

ORDINANCE NO. 2009 -

AN ORDINANCE UPDATING, MODIFYING AND CONSOLIDATING THE FINAL SITE AND BUILDING PLAN, PRELIMINARY AND FINAL DEVELOPMENT PLAN, CONDITIONAL USE PERMIT AND INTERIM USE PERMIT APPLICATION PROCESSES; REVISING PLANNED DEVELOPMENT OVERLAY DISTRICT STANDARDS; ESTABLISHING A NEW SECTION ON APPLICATION PROCESSES AND FEES; UPDATING OR DELETING CROSS REFERENCES; AND RECLASSIFYING LICENSED CURRENCY EXCHANGE BUSINESSES AS PERMITTED USES IN THE B-2, B-3, C-2 AND CX-2 ZONING DISTRICTS, THEREBY AMENDING CHAPTERS 2, 14, 19 AND 21 OF THE CITY CODE

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 2 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 2

ADMINISTRATION

ARTICLE II. ADMINISTRATIVE CODE

SEC. 2.14. ADMINISTRATIVE CONDITIONAL USE PERMITS.

- (a) The hearing examiner authorized by Section 2.09 of this Code shall hear certain applications for conditional use permits for the purpose of making recommendations to the City Council:
 - (1) Renewals of temporary conditional use permits previously approved by the City Council when Conditions of Approval attached to those permits specifically authorize the hearing examiner to consider the renewal of those permits.
 - (2) Reserved. [~~Applications for conditional use permits referred to the Hearing Examiner under the provisions of Section 19.15(b) of this Code.~~]
 - (3) Applications for outside storage of recreational vehicles subject to the provisions of Section 19.50.03 of this Code.

Section 2. That Chapter 14 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 14

LICENSES AND PERMITS

ARTICLE I. GENERAL PROVISIONS

SEC. 14.03. FEES.

Except as otherwise stated in this Code, the fees for the various licenses and permits shall be as hereinafter stated.

License/Permit	Required by Section	Annual Fee

Tent and Canopy Fees:	14.09, 19.63.06	
(A) Tent and Canopy Permit		<u>See Section 21.502.01</u> [40.00]
(B) Appeal of Permit Denial or Conditions of Approval to City Council		<u>See Section 21.502.01</u> [400.00]
(C) Request for Time Extension to City Council		<u>See Section 21.502.01</u> [400.00]

ARTICLE VII. SIGN PERMITS AND LICENSES

SEC. 14.557. PERMIT FEES.

The fee for a sign permit under this Article shall be as detailed in Section [49.44] 21.502.01 of this Code and shall be submitted with the permit application.

Section 3. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 19

ZONING

ARTICLE I. GENERAL PROVISIONS

Division B. Definitions

SEC. 19.03. DEFINITIONS.

The following words and terms when used in this Chapter shall have the following meanings unless the context clearly indicates otherwise:

Canopy - A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway. For purposes of Sections ~~[49.14, 49.22, and]~~ 19.63.06 and 21.502.01, the definition of canopy shall be an open tent, without sidewalls or drops on seventy-five percent (75%) or more of its perimeter.

Planned development – ~~[A tract of land which is developed as a unit under single or unified ownership or control and which generally includes two or more principal buildings or uses but which may consist of one building containing a combination of principal and supportive uses. Uses not otherwise allowed in the zoning district are prohibited within a Planned Development unless specific provision is otherwise made by ordinance or by resolution adopted pursuant to the provisions of Section 19.26 of this Chapter].~~ A development within the Planned Development Overlay Zoning District approved through the Preliminary Development Plan and Final Development Plan application processes.

ARTICLE II. ADMINISTRATION AND PROCEDURE

Added by Code, 1958, 11-21-58

SEC. 19.12. DEFINITIONS.

The following words and terms when used in this Article, shall have the following meanings, unless the context clearly indicates otherwise:

~~**Conditional use** – A conditional use is a use which is generally not suitable in a particular zoning district but which may, under some circumstances and with the application of certain conditions be suitable.~~

SEC. 19.13. INITIATING REZONING ~~[AND CONDITIONAL USES].~~

The Planning Commission or City Council may initiate a proposed rezoning ~~[or conditional use permit]~~. A property owner or representative of the property owner may request such rezoning ~~[or conditional use permit]~~ if it applies to his property. In such case the property owner or his representative shall fill out a Zoning Application Form, copies of which are available in the Department of Community Development. No application for a ~~[conditional use permit or a]~~ rezoning of a particular piece of property shall be accepted more than once in any 12-month period except as follows:

- (1) **Rezoning**s - Applications which are withdrawn prior to action taken by the City Council.
- ~~[(2) **Conditional use permits** – Applications for conditional use permits allowed in the particular zoning district different from that applied for within the 12-month period.]~~

SEC. 19.14. RESERVED. ~~[FEES:~~

~~(a) The following fees shall be applicable to application or petition for conditional uses, interim uses, rezonings, variances, ordinance changes, development plans, environmental reviews and similar applications:~~

~~(1) Conditional uses:~~

~~(A) For principal use~~

~~(i) Two family dwellings~~

~~*\$350.00~~

~~(ii) All other uses~~

~~*\$650.00~~

~~(iii) Applications sent directing to the City Council~~

~~*\$170.00~~

~~(B) For accessory or temporary use~~

~~(i) Applications sent directly to the Council~~

~~\$120.00~~

~~(ii) Administrative conditional use permits~~

~~\$30.00~~

~~(iii) All other applications~~

~~\$300.00~~

~~(iv) Renewal of temporary conditional use permits previously approved by the City Council~~

~~\$120.00~~

_____ freestanding sign	\$100.00
_____ awning/canopy w/sign	\$50.00
_____ incidental/accessory sign	\$20.00
_____ directional sign	\$20.00
(ii) _____ Temporary Signs for Commercial Promotions	\$30.00
	occasion per site

*Filing Fee: A \$50.00 filing fee for the City to record approval actions with Hennepin County will be refunded if the City Council denies the application or the application is withdrawn for the above designated services.

(b) Other Fees

- (1) **Notices.** The fee charged for the various applications listed in Subsection (a) of this Section are calculated to include 100 mailed notifications per hearing to adjacent property owners and \$25.00 per notice published in the Official Newspaper of the City, based upon the minimum number of hearings required by the Code and state law. When the actual number of hearings held exceeds the minimum number required under the Code, and/or when the number of mailed notices exceeds 100 for any given public hearing, the applicant shall be required to pay additional fees to cover the cost of the additional mailed notices and publications. Those additional fees shall be as follows:
 - (a) \$1.50 per mailed notice in excess of 100 notices for any public hearing;
 - (b) \$1.50 per mailed notice for all mailed notices for public hearings which are in excess of the minimum number of hearings required under the code; and
 - (c) \$25.00 per published notice for public hearings which are in excess of the minimum number of hearings required under the Code.

_____ Where state statute or this Code requires a public hearing before both the Planning Commission and the City Council, the application fee shall be deemed to cover the cost of published notices and 100 mailed notices for two public hearings.

_____ The failure of an applicant to pay any outstanding fees may be construed as a request for a continuation of the hearing, and the Planning Commission or City Council may continue action on an application if any outstanding fees are due at the time of the hearing. Such continuances shall not initiate the running of time periods for appeals to the City Council from the Planning Commission decisions or for the automatic approval of plats.
- (2) **Administrative Approval of Final Plans.** When approval of any plan is required as a condition of approval imposed by the City Council an application shall be submitted, together with a fee of \$80.00 for each single and two family residential use and \$160.00 for all other uses.
- (3) **Review of Intermodulation Studies.** When an intermodulation study is required to be submitted in conjunction with an application for communication antennas, such application shall include a \$220 fee to reimburse the City for costs incurred through review of the study. When the total review costs exceed \$220 per application, the applicant shall be required to pay additional fees to cover the full costs of review.
- (4) **Radio Frequency Engineer Review.** To cover the reasonable cost of the City retaining a qualified, independent radio frequency engineer in accordance with Section 19.63.05 (r) (2) of this Code, all variance applications for towers, antennas, or wireless communication facilities shall include an additional \$2,000 fee. In the event that the actual costs exceed \$2,000, the applicant shall be required to pay half the additional cost. In the event that the actual costs are less than \$2,000, the unused portion of the fee shall be returned to the applicant.
- (5) **Escrow for Special Studies.**
 - (A) Where special studies are needed by the City to conduct a land use application review, an Escrow Agreement between the applicant and the City requiring a cash escrow deposit to cover costs for the special studies, must be executed. The executed Escrow Agreement and cash escrow deposit to cover costs must be supplied by the applicant prior to the submission of the land use application to the City. Special studies may include traffic, environmental, wetland, utility, or other studies undertaken by the City itself or by outside consultant services, under the direction of the City, and paid for by the applicant.
 - (B) The requirement for an applicant to pay costs to the City for special studies for the review of a development application would be determined by the City, after the City has prepared a Special Studies Impact Determination.

- (C) ~~If after commencement of special studies, it is determined additional funds are needed to complete the special studies, funds must be supplied by the applicant into the escrow account prior to submission of the application to the City.~~
- (D) ~~Unexpended escrow funds will be returned to the applicant after final City Council action.]~~

SEC. 19.15. FILING PETITION.

- (a) **Rezoning** - The petition shall be filed with the Department of Community Development and shall be referred to the Planning Commission for consideration.
- ~~[(b) **Conditional use permits** - The petition shall be filed with the Department of Community Development which shall refer the petition to the Planning Commission for consideration, except when in the judgment of the director of said department the purpose and intent of the Zoning Code can be better served by directly referring the petition to the City Council or to the hearing examiner under the provisions of Section 2.14 of this Code.]~~

SEC. 19.15.01. RESERVED. [AMENDED APPLICATIONS.]

- ~~(a) Once a land use application has been submitted to the City, no amendments are permitted until final disposition of the application has been determined. If an applicant submits an amended application, it constitutes a withdrawal of any prior pending application on the same matter, and will be deemed a new application, pursuant to Minnesota Statute Section 15.99. A new application fee must be submitted with the amended request, equal to 50% of the original application fee. Each amended application request constitutes a separate application.~~
- ~~(b) The Issuing Authority may accept minor application revisions that do not materially alter the application. If the Issuing Authority accepts the minor application revisions, no additional fee will be required, and the application review will continue pursuant to Minnesota Statutes Section 15.99.~~
- ~~(c) With an amended application, the Issuing Authority will make a determination whether any public meetings or hearing previously scheduled on the matter will be rescheduled.]~~

SEC. 19.16. RESERVED. [HEARINGS; NOTICE.]

- ~~(a) At least ten days prior to the date of hearing before the Planning Commission, notice of such hearing shall be published in the official City newspaper. The petitioner and the property owners of all property adjacent to and across the street from the property in question shall be mailed or served with a notice at least ten days in advance of the hearings. When the proposal is for a rezoning of an area of five acres or less, notice shall be mailed to each owner of affected property and to the owners of property situated wholly or partially within 500 feet of the property proposed to be rezoned. All such notices shall be published and mailed by the Department of Community Development. A failure of any property owner to receive notice or failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings provided a bona fide attempt has been made to comply with the notice requirements of this section. In the case of conditional use permit applications submitted directly to the City Council, no notices need be given unless ordered by the Council.~~
- ~~(b) In the event that property which is the subject of the hearing is a property which is leased or rented to one or more tenants, either the property owner or the applicant shall notify each tenant, and the applicant shall provide to the City, at least ten days prior to the first hearing, proof that all such tenants have been notified of the time, place and purpose of the hearing. Such proof shall consist of a list of all tenants or lessees of the subject property, and:

 - ~~(1) A return receipt of Certified Mail; or;~~
 - ~~(2) A Certificate of Mailing; or;~~
 - ~~(3) A form which lists the name and address and bears the signature of each tenant.]~~~~

SEC. 19.22. RESERVED. [ISSUANCE OF CONDITIONAL USE PERMITS.]

~~Except when the findings and decisions of the Planning Commission are affirmed by the City Council in accordance with Chapter 2, Article V, Division C, of this Code, a conditional use permit for a new use shall not be granted unless the minimum standards and requirements of the district are met. No conditional use permit shall be granted unless the Council finds the following:~~

- ~~(1) **In Residential Districts** -

 - ~~(A) The use will not create an excessive burden on parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.~~~~

- ~~(B) The proposed use will be sufficiently separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.~~
- ~~(C) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.~~
- ~~(D) There shall be no advertising signs visible to adjacent dwellings.~~
- ~~(E) The property, except a two-family dwelling, is located immediately adjacent to a commercial area, industrial area, intersection of through streets, or intersection of through street and railroad.~~
- ~~(F) The use in the opinion of the Council is reasonably related to the overall needs of the community and to the existing land use.~~
- ~~(G) The use is consistent with the purposes of the Zoning Code as they are enumerated in Section 19.01 and the purposes of the zoning district in which the applicant intends to locate the proposed use.~~
- ~~(H) The proposed use is not in conflict with the development plan of the City.~~
- ~~(2) **Neighborhood Office (B-1), General Commercial (B-2), General Business (B-3), Neighborhood Commercial Center (B-4)**~~
 - ~~(A) The proposed use will not cause traffic hazard or congestion.~~
 - ~~(B) Adjacent residentially zoned land will not be adversely affected because of traffic generation, noise, glare, or other nuisance characteristics.~~
 - ~~(C) Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of nonshopping traffic or general unsightliness.~~
 - ~~(D) Any automobile service used in a General Commercial (B-2) District shall be part of a planned shopping center.~~
 - ~~(E) Reserved.~~
 - ~~(F) Testing of sales promotional activities outside a building conducted in conjunction with a research laboratory shall be sufficiently separated by distance or screening from adjacent residentially zoned land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land. Such activities shall also be separated from public streets by screening.~~
 - ~~(G) Wholesale business in General Commercial (B-2) Districts shall be allowed only when they are of such a nature and located in a manner so as not to unduly interfere with retail sales and services in the zone.~~
 - ~~(H) The use is consistent with the purposes of the Zoning Code as they are enumerated in Section 19.01 and the purposes of the zoning district in which the applicant intends to locate the proposed use.~~
 - ~~(I) The proposed use is not in conflict with the development plan of the City.~~
- ~~(3) **Industrial Districts: Industrial Park (I-1), Limited Industry (I-2), and General Industrial District (I-3)**~~
 - ~~(A) Nuisance generated by the use will not have an adverse effect upon existing and future development in adjacent areas.~~
 - ~~(B) The use will provide an economic return to the community commensurate with other industrial uses for which the property could feasibly be used.~~
 - ~~(C) Special conditions to retail sales in Limited Industry (I-2) and General Industry (I-3) Districts:~~
 - ~~(i) The use is located adjacent to an arterial street.~~
 - ~~(ii) Access and loading are off of an interior industrial street.~~
 - ~~(iii) traffic generated will not interfere with normal patterns of industrial district circulation or with the arterial street system.~~
 - ~~(iv) A retail sales use shall not open out onto a residential zone.~~
 - ~~(v) Parking as for retail shopping uses must meet or exceed the minimum parking requirements set forth in Section 21.301.06 of this Code.~~
 - ~~(vi) For retail sales which are a part of warehousing or wholesale business, except retail sales of heavy equipment, including industrial, manufacturing, and construction machinery and equipment, the following additional requirements apply:~~
 - ~~(a) Retail sales account for no more than 45 percent of gross sales.~~
 - ~~(b) The area devoted to retail selling shall not exceed 15 percent of the total floor space.~~
 - ~~(D) When open storage is a principal use or one of the principal uses for a parcel of land in a Limited Industry (I-2) zoning district, screening may be required as a condition so that abutting properties will not be depreciated in value and may be required on that side or sides abutting an arterial street as shown upon the "Major Street Plan" contained in the "Development Plan" described in subparagraph (5)(C)(ii) of this Section or through street as described in Section 8.22 of this Code. Conditions may~~

be attached to limit the number and placement of any display or storage on the side or sides that abut public streets.

