing and striping;
 - ix. Location of fire lanes & related signage;
 - x. Location of hydrants;
 - xi. Location of underground storage tanks and major utilities;
 - xii. Sidewalk/trail alignment plan;
 - xiii. Easement documents; and
 - xiv. Significant trees lost and preserved.
- i) The type of plans and number of copies required may be adjusted by staff based on the particular project. The City reserves the right to request additional plans or information as necessary

Subd. 5. Environmental Reviews. If an Environmental Assessment Worksheet or an Environmental Impact Statement is required, an application for Site Plan Review or Planned Unit Development Review shall not be considered complete until the City Council has either:

- a) Issued a Findings of Fact and EIS Need Decision (for an EAW) or

- b) Issued a Finding of Adequacy (for an EIS).

The City staff may begin to review an application and communicate to the applicant its findings prior to a) or b) even though the application may not be considered complete.

Subd. 6. Public Hearing and Planning Commission review. After receipt of a completed application, a date shall be set for a public hearing. Not less than 10 days prior to the public hearing, notice shall be published once in the official newspaper and sent by mail to all the owners of properties located wholly or partially within 350 feet. The Planning Commission shall make a recommendation to the City Council regarding the application.

Subd. 7. City Council review. After receipt of the recommendation of the Planning Commission, the Council shall make the final determination on the application, and in doing so shall make findings regarding its review. The Council may impose conditions and require guarantees on the granting of the site plan approval in order to ensure compliance with the conditions designated in connection therewith. The Council shall make a decision within the time period required by State law.

Subd. 8. General criteria and standards for site plan review. In evaluating a site plan, the Planning Commission and Council shall consider its compliance with the following:

- a) Consistency with the various elements and objectives of the City's long range plans, including, but not limited to, the Comprehensive Plan;
- b) Consistency with the purposes of this Code;
- c) Preservation of the site in its natural state, insofar as practicable, by minimizing tree and soil removal, and designing any grade changes so as to be in keeping with the general appearance of neighboring developed or developing areas;
- d) Creation of a harmonious relationship of buildings and open spaces with the terrain and with existing and future buildings having a visual relationship to the proposed development;
- e) Creation of a functional and harmonious design for structures and site features including:
 - i. Creation of an internal sense of order for the various functions and buildings on the site and provision of a desirable environment for occupants, visitors and the general community;
 - ii. Appropriateness of the amount and arrangement of open space and landscaping to the design and function of the development;

- iii. Appropriateness of the materials, textures, colors and details of construction as an expression of the design concept of the project and the compatibility of the same with the adjacent and neighboring structures and functions; and
 - iv. Adequacy of vehicular, cycling and pedestrian circulation, including walkways, interior drives and parking, in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian, cycling and vehicular traffic and arrangement and amount of parking so as to be safe, convenient and, insofar as practicable, compatible with the design of proposed buildings, structures and neighboring properties.
- f) Creation of an energy-conserving design through design, location, orientation and elevation of structures, the use and location of glass in structures, and the use of landscape materials and site grading; and
- g) Protection of adjacent and neighboring properties through reasonable provisions for such matters as surface water drainage, sound and sight buffers, preservation of views, light and air, and those aspects of design, not adequately covered by other regulations, which may have substantial effects on neighboring land uses.

Subd. 9. Terms of approval.

- a) A building permit shall be obtained and construction of the project shall begin no later than one year following the date on which site plan approval is granted, unless a different time period is approved by the Council in granting site plan approval or in a developer's agreement with the City. After the expiration of such period, site plan approval shall lapse unless the Council grants an extension of time or a building permit has been issued and substantial work performed on the project. Upon request by the applicant, the Council may grant an extension of time for commencement of a project having site plan approval.
- b) The Council may impose conditions in granting approval to site plans to promote the intent of this section or to protect adjacent properties.
- c) Site plans shall be valid only for the project for which approval is granted.
- d) If the project is not in compliance with the approved plans, the project shall be subject to review as specified in Subdivision 11.

Subd. 10. Security deposit. Security deposits shall be provided in accordance with Section 547.17 of this code.

Subd. 11. Amendments to an approved site plan. Amendments to an approved site plan shall be administered as follows.