~~(E) The use is consistent with the purposes of the Zoning Code as they are enumerated in Section 19.01 and the purposes of the zoning district in which the applicant intends to locate the proposed use.~~

~~(F) The proposed use is not in conflict with the development plan of the City.~~

~~(4) **Freeway Development Districts: Freeway Development (FD-1) and (FD-2)**~~

~~(A) Except for the sale of passenger automobiles and a barber shop or a beauty shop within an office complex which barber shop or beauty shop shall not exceed ten percent of the rentable space, any proposed retail business must be a part of an existing shopping center, an expansion of an existing shopping center, or a development of a shopping center.~~

~~(B) Service stations shall be integrated by means of access, architectural design, exterior materials and signage with an office, hotel or restaurant use. All other automobile service uses shall be part of a planned development pursuant to Section 19.38.01 of this Code or shall be accessory to passenger automobile sales.~~

~~(C) Any residential development shall include 30 or more dwelling units, except that a permit may be granted for a single family residence where in the area immediately adjacent to the proposed use lands are substantially developed with single family residences. The provisions of this Section requiring the proposed use to meet the minimum standards and requirements of the district shall not apply. Residential development is not permitted and permits shall not be issued unless the City Council finds that the particular use will not interfere with future development of adjacent land for industrial and commercial purposes, that it will not interrupt the continuity of development within the industrial and commercial community, and further finds that it will not place residential uses within a predominantly industrial or business area. In the event that the area is partially undeveloped, it shall be assumed in making the findings, in the absence of substantial evidence to the contrary, that the undeveloped lands will be developed with permitted uses.~~

~~(D) The proposed use will not conflict with existing or future development of the adjacent properties by virtue of traffic, noise, glare, inadequate screening, or other nuisance conditions.~~

~~(E) The use is consistent with the purposes of the Zoning Code as they are enumerated in Section 19.01 and the purposes of the zoning district in which the applicant intends to locate the proposed use.~~

~~(F) The proposed use is not in conflict with the development plan of the City.~~

~~(5) **In All Districts**~~

~~(A) Temporary uses:~~

~~(i) Adjacent vacant land is not yet ripe for development or will not be affected by the proposed use.~~

~~(ii) Adjacent developed land will not be adversely affected by the smoke, unsightliness, or other nuisance characteristics.~~

~~(iii) The period of time for which the conditional use permit is to be granted will terminate before any adverse effects are felt upon adjacent property.~~

~~(iv) There is adequate assurance, guaranteed by performance bond where deemed necessary by the City Council, that the property will be left in suitable condition after the use is terminated.~~

~~(v) Tents and canopies shall meet the performance standards specified in Section 19.63.06.~~

~~(vi) Promotional displays and activities such as kiddie rides, carnivals not otherwise prohibited by ordinance, street dances, concerts, live entertainment and promotional and sidewalk sales for the purpose of promoting a use or uses regularly and lawfully in operation on the parcel or lot may be permitted in open areas on such a lot if improved with a permanent building.~~

~~(vii) Transient merchant sales are sales of goods such as art, crafts, cosmetics, personal apparel, and household furnishings for not longer than three days in any one week. No conditional use permit shall be required for said sales as long as the applicant shows to the License Division that he is properly licensed in accordance with federal, state, and City requirements.~~

~~(viii) Notwithstanding any other provision of this Chapter, application for the uses specified in subparagraph (vi) above shall be made to the Director of the Department of Community Development who shall have the authority to grant such temporary permits unless he has been notified of any objection to the proposed use. If objection is raised, the matter shall be referred for hearing to the City Council at the earliest practicable time.~~

~~(B) Reserved.~~

~~(C) Shopping Centers: In addition to the other provisions of the Chapter applicable to the development and construction of shopping centers, the following provisions shall apply to shopping center developments in all districts where allowed:~~

- (i) ~~The plan required by subparagraph (5)(B)(i) of this Section shall show required and proposed loading areas, landscaping, and screening.~~
- (ii) ~~No driveway access shall be within 200 feet of the intersection of arterial or collector street right-of-way. In the event of hardship or application of a variance to the Variance Board, the applicant shall first submit his request for a variance to the City Traffic Engineer for his comments and recommendations which shall be forwarded to the Variance Board prior to its consideration of the request. For the purposes of this subparagraph, arterial and collector streets are as shown on the "Major Street Plan" contained in the "Development Plan" adopted by the Planning Commission of the City of Bloomington on December 3, 1963, three copies of which are on file in the office of the City Clerk of the City of Bloomington.~~
- (iii) ~~Driveways shall be designed so that aisle entrances to parking areas shall be clear. Driveways for individual places of business in the development shall not have direct access to the street.~~
- (iv) ~~The plan shall provide for initial construction of a minimum of 25,000 square feet of floor area.~~
- (v) ~~No building permit for a gasoline service station shall be issued until the initial required construction of the development has been commenced and footings and foundations have been constructed.~~
- (vi) ~~Reserved.~~
- (vii) ~~No building permits shall be issued for any expansion or enlargement or structural change or change in use in an existing shopping center unless first a conditional use permit has been granted pursuant to the provisions of this Chapter.~~

(6) In Flood Plain (F) Districts -

- (A) ~~That no encroachment, including temporary or permanent structures; fill, deposit, or obstruction; new construction or substantial improvement; storage of equipment or materials; or other uses acting alone or in combination with existing or reasonably anticipated future uses will adversely affect the capacity of the floodway or floodplain, or increase flood heights within the floodway or floodplain as shown on the Flood Insurance Rate Map as designated in Section 19.38.02(b) or as designated by a public governmental agency with jurisdiction or as determined through the procedures of Subsection 19.39(g) of this Code.~~
- (B) ~~That no danger to life and property due to increased flood elevations or velocities caused by encroachments will occur; that no materials may be swept onto other lands or downstream to the injury of others; and that safe access, no lower than two feet below the flood protection elevation, to the property for emergency and ordinary vehicles exists in times of flooding.~~
- (C) ~~That the establishment, erection, or construction of the use and operation of the use will minimally affect the natural ecological balance of the immediate floodplain vicinity and will not cause turbidity, siltation, or pollution of a waterway.~~
- (D) ~~That public utilities and facilities will be constructed to minimize flood damage and flood infiltration into utility lines and that the proposed water supply and sanitation systems will prevent disease, contamination, and unsanitary conditions.~~
- (E) ~~That any new use or alteration, substantial improvement, or repair of any existing use will be protected from flood damage through adequate and practicable methods.~~
- (F) ~~That the use is consistent with the purposes of the Zoning Code as they are listed in Section 19.01 of this Code and the purposes of the zoning district in which the applicant intends to locate the proposed use and that the proposed use is not in conflict with the development plan of the City.~~
- (G) ~~That the proposal has been reviewed and approved by the appropriate watershed district and that all applicable state and federal permits have been obtained.~~
- (H) ~~That the proposed facility will benefit from a waterfront site and that available alternative sites not subject to flooding have been given consideration.~~

(7) Central Business (CB) District -

- (A) ~~Adjacent uses will not be adversely influenced by any nuisance characteristics generated by the use.~~
- (B) ~~The use is consistent with the purpose of the zone.~~
- (C) ~~The proposed use will not cause traffic hazard or congestion.~~
- (D) ~~Reserved.~~
- (E) ~~Testing a sales promotional activity outside a building, conducted in conjunction with a research laboratory, shall be sufficiently separated by distance or screening from adjacent residentially zoned land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land. Such activities shall also be separated from public streets by screening.~~

- ~~(F) Wholesale businesses shall be allowed only when they are of such a nature and located in a manner so as not to unduly interfere with retail sales and services in the zone.~~
- ~~(G) The use is consistent with the purposes of the Zoning Code as they are enumerated in Section 19.01 of this Code and the purposes of the zoning district in which the applicant intends to locate the proposed use.~~
- ~~(H) The proposed use is not in conflict with the development plan of the City.]~~

SEC. 19.22.01. RESERVED. [SUSPENSION OR REVOCATION OF CONDITIONAL USE PERMITS.

- ~~(a) The City Council may suspend or revoke a conditional use permit upon the failure of the permittee, owner, operator, tenant or user to comply with the provisions of this Code, the laws of the State of Minnesota or any condition established at the time of approval of the conditional use permit.~~
- ~~(b) A suspension or revocation of a conditional use permit shall be preceded by written notice to the permittee and a hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the permittee. The notice shall be mailed to the permittee at the most recent address listed on the application. The hearing of a contested case may be before the City Council or in accordance with Minnesota Statutes, Section 14.57 to 14.60 but informal disposition of a contested case by stipulation, pursuant to Minnesota Statutes, Section 14.59, may provide an adequate basis for imposition of sanctions.]~~

SEC. 19.23. RESERVED. [REVISIONS AND/OR CHANGES.

- ~~(A) Minor revisions and/or changes in final site and building plans which have been approved by the City Council may be approved by the Director of Community Development if they are required by engineering or other circumstances which were not foreseen at the time the conditional use permit was approved. Said changes can be considered only upon formal application accompanied by a fee as set forth in Section 19.14.~~
- ~~(B) Major revisions and/or changes in final site and building plans which have been approved by the City Council may be approved by the Director of Community Development only after a public hearing by the Planning Commission and approval by the City Council. The requested changes can be considered only upon formal application accompanied by a fee as set forth in Section 19.14.]~~

SEC. 19.23.01. CANCELLATION OF VARIANCES], INTERIM USE PERMITS, AND CONDITIONAL USE PERMITS].

- ~~(a) Unless otherwise specified by the City Council at the time it is authorized, a variance [or conditional use permit,] shall expire if the variance [or conditional use permit] is not utilized through obtaining a building permit or otherwise, one year from the date of its authorization.~~
- ~~(b) Reserved. [Unless otherwise specified by the City Council at the time it is authorized, an interim use permit shall expire if the applicant fails to utilize such interim use permit by obtaining a building permit or otherwise, within six months from the date of its authorization.]~~
- ~~(c) In the event that building plans or site plans are required to be approved by the Planning Commission or City Council before a building permit can be issued, such approval will have the effect of extending the term of the [conditional use permit, interim use permit or] variance for a period of one year beyond the date of approval of such building or site plans.~~
- ~~(d) Reserved. [Should a use operating under a valid conditional or interim use permit cease its operation for a continuous period of one year, the conditional or interim use permit shall be considered as expired and any subsequent use of the premises shall be in conformance with the use regulations for the zoning district in which the property is located.]~~
- ~~(e) In the event that a change in use or a change in the application of the variance to the use or property occurs as a result of action by the occupant or owner or the application of the variance ceases for a continuous period of one year, the variance shall be considered as expired and any subsequent use of the premises shall be in conformance with the use regulations for the zoning district in which the property is located.~~
- ~~(f) A variance[, interim use permit or conditional use permit] granted for a nonconformity expires when the nonconformity is discontinued as described in City Code Section 21.504(b)(2).~~

SEC. 19.23.02. RESERVED. [CONDITIONAL USE PERMIT REQUIRED.

~~It shall be unlawful to engage in a use listed in this Code as a conditional use without having first obtained a permit therefor from the Issuing Authority.]~~

SEC. 19.23.03. RESERVED. [INTERIM USES.

- ~~(a) **Purpose.** Interim use permits establish a framework for the regulation of temporary land uses.~~
- ~~(b) **Permit Required.** No use designated as an "Interim Use" in any zoning district shall be established unless and until an Interim Use Permit has been granted by the City Council.~~

(c) **Application, Hearings.**

- (1) Application shall be made by the fee owner or authorized representative of the fee owner of the property upon which the interim use is proposed. The Planning Commission or City Council may also initiate an application for an Interim Use Permit.
- (2) Applications shall include:
 - (A) A completed application form signed by the fee owner of the property or by the fee owner's authorized representative;
 - (B) All necessary information to fully describe the nature of the request and use, its operation and intensity, location on the site, affect on abutting and adjacent properties and site improvements necessary to conduct the use;
 - (C) A letter from the applicant stating the date or event that will terminate the use;
 - (D) Any other information that may be required by the Issuing Authority to evaluate the application.
- (3) Applications shall be submitted to the Division of City Planning for review of completeness in accordance with the standard procedures and policies for development review adopted by the City of Bloomington.
- (4) Upon acceptance of the application as complete, the application shall be scheduled for a public hearing before the Planning Commission. The Public Hearing shall be advertised and notices mailed to adjacent property owner within 500 feet of the subject property in accordance with the requirements of Section 19.16 of this Code. After considering the application, the staff report, testimony from the applicant and the public and any other relevant information, the Planning Commission shall recommend approval, approval with conditions or denial. The recommendation of the Planning Commission shall be forwarded to the City Council as soon as practical.
- (5) After considering the application, recommendation of the Planning Commission, any staff reports, testimony from the public hearing and any other relevant information, the City Council shall take action on the application through approval, approval with conditions, or denial. Should the City Council approve the application, the City Council shall specify the term of the Interim Use Permit, the event(s), circumstances or conditions that shall cause termination, and any conditions of approval.

(d) **Findings.** An Interim Use Permit may be granted only if the City Council makes all of the following findings:

- (1) The use will not delay permanent development of the site.
- (2) The use will not adversely impact implementation of the Comprehensive Plan.
- (3) The use will not be in conflict with any provisions of the City Code.
- (4) The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.
- (5) The date or event that will terminate the use has been identified with certainty.
- (6) The applicant is both willing and able to maintain the use in compliance with all applicable laws, codes and regulations.

(e) **Conditions of Approval.** The City Council may attach conditions of approval to an Interim Use Permit in order to minimize the adverse impacts of an interim use, in order to identify a date or event that will terminate the Interim Use Permit, and to address any special needs.

- (1) The applicant shall raise objections, if any, to proposed conditions of approval at the public hearing(s).
- (2) An approved performance bond or letter of credit may be required as a condition of approval to ensure the restoration of the site and surrounding area after termination of the use.

(f) **Expiration and Termination.**

- (1) An Interim Use Permit shall expire and the interim use shall terminate at the earlier of:
 - (A) The expiration date established by the City Council at the time of approval, but in no event more than five years from the date of approval;
 - (B) The occurrence of any event identified in the Interim Use Permit for the termination of the use;or
 - (C) Upon an amendment of the City Code that no longer allows the interim use.

(g) **Suspension and Revocation.**

- (1) The City Council may suspend or revoke an Interim Use Permit upon the failure of the interim use, or the interim use's permittee, owner, operator, tenant or user, to comply with the provisions of this Code, the laws of the State of Minnesota, the approved plans, or the conditions of approval, or by

finding that the activities allowed under the permit adversely affect the public health, safety, or welfare.

- ~~(2) A suspension or revocation of an Interim Use Permit shall be preceded by written notice to the permittee and a hearing. The notice shall provide at least ten (10) days notice of the time and place of the hearing and shall state the nature of the violations. The notice shall be mailed to the permittee at the most recent address listed on the application. The hearing of a contested case may be before the City Council or in accordance with Minnesota Statutes, Section 14.57 to 14.60, but informal disposition of a contested case by stipulation, pursuant to Minnesota Statutes, Section 14.59, may provide an adequate basis for imposition of sanctions.~~

~~(h) **Standards.**~~

- ~~(1) Term. The term of an Interim Use Permit shall not exceed five (5) years.~~
- ~~(2) Re-Application. Because of its temporary nature, an interim use permit is not subject to renewal, but upon re-application for a time extension of the same use on the same site beyond the date of expiration of its Interim Use Permit, succeeding Interim Use Permits may be approved for up to five years if the City Council makes the findings set forth in subsection (d) hereof in the affirmative and also finds that all previous conditions of approval have been satisfied and that the use meets all Code requirements or has received appropriate variances from those requirements.]~~

ARTICLE III. ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

SEC. 19.27. SINGLE-FAMILY RESIDENTIAL (R-1A, R-1) DISTRICTS.

(d) **Conditional uses -**

- (1) Churches, private schools, including music and dance schools, and licensed day-care facilities serving thirteen (13) or more persons. [~~When reviewing an application for a conditional use to build a church or day-care center, it is not required that the City Council make the finding under Section 19.22, subparagraph (1)(E), of this Code.~~]

- (4) Boarding houses, lodging houses and licensed residential facilities serving seven or more persons. [~~When reviewing an application for a conditional use for boarding houses or lodging houses, it is not required that the City Council make the finding of Section 19.22(1)(E) of this Code.~~]

- (10) Home businesses in accordance with the performance standards set forth in Section 19.63.09(b)(3) of this Chapter[~~, and pursuant to the findings set forth in Section 19.22(1)(A),(B),(C),(D),(F), and (G).~~]

- (38) Towers which meet the locational requirements of Section 19.63.05(b). [~~When reviewing an application for a conditional use permit to erect a tower, it is not required that the City Council make the finding under Section 19.22, subparagraph (1)(E), of this Code.~~] For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

(f) **Special Provisions -**

- (4) ~~Reserved. [Except for single-unit detached residential dwellings, and structures and uses accessory to single-unit detached residential dwellings, no permit for development within the R-1A and R-1 zoning district shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.27.01. LARGE LOT SINGLE FAMILY RESIDENTIAL DISTRICT RS-1.

(b) Uses -

(3) Conditional Uses -

- P. Towers which meet the locational requirements of Section 19.63.05(b). ~~[When reviewing an application for a conditional use permit to erect a tower, it is not required that the City Council make the finding under Section 19.22, subparagraph (1)(E), of this Code.]~~ For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.
- Q. Home businesses in accordance with the performance standards set forth in Section 19.63.09(b)(3) of this Chapter, ~~and pursuant to the findings set forth in Section 19.22(1)(A),(B),(C),(D),(F), and (G)].~~

(c) Reserved. [Issuance of Conditional Use Permits -

- ~~(1) Permanent Conditional Uses - No Primary Permanent Conditional Use Permit may be granted unless the City Council finds that:

 - A. ~~The use will not create an excessive burden on parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.~~
 - B. ~~The proposed use will be sufficiently separated by distance or screening from adjacent residentially zoned and used land so that existing residential uses will not be depreciated in value and there will be no deterrence to development of vacant land.~~
 - C. ~~The proposed use, structure or site will not have an adverse impact upon adjacent residential properties.~~
 - D. ~~The proposed use is reasonably related to the overall needs of the community.~~
 - E. ~~The proposed use is consistent with the purposes of the Zoning Code as they are enumerated in Section 19.01 of the Zoning Code.~~
 - F. ~~The proposed use is consistent with the purposes of the RS-1 District as enumerated in Section 19.27.01.a.~~
 - G. ~~The proposed use is not in conflict with the Comprehensive Plan.~~~~
- ~~(2) Temporary Conditional Uses - No Temporary Conditional Use Permit shall be granted unless the City Council finds that:

 - A. ~~Adjacent vacant land is not yet ripe for development or will not be affected by the proposed use.~~
 - B. ~~Adjacent developed land will not be adversely affected by nuisance noise, traffic, dust and unsightliness.~~~~

- C. ~~—The period of time for which the conditional use permit is requested will terminate before any adverse effects are felt upon adjacent properties.~~
- D. ~~—There is adequate assurance, guaranteed by performance bond where deemed necessary by the City Council, that the property will be left in suitable condition after the use is terminated.~~
- E. ~~—That the use will not adversely affect implementation of the Comprehensive Plan or any adopted District Plan for the period of time for which the use permit is to be granted.]~~

SEC. 19.28. MULTIPLE-FAMILY RESIDENTIAL (R-4) DISTRICTS.

(f) **Reserved. [Special Provisions -**

- (1) ~~—Except for single family detached dwellings, no permit for development within the R-4 District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.28.01. MULTIPLE-FAMILY RESIDENTIAL (RM-12) DISTRICTS.

(d) **Conditional uses -**

- (8) Towers which meet the locational requirements of Section 19.63.05(b). ~~[When reviewing an application for a conditional use permit to erect a tower, it is not required that the City Council make the finding under Section 19.22, subparagraph (1)(E), of this Code.]~~ For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

(h) **Special provisions -**

- (1) ~~Reserved. [No permits for development within the RM-12 District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.28.02. MULTIPLE-FAMILY RESIDENTIAL (RM-24) DISTRICTS.

(d) **Conditional uses -**

- (7) Towers which meet the locational requirements of Section 19.63.05(b). ~~[When reviewing an application for a conditional use permit to erect a tower, it is not required that the City Council make~~

~~the finding under Section 19.22, subparagraph (1)(E), of this Code.] For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.~~

(h) **Special provisions -**

- (1) ~~Reserved. [No permits for development within the RM-24 District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.28.03. MULTIPLE-FAMILY RESIDENTIAL (RM-50) DISTRICTS.

(d) **Conditional uses -**

- (6) Towers which meet the locational requirements of Section 19.63.05(b). ~~[When reviewing an application for a conditional use permit to erect a tower, it is not required that the City Council make the finding under Section 19.22, subparagraph (1)(E), of this Code.] For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.~~

(h) **Special provisions -**

- (1) ~~Reserved. [No permits for development within the RM-50 District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.31.01. REGIONAL COMMERCIAL (CR-1) DISTRICTS.

(h) **Reserved. [Issuance of Conditional Use Permits-**

~~No conditional use permit may be granted unless the City Council finds that:~~

- ~~(1) The proposed use is integrated by means of orientation, access, pedestrian and vehicular circulation, parking, and design with nearby uses in the CR-1 District, or is of such a size and scale or is separated by distance as to warrant establishment of a unique architectural design;~~
- ~~(2) That the size, scale, and location of the proposed use is consistent with the intent of the CR-1 District and shall not interfere with future development potential within the District.~~
- ~~(3) The proposed use will not cause traffic hazards or congestion on adjacent public streets;~~
- ~~(4) Existing nearby land uses will not be adversely affected by traffic generation, noise, glare, odor, smoke, unsightliness or other nuisance characteristics;~~
- ~~(5) The proposed use is reasonably related to the overall needs of the community and the area where the use is proposed to be located;~~
- ~~(6) The use is not in conflict with the Comprehensive Plan of the City nor with any applicable District Plan or other adopted plan of the City;~~
- ~~(7) The use is consistent with the intent of the CR-1 District and with the purposes of the Zoning Code as they are enumerated in Section 19.04.]~~

(i) **Special Provisions -**

- (1) ~~Reserved. [No permits for development within the CR-1 District shall be issued by the City until final site and building plans have been reviewed and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.32. GENERAL BUSINESS (B-3) DISTRICTS.

(b) **Permitted uses -**

- (8) Licensed currency exchange businesses.

(d) **Conditional uses -**

- (7) ~~Reserved. [Currency exchange businesses.]~~

(e) **Special Provisions -**

- (2) ~~Reserved. [No permit for development within the B-3 District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.33. INDUSTRIAL (I-1, I-2, AND I-3) DISTRICTS.

(f) **Special Industrial Park (I-1) District requirements -**

- (7) ~~Reserved. [No permit for development within the I-1 District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

(g) **Special Limited Industry (I-2) District requirements -**

- (2) ~~Reserved. [No permit for development within the I-2 District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

(h) **Special General Industry (I-3) District requirements -**

- (2) ~~Reserved. [No permit for development within the I-3 District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.33.01. INDUSTRIAL PARK (IP) DISTRICT.

(h) **Reserved. [Issuance of Conditional Use Permits.** No conditional use permit shall be granted unless the City Council finds that:

- (1) ~~The character, scale and intensity of the proposed use will be compatible with existing and anticipated future development on nearby land.~~
- (2) ~~Any nuisance characteristics generated by the proposed use such as, but not limited to, noise, traffic, glare, odor, smoke or unsightliness will not have an adverse effect upon existing and future development of nearby properties.~~
- (3) ~~The proposed use will provide an economic return to the community commensurate with other industrial uses for which the property could feasibly be used.~~
- (4) ~~The proposed use is not in conflict with the Comprehensive Plan of the City, any applicable district or development plan or any other adopted plan of the City.~~
- (5) ~~The proposed use is consistent with the intent of the IP Zoning District and with the purposes of the Zoning Code as they are enumerated in Section 19.01 of this Code.]~~

(j) **Special Provisions.**

- (1) ~~Reserved. [No permits for development within the IP District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.34. FREEWAY DEVELOPMENT (FD-1 AND FD-2) DISTRICTS.

(d) **Conditional uses -**

- (1) Motor freight terminals.
- (2) Residential uses.

- (3) The following retail business uses~~[, subject to the restrictions of Section 19.22(4) of this Code]:~~
- (A) Uses listed as permitted uses in the B-2 General Commercial zoning district. See Section 21.209(b) of this Code.
 - (B) Outdoor newspaper and magazine stands.
 - (C) Collection stations for charitable organizations.
 - (D) Pet services facility.
 - (E) Reserved.
 - (F) Repair of household equipment (not including motor vehicles).

(f) **Freeway Development (FD-1) District requirements -**

- (5) Reserved. ~~[No permit for development within the FD-1 District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

(g) **Freeway Development (FD-2) District requirements -**

- (2) Reserved. ~~[No permit for development within the FD-2 District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.37. CENTRAL BUSINESS (CB) DISTRICT.

(h) Reserved. ~~[**Special Central Business (CB) District requirements-**~~

- (1) ~~No permit for development within the CB District shall be issued by the City until final site and building plans have been reviewed by the Planning Commission and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.]~~

SEC. 19.38.01. PLANNED DEVELOPMENT (PD) OVERLAY DISTRICTS.

- (a) **Intent** - The purpose of the Planned Development Overlay District is to promote creative and efficient use of land by providing design flexibility in the application of development standards~~[the provisions of a primary zoning district by providing an overlay district within any of the primary zoning districts].~~ The planned development provisions are also intended to create both private and public benefit by:
- (1) allowing improved site and structure design;
 - (2) allowing development on multiple lots to function as one coordinated site;
 - (3) ensuring coordination of phased development;
 - (4) allowing the location of structures, facilities and lot lines on a site to be adjusted to protect natural features; and

- (5) allowing the shared use of facilities, including but not limited to parking, access and storm water management infrastructure.
- ~~[(1) Protect natural features in private, common or public open space,
(2) Improve the efficiency of public streets and utilities,
(3) Provide transitions in land use in keeping with the character of adjacent land use, or
(4) Improve the arrangement of structures, facilities and amenities on a site for both private and public benefit.]~~
- (b) **Designation** ~~All Planned Development Overlay Districts shall be designated on the official zoning map of the City and in the legal description of the property being overlaid.~~
- (c) **Uses** - All ~~[permitted principal, provisional, conditional, interim and accessory]~~uses allowed in the ~~[primary]~~ underlying zoning district are also allowed ~~[permitted]~~ in the Planned Development Overlay District subject to any necessary approvals including but not limited to conditional uses and interim uses [subject to the provisions of the primary zoning district and as specified on an approved development plan]. Uses not allowed in the underlying zoning district are also not allowed in the Planned Development Overlay District.
- (c) **Flexibility in Standards** – Within the Planned Development Overlay District, the City Council may grant flexibility on development standards through the approval of Preliminary and Final Development Plans, subject to the following limitations and when such flexibility provides public benefit and meets the intent of the overlay district. Flexibility may not be granted that:
- ~~[(d) **Applicability** All applicable primary zoning district requirements, other than use restrictions described in subsection (c), above, are superseded by the approval of a preliminary development plan by the City Council. The approved preliminary development plan establishes the requirements for a planned development and shall govern and take precedence over primary zoning district provisions. No preliminary or final development plan shall be approved by the City Council which, for the total land area of a planned development:]~~
- (1) exceeds maximum structure coverage of a site ~~[lot]~~ by more than fifty percent of the applicable district provision;
 - (2) exceeds maximum density or floor area ratio by more than twenty percent of the applicable district provision;
 - (3) reduces minimum lot area and lot width by more than twenty-five percent of the applicable district provision;
 - (4) reduces minimum setback in an industrial ~~[primary]~~ zoning district from a property line adjoining a residential ~~[primary]~~ zoning district;
 - (5) does not conform to the requirements of the shore area regulations of the City Code (Section 19.87.01, et seq.);
 - (6) deviates from any of the requirements of Article X of this Chapter regulating signs, except:
 - (A) The location of freestanding signs on the site;
 - (B) In Class II, III, IV and V sign districts, not more than twenty percent (20%) of the sign area allowed on any wall may be applied to increase the allowed sign area on any other wall, provided that the increased signage on any wall does not exceed the permitted area of signage by more than forty percent (40%) of the area allowed on that wall by the regulations for the ~~[primary]~~ sign district;
 - (C) In Class II, III, IV, V and VI sign districts, the number of freestanding signs may be increased so long as the total area of the proposed signs does not exceed the total area of the freestanding signs of the same type permitted in the sign district.
~~[The approval of a final development plan subject to the provisions of the Planned Development Overlay District shall satisfy the requirements for final site and building plan approval in all primary and overlay zoning districts.]~~
 - (7) reduces minimum floor area ratio requirements by more than twenty percent of the applicable zoning district provision; and
 - (8) reduces minimum residential density requirements by more than twenty percent of the applicable zoning district provision.
- (d) **Procedures** – The Zoning District Map must not be amended to establish a new Planned Development Overlay District unless the City Council has also concurrently reviewed and approved an associated Preliminary Development Plan for the site (see City Code Sections 21.501.02-03). No permit for development within a Planned Development Overlay District may be granted unless the City Council has approved a Final Development Plan for the site (see City Code Section 21.501.03).