- a) Minor Amendments. Minor amendments to a site plan are:

- i. Increased signage. (Changes that do not result in an increase in signage do not require an amendment. All changes to signage require a sign permit.)
 - ii. Landscape changes.
 - iii. Parking lot configuration changes (not change in number of spaces).
 - iv. Less than 25 percent change in floor area in any one structure.
 - v. Less than 25 percent change in the approved separation of buildings.
 - vi. Less than 20 percent change in the ground area covered by the project.
 - vii. Less than 20 percent change in the number of residential units.
 - viii. Less than 20 percent change in the number of parking spaces.
- b) Major Amendments. Major amendments to a site plan are:
- i. More than 25 percent change in floor area in any one structure.
 - ii. More than 25 percent change in the approved separation of buildings.
 - iii. Any change in the original approved setbacks from property lines.
 - iv. More than 20 percent change in the ground area covered by the project.
 - v. More than 20 percent change in the number of residential units.
 - vi. More than 20 percent change in the number of parking spaces.
- c) Review of minor amendments. Proposed minor amendments (as specified in “clause a” above) to a site plan shall be reviewed and decided by the Director. Decisions of the Director may be appealed to the City Council. The Director may determine that a proposed minor amendment is in fact a major amendment and may refer such proposed amendments to the Planning Commission and Council according to the procedure established in “clause d”, below. Application fees for a minor amendment to a site plan are set forth in Appendix D of this code.
- d) Review of major amendments. Any major amendment to a site plan shall be considered by the Planning Commission at a public hearing. The Planning Commission shall make a recommendation to the City Council. The recommendation of the Planning Commission shall be considered by the Council. Any major amendment shall require a majority vote of the Council.

547.15. Interim use permits. Subdivision 1. Purpose. The purpose and intent of allowing interim uses is:

- a) To allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in the Comprehensive Plan; and
- b) To allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future.

Subd. 2. Application, public hearing, notice and procedure. The application, public hearing, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in Subsection 547.09. In addition to the general planning and zoning application requirements, applications for interim use permits shall include:

- a) A signed consent agreement, provided by the City, agreeing:
 - i. That the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit;
 - ii. That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
 - iii. That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.
- b) A statement addressing the relationship of the proposed project to the neighboring uses.

Subd. 3. General issuance standards. The Planning Commission shall recommend an interim use permit and the Council shall issue such interim use permit only if it finds, based on the proposed location, that:

- a) The period of time for which the interim use permit is to be granted will terminate before any adverse impacts are felt upon adjacent properties;
- b) The use will terminate upon a date or event that can be identified with certainty. Interim use permits may not be granted for a period greater than five (5) years;
- c) The use will not adversely impact the health, safety and welfare of the community during the period of the interim use;
- d) The use is similar to uses defined in the zoning district in which the property is located;
- e) An interim use shall conform to zoning regulations except the City Council may waive ordinance provisions upon a finding that the temporary nature of the interim use will eliminate the adverse effects the provisions were intended to prevent;
- f) There is adequate assurance that the property will be left in suitable condition after the use is terminated;
- g) By agreement, the use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
- h) The property owner, by agreement, agrees to any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit; and
- i) The property owner agrees to abide by any additional conditions that the Council deems appropriate for permission of the use.

Subd. 4. Security deposit. Security deposits shall be provided in accordance with Section 547.17 of this code.

Subd. 5. Termination. An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:

- a) The date stated in the permit;
- b) Upon violation of conditions under which the permit was issued; or
- c) A change in the City's zoning regulations that render the use nonconforming.

547.17. Security deposits. Subdivision 1. Purpose and calculation. When screening, landscaping, parking lot or other similar improvements to property are required; a security deposit acceptable to the City shall be supplied by the owner in an amount equal to 125 percent of the value of such screening, landscaping, parking lot or other improvements. The security deposit shall be for the purpose of reimbursing the City for all expenses incurred by it in connection with making or completing such improvements. The security deposit and an executed right-of-entry agreement shall be provided prior to the issuance of any building permits and shall be valid for a period of time equal to one full growing season after the date of installation of the landscaping. In the event construction of the project is not completed within the time prescribed by building permits and other approvals or completion deadlines, the City may, at its option, draw upon the deposited security to complete the work required at the expense of the owner and the surety.

Subd. 2. Completion bonds. The Building Official may require a completion performance bond or other security, in an amount of 125 percent of the cost of the work remaining to be done, prior to issuance of a temporary certificate of occupancy. A specific date for completion must be set.

Subd. 3. Extensions. The City may allow an extended period of time for completion of all landscaping if the delay is due to conditions that are reasonably beyond the control of the developer. Extensions may be granted due to seasonal or weather conditions. When an extension is granted, the City shall require such additional security as it deems appropriate.

Subd. 4. Release. Upon completion of the improvements and final inspection and approval by the City, the security deposit shall be released.