- (e) ~~**Procedures**~~—Prior to the issuance of any permits for development within a Planned Development Overlay District, a rezoning to Planned Development Overlay District shall be adopted by the City Council, a preliminary development plan shall be approved by the City Council, and a final development plan shall be approved by the City Council according to the following procedures:
- (1) ~~The purpose of the preliminary development plan is to establish the intent, density, and intensity for a proposed development. The applicant shall submit a preliminary development plan to the Issuing Authority together with an application for rezoning to Planned Development Overlay District. The Planning Commission shall conduct a public hearing in accordance with the provisions of Article II of this Chapter, to consider the rezoning request, and hold a public hearing in accordance with the provisions of Article II of this Chapter, to consider a recommendation for approval or disapproval of a preliminary development plan. At this public hearing, the Planning Commission shall receive a report from the Issuing Authority recommending approval, disapproval or approval with specified modifications. Upon due consideration, the Planning Commission shall recommend to the City Council either:~~
 - (A) ~~approval or disapproval of the rezoning;~~
 - (B) ~~approval of the preliminary development plan;~~
 - (C) ~~disapproval of the preliminary development plan; or~~
 - (D) ~~approval of the preliminary development plan with specified modifications.~~
 - (2) ~~Following Planning Commission recommendation, the City Council shall hold a public hearing for consideration of the rezoning request and the proposed preliminary development plan. At this public hearing, the City Council shall receive the recommendation from the Planning Commission and a report from the Issuing Authority. Upon due consideration, the City Council shall either:~~
 - (A) ~~approve or disapprove the rezoning;~~
 - (B) ~~approve the preliminary development plan;~~
 - (C) ~~disapprove the preliminary development plan; or~~
 - (D) ~~approve a preliminary development plan with specified modifications.~~
 - (3) ~~The purpose of the final development plan is to establish a detailed development plan for a proposed development. Following approval of final development plans by the City Council, permits for development within the Planned Development Overlay District may be issued.~~

~~The applicant shall submit a final development plan to the Issuing Authority. The Planning Commission shall conduct a public hearing in accordance with the provisions of Article II of this Chapter, to consider a recommendation for approval or disapproval of a final development plan. At this public hearing, the Planning Commission shall receive a report from the Issuing Authority recommending approval, disapproval or approval with specified modifications. The Planning Commission shall determine that the proposed final development plan is in substantial conformance with the approved preliminary development plan. Upon due consideration, the Planning Commission shall recommend to the City Council either:~~

 - (A) ~~approval of the final development plan;~~
 - (B) ~~disapproval of the final development plan; or~~
 - (C) ~~approval of the final development plan with specified modifications.~~
 - (4) ~~Following Planning Commission recommendation, the City Council may hold a public hearing for consideration of the final development plan. At this public hearing, the City Council shall receive the recommendation from the Planning Commission and a report from the Issuing Authority. Upon due consideration, the City Council shall either:~~
 - (A) ~~approve the final development plan;~~
 - (B) ~~disapprove the final development plan; or~~
 - (C) ~~approve a final development plan with specified modifications.~~
 - (5) ~~The Planning Commission and the City Council shall find the following prior to the approval of preliminary development plans or final development building plans:~~
 - (A) ~~The planned development is not in conflict with the Comprehensive Plan.~~
 - (B) ~~The planned development is not in conflict with any adopted District Plan for the area.~~
 - (C) ~~The planned development is not in conflict with the intent of the primary zoning district.~~
 - (D) ~~The planned development is not in conflict with other applicable provisions of the City Code, subject to the provisions of Section 19.38(c).~~
 - (E) ~~The planned development or unit thereof is of sufficient size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit without dependence upon any subsequent unit.~~

- (F) ~~The planned development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.~~
- (G) ~~The planned development will not have an undue and adverse impact on the reasonable enjoyment of neighborhood property.~~
- (H) ~~That any variation from strict application of the primary zoning district provisions in the planned development are not in conflict with the intent of the Planned Development Overlay District and are justified by the design of the proposed development.~~
- (6) ~~Minor changes to final development plans adopted by the City Council may be approved by the Issuing Authority, provided that the changes do not involve the following:~~
 - (A) ~~Increase in floor area of structures or number of dwelling units.~~
 - (B) ~~Change in exterior building material.~~
 - (C) ~~Alteration of any condition attached or modification to the final development plan made by the City Council.~~
- (7) ~~A major change to a final development plan which is at variance with any standards of the City Code or is less restrictive than any conditions of approval for the initial final development plan, shall require approval by a majority vote of all members of the City Council.~~
- (f) **Preliminary Development Plan Content**
 - (1) ~~The applicant shall submit preliminary development plans which include the following:~~
 - (A) ~~A location map which indicates existing and future land uses.~~
 - (B) ~~Maps of existing and proposed site features and uses at a scale specified by the Issuing Authority which indicates topography in two-foot contours; building outlines; location of significant vegetation; location of streets, drives and parking areas; and other significant features.~~
 - (C) ~~Drawings of all proposed structure elevations including signs.~~
 - (D) ~~A preliminary circulation plan indicating pedestrian and vehicular movement systems. This plan shall also include service access for receiving material and trash removal.~~
 - (E) ~~A preliminary drainage, grading, utility and erosion control plan.~~
 - (F) ~~A written report which indicates covenants or agreements which will influence the use and maintenance of the proposed development, describes the analysis of site conditions and development objectives which has resulted in the planned development proposal, and statement of which primary zoning district provisions are being modified by the planned development.~~
 - (G) ~~A shift of density or intensity plan, if applicable.~~
 - (H) ~~Any other information deemed necessary by the Issuing Authority in order to evaluate plans.~~
 - (1) ~~Five copies of the above information shall be submitted plus one reduced set no larger than 8-1/2 inches by 11 inches.~~
 - (2) ~~For City initiated rezonings to Planned Development Overlay District, the preliminary development plan may consist of any information deemed necessary to identify and protect the public interest.~~
- (g) **Final Development Plan Content** ~~The applicant shall submit final development plans which include the following information:~~
 - (1) ~~A location map which indicates existing and future land uses.~~
 - (2) ~~Maps of existing and proposed site features and uses at a scale specified by the Issuing Authority which indicate topography in two-foot contours; building outlines; location of significant vegetation; location of streets, drives and parking areas; and other significant features.~~
 - (3) ~~Detailed drawings of all proposed structure elevations, including scaled elevations of all signs. Samples of all proposed materials which will be used on the exterior of structures may be required with the elevation drawings.~~
 - (4) ~~Proposed floor plans for all floor levels, including locations of electrical, mechanical and gas metering equipment, and storage areas for trash and recyclable materials.~~
 - (5) ~~A landscape plan (see Section 19.52).~~
 - (6) ~~A final circulation plan indicating pedestrian and vehicular movement systems. This plan shall also include service access for receiving and trash removal.~~
 - (7) ~~A lighting plan as required in compliance with Section 21.301.07.~~
 - (8) ~~A rooftop equipment and screening plan and elevation drawings of rooftop equipment and screening, showing compliance with Section 19.52.01 of this Code.~~

- ~~(9) A final drainage, grading, utility, and erosion and sedimentation control plan. Such plans shall comply with the requirements of this Code, including Sections 16.50 – .56 and Sections 16.57 – .58.~~
- ~~(10) Identification of all wetlands on the site, using the 1989 Federal Manual For Identifying and Delineating Jurisdictional Wetlands, copies of documents completed in making the wetlands identification, qualifications of the person performing the identification, a description of any wetlands which are to be burned, filled, or drained pursuant to the development, and wetland mitigation and replacement plan if burning, filling, or draining of wetlands is to occur. Such plan shall be submitted and implemented in accordance with the provisions of Sections 16.57 – .58 of the City Code. The requirement of such documentation may be waived in instances where it is determined from aerial photographs, the National Wetlands Inventory, on-site observation, or other pertinent information that the site contains no wetlands.~~
- ~~(11) A written report which completely describes the proposal and indicates covenants or agreements which will influence the use and maintenance of the proposed development, describes the analysis of site conditions and development objectives which has resulted in the planned development proposal, and statement of which primary zoning district provisions are being modified by the planned development.~~
- ~~(12) A shift of density or intensity plan, if applicable.~~
- ~~(13) Any other information deemed necessary by the City Council in order to evaluate plans.~~
- ~~(14) Five copies of the above information shall be submitted, plus one reduced set no larger than 8-1/2 inches by 11 inches.]~~

SEC. 19.38.02. FLOOD HAZARD (FH) OVERLAY DISTRICTS.

- (d) **Conditional Uses** - Within the Flood Hazard Overlay District, only the following conditional uses having a low flood damage potential may be granted [~~pursuant to Section 19.22 of this Chapter~~] to the extent that the use is not prohibited by any provision of the primary zoning district:

- (e) **Interim Uses** -

- (1) Storage of equipment, machinery, or materials related to on-site construction activities [~~subject to findings A-H in Section 19.22(6)~~].

- (g) **Procedures** - The following rules and procedures for the determination of flood characteristics, recordkeeping, notification of governmental agencies, granting of conditional uses and variances, and amendment of these provisions shall be observed.

- (10) **Conditional Use Permit Applications Within all Flood Plain Districts.**

(D) In addition to the standard conditional use permit findings in Section 21.501.04 (e), the City Council must also make the following findings prior to issuing a conditional use permit in a flood hazard overlay district:

- (i) That no encroachment, including temporary or permanent structures; fill, deposit, or obstruction; new construction or substantial improvement; storage of equipment or materials; or other uses acting alone or in combination with existing or reasonably

anticipated future uses will adversely affect the capacity of the floodway or floodplain, or increase flood heights within the floodway or floodplain as shown on the Flood Insurance Rate Map as designated in Section 19.38.02(b) or as designated by a public governmental agency with jurisdiction.

- (ii) That no danger to life and property due to increased flood elevations or velocities caused by encroachments will occur; that no materials may be swept onto other lands or downstream to the injury of others; and that safe access, no lower than two feet below the flood protection elevation, to the property for emergency and ordinary vehicles exists in times of flooding.
- (iii) That the establishment, erection, or construction of the use and operation of the use will minimally affect the natural ecological balance of the immediate floodplain vicinity and will not cause turbidity, siltation, or pollution of a waterway.
- (iv) That public utilities and facilities will be constructed to minimize flood damage and flood infiltration into utility lines and that the proposed water supply and sanitation systems will prevent disease, contamination, and unsanitary conditions.
- (v) That any new use or alteration, substantial improvement, or repair of any existing use will be protected from flood damage through adequate and practicable methods.
- (vi) That the use is consistent with the purposes of the Zoning Code as they are listed in Section 19.01 of this Code and the purposes of the zoning district in which the applicant intends to locate the proposed use and that the proposed use is not in conflict with the development plan of the City.
- (vii) That the proposal has been reviewed and approved by the appropriate watershed district and that all applicable state and federal permits have been obtained.
- (viii) That the proposed facility will benefit from a waterfront site and that available alternative sites not subject to flooding have been given consideration.

(h) **Special Flood Hazard Overlay District Requirements.**

- (1) ~~Fill: Fill from dredging or sand and gravel extraction shall not be deposited in the floodway unless it can be accomplished in accordance with [the provisions of Subsection 19.22(6) of this Code and in accordance with] Section B below.~~

SEC. 19.38.12. BLUFF DEVELOPMENT (BP-2) OVERLAY DISTRICTS.

(e) **General Requirements -**

- (1) ~~Reserved. [No permits for development shall be issued within the Bluff Development Overlay District without approval of final site and building plans by the City Council.]~~

(g) **Reserved. [Final Site and Building Plans-**

- (1) ~~**Applicability** - The following provisions apply to the approval of final site and building plans in the Bluff Development Overlay District.~~
- (2) ~~**Approval** - Final site and building plans shall be approved by the City Council prior to the issuance of any permits for development. Prior to consideration for approval, the City Council shall receive a report from the Planning Commission and the Issuing Authority, specifying any recommended modifications to the final site and building plans. At the time of approval of final site and building plans, the City Council may, by motion and majority vote, modify final site and building plans and specify any additional development standards necessary to assure that the proposed development meets the intent of the zoning district and to assure that the proposed development is appropriately related to adjoining public streets and adjacent land uses.~~
- (3) ~~**Content** - The developer shall submit final site and building plans which include the following information:
 - (A) ~~A location map which indicates property ownership surrounding the proposed development and existing and future land uses.~~~~

- ~~(B) — Maps of existing and proposed site features at a scale of one to fifty or larger which indicate topography in two-foot contours; building outlines; location of significant vegetation; location of streets, drives, and parking areas; and other significant features.~~
- ~~(C) — Detailed drawings of all proposed structure elevations, including signs. Samples of all proposed materials which will be used on the exterior of structures shall be submitted with the elevation drawings.~~
- ~~(D) — Proposed floor plans for all floor levels.~~
- ~~(E) — A landscape plan indicating tree and shrub species, luminaire location, type and height, and provisions for plant material watering which meets the requirements of Section 19.38.12(f)(4).~~
- ~~(F) — A circulation plan indicating pedestrian and vehicular movement systems. This plan shall also include service access for receiving and trash removal.~~
- ~~(G) — A drainage, grading, utility, and erosion control plan which meets the requirements of Section 19.38.12(f)(3).~~
- ~~(H) — A lighting plan as required in compliance with Section 21.301.07.~~
- ~~(I) — A written report indicating covenants or agreements which will influence the use and maintenance of the proposed development.~~
- ~~(J) — Any other information deemed necessary by the City Council in order to evaluate plans.~~
- ~~(4) — **Findings** — The City Council shall find the following prior to the approval of final site and building plans.~~
 - ~~(A) — The proposed development is not in conflict with the Comprehensive Plan.~~
 - ~~(B) — The proposed development is not in conflict with the Bluff Report District Plan.~~
 - ~~(C) — The proposed development is not in conflict with the zoning district provisions.~~
 - ~~(D) — The proposed development is not in conflict with other applicable provisions of the City Code subject to the provisions of Section 19.38(e).~~
 - ~~(E) — The proposed development is not incompatible with existing and anticipated future development.~~
- ~~(5) — **Revisions** — Minor changes to final site and building plans approved by the City Council may be made by the Issuing Authority provided that the changes do not involve the following:~~
 - ~~(A) — Increase in floor area of structures.~~
 - ~~(B) — Variance from any zoning ordinance requirement.~~
 - ~~(C) — Change in exterior building material.~~
 - ~~(D) — Alteration of any condition attached or modification to the final site and building plans made by the City Council.]~~
- ~~(h) **Administration** - The Issuing Authority shall maintain records of all structures other than detached single-family residential structures which are located in the Bluff Development Overlay District. [From these records the Issuing Authority will prepare an annual report to the City Council which details each year's bluff development activities.]~~

ARTICLE III.A. ADDITIONAL ZONING DISTRICTS

SEC. 19.40.06. MIXED-USE DISTRICT CX-2.

- ~~(c) **Provisional Uses.** If the following uses are developed with direct pedestrian access to a mixed-use center, they are permitted in the CX-2 district.~~

- ~~(13) Licensed currency exchange businesses.~~

- (d) **Conditional Uses.** If the following uses are developed with direct pedestrian access to a mixed-use center and if they meet any other conditions which may be attached, they may be permitted in the CX-2 district.

- (18) Reserved. [~~Currency exchange businesses.~~]

SEC. 19.40.07. COMMERCIAL SERVICE DISTRICTS CS-0.5 AND CS-1.

(i) **Special Provisions.**

- (1) Reserved. [~~No permits for development within the CS Districts shall be issued by the City until final site and building plans have been reviewed and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.~~]

SEC. 19.40.08. COMMERCIAL OFFICE DISTRICTS CO-0.5 AND CO-1.

(i) **Special Provisions.**

- (1) Reserved. [~~No permits for development within the CO-1 district shall be issued by the City until final site and building plans have been reviewed and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.~~]

SEC. 19.40.09. RESIDENTIAL OFFICE DISTRICT RO-24 AND RO-50.

(h) **Special Provisions.**

- (1) Reserved. [~~No permits for development within the RO-24 and RO-50 Districts shall be issued by the City until final site and building plans have been reviewed and approved by the City Council, subject to the provisions of Section 19.40.12 of this Code.~~]

SEC. 19.40.10. CONSERVATION DISTRICT SC.

(d) **Conditional Uses.**

- (7) Transient merchant sales. When reviewing an application for uses under this provision, the City Council may impose conditions to ensure coordination with uses on nearby properties, protection of

the public health, safety and general welfare, and avoidance of nuisances to nearby residential properties. [It is not required that the City Council make the findings under Sections 19.22(5)(A)(vi) and (viii) of the City Code.]

(h) **Special Provisions.**

- (1) Reserved. [No permits for development within the SC district shall be issued by the City until final site and building plans have been reviewed and approved by the City subject to the provisions of Section 19.40.12 of this Code.]

SEC. 19.40.11. RESERVED [CONDITIONAL USES.]

- (a) ~~**Applicability.** The following findings apply to the issuance of conditional use permits for zoning districts established in this Article or described in Chapter 21.~~
- (b) ~~**Findings.** No conditional use permit shall be granted unless the City Council finds the following criteria have been met by a development proposal. The City Council may attach such other conditions to the permit as it may deem necessary.~~
- ~~(1) That the proposed use is not in conflict with the Comprehensive Plan.~~
 - ~~(2) That the proposed use is not in conflict with an adopted District Plan for the area.~~
 - ~~(3) That the proposed use is not in conflict with the stated intent of the zoning district in which it is to be located.~~
 - ~~(4) That the proposed use will not unreasonably harm the public health, safety, and welfare; create a nuisance; or create unreasonable congestion injurious to nearby properties.~~
 - ~~(5) That the proposed use does not interfere with the creation of a beneficial environment within its own property boundaries and on adjoining properties.~~
 - ~~(6) That the proposed use will not interfere with the provision of a reasonable economic benefit to the community.~~
 - ~~(7) That the provisions for interrelationship between the proposed development and contiguous and noncontiguous adjacent properties will not adversely affect pedestrian and vehicular movement and will not adversely affect the buffering of service facilities and parking areas.]~~

SEC. 19.40.12. RESERVED [FINAL SITE AND BUILDING PLANS.]

- (a) ~~**Applicability.** The following provisions apply to the approval of final site and building plans for zoning districts established in this Article or described in Chapter 21.~~
- (b) ~~**Approval.** Final site and building plans shall be approved by the City Council prior to the issuance of any permits for development. Prior to consideration for approval, the City Council shall receive a report from the Planning Commission and the Issuing Authority, specifying any recommended modifications to the final site and building plans. At the time of approval of final site and building plans, the City Council may, by motion and majority vote, modify final site and buildings plans and specify any additional development standards necessary to assure that the proposed development meets the intent of the zoning district and to assure that the proposed development is appropriately related to adjoining public streets and adjacent land uses.~~
- (c) ~~**Content.** The developer shall submit final site and building plans which include the following information:~~
- ~~(1) A location map which indicates property ownership surrounding the proposed development and existing and future land uses.~~
 - ~~(2) Maps of existing and proposed site features at a scale of one to fifty or larger which indicate topography in two-foot contours; building outlines; location of significant vegetation; location of streets, drives, and parking areas; and other significant features.~~
 - ~~(3) Detailed drawings of all proposed structure elevations, including signs. Samples of all proposed materials which will be used on the exterior of structures shall be submitted with the elevation drawings.~~
 - ~~(4) Proposed floor plans for all floor levels, including locations of electrical, mechanical and gas metering equipment, and storage areas for trash and recyclable materials.~~
 - ~~(5) A landscape plan (see Section 19.52).~~

- ~~(6) A circulation plan indicating pedestrian and vehicular movement systems. This plan shall also include service access for receiving and trash removal.~~
- ~~(7) A lighting plan as required in compliance with Section 21.301.07.~~
- ~~(8) A rooftop equipment and screening plan and elevation drawings of rooftop equipment and screening, showing compliance with Section 19.52.01 of this Code.~~
- ~~(9) A drainage, grading, utilities, and erosion and sedimentation control plan. Such plans shall comply with the requirements of this Code, including Sections 16.50-.56 and Sections 16.57-.58.~~
- ~~(10) Identification of all wetlands on the site, using the 1989 Federal Manual For Identifying and Delineating Jurisdictional Wetlands, copies of documents completed in making the wetlands identification, qualifications of the person performing the identification, a description of any wetlands which are to be burned, filled, or drained pursuant to the development, and a wetland mitigation and replacement plan if burning, filling, or draining of wetlands is to occur. Such plans shall be submitted and implemented in accordance with the provisions of Sections 16.57-.58 of the City Code. The requirement of such documentation may be waived in instances where it is determined from aerial photographs, the National Wetlands Inventory, on-site observation, or other pertinent information that the site contains no wetlands.~~
- ~~(11) A written report completely describing the proposal and indicating covenants or agreements which will influence the use and maintenance of the proposed development.~~
- ~~(12) Any other information deemed necessary by the City Council in order to evaluate plans.~~
- ~~(d) **Findings.** The City Council shall find the following prior to the approval of final site and building plans.~~
 - ~~(1) The proposed development is not in conflict with the Comprehensive Plan.~~
 - ~~(2) The proposed development is not in conflict with any adopted District Plan for the area.~~
 - ~~(3) The proposed development is not in conflict with the zoning district provisions.~~
 - ~~(4) The proposed development is not in conflict with other applicable provisions of the City Code subject to the provisions of Section 19.40.03.~~
 - ~~(5) The proposed development is not incompatible with existing and anticipated future development.~~
- ~~(e) **Revisions.** Minor changes to final site and building plans approved by the City Council may be made by the Issuing Authority provided that the changes do not involve the following:~~
 - ~~(1) Increase in floor area of structures.~~
 - ~~(2) Variance from any zoning ordinance requirement.~~
 - ~~(3) Change in exterior building material.~~
 - ~~(4) Alteration of any condition attached or modification to the final site and building plans made by the City Council.]~~

ARTICLE V. PERFORMANCE STANDARDS

SEC. 19.61.01. SELF-STORAGE FACILITY PERFORMANCE STANDARDS.

- ~~(a) **Reserved.** [Site Plan: At the time of application for a conditional use permit or building permit, the applicant shall file four copies of site plans and building plans in accordance with the provisions listed in this Section.]~~
- ~~(b) **Reserved.** [Submission Requirements. Four complete sets of Final Site Plans and Building Plans, plus one complete set reduced to 8 1/2 by 11 inches, shall be submitted to the Issuing Authority.]~~

- ~~(g) **Exceptions to Zoning District Requirements:**~~

- ~~(3) Setbacks.~~
 - ~~(A) Side yard setbacks of not less than one-half of the normal district requirements may be requested provided that no entrance doors to storage compartments or storage compartment~~

areas are exposed to that yard, subject to the approval of Final Site Plans and Building Plans ~~[by the City Council]~~.

- (B) Rear yard setbacks of not less than ten (10) feet may be requested provided that no entrance doors to storage compartments or storage compartment areas are exposed to that yard, subject to the approval of Final Site Plans and Building Plans ~~[by the City Council]~~.

SEC. 19.63.04. PERFORMANCE STANDARDS FOR SOLID WASTE TRANSFER STATIONS, SOLID WASTE WEIGH STATIONS AND SIMILAR USES.

(c) Solid Waste Transfer Stations.

(1) Site Design Requirements.

- (A) ~~Reserved; [Final site plans and building plans shall be reviewed by the Planning Commission and approved by the City Council prior to the issuance of any demolition, grading or building permits;]~~

(e) Household Hazardous Waste and Recycling Collection Facilities.

(1) Site Design Requirements.

- (A) ~~Reserved; [Final site plans and building plans shall be reviewed by the Planning Commission and approved by the City Council prior to the issuance of any demolition, grading or building permits;]~~

SEC. 19.63.05. TOWERS.

- (l) **Antennas Mounted on Roofs, Walls, and Existing Towers.** The placement of wireless telecommunication antennas on roofs, walls, and existing towers may be approved by the Planning Manager, provided the antennas meet the requirements of this Code, after submittal of 1) a final site and building plan as specified by Section ~~[49-40.42]~~ 21.501.01 of this Code,

ARTICLE X. SIGN REGULATIONS

Division C. General Regulations

SEC. 19.106. SIGNS PROHIBITED IN ALL DISTRICTS.

(b) **Prohibited Signs.**

- (9) **Balloon Signs Prohibited.** Balloon signs (greater than twenty-four (24) inches in diameter) shall be prohibited. [~~This prohibition shall take effect on September 4, 1998. Until the effective date of this provision, balloon signs shall be governed by Section 19.22(5)(A)(vi) of this Code.~~]

Division D. District Provisions

SEC. 19.111. CLASS II SIGN DISTRICTS (R-4, RM-12, RM-24, RM-50, RO-24, RO-50).

- (b) **Regulations for Building Identification Signs.** All building identification signs shall be located on the site of the use and are subject to any additional provisions of Section 19.108(h), "Basic Design Elements for Specific Building Identification Signs".

(6) **Canopy Signs.**

- (D) **Other.** No canopy shall be installed without approval of or revision to the Final Site and Building Plans or Final Development Plans. [~~See Section 19.40.12 or Section 19.38.01.~~]

SEC. 19.112. CLASS III SIGN DISTRICTS (B-1, I-1).

- (b) **Regulations for Building Identification Signs.** All building identification signs shall be located on the site of the use and are subject to any additional provisions of Section 19.108(h), "Basic Design Elements for Specific Building Identification Signs".

(6) **Canopy Signs.**

- (D) **Plan Approval.** No canopy shall be installed without approval of or revision to the Final Site and Building Plans or Final Development Plans. [~~See Section 19.40.12 or Section 19.38.01.~~]

SEC. 19.113. CLASS IV SIGN DISTRICTS (CB, B-2, B-3, C-1, C-4, IP, I-2, I-3, CO-0.5, CO-1, CS-0.5, CS-1, FD-1, FD-2).

(b) Regulations for Building Identification Signs.

- (6) **Awning Signs.** No awning shall be installed without approval of or revision to the Final Site and Building Plans or Final Development Plans. [~~See Section 19.40.12 or Section 19.38.10.~~] Any elevation approved for an awning shall be permitted awning signage. Awning signs are counted as wall signs for the computation of allowed signage on a primary or secondary elevation.

- (7) **Canopy Signs.** No canopy shall be installed without approval of or revision to the Final Site and Building Plans or Final Development Plans. [~~See Section 19.40.12 or Section 19.38.01.~~] Any elevation approved for a canopy shall be permitted canopy signage.

SEC. 19.114. CLASS V SIGN DISTRICTS (CR-1, C-2, C-3).

(b) Regulations for Building Identification Signs.

- (6) **Awning Signs.** No awning shall be installed without approval of or revision to the Final Site and Buildings Plans or Final Development Plans. [~~See Section 19.40.12 or Section 19.38.10.~~] Any elevation approved for an awning shall be permitted awning signage.

- (7) **Canopy Signs.** No canopy shall be installed without approval of or revision to the Final Site and Building Plans or Final Development Plans. [~~See Section 19.40.12 or Section 19.38.10.~~] Any elevation approved for a canopy shall be permitted canopy signage.

SEC. 19.121. SIGNS FOR HOTELS.

- (b) Identification Signs.** Identification signs shall be located on the site of the use and shall comply with the following standards:

(4) **Canopy Signs.**

(B) No canopy shall be installed without approval of or revision to the Final Site and Building Plans or Final Development Plans. [~~See Section 19.40.12 or Section 19.38.01.~~]

SEC. 19.124. SIGNS FOR OFFICE BUILDINGS WITH SEVEN (7) OR MORE STORIES.

(b) **Identification Signs.** Identification signs shall be located on the site of the use and comply with the following standards:

(4) **Canopy Signs.**

(B) No canopy shall be installed without approval of or revision to the Final Site and Building Plans or Final Development Plans. [~~See Section 19.40.12 or Section 19.38.01.~~]

Section 4. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 21

ZONING AND LAND DEVELOPMENT

ARTICLE II. DISTRICTS AND USES

Division H. Uses

SEC. 21.209. USE TABLES.

(a) **Purpose.** The use tables in this Section depict the classification of land uses within zoning districts.

(b) **Table Key.** The following labeling conventions apply to each table in this Section.

(1) **Uses.** Uses are often defined in Section 19.03. Uses not defined are subject to standard dictionary definitions.

(2) **Permitted uses.** Uses identified in the zoning district column with the letter "P" are allowed as permitted uses, primary or accessory, in the respective zoning district.

- (3) Conditional uses. Uses identified in the zoning district column with the letter “C” are allowed as conditional uses, primary or accessory, in the respective zoning district. Conditional uses must obtain a Conditional Use Permit prior to commencing.
 - (4) Interim uses. Uses identified in the zoning district column with the letter “I” are allowed as interim uses, primary or accessory, in the respective zoning district. Interim uses must obtain an Interim Use Permit prior to commencing.
 - (5) Accessory uses. Uses identified in the zoning district column with the letter “A” are allowed as accessory uses in the respective zoning district. Except for accessory residential uses, which are governed by the standards in Section 21.302.02, accessory uses must not occupy more than 25 percent of the total floor area on a site.
 - (6) Conditional accessory uses. Uses identified in the zoning district column with the letter “CA” are allowed as conditional accessory uses in the respective zoning district. Conditional accessory uses must obtain a Conditional Use Permit before commencing and are subject to the floor area limitations of accessory uses discussed in Section 21.209(b)(5).
 - (7) Prohibited uses. Uses not associated with a letter in the zoning district column are prohibited uses in the respective zoning district. Uses not listed are prohibited in the neighborhood and freeway commercial zoning districts.
 - (8) Standards. For ease of reference, uses for which specific standards apply include a table reference to the applicable Code Section.
- (c) **Reserved.**
- (d) **Neighborhood and Freeway Commercial Zoning Districts.**

USE TYPE	ZONING DISTRICT								REFERENCES
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5	See Listed Section
Retail Sales and Services									
Currency exchange		[G]P			[G]A				14.159 to 14.165

ARTICLE III. DEVELOPMENT STANDARDS

Division A. General Standards

SEC. 21.301.08. FENCES.

- (g) **Where fences are required.** At times this Code requires fences to protect the public health, safety and welfare.

- (4) **Screening.** See Sections 8.37, 10.05, 10.29.05, 10.38, 14.503, ~~[49-22]~~ 19.31.01, 19.33.01, 19.37, 19.49, 19.50, 19.50.01, 19.50.03, 19.51, 19.52, 19.61.01, 19.62.01, 19.63, 19.63.04, 19.63.07, 19.63.09, 21.301.05, 21.301.06, 21.302.01, and 21.302.02 for specifications on required screening standards, to include fences as a method of screening.

ARTICLE V. ADMINISTRATION AND NONCONFORMITY

Division A. [Reserved] Approvals and Permits

SEC. 21.501.01. [RESERVED]FINAL SITE AND BUILDING PLANS.

- (a) **Purpose.** The purpose of the final site and building plan application process is to:
- (1) Ensure that new buildings, building additions and site characteristics comply with City Code requirements;
 - (2) Ensure that sufficient information is provided by the applicant to determine compliance with City Code requirements;
 - (3) Establish decision making authority on new development commensurate with the potential for impacts on surrounding uses; and
 - (4) Ensure that approved development not yet constructed complies with City Code requirements that may have changed since the project's initial or most recent approval.
- (b) **Where Required.** Except where final development plans have been approved (see City Code Section 21.501.03), final site and building plan approval is required in all zoning districts prior to the issuance of any permit for a new building, building addition, parking lot expansion or site characteristic modification with the following exceptions:
- (1) Single family detached dwellings and their accessory structures and site characteristics, including garages, do not require final site and building plan approval; and
 - (2) Accessory structures and site characteristics, including garages, for two-family dwellings do not require final site and building plan approval.
- (c) **Review and Approval.**
- (1) The Planning Manager will review and act upon the following types of final site and building plan applications. In the event that a final site and building plan application is denied by the Planning Manager, the applicant may appeal the decision to the City Council by submitting an appeals request with supporting materials within three days of the decision.
 - (A) Two-family dwellings;
 - (B) Accessory buildings (except for single family and two-family dwellings);
 - (C) Garages (except for single family and two-family dwellings);
 - (D) Parking lots or other site characteristic modifications; and
 - (E) Revisions to previously approved final site and building plans except those that involve:
 - (i) Building additions that exceed five percent of the existing floor area for the building or that exceed 10,000 square feet;
 - (ii) An increase in the number of dwelling units;
 - (iii) Deviations to City Code requirements; or
 - (iv) Modifications to any condition of approval adopted by the Planning Commission or City Council. If a revision requires modification to a condition of approval previously adopted by the City Council, the revision must be reviewed by the City Council.
 - (2) The Planning Commission will review and act upon all other types of final site and building plan applications except as discussed in Section 21.501.01 (c) (3) below. The applicant or a member of the public may appeal the decision of the Planning Commission to the City Council by submitting an appeals request with supporting materials within three days of the decision.
 - (3) The Planning Commission will review and make a recommendation and the City Council will review and act upon any final site and building plan applications related to an associated conditional use permit, interim use permit, variance, rezoning or comprehensive plan amendment application.
 - (4) The City Council will review and act upon any appeal of a decision by the Planning Manager or Planning Commission of a final site and building plan application. The appellant will be given the opportunity to present their case in front of the City Council.
 - (5) The entity empowered to take action on a given final site and building plan application has the authority to attach conditions of approval to that application.
- (d) **Findings.** The following findings must be made prior to approval of final site and building plans or revisions to final site and building plans:
- (1) The proposed development is not in conflict with the Comprehensive Plan;
 - (2) The proposed development is not in conflict with any adopted District Plan for the area;
 - (3) The proposed development is not in conflict with City Code provisions; and
 - (4) The proposed development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

- (e) **Expiration.** Final site and building plans expire two years after approval if no building permit (or other applicable permit if no building permit is required) is issued for the approved development within that timeframe. This expiration standard applies to all final site and building plans approved on or after December 1, 2009. A land owner may apply to the Director of Community Development for no more than one time extension of up to one year. The Director of Community Development may issue the extension upon a finding that the applicant is making a good faith effort to make progress on the final site and building plan.
- (f) **Content.** Final site and building plan applications must include the following information, unless exempted by the Planning Manager:
- (1) An application form signed by the property owner(s) or authorized representative.
 - (2) The required application fee (see City Code Section 21.502.02).
 - (3) Written documentation that includes:
 - (A) A complete description of the project;
 - (B) Site and building information, including lot sizes, building sizes, floor area ratios and residential densities by lot and by site;
 - (C) Project phasing and construction scheduling;
 - (D) Hours of operation;
 - (E) A description of the covenants or agreements that may influence the use and maintenance of the proposed development;
 - (F) Anticipated employment;
 - (G) Stormwater management plans and calculations that meet the requirements of the Bloomington Comprehensive Surface Water Management Plan;
 - (H) Anticipated trip generation based on the most recent edition of the ITE Trip Generation Manual; and
 - (I) Anticipated peak hour and average day water demand and wastewater flow.
 - (4) Samples of proposed exterior materials.
 - (5) Plans, in a number of sets, sizes and formats specified by the Planning Manager, that include:
 - (A) A location map indicating property ownership surrounding the proposed development;
 - (B) Existing and proposed site features at a scale of one-to-fifty or larger;
 - (C) Topography in two-foot contour intervals;
 - (D) Boundary lines of the site and each lot within the site with dimensions;
 - (E) Adjacent properties and structures;
 - (F) Existing adjacent and on-site streets, rights-of-way and easements;
 - (G) Required and proposed rights-of-way (including planned widened rights of way) and easements adjacent to and on site;
 - (H) Existing and proposed sidewalks, walkways and bikeways;
 - (I) Locations of buildings and structures with basement and first floor elevations, structural dimensions; and setbacks from property lines or, if applicable, planned widened rights of way;
 - (J) Freestanding sign locations with setback dimensions and separate drawings of each sign, with dimensions;
 - (K) Curbs, parking facilities, islands, snow storage areas, cart storage areas and driveways with dimensions;
 - (L) Location and detailed drawings of fences, walls and retaining walls;
 - (M) Location of the access point to interior refuse and recyclable collection areas;
 - (N) Location of any proposed outdoor smoking areas;
 - (O) Exterior air handling, electric, gas and similar types of equipment and meters;
 - (P) Water bodies including streams, lakes, ponds, marshes and wetlands;
 - (Q) Site circulation plan;
 - (R) Construction phasing and staging;
 - (S) Rooftop equipment and screening plans with elevation drawings of rooftop equipment and screening;
 - (T) Wetland information, if applicable (see City Code Section 16.58);
 - (U) A lighting plan (see City Code Section 21.301.07);
 - (V) A preliminary landscaping plan (see City Code Section 19.52 and adopted landscape procedures);

- (W) Building plans, including:
 - (i) Elevation drawings of all proposed buildings and structures indicating height to the highest point of the structure;
 - (ii) Dimensioned floor plans for all stories of proposed buildings with room usage and denoting the location of all gas, mechanical and electrical metering equipment;
 - (iii) Underground parking plans, if applicable, with dimensions;
 - (iv) Typical residential unit plans, if applicable, with dimensions and square footage;
 - (v) Residential storage areas, if applicable;
 - (vi) Building mounted sign details with dimensions;
 - (vii) Recyclable and trash storage locations;
 - (viii) Fire Department connections and communication panels; and
 - (ix) Building information, including:
 - (aa) Gross and net leasable square footage by use type of all existing and proposed structures on site;
 - (bb) Maximum occupancy levels of gathering spaces;
 - (cc) Elevation above mean sea level of all floors and the roof;
 - (dd) Dwelling unit sizes and bedroom mixes; and
 - (ee) Type of construction;
- (X) Site information, including:
 - (i) Site and individual lot sizes;
 - (ii) Percent building coverage and percent impervious coverage;
 - (iii) Floor area ratio by lot and by site;
 - (iv) Dwelling unit density, if applicable, by lot and by site; and
 - (v) The number of handicapped and non-handicapped parking spaces required and provided;
- (Y) Grading, drainage and erosion control plans that include:
 - (i) Existing contours at a minimum interval of two feet;
 - (ii) Proposed contours at a minimum interval of two feet;
 - (iii) Existing individual trees of 12-inch diameter or greater and/or tree masses as required;
 - (iv) Retaining wall locations, elevations of top and bottom of wall and construction details;
 - (v) Proposed berms for landscaping and screening;
 - (vi) Erosion control and temporary stormwater management measures;
 - (vii) Permanent stormwater management measures;
 - (viii) If requested, cross sections of existing and proposed grades including on adjacent properties; and
 - (ix) If requested, cut and fill plans showing the extent of earth movement in two-foot increments;
- (Z) Utility plans that include:
 - (i) Existing and proposed water lines and facilities on and adjacent to the site with pipe type and sizes, fire hydrant locations and Fire Department connections;
 - (ii) Existing and proposed storm sewer lines and facilities on and adjacent to the site with pipe type and size, catch basin locations with top of casting and invert elevations, underground storm water management facilities and details and ponding areas and capacities;
 - (iii) Existing and proposed sanitary sewer lines and facilities on and adjacent to the site with pipe type and size, manhole locations with top of casting and invert elevations and lift station locations; and
 - (iv) Existing and proposed telephone, fiber, electric, natural gas, cable and other private utility services; and
- (AA) Sound source control plan, if applicable;
- (BB) Certified existing conditions survey by a Registered Land Surveyor;
- (CC) Each plan sheet should include the date of plan preparation, the date of revisions, scale, north arrow and name of project;
- (DD) Any other needed information specified by the Planning Manager;

- (6) Any special studies requested. The Director of Public Works or the Director of Community Development may request special studies when there is evidence that the proposed development may negatively impact public infrastructure, the environment or adjacent land uses. Such studies may include but are not limited to traffic, environmental, wetland, and utility studies.

SEC. 21.501.02. PRELIMINARY DEVELOPMENT PLANS.

- (a) **Purpose.** The purpose of the preliminary development plan application process is to:
- (1) Establish a basic development plan with respect to density, intensity, building layout, and access;
 - (2) Ensure that development on multiple lots or over multiple phases works together;
 - (3) Ensure that new development within the Planned Development Overlay District comply with City Code requirements or receive necessary approvals for flexibility;
 - (4) Ensure that sufficient information is provided by the applicant to determine the extent of compliance with City Code requirements and the public benefit related to proposed City Code flexibility; and
 - (5) Ensure that approved development not yet constructed is consistent with current City Code requirements.
- (b) **Where Required.** Preliminary development plans must be reviewed and approved concurrently with any application to rezone land to the Planned Development Overlay District.
- (c) **Review and Approval.** New preliminary development plans and revisions to previously approved preliminary development plans must be reviewed by the Planning Commission and acted upon by the City Council, which has the authority to attach conditions of approval.
- (d) **Findings.** The following findings must be made prior to the approval of new preliminary development plans or revisions to previously approved preliminary development plans:
- (1) The proposed development is not in conflict with the Comprehensive Plan;
 - (2) The proposed development is not in conflict with any adopted District Plan for the area;
 - (3) All deviations from City Code requirements are in the public interest and within the parameters allowed under the Planned Development Overlay Zoning District or have previously received variance approval;
 - (4) Each phase of the proposed development is of sufficient size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit without dependence upon any subsequent unit;
 - (5) The proposed development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and
 - (6) The proposed development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.
- (e) **Rescission.** If a property owner has not obtained approval of an associated final development plan within three years after approval of the preliminary development plan, the City Council may, after required notice and public hearing, rescind the preliminary development plan and repeal the Planned Development Overlay Zoning District. This rescission standard applies to all preliminary development plans approved on or after December 1, 2009.
- (f) **Content.** Preliminary development plan applications must include the following information, unless exempted by the Planning Manager:
- (1) An application form signed by the property owner(s) or authorized representative.
 - (2) The required application fee (see City Code Section 21.502.02).
 - (3) Written documentation that includes:
 - (A) A complete description of the project;
 - (B) To the extent Code deviations are requested, a flexibility request that identifies all proposed Code deviations, the level of deviation and the reasons why the deviations are in the public interest;
 - (C) Site and building information, including lot sizes, building sizes and floor area ratios by lot and by site;
 - (D) Project phasing and construction scheduling;
 - (E) A description of the covenants or agreements that may influence the use and maintenance of the proposed development;
 - (F) Anticipated employment; and
 - (G) Preliminary stormwater management narrative describing the methods intended to be used to meet the requirements of the Bloomington Comprehensive Surface Water Management Plan.

- (H) Anticipated trip generation based on the most recent edition of the ITE Trip Generation Manual; and
- (I) Anticipated peak hour and average day water demand and wastewater flow.
- (4) Plans, in a number of sets and in a format specified by the Planning Manager, that include:
 - (A) A location map indicating property ownership surrounding the proposed development;
 - (B) Existing and proposed site features at a scale of one-to-fifty or larger;
 - (C) Topography in two-foot contours;
 - (D) Boundary lines of the site and each lot within the site with dimensions;
 - (E) Adjacent properties and structures;
 - (F) Existing adjacent and on-site streets, rights-of-way and easements;
 - (G) Required and proposed rights-of-way (including planned widened rights of way) and easements adjacent to and on site;
 - (H) Existing and proposed sidewalks, walkways and bikeways;
 - (I) Locations of buildings and structures, structural dimensions; and setbacks from property lines or, if applicable, planned widened rights of way;
 - (J) Curbs, parking facilities, islands, and driveways with dimensions;
 - (K) Water bodies including streams, lakes, ponds, marshes and wetlands;
 - (L) Site circulation plan;
 - (M) Construction phasing and staging;
 - (N) Wetland information, if applicable (see City Code Section 16.58);
 - (O) Building plans, including:
 - (i) Elevation drawings of all proposed buildings and structures indicating height from the lowest proposed abutting ground elevation to the highest point on the structure;
 - (ii) Building information, including:
 - (aa) Gross square footage by use type of all existing and proposed structures on site;
 - (bb) Dwelling unit sizes and bedroom mixes; and
 - (cc) Type of construction;
 - (P) Site information, including:
 - (i) Site and individual lot sizes;
 - (ii) Percent building coverage and percent impervious coverage;
 - (iii) Floor area ratio by lot and by site;
 - (iv) Dwelling unit density, if applicable, by lot and by site; and
 - (v) The number of handicapped and non-handicapped parking spaces required and provided;
 - (Q) Preliminary grading, drainage, stormwater and erosion control plans that include:
 - (i) Existing contours at a minimum interval of two feet;
 - (ii) Proposed contours at a minimum interval of two feet; and
 - (iii) Permanent stormwater management measures;
 - (R) Preliminary utility plans that include:
 - (i) Existing and proposed water lines and facilities;
 - (ii) Existing and proposed storm sewer lines and facilities; and
 - (iii) Existing and proposed sanitary sewer lines and facilities;
 - (S) A certified existing conditions survey by a Registered Land Surveyor;
 - (T) Each plan sheet should include the date of plan preparation, the date of revisions, scale, north arrow and name of project;
 - (U) Any other needed information specified by the Planning Manager; and
 - (V) For City initiated preliminary development plans, the plans may consist only of information deemed necessary to identify and protect the public interest.
- (5) Any special studies requested. The Director of Public Works or the Director of Community Development may request special studies when there is evidence that the proposed development may negatively impact public infrastructure, the environment or adjacent land uses. Such studies may include but are not limited to traffic, environmental, wetland, and utility studies.

SEC. 21.501.03. FINAL DEVELOPMENT PLANS.

- (a) **Purpose.** The purpose of the final development plan application process is to:
- (1) Ensure that new development within the Planned Development Overlay District comply with City Code requirements or receive necessary approvals for flexibility;
 - (2) Ensure that sufficient information is provided by the applicant to determine the extent of compliance with City Code requirements and the public benefit related to proposed City Code flexibility; and
 - (3) Ensure that approved development not yet constructed is consistent with City Code requirements.
- (b) **Where Required.** Final development plan approval is required in the Planned Development Overlay Zoning District prior to the issuance of any permit for a new building, building addition, site characteristic or parking lot expansion.
- (c) **Review and Approval.** New final development plans and major revisions to previously approved final development plans must be reviewed by the Planning Commission and acted upon by the City Council, which has the authority to attach conditions of approval. Minor revisions to previously approved final development plans will be reviewed and acted upon by the Planning Manager, who has the authority to attach conditions of approval. In the event that an application for a minor revision to a final development plan is denied by the Planning Manager, the applicant may appeal the decision to the City Council by submitting an appeals request and any supporting materials within three days of the decision.
- (d) **Revisions.** Revisions to final development plans are considered minor if:
- (1) There is no increase to the proposed number of dwelling units;
 - (2) Any proposed increase in the floor area of structures on site does not exceed five percent or a total of 10,000 square feet;
 - (3) All proposed revisions comply with City Code requirements;
 - (4) There is no alteration to any condition of approval previously attached by the City Council; and
 - (5) There is no alteration to a plan modification previously required by the City Council.
- (e) **Findings.** The following findings must be made prior to the approval of new final development plans or revisions to previously approved final development plans:
- (1) The proposed development is not in conflict with the Comprehensive Plan;
 - (2) The proposed development is not in conflict with any adopted District Plan for the area;
 - (3) The proposed development is not in conflict with the approved Preliminary Development Plan for the site;
 - (4) All deviations from City Code requirements are in the public interest and within the parameters allowed under the Planned Development Overlay Zoning District or have previously received variance approval;
 - (5) The proposed development is of sufficient size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit without dependence upon any subsequent unit;
 - (6) The proposed development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and
 - (7) The proposed development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.
- (f) **Expiration.** Final development plans expire two years after approval if no building permit (or other applicable permit if no building permit is required) is issued for the approved development within that timeframe. This expiration standard applies to all final development plans approved on or after December 1, 2009. A land owner may apply to the Director of Community Development for no more than one time extension of up to one year. The Director of Community Development may issue the extension upon a finding that the applicant is making a good faith effort to make progress on the final development plans.
- (g) **Content.** Final development plan applications must include the following information, unless exempted by the Planning Manager:
- (1) An application form signed by the property owner(s) or authorized representative.
 - (2) The required application fee (see City Code Section 21.502.02).
 - (3) Written documentation that includes:
 - (A) A complete description of the project;
 - (B) To the extent Code deviations are requested, a flexibility request that identifies all proposed Code deviations, the level of deviation and the reasons why the deviations are in the public interest;
 - (C) Site and building information, including lot sizes, building sizes and floor area ratios by lot and by site;

- (D) Project phasing and construction scheduling;
- (E) Hours of operation;
- (F) A description of the covenants or agreements that may influence the use and maintenance of the proposed development;
- (G) Anticipated employment; and
- (H) Stormwater management plans and calculations that meet the requirements of the Bloomington Comprehensive Surface Water Management Plan.
- (I) Anticipated trip generation based on the most recent edition of the ITE Trip Generation Manual; and
- (J) Anticipated peak hour and average day water demand and wastewater flow.
- (4) Samples of proposed exterior materials.
- (5) Plans that meet all requirements for Final Site and Building Plan applications (see City Code Section 21.501.01 (g) (5) except that City Council initiated final development plans may consist only of information deemed necessary to identify and protect the public interest.
- (6) Any special studies requested. The Director of Public Works or the Director of Community Development may request special studies when there is evidence that the proposed development may negatively impact public infrastructure, the environment or adjacent land uses. Such studies may include but are not limited to traffic, environmental, wetland, and utility studies.

SEC. 21.501.04. CONDITIONAL USE PERMITS.

- (a) Purpose. The purpose of the conditional use permit application process is to:
 - (1) Ensure that sufficient information is provided by the applicant;
 - (2) Ensure that conditional uses comply with City Code requirements;
 - (3) Ensure that appropriate conditions are attached to enhance compatibility with surrounding uses; and
 - (4) Ensure that conditional use permit applications are processed in a manner consistent with State Statutes.
- (b) Where Required. Conditional use permits are required prior to the establishment of any use listed in any zoning district as a conditional use.
- (c) Initiation. A conditional use permit application must be initiated by the owner of land upon which the conditional use is proposed. If originally denied, an applicant may not submit a subsequent conditional use permit application for the same use on the same site until one year has passed since the original denial.
- (d) Review and Approval. Conditional use permit applications must be reviewed by the Planning Commission and acted upon by the City Council, which has the authority to attach conditions of approval. At the discretion of the Community Development Director, conditional use permit applications deemed to have minimal impact on surrounding uses may proceed directly to the City Council without Planning Commission review. Modifications to conditions attached to conditional use permits must be approved by the City Council.
- (e) Findings. The following findings must be made prior to the approval of a conditional use permit:
 - (1) The proposed use is not in conflict with the Comprehensive Plan;
 - (2) The proposed use is not in conflict with any adopted District Plan for the area;
 - (3) The proposed use is not in conflict with City Code provisions;
 - (4) The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and
 - (5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.
- (f) Recording. A certified copy of the resolution approving a conditional use permit must be recorded with Hennepin County.
- (g) Expiration. Conditional use permits expire one year after approval if the proposed use has not commenced or a building permit for a structure to support the conditional use has not been issued. A land owner may apply to the Director of Community Development for no more than one time extension of up to one year. Conditional use permits also expire if the conditional use ceases operation for a continuous period of one year or longer. A conditional use permit for a nonconforming use expires upon discontinuance of the nonconforming use as described in City Code Section 21.504 (b) (2).
- (h) Suspension or Revocation. The City Council may suspend or revoke a conditional use permit upon the failure of the permittee, owner, operator, tenant or user to comply with the provisions of this Code, the laws of the State of Minnesota or any condition established at the time of approval of the conditional use permit.

A suspension or revocation of a conditional use permit must be preceded by written notice to the permittee and a hearing. The notice must provide at least ten days notice of the time and place of the hearing and must state the nature of the charges against the permittee. The notice must be mailed to the permittee at the most recent address listed on the application. The hearing of a contested case may be before the City Council or held in accordance with Minnesota Statutes, Section 14.57 to 14.60, but informal disposition of a contested case by stipulation, pursuant to Minnesota Statutes, Section 14.59, may provide an adequate basis for imposition of sanctions.

- (i) **General Standards.** In addition to use specific standards for conditional uses listed elsewhere in the City Code, the following general standards also apply to conditional uses:
- (1) In the R-1, R1-A and RS-1 zoning districts, except for the uses listed below, a conditional use must be located on a site immediately adjacent to a commercial zoning district, an industrial zoning district, the intersection of two streets classified by the Comprehensive Plan as arterial streets, or the intersection of a street classified by the Comprehensive Plan as an arterial street and a railroad. Exceptions include:
 - (A) Churches, private schools, including music and dance schools, and licensed day-care facilities serving thirteen (13) or more persons;
 - (B) Boarding houses, lodging houses and licensed residential facilities serving seven or more persons;
 - (C) Home businesses; and
 - (D) Towers.
- (j) **Content.** Conditional use permit applications must include the following information, unless exempted by the Planning Manager:
- (1) An application form signed by the property owner(s) or authorized representative.
 - (2) The required application fee (see City Code Section 21.502.02).
 - (3) Written documentation that includes:
 - (A) A complete description of the use;
 - (B) Schedule for commencement of the use;
 - (C) Size of the facility accommodating the use including the number of seats, students, customers, etc.;
 - (D) Hours and dates of operation; and
 - (E) Anticipated employment.
 - (5) Floor plan and/or site plan.
 - (6) If applicable due to site or building modifications, a separate but associated final site and building plan application or final development plan application.
 - (7) Any special studies requested. The Director of Public Works or the Director of Community Development may request special studies when there is evidence that the proposed use may negatively impact public infrastructure, the environment or adjacent land uses. Such studies may include but are not limited to traffic, environmental, wetland, and utility studies.

SEC. 21.501.05. INTERIM USE PERMITS.

- (a) **Purpose.** The purpose of the interim use permit application process is to:
- (1) Ensure that sufficient information is provided by the applicant;
 - (2) Ensure that interim uses comply with City Code requirements;
 - (3) Ensure that temporary uses remain temporary in nature;
 - (4) Ensure that appropriate conditions are attached to enhance compatibility with surrounding uses; and
 - (5) Ensure that conditional use permit applications are processed in a manner consistent with State Statutes.
- (b) **Where Required.** Interim use permits are required prior to the establishment of any use listed in any zoning district as an interim use.
- (c) **Initiation.** An interim use permit application must be initiated by the owner of land upon which the interim use is proposed or by the City Council. If an interim use permit application is denied, an applicant may not submit a subsequent interim use permit application for the same use on the same site until one year has passed since the denial.
- (d) **Review and Approval.** Interim use permit applications must be reviewed by the Planning Commission and acted upon by the City Council, which has the authority to attach conditions of approval. At the discretion of the Community Development Director, interim use permit applications deemed to have

minimal impact on surrounding uses may proceed directly to the City Council without Planning Commission review. Modifications to conditions attached to interim use permits must be approved by the City Council.

- (e) **Findings.** The following findings must be made prior to the approval of a interim use permit:
- (1) The proposed use will not delay permanent development of the site;
 - (2) The proposed use will not adversely impact implementation of the Comprehensive Plan or adopted District Plan for the area;
 - (3) The proposed use will not be in conflict with any provisions of the City Code on an ongoing basis;
 - (4) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare;
 - (5) The date or event that will terminate the use has been identified with certainty; and
 - (6) The property on which the use is situated is currently in compliance with all applicable City Code standards, property maintenance standards and there are no nuisance characteristics associated with the property or its current use.
- (f) **Expiration and Termination.**
- (1) An Interim use permit expires and the interim use must terminate at the earlier of:
 - (A) The expiration date established by the City Council at the time of approval, but in no event more than five years from the date of approval;
 - (B) The occurrence of any event identified in the interim use permit for the termination of the use;
or
 - (C) Upon an amendment of the City Code that no longer allows the interim use.
 - (2) Unused interim use permits expire six months after approval if the proposed use has not commenced or a building permit for a structure to support the interim use has not been issued. A land owner may apply to the Director of Community Development for no more than one time extension of up to six months for an unused interim use permit.
 - (3) Interim use permits expire if the interim use ceases operation for a continuous period of one year or longer.
- (g) **Suspension or Revocation.** The City Council may suspend or revoke an interim use permit upon the failure of the permittee, owner, operator, tenant or user to comply with the provisions of this Code, the laws of the State of Minnesota or any condition established at the time of approval of the interim use permit. A suspension or revocation of an interim use permit must be preceded by written notice to the permittee and a hearing. The notice must provide at least ten days notice of the time and place of the hearing and must state the nature of the charges against the permittee. The notice must be mailed to the permittee at the most recent address listed on the application. The hearing of a contested case may be before the City Council or held in accordance with Minnesota Statutes, Section 14.57 to 14.60, but informal disposition of a contested case by stipulation, pursuant to Minnesota Statutes, Section 14.59, may provide an adequate basis for imposition of sanctions.
- (h) **Standards.**
- (1) Term. The term of an Interim Use Permit must not exceed five years.
 - (2) Re-Application. Because of its temporary nature, an interim use permit is not subject to renewal, but upon re-application for a time extension of the same use on the same site beyond the date of expiration of its Interim Use Permit, succeeding Interim Use Permits may be approved for up to five years each if the City Council makes the findings set forth in subsection (e) hereof in the affirmative and also finds that all previous conditions of approval have been satisfied and that the use meets all Code requirements or has received appropriate variances from those requirements.
- (i) **Content.** Interim use permit applications must include the following information, unless exempted by the Planning Manager:
- (1) An application form signed by the property owner(s) or authorized representative.
 - (2) The required application fee (see City Code Section 21.502.02).
 - (3) Written documentation that includes:
 - (A) A complete description of the use;
 - (B) Schedule for commencement of the use;
 - (C) Size of the facility accommodating the use including the number of seats, students, customers, etc.;
 - (D) Hours and dates of operation; and
 - (E) Anticipated employment.
 - (5) Floor plan or site plan.

- (6) If applicable due to site or building modifications, a separate but associated final site and building plan application or final development plan application.
- (7) Any special studies requested. The Director of Public Works or the Director of Community Development may request special studies when there is evidence that the proposed use may negatively impact public infrastructure, the environment or adjacent land uses. Such studies may include but are not limited to traffic, environmental, wetland, and utility studies.

Division B. [Reserved] Application Processes and Fees

[SEC. 21.502. RESERVED.]

SEC. 21.502.01. APPLICATION PROCESSES AND FEES.

(a) **Purpose.** This section outlines various application processes and fees.

(b) **Table Key.** The following labeling conventions apply to the table in this Section:

- (1) DRC means Development Review Committee.
- (2) ST means staff.
- (3) HE means Hearing Examiner.
- (4) PC means Planning Commission.
- (5) CC means City Council.
- (6) N means that a public notice is required to be published in the official newspaper.
- (7) R means review is required by the noted group.
- (8) PH means that a public hearing is required by the noted group.
- (9) DM means that the noted group has final decision making authority.
- (10) Any number listed in the Mail column represents the number of feet out from the applicant's site to which direct mail notice is required to be sent for that particular application.
- (11) Any * under the Fee column indicates that \$50 of the fee is intended for recording approval actions with Hennepin County and will be refunded if the City Council denies the application or the application is withdrawn.

(c) **Application Processes and Fees.**

<u>Application Process</u>	<u>Review and Decision Making Authority</u>					<u>Notice</u>		<u>Fee</u>
	<u>DRC</u>	<u>ST</u>	<u>HE</u>	<u>PC</u>	<u>CC</u>	<u>N</u>	<u>Mail</u>	<u>Fee</u>
<u>Comprehensive Plan Text Amendment</u>		<u>R</u>		<u>PH</u>	<u>PH</u> <u>DM</u>	<u>N</u>		<u>\$1,200</u>
<u>Comprehensive Plan Map Amendment</u>		<u>R</u>		<u>PH</u>	<u>PH</u> <u>DM</u>	<u>N</u>	<u>500</u>	<u>\$1,200</u>
<u>Zoning Ordinance Text Amendment</u>		<u>R</u>		<u>PH</u>	<u>PH</u> <u>DM</u>	<u>N</u>		<u>\$1,200</u>
<u>Rezoning (Zoning District Map Amendment)</u>		<u>R</u>		<u>PH</u>	<u>PH</u> <u>DM</u>	<u>N</u>	<u>500</u>	<u>\$1,200</u>
<u>Planned Developments</u>								
<u>Preliminary Development Plan</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>500</u>	<u>\$600</u>
<u>Revisions to Preliminary Development Plans</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>500</u>	<u>\$600</u>
<u>Final Development Plan</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>500</u>	<u>\$1,200</u>
<u>Major Revisions to Final Development Plans</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>500</u>	<u>\$600</u>
<u>Minor Revisions to Final Development Plans</u>		<u>DM</u>						<u>\$90</u>
<u>Appeal of decision by Planning Manager</u>		<u>R</u>			<u>DM</u>			<u>\$120</u>
<u>Time Extension on Expiration</u>		<u>DM</u>						<u>\$120</u>
<u>Final Site and Building Plans</u>								

<u>Application Process</u>	<u>Review and Decision Making Authority</u>					<u>Notice</u>		<u>Fee</u>
	<u>DRC</u>	<u>ST</u>	<u>HE</u>	<u>PC</u>	<u>CC</u>	<u>N</u>	<u>Mail</u>	<u>Fee</u>
<u>Final Site and Building Plans, including revisions – acted upon by the City Council</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>500</u>	<u>\$350</u>
<u>Final Site and Building Plans, including revisions – acted upon by the Planning Commission</u>	<u>R</u>	<u>R</u>		<u>PH</u> <u>DM</u>		<u>N</u>	<u>500</u>	<u>\$300</u>
<u>Final Site and Building Plans, including revisions – acted upon by the Planning Manager</u>	<u>R</u>	<u>DM</u>						<u>\$90</u>
<u>Appeal of decision by the Planning Manager</u>		<u>R</u>			<u>DM</u>			<u>\$120</u>
<u>Appeal of decision by the Planning Commission (fee applies only if applicant appeals)</u>		<u>R</u>			<u>PH</u> <u>DM</u>	<u>N</u>	<u>500</u>	<u>\$200</u>
<u>Time Extension on Expiration</u>		<u>DM</u>						<u>\$120</u>
<u>Conditional Use Permits (CUPs)</u>								
<u>CUP</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>500</u>	<u>\$650*</u>
<u>CUP – sent directly to City Council</u>	<u>R</u>	<u>R</u>			<u>PH</u> <u>DM</u>	<u>N</u>	<u>500</u>	<u>\$170*</u>
<u>Change in CUP Condition</u>		<u>R</u>			<u>PH</u> <u>DM</u>	<u>N</u>	<u>500</u>	<u>\$300*</u>
<u>Renewal of Temporary CUP</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>500</u>	<u>\$120</u>
<u>Suspension or Revocation of CUP</u>		<u>R</u>		<u>PH</u>	<u>PH</u> <u>DM</u>	<u>N</u>	<u>500</u>	
<u>Interim Use Permits (IUPs)</u>								
<u>IUP</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>500</u>	<u>\$300</u>
<u>IUP – Reapplication for succeeding IUP (same use on the same site)</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>500</u>	<u>\$200</u>
<u>Suspension or Revocation of IUP</u>		<u>R</u>		<u>PH</u>	<u>PH</u> <u>DM</u>	<u>N</u>	<u>500</u>	
<u>Variances</u>								
<u>Variance for Single and Two-Family Dwellings</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>200</u>	<u>\$230*</u>
<u>Variance for Other Uses</u>	<u>R</u>	<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>200</u>	<u>\$430*</u>
<u>Administrative Variance</u>		<u>R</u>	<u>R</u>		<u>PH</u> <u>DM</u>	<u>N</u>	<u>200</u>	<u>\$170*</u>
<u>Appeal to Planning Commission of Administrative Variance Denial</u>		<u>R</u>		<u>PH</u>	<u>DM</u>	<u>N</u>	<u>200</u>	<u>\$120</u>
<u>Environmental Reviews</u>								
<u>Environmental Assessment Worksheet – Discretionary</u>		<u>R</u>			<u>DM</u>			
<u>Environmental Assessment Worksheet – Mandatory</u>		<u>R</u>			<u>DM</u>			<u>\$1,200</u>
<u>Environmental Impact Statement</u>		<u>R</u>			<u>DM</u>			<u>\$4,750</u>
<u>Miscellaneous</u>								
<u>RV Permit</u>		<u>R</u>	<u>DM</u>			<u>N</u>	<u>350</u>	<u>\$90</u>
<u>RV Permit Renewal</u>		<u>R</u>	<u>DM</u>			<u>N</u>	<u>350</u>	<u>\$90</u>
<u>Accessory Dwelling Unit Approval</u>	<u>R</u>	<u>DM</u>						<u>\$120</u>
<u>Appeal of RV Permit Denial (fee applies only if applicant makes the appeal)</u>		<u>R</u>		<u>R</u>	<u>DM</u>	<u>N</u>	<u>500</u>	<u>\$170</u>
<u>Certificate of Appropriateness for Historical Preservation</u>		<u>R</u>			<u>PH</u> <u>DM</u>			<u>\$120</u>
<u>Moratorium/Interim Ordinance Adoption</u>		<u>R</u>			<u>DM</u>			
<u>Moratorium/Interim Ordinance Extension</u>		<u>R</u>			<u>PH</u> <u>DM</u>	<u>N</u>		

<u>Application Process</u>	<u>Review and Decision Making Authority</u>					<u>Notice</u>		<u>Fee</u>
	<u>DRC</u>	<u>ST</u>	<u>HE</u>	<u>PC</u>	<u>CC</u>	<u>N</u>	<u>Mail</u>	<u>Fee</u>
<u>Tent/Canopy Permit</u>		<u>DM</u>						<u>\$40</u>
<u>Tent/Canopy – Appeal of Permit Denial</u>		<u>R</u>			<u>DM</u>			<u>\$100</u>
<u>Tent/Canopy – Request for Time Extension</u>		<u>R</u>			<u>PH</u> <u>DM</u>	<u>N</u>		<u>\$100</u>

(d) Sign Applications and Fees. Signs requiring permits must be reviewed and approved by staff prior to installation. Sign reviews include separate sign application fees and sign permit fees.

(1) Sign Application Fees. The following sign application fees apply to permanent signs on a per site basis and are due at the time of application:

- (A) One Sign \$50
- (B) Two to Five Signs \$100
- (C) Six or More Signs \$150

(2) Sign Permit Fees. The following sign permit fees apply to permanent signs on a per sign basis and are due prior to installation:

- (A) Wall Sign \$100
- (B) Freestanding Sign \$100
- (C) Awning or Canopy Sign \$50
- (D) Incidental or Accessory Sign \$20
- (E) Directional Sign \$20

(3) Temporary Sign Fees for Commercial Promotions. Temporary signs for commercial promotions require only one fee of \$30 per occasion per site due at the time of application.

(e) Notices.

(1) Additional Notice Fees. For applications listed in this section that require public notice, the listed fee has been calculated to include 100 mailed notifications per hearing to adjacent property owners and \$25.00 for notices published in the official newspaper of the City, based upon the minimum number of hearings required by the Code and state law. When the actual number of hearing notices published exceeds the minimum number required under the Code, and/or when the number of mailed notices exceeds 100 for any given public hearing, the applicant must pay additional fees to cover the cost of the additional mailed notices and publications as follows:

- (A) \$1.50 per mailed notice in excess of 100 notices for any public hearing;
- (B) \$1.50 per mailed notice for all mailed notices for public hearings which are in excess of the minimum number of hearings required under the Code; and
- (C) \$25.00 per published notice for public hearings in excess of the minimum number of hearings required under the Code.
- (D) Where state statute or this Code requires a public hearing before both the Planning Commission and the City Council, the application fee shall be deemed to cover the cost of published notices and 100 mailed notices for two public hearings.
- (E) The failure of an applicant to pay any outstanding fees should be considered by the Planning Commission or City Council in its decision on whether to approve, deny or continue an item.

(2) A failure of any property owner to receive notice or failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings provided a bona fide attempt has been made to comply with notice requirements.

(3) In the event that the subject of the hearing is a property leased or rented to one or more tenants, the property owner/applicant must notify each tenant of the hearing.

(f) Administrative Approval of Final Plans. When approval of any plan is required as a condition of approval imposed by the City Council, a fee of \$80.00 for each single- and two-family residential use and \$160.00 for all other uses must be submitted together with the required plan.

(g) Radio Frequency Engineer Review. To cover the reasonable cost of the City retaining a qualified, independent radio frequency engineer in accordance with Section 19.63.05 (r) (2) of this Code, all variance applications for towers, antennas, or wireless communication facilities shall include an additional \$2,000 fee. In the event that the actual costs exceed \$2,000, the applicant shall be required to pay half the additional cost. In the event that the actual costs are less than \$2,000, the unused portion of the fee shall be returned to the applicant.

(h) Escrow for Special Studies.

- (1) Where special studies are needed by the City to conduct a land use application review, an Escrow Agreement between the applicant and the City requiring a cash escrow deposit to cover costs for the special studies, must be executed. The executed Escrow Agreement and cash escrow deposit to cover costs must be supplied by the applicant prior to the submission of the land use application to the City. Special studies may include traffic, environmental, wetland, utility, or other studies undertaken by the City itself or by outside consultant services, under the direction of the City, and paid for by the applicant.
- (2) The requirement for an applicant to pay costs to the City for special studies for the review of a development application would be determined by the City, after the City has prepared a Special Studies Impact Determination.
- (3) If after commencement of special studies, it is determined additional funds are needed to complete the special studies, funds must be supplied by the applicant into the escrow account prior to submission of the application to the City.
- (4) Unexpended escrow funds will be returned to the applicant after final City Council action.

(i) **Amended Applications.**

- (1) Once a land use application has been submitted to the City, no amendments are permitted until final disposition of the application has been determined. If an applicant submits an amended application, it constitutes a withdrawal of any prior pending application on the same matter, and will be deemed a new application, pursuant to Minnesota Statute Section 15.99. A new application fee must be submitted with the amended request, equal to 50% of the original application fee. Each amended application request constitutes a separate application.
- (2) The Issuing Authority may accept minor application revisions that do not materially alter the application. If the Issuing Authority accepts the minor application revisions, no additional fee will be required, and the application review will continue pursuant to Minnesota Statutes Section 15.99.
- (3) With an amended application, the Issuing Authority will make a determination whether any public meetings or hearing previously scheduled on the matter will be rescheduled.

Passed and adopted this _____ day of _____, 2009.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney