

ALTERNATIVE ORDINANCE OPTION B

ORDINANCE NO. 2024 - ____

AN ORDINANCE TO STREAMLINE LAND USE DEVELOPMENT APPROVALS BY EXPANDING ADMINISTRATIVE APPROVALS OF FINAL SITE AND BUILDING PLANS AND FINAL DEVELOPMENT PLANS; REMOVING THE FINAL SITE AND BUILDING PLANS APPROVAL REQUIREMENT FOR ACCESSORY DWELLING UNITS AND TWO-FAMILY DWELLINGS; DESIGNATING SOME USES THAT ARE CURRENTLY CONDITIONAL AS PERMITTED; GRANTING THE PLANNING COMMISSION AUTHORITY TO APPROVE ALL CONDITIONAL USE AND INTERIM USE PERMITS, FINAL DEVELOPMENT PLANS WITHOUT CITY CODE FLEXIBILITY, TENT PERMIT EXTENSIONS, CERTIFICATES OF APPROPRIATENESS, AND VARIANCES, SUBJECT TO APPEAL; AND ESTABLISHING A REASONABLE ACCOMMODATION PROCESS IN THE CITY CODE, THEREBY AMENDING CHAPTERS 2, 15, 19, 21, AND APPENDIX A 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 [] with ~~strikethrough~~ text and adding those words that are underlined, to read as follows:

CHAPTER 2: ADMINISTRATION

ARTICLE II: RESERVED~~[ADMINISTRATIVE CODE]~~

~~§ 2.08 PURPOSE.~~

~~It is the purpose of this Article II to provide for a method of administratively hearing certain quasi-judicial matters by a hearing examiner in order to expedite the process by which applicants can bring matters before the City Council. This administrative procedure shall provide applicants with a fair hearing and provide for an appeal of the administrative decision to the City Council.~~

~~§ 2.09 HEARING EXAMINER.~~

~~The City Council hereby creates the office of hearing examiner. Hearing examiners shall be appointed by the City Manager and may be city employees. Hearing examiners shall have experience in municipal administration and procedures or law. Hearing examiners shall serve at the convenience of the City Manager.~~

~~§ 2.10 APPLICANTS TO BE HEARD.~~

~~(a) The hearing examiner shall hear variance applications, except as provided under subsection (b) of this section, where:~~

ALTERNATIVE ORDINANCE OPTION B

~~(1) Affidavits of consent have been submitted indicating approval of the variance by 100% of the adjacent landowners and those landowners whose property is being encroached upon, and where a finding has been made by the Director of Community Development or his or her designee that the variance requested is minor;~~

~~(2) The variance requested relates to driveway setbacks, garage setbacks, accessory building setbacks or side or rear yard swimming pool setbacks;~~

~~(3) The requested variance, other than those cases specified in subsection (a)(2) above is five feet or less as measured horizontally and not vertically;~~

~~(4) Reserved;~~

~~(5) The requested variance has been previously approved by the City Council and has expired under the provisions of § 19.23.01 of this code, and where the Director of Community Development or his or her designee determines that conditions in the area where the variance was previously approved have not substantially changed; or~~

~~(6) The requested variance has been found by the Director of Community Development to be minor, and where the variance relates to the dimensions of vehicles otherwise prohibited from parking in residentially zoned districts pursuant to § 21.301.06(m) of this code.~~

~~(b) An applicant meeting the criteria set forth in subsections (a)(1) through (a)(4) above may choose to apply directly to the Planning Commission pursuant to all the provisions of § 2.85.04 of this code.~~

~~(c) Where noncompliance with the Zoning Code results from the governmental exercise of eminent domain or the use of dedication, an applicant may petition the Director of Community Development for a variance. If the Director determines the variance application to be minor, the variance application shall be heard by the hearing examiner. If the Director determines that the variance application is not minor, the application shall be heard by the Planning Commission. If an applicant chooses to be heard by the Planning Commission and where the Director has determined the variance to be minor, the hearing shall, upon a timely request, be heard by the Planning Commission. There shall be no fee to the applicant for variance applications submitted under this subsection (c).~~

§ 2.11 RECORD KEEPING.

~~The hearing examiner shall be responsible for keeping a taped transcript of each proceeding. On all matters proceeding to the Planning Commission or City Council, the hearing examiner shall provide to the Planning Commission or City Council:~~

~~(1) Copies of all exhibits, memoranda and materials submitted to the hearing examiner;~~

~~(2) Minutes of the hearing; and~~

~~(3) A copy of the hearing examiner's decision, the required findings and reasons for the decision.~~

ALTERNATIVE ORDINANCE OPTION B

§ 2.12 HEARING PROCEDURES.

~~(a) *Rules.* Within 30 days, the City Manager shall submit to the City Council for its approval rules governing the hearing procedure. After approval by the City Council, these rules shall be the rules of the hearing; all hearings shall be conducted in accordance with those rules.~~

~~(b) *Conduct of hearing.*~~

~~(1) *Filing.* Application shall be filed with the Department of Community Development and shall be referred to the Hearing Examiner for consideration.~~

~~(2) *Date of hearing.* The Hearing Examiner shall conduct a public hearing at a regular meeting in accordance with the agency action timeline.~~

~~(3) *Notice of hearing.* Written notice shall be mailed to the applicant and property owners within 200 feet of the affected site at least ten days prior to the date of the hearing.~~

~~(4) *Planning Division report.*~~

~~(A) The Planning Division shall make a report of recommendation on each application. This report shall enumerate the various reasons for a recommendation to either approve or deny an application.~~

~~(B) This report shall be filed with the hearing examiner at least 48 hours before the hearing. A copy of the report shall be immediately made available to the applicant and all others entitled to receive notice of the hearing.~~

~~(5) *Parties of record.* Parties of record shall only be:~~

~~(A) The applicant;~~

~~(B) Objecting citizens who have signed a request to appear before the hearing examiner; and~~

~~(C) The City Planning Division.~~

~~(6) *Presentation of evidence.*~~

~~(A) The hearing examiner is hereby authorized to administer oaths, subpoena witnesses and relevant papers, call witnesses and accept evidence.~~

~~(B) Parties of record shall be allowed to cross-examine witnesses and to present evidence and argument to the hearing examiner.~~

~~(C) The hearing examiner is authorized to impose limitations on the number of witnesses heard and on the nature and length of testimony.~~

~~(D) The hearing examiner shall, upon the request of a party of record, subpoena witnesses as requested by that party.~~

ALTERNATIVE ORDINANCE OPTION B

~~(7) *Transcript of hearing.* The tape transcript of the hearing need not be transcribed except on request of the City Council in aid of its review of the record. Any other party wanting the tape transcribed shall pay all costs for such transcription.~~

~~(c) *Decision.* The hearing examiner shall make their decision supported by reasons specifically related to the applicable findings and requirements of the city code. In the case of approval, the decision, along with a record of the proceedings, shall be forwarded for City Council action at its next practical regular meeting unless an aggrieved party wishes to appeal the decision to approve. In that case, the appeal will be heard by the Planning Commission pursuant to subsection (d) below. Denials will be final unless appealed by an aggrieved party.~~

~~(d) *Appeal.* All parties aggrieved by the proceeding shall have the right to appeal the decision of the hearing examiner within three days to the Planning Commission pursuant to the provisions of § 2.85.04 of this code.~~

~~§ 2.13 RESERVED.~~

~~§ 2.14 RESERVED.~~

~~§ 2.15 RESERVED.~~

~~§ 2.16 RESERVED.~~

~~§ 2.17 RESERVED.]~~

ARTICLE V: CITY BOARDS AND COMMISSIONS

DIVISION G: PLANNING COMMISSION

§ 2.85.04 ZONING VARIANCES.

(a) *Purpose.* Zoning variances provide a means to approve deviation from zoning requirements where practical difficulties exist because of conditions or circumstances unique to an individual property. The purpose of this section is to establish the procedures for requesting and the requirements for issuing a zoning variance.

(b) *Authority.* The Planning Commission~~[City Council]~~ shall serve as the board of appeals and adjustments pursuant to the provisions of Minnesota Statutes, §§ 462.354, subd. 2; 462.357, subd. 6; and 462.359, subd. 4, as they may be amended from time to time.

(c) *Where required.* Prior to any City approval of an application that does not meet the standards of Chapters 19 or 21 of the city code, the Planning Commission, or the City Council in the case of an appeal, must approve a zoning variance unless the city code provides an alternative means of deviation.

ALTERNATIVE ORDINANCE OPTION B

(d) *Initiation.* A variance application must be initiated by the owner of land upon which a variance is proposed. If originally denied, a variance application for the same item may not be resubmitted until one (1) year after the original denial.

(e) *Review, approval, and appeal of Planning Commission decision.* Zoning variances must be acted upon by the Planning Commission~~[City Council]~~. If the Planning Commission action results in a tie vote, or if the approval or denial action is not consistent with the staff recommendation, the variance application is automatically sent to the City Council for final action. The Planning Commission must hold a public hearing ~~and offer a recommendation on all zoning variances except those that qualify for hearing examiner review under § 2.10 of the city code~~. The applicant or a member of the public may appeal the decision of the Planning Commission to the City Council by submitting an appeal request with supporting materials within three business days of the Planning Commission decision. The appellant will be given the opportunity to present their case in front of the City Council. If the variance application is related to an associated rezoning, Comprehensive Plan amendment, or other application that requires City Council action, the City Council must act on the variance application. When the City Council must act on a variance application, the Planning Commission must make a recommendation.

(f) *Conditions of approval.* The entity empowered to take action on a given variance application~~[City Council]~~ may impose conditions in the granting of a variance. A condition must be ~~[directly]~~related to and must bear a rough proportionality to the impact created by the variance.

(h) If one or more required findings for the approval of variance applications under subsection (g) is for any reason held invalid, such invalidation shall cause § 2.85.04(g) as a whole to be invalid until amended. The Planning Commission and City Council declare[s] that, if one or more~~[of its]~~ variance criteria are found to be invalid, it would have adopted the standard or requirement from which a variance was sought without causing variances to become easier to obtain.

§ 2.85.05 INTERPRETATION OF ZONING, PLATTING, PLANS, AND SUBDIVISION PROVISIONS.

(c) *Review, approval, and appeal of Planning Commission decision.* Interpretation appeals must be acted upon~~[reviewed]~~ by the Planning Commission ~~and acted upon by the City Council~~. If the Planning Commission action results in a tie vote, or if the interpretation appeal action is not consistent with the staff recommendation, the interpretation appeal is automatically sent to the City Council for final action. The applicant may appeal the decision of the Planning Commission to the City Council by submitting an appeal request with supporting materials within three business days of the Planning Commission decision. The appellant will be given the opportunity to present their case in front of the City Council.

ALTERNATIVE ORDINANCE OPTION B

Section 2. That Chapter 15 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~striketrough~~ text and adding those words that are underlined, to read as follows:

CHAPTER 15: BUILDINGS AND STRUCTURES

ARTICLE II: HISTORICAL PRESERVATION

§ 15.18 PERMITS FOR PREHISTORIC, CLASS I AND II SITES.

(b) Permit procedures.

(1) The issuing authority shall, within three weeks of filing of the application, determine whether the demolition, removal or alteration of the site would be detrimental to the public interest. In determining whether the demolition, removal or alteration would be detrimental to the public interest, the issuing authority shall consider the following factors:

(A) The effect of the proposed change upon the general cultural, historical and architectural nature of the city;

(B) The effect of the proposed change on any historical, cultural or architectural feature of the site and whether such work is appropriate and consistent with the spirit and intent of this Article II;

(C) Whether the improvement is capable of earning an economic return on its value; and

(D) Whether the improvement is in a deteriorated, dilapidated, hazardous or dangerous condition which cannot reasonably be restored.

(2) The issuing authority shall promptly forward its findings and recommendations to the next available [~~City Council~~]Planning Commission meeting for [~~final~~]-action by the [~~City Council~~]Planning Commission at a public hearing.

(3) Appeal of Planning Commission decision. The applicant or a member of the public may appeal the decision of the Planning Commission to the City Council by submitting an appeal request with supporting materials within three business days of the decision. The appellant will be given the opportunity to present their case in front of the City Council.

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

ALTERNATIVE ORDINANCE OPTION B

CHAPTER 19: ZONING

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

§ 19.29 HIGH INTENSITY MIXED USE WITH RESIDENTIAL (HX-R) DISTRICT.

(c) *Permitted limited and accessory uses.*

(1) *Limited uses.* The following uses are permitted as limited uses:

(G) Beekeeping;[-]

(H) Brewpub;

(I) Taproom/cocktail room; and

(J) Craft and micro-brewery/distillery/winery.

(d) *Conditional uses.*

(3) Expansion of hotel facilities in existence prior to January 1, 2005, subject to the provisions of subsection (p) below; and

(4) Manufactured home parks pursuant to standards as set forth in § 21.302.10[-];

~~(5) Brewpub as a limited use;~~

~~(6) Taproom/cocktail room as a limited use; and~~

~~(7) Craft and micro-brewery/distillery/winery as a limited use.]~~

§ 19.31.01 REGIONAL COMMERCIAL (CR-1) DISTRICTS.

(b) *Permitted principal uses.*

(14) Restaurant[;] without drive through and [~~without outdoor or~~]rooftop seating;[
and]

ALTERNATIVE ORDINANCE OPTION B

(15) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18[.];

(16) Public utility facility, general;

(17) Brewpub;

(18) Taproom/cocktail room;

(19) Craft and micro-brewery/distillery/winery;

(20) Major commercial golf facility; and

(21) Vehicle rental facility (less than 35 vehicles).

(d) *Conditional uses.*

(2) Restaurants[.], with drive through (including drive-in) or [with outdoor or rooftop seating[, or both];

(4) Public utility facility, limited[uses]

(7) Reserved[Automobile rental agencies with an on-site inventory more than ten but no more than 35 rental vehicles, subject to performance standards set forth in § 19.63.07 of this code];

(8) Vehicle rental accessory to Class I motor vehicle sales subject to the regulations set forth in § 19.63.07(e); and

(9) Reserved.[.];

~~[(10) Major commercial golf facility;]~~

~~[(11) Brewpub;~~

~~(12) Taproom/cocktail room; and~~

~~(13) Craft and micro-brewery/distillery/winery.]~~

§ 19.38.01 PLANNED DEVELOPMENT (PD) OVERLAY DISTRICTS.

ALTERNATIVE ORDINANCE OPTION B

(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] §§ 21.501.02 and 21.501.03). No permit for development within a Planned Development Overlay District may be granted unless the City Council or Planning Commission has approved a final development plan for the site (see [city-code] § 21.501.03).

ARTICLE IIIA: ADDITIONAL ZONING DISTRICTS

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

(b) *Permitted principal uses.*

(6) The following accessory uses:

(i) Uses customarily incidental and clearly subordinate to permitted principal uses.

(ii) Beekeeping.

(iii) Retail sales of computers when accessory to a computer training facility in the CS-0.5 District.

(11) Restaurants, without drive through and without [~~outdoor or~~]rooftop seating;[
and]

(12) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18;[-]

(13) Public utility facility, general;

(14) Multi-family dwellings in the CS-0.5 District, provided they are developed in accordance with the provisions of the RO-24 District;

(15) Parking structures as principal uses when included in a planned development;

(16) Post-secondary educational institutions;

(17) Brewpub;

(18) Taproom/cocktail room;

(19) Craft and micro-brewery/distillery/winery; and

ALTERNATIVE ORDINANCE OPTION B

(20) Major commercial golf facility.

(d) *Conditional uses.*

(1) Reserved;

(2) Public [U]utility facility, limited[uses];

(10) Restaurants[,] with drive through (including drive-in) or ~~[, with outdoor or rooftop seating[, or both];~~

(11) Reserved~~[Retail sales of computers when accessory to a computer training facility in the CS-0.5 District];~~

(14) Reserved~~[Multi-family dwellings in the CS-0.5 District, provided they are developed in accordance with the provisions of the RO-24 District];~~

(15) Reserved~~[Parking structures as principal uses when included in a planned development];~~

(16) Towers. For related provisions see §§ 15.14, 19.63.05 and 21.301.10~~[of this code];~~

(17) Reserved~~[Post-secondary educational institutions];~~

(19) Type II home businesses pursuant to standards as set forth in § 21.302.13;

(20) Manufactured home parks pursuant to standards as set forth in § 21.302.10;
and

~~[(21) Major commercial golf facility;~~

~~(22) Brewpub;~~

~~(23) Taproom/cocktail room; and~~

~~(24) Craft and micro-brewery/distillery/winery.]~~

(21[5]) Cannabis manufacturing in the CS-0.5 District.

§ 19.40.08 COMMERCIAL OFFICE DISTRICT CO-1.

(b) *Permitted principal uses.*

ALTERNATIVE ORDINANCE OPTION B

(8) Restaurants[;] without drive through and [~~without outdoor or~~]rooftop seating;[
and]

(9) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18[-];

(10) Non-profit clubs in the CO-1 Zoning District;

(11) Post-secondary educational institutions;

(12) Brewpub;

(13) Taproom/cocktail room;

(14) Craft and microbrewery/distillery/winery;

(15) Research laboratories;

(16) Public utility facility, general;

(17) Multi-family dwellings in the CO-1 District provided they are developed in accordance with the provisions of the C-4 District; and

(18) Major commercial golf facility.

(d) Conditional uses.

(1) [~~Multi-family dwellings in the CO-1 District provided they are developed in accordance with the provisions of the C-4 District~~]Reserved;

(2) Manufacturing, provided that at least 75% of the floor area of structures on the site is devoted to a permitted principal use;

(3) [~~Research laboratories~~]Reserved;

(4) Automotive service facilities which form an integrated part of a larger development;

(5) Public [U]utility facility, limited[uses];

(9) [~~Post-secondary educational institutions~~]Reserved;

(10) Towers. For related provisions see §§ 15.14, 19.63.05 and 21.301.10[~~of this code~~];

(11) [~~Non-profit clubs in the CO-1 Zoning District~~]Reserved;

(14) Manufactured home parks pursuant to standards as set forth in § 21.302.10; and

ALTERNATIVE ORDINANCE OPTION B

~~[(15) Major commercial golf facility;]~~

~~(15[6]) Restaurants[.] with drive through (including drive-in) or [.] with outdoor or rooftop seating[.] or both; and~~

~~[(17) Brewpub;~~

~~(18) Taproom/cocktail room; and~~

~~(19) Craft and microbrewery/distillery/winery.]~~

(16[20]) Cannabis testing facility.

§ 19.40.09 RESIDENTIAL OFFICE DISTRICTS RO-24 AND RO-50.

(b) *Permitted principal uses.*

(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article X;[and]

(8) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18[.]; and

(9) Public utility facility, general.

(d) *Conditional uses.*

(4) Public [U]utility facility, limited[uses];

ARTICLE V: PERFORMANCE STANDARDS

§ 19.63.06 TENTS AND CANOPIES.

(d) *Performance standards.* Tents and canopies must comply with the following performance standards.

(1) Tents and canopies must conform with the provisions of the Fire Prevention Code, Chapter 6, Article II of this code.

ALTERNATIVE ORDINANCE OPTION B

(2) Tents and canopies must be set back at least ten feet from any property line. The issuing authority may require tents and canopies to be set back an additional distance from property lines when adjacent to an incompatible land use.

(3) Unless entirely surrounded by buildings, tents and canopies shall not be erected for more than 25 days per year per site. The Planning Commission~~[City Council]~~ may extend the allowed time period after holding a public hearing and finding that the proposed tent or canopy will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(4) Adequate parking and traffic circulation must be preserved and the health, safety and welfare of the community must not be adversely impacted by the proposed tent or canopy.

(e) *Conditions of approval.* Conditions of approval may be attached to a tent or canopy permit by the issuing authority or the Planning Commission~~[City Council]~~ to ensure adequate parking and traffic circulation, to minimize impacts on adjacent property, to ensure adequate setbacks from property lines, and to otherwise protect the health, safety and welfare of the community.

(g) *Appeal.* An applicant may appeal a tent or canopy permit denial, ~~[or]any~~ conditions of approval for a tent or canopy permit, or a time extension request denial to the City Council within 30 days of the denial or approval with conditions. The appeal must be submitted in writing to the Director of Community Development~~;~~ and must specify the issue or condition being appealed and the basis of appeal. The appeal must be filed at least ten days prior to the meeting of the City Council.

Section 4. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text 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

§ 21.209 USE TABLES.

ALTERNATIVE ORDINANCE OPTION B

(c) Residential Zoning Districts.

Use Type	Zoning District									References; See Listed Section
	R-1	R-1A	RS-1	R-3	R-4	RM-12	RM-24	RM-50	RM-100	
RESIDENTIAL										
Dwellings										

[Groupings of two-family dwellings]	[G]				[G]					[21.302.04]
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Multiple-family dwelling in single family zones in existence prior to January 26, 2015	[G]P									
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Congregate Living										
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State reviewed (licensed, registered, etc.) residential care facility serving 7 or more persons					[G]P	[G]P	[G]P	[G]P	[G]P	21.302.06, 21.302.23; M.S. 144G, 245A.11, 245D, 462.357
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City licensed congregate living facility serving 5 or more persons					[G]P	[G]P	[G]P	[G]P	[G]P	21.302.06, 21.302.24;
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Other Residential										
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Neighborhood unit developments in existence prior to January 26, 2015	[G]P									21.501.03
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[Tennis courts accessory to single-family dwellings]	[CA]	[CA]	[CA]		[CA]					
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GOVERNMENT, INSTITUTIONAL, OPEN SPACE										
Day care Facilities and Services										

ALTERNATIVE ORDINANCE OPTION B

Licensed day care facility located within a place of assembly, school, college, or university	[C]L				[C]L	[C]L	[C]L	[C]L	[C]L	[C]L	21.302.06, 21.302.27
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Unlicensed family day shelters	[C]P										21.302.21
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Social and Cultural Facilities

Cemetery, mausoleum	[C]P										21.302.20
Funeral home or mortuary in existence prior to January 26, 2015	[C]P										

RETAIL/SERVICES

Medical Facilities

Office/clinic, medical or dental in existence prior to January 26, 2015					[C]P						
Office in existence prior to January 26, 2015	C				[C]P						

Retail Sales and Services

Plant nurseries and greenhouses in existence prior to January 26, 2015	[C]P										
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Restaurants when located within a multiple-family facility								[C]A	[C]A	21.302.19
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(d) *Neighborhood and Freeway Commercial Zoning Districts.*

Use Type	Zoning District									References; See Listed Section
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5		
RESIDENTIAL										

ALTERNATIVE ORDINANCE OPTION B

Other Residential										
State reviewed (licensed, registered, etc.) residential care facility serving 7 or more persons							[G]A			21.302.06, 21.302.23, M.S. 144G, 245A.11, 245D, 462.357

GOVERNMENT, INSTITUTIONAL, OPEN SPACE
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Educational Facilities

Day care facility	[G]P	[G]P	[G]P	L	L	L	[G]P	L	21.302.27
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Instructional center	[G]P	[G]P	[G]P	[G]L	[G]L	[G]L	[G]L	[G]L	
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Sports training facility				[G]L	[G]L	[G]L	[G]P	[G]L	
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Social and Cultural Facilities

Major commercial golf facility				[G]P	[G]P	[G]P	[G]P		21.302.17
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OFFICE and RETAIL/SERVICES

OFFICE

Manufacturing as part of an approved warehouse							[G]A		
Warehousing, Limited	[G]L								
Data Center							[G]L		21.302.35
Craft and micro-brewery/distillery /winery		[G]P	[G]P	[G]P	[G]P	[G]L	[G]L	[G]L	Chapter 13 Article I, Chapter 14 Article I, 21.302.29

RETAIL/SERVICES

Accommodations

Hotel/motel		[G]P		P	P	P	P	P	
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ALTERNATIVE ORDINANCE OPTION B

Motor Vehicle Services

Vehicle rental facility		[G]P			[G]L					19.63.07
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Recreation and Entertainment

Health club		[G]P	[G]L	P	P	L	L	L	
Health club in existence in the C-4 District prior to January 1, 2010							P		
Recreation and entertainment, indoor		[G]P	[G]P	[G]P	[G]P	[G]P	[G]L	[G]P	

Restaurants and Food Service

Restaurant[,] with [outdoor or] rooftop seating[,] or both		C	C	C	C	C	C	C	21.301.05, 21.302.19
Restaurant[,] without drive through and [without outdoor or] rooftop seating		P	P	P	P	L	L	L	21.302.19
Brewpub		[G]P	[G]P	[G]P	[G]P	[G]L	[G]L	[G]L	Chapter 13 Article I, Chapter 14 Article I, 21.302.29
Taproom/cocktail room		[G]P	[G]P	[G]P	[G]P	[G]L	[G]L	[G]L	Chapter 13 Article I, Chapter 14 Article I, 21.302.29

Retail Sales and Services

Financial institution - limited	[G]A								19.03
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Funeral homes, mortuaries, crematories		[G]P			[G]P				
Pawn shops		[G]P	[G]P						14.287 to 14.295.08
Pet services facility		[G]P	[G]P		[G]P	[G]P		[G]P	21.302.28

ALTERNATIVE ORDINANCE OPTION B

(e) *Industrial Zoning districts.*

Use Type	Zoning District							References; See Listed Section
	IT	I-1	I-2	I-3	IP	TI	FD-2	

GOVERNMENT, INSTITUTIONAL, OPEN SPACE
Educational Facilities

Instructional center	[C]P	[C]P	[C]P	[C]P	[C]P	[C]P	[C]P	
Schools (K-12)								
Sports training facility		[C]P	[C]P	[C]P	[C]P	[C]P		

RETAIL								
Accommodations								
Hotel/motel	P						[C]P	
Hotel/motel in existence prior to January 17, 2019	P		[C]P				[C]P	

Motor Vehicle Services

Convenience facility with fuel sales		[C]P	[C]P	[C]P				21.302.15
Convenience facility with fuel sales in existence prior to February 6, 2023		[C]P	[C]P	[C]P		C		21.302.15
Integrated fuel sales								
Service and/or fuel station		[C]P	[C]P	[C]P				21.302.15
Service and/or fuel station in existence prior to February 6, 2023		[C]P	[C]P	[C]P		C		21.302.15

Truck or trailer rental				[C]P				
Truck or trailer rental in existence prior to February 6, 2023				[C]P		C		

ALTERNATIVE ORDINANCE OPTION B

Vehicle repair, major		A	A	P			[G]P	
Vehicle repair, major in existence prior to February 6, 2023		A	A	P		P		
Vehicle repair, minor		A	A	P			[G]P	

Vehicle rental facility (less than 35 vehicles)				[G]P				19.63.07
Recreation and Entertainment								
Health club							[G]P	
Health club, adjacent to arterial or collector road and not exceeding 50% building floor area	P	[G]P	[G]P	[G]P			[G]P	[G]P

Restaurants and Food Service

Restaurant[,] with [outdoor or] rooftop seating[, or both]	C		C	C		C	C	21.302.19
Restaurant[,] without drive-through and [without outdoor or] rooftop seating	L		P	P		P	P	21.302.19
Brewpub	[G]A		[G]P	[G]P		[G]P	[G]P	Chapter 13 Article III, Chapter 14 Article I, 21.302.29
Taproom/cocktail room	[G]P		[G]P	[G]P	[G]P	[G]P	[G]P	Chapter 13 Article III, Chapter 14 Article I, 21.302.29
Self-brewing facility	[G]P		[G]P	[G]P	[G]P	[G]P	[G]P	

Retail Sales and Services

Pet services facility	[G]L			[G]P		[G]P	[G]P	21.302.28
Retail sales, heavy equipment			[G]P	[G]P				

Technology and Manufacturing

ALTERNATIVE ORDINANCE OPTION B

Data Center	[G]L		[G]P	[G]P	[G]P		[G]L	21.302.35
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GENERAL

Miscellaneous

Self-storage facilities		[G]P	[G]P	[G]P				21.302.16
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(f) *Specialized zoning districts.*

Use Type	Zoning District		References See Listed Section
	CX-2	LX	
RESIDENTIAL			
Residences			
Multiple-family residence	[G]P		21.302.02

GOVERNMENT, INSTITUTIONAL, OPEN SPACE			
Educational Facilities			
Day care center	P	[G]P	21.302.07

RETAIL/SERVICES

Restaurants and Food Service

Brewpub	[G]P	[G]P	Chapter 13 Article I, Chapter 14 Article I, 21.302.29
Taproom/cocktail room	[G]P	[G]P	Chapter 13 Article I, Chapter 14 Article I, 21.302.29

Retail Sales and Services

Funeral homes, mortuaries, crematories	[G]P		
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ALTERNATIVE ORDINANCE OPTION B

Pawn shops			14.287 to 14.295.08
Pet services facility	[C]P	[C]L	21.302.28

Technology and Manufacturing

Research laboratories	P	[C]P	
Technology campus		[C]P	
Warehousing			
Craft and micro-brewery/distillery/winery	[C]P	[C]P	Chapter 13 Article I, Chapter 14 Article I, 21.302.29

ARTICLE III: DEVELOPMENT STANDARDS

DIVISION A: GENERAL STANDARDS

§ 21.301.25 MURALS.

(b) *Permit required.*

(5) *Appeals.* The mural permit applicant may appeal a mural permit decision in writing to the Planning Manager within ten days of the decision. The Planning Commission~~[City Council]~~ will review and act upon appeals of mural permit decisions at a public meeting. The appellant will be given the opportunity to present their case in front of the Planning Commission. Following the Planning Commission decision on an appeal request, the applicant may appeal the Planning Commission decision to the City Council by submitting an appeals request and any supporting materials within three business days of the decision. The appellant will be given the opportunity to present their case in front of the City Council. The required fee for an appeal to a mural permit decision is established in Appendix A to this city code.

DIVISION B: USE STANDARDS

§ 21.302.03 ACCESSORY DWELLING UNITS.

ALTERNATIVE ORDINANCE OPTION B

(d) ~~Reserved~~[~~Approval process. Accessory dwelling units must receive administrative final site and building plan approval prior to issuance of a building permit~~].

(e) *Temporary family health care dwellings.* Pursuant to the authority granted by M.S. § 462.3593, subd. 9, as it may be amended from time to time, the city opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings.

§ 21.302.04 TWO-FAMILY DWELLINGS.

(b) ~~Reserved~~[~~Review and approval. Two-family dwellings must receive either final site and building plan approval or final development plan approval prior to issuance of a building permit. Because groupings of two-family dwellings have higher levels of neighborhood impact than stand-alone, infill two-family dwellings, approval of groupings of two-family dwellings warrants a higher level of review and discretion. Plans for groupings of two-family dwellings may only be approved when a conditional use permit has first been approved by the Planning Commission. Two-family dwellings qualify as a grouping when the parcel on which a two-family dwelling is proposed within 500 feet of a parcel occupied by an existing or proposed two-family dwelling, measured along existing or proposed public streets~~].

(c) *Standards.*

§ 21.302.19 RESTAURANTS AND CATERING BUSINESSES.

(d) *Outdoor dining.*

(6) *Noise.*

(A) Outdoor dining areas must comply with the noise source requirements of § 10.29.02.

(B) Mitigation. A noise mitigation plan must be provided for all new or expanded outdoor dining areas with more than 16 seats when the new or expanded area is located within 250 feet of a site that is both used residentially and is either zoned or guided for residential use. The noise mitigation plan must be reviewed and approved by the Planning Manager prior to issuance of a building permit or certificate of occupancy for instances when no permit is required.

DIVISION D: SIGN REGULATIONS

ALTERNATIVE ORDINANCE OPTION B

§ 21.304.24 SIGN VARIANCES.

(b) *Authority.* The Planning Commission~~[City Council]~~ shall serve as the board of appeals and adjustments pursuant to the provisions of M.S. §§ 462.354, subd. 2; 462.357, subd. 6; and 462.359, subd. 4, as they may be amended from time to time.

(d) *Where required.* Prior to any city approval of a sign permit application that does not meet the standards of the city code, the Planning Commission, or City Council in the case of an appeal, must approve a sign variance unless the city code provides an alternate means of deviation.

(e) *Initiation.* A sign variance application must be initiated by the owner of land upon which a variance is proposed or by the issuing authority. If originally denied, a sign variance application for the same item may not be resubmitted until one year after the original denial.

(f) *Review, approval, and appeal of Planning Commission decision.* Sign variances must be acted upon by the Planning Commission~~[City Council]~~. If the Planning Commission action results in a tie vote, or if the approval or denial action is not consistent with the staff recommendation, the sign variance application is automatically sent to the City Council for final action. The Planning Commission must hold a public hearing ~~and offer a recommendation on all sign variances~~. 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 business days of the decision. The appellants will be given the opportunity to present their case in front of the City Council.

(g) *Conditions of approval.* The Planning Commission, or City Council in the case of an appeal, may impose conditions in the granting of a sign variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the sign variance.

ARTICLE V: ADMINISTRATION AND NONCONFORMITY

DIVISION A: APPROVALS AND PERMITS

§ 21.501.01 FINAL SITE AND BUILDING PLANS.

(b) *Where required.* ~~[Except where final development plans have been approved (see city code § 21.501.03), f]~~ 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) Where final development plans have been approved (see § 21.501.03); and

ALTERNATIVE ORDINANCE OPTION B

~~[(1)2]~~ Single-family detached dwellings, accessory dwelling units, two-family dwellings, and their accessory buildings and site characteristics, including garages, do not require final site and building plan approval; and

~~[(2) Accessory buildings and site characteristics, including garages, for two-family dwellings do not require final site and building plan approval.]~~

(c) *Review, ~~and~~ approval, and appeals.*

(1) The Planning Manager will review and act upon the following types of final site and building plan applications, unless the Planning Manager determines the application should be heard by the Planning Commission due to potential environmental or land use impacts. In such cases, the notice and hearing procedures of subsection (c)(3) shall apply. ~~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 business days of the decision~~]:

~~[(A) Two-family dwellings;]~~

~~[(B)A] Accessory buildings (except for single-family dwellings, accessory dwelling units, and two-family dwellings);~~

~~[(C)B] Garages (except for single-family dwellings, accessory dwelling units, and two-family dwellings);~~

~~[(D)C] Parking lots or other site characteristic modifications;~~

~~[(E)D] New buildings or building additions ~~[to unplatted properties]~~ that do not exceed 10,000 square feet; and~~

~~[(F)E] Revisions to previously approved final site and building plans except those that involve:~~

~~(i) Building additions that exceed 25% of the existing floor area for the building or that exceed [1]20,000 square feet;~~

~~(ii) An increase ~~[in the number]~~ of five or more 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) Appeal of Planning Manager decision. 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 Planning Commission by submitting an appeal request with supporting materials within three business days of the decision.

~~[(2)3] The Planning Commission will review and act upon all other types of final site and building plan applications except as discussed in subsection (c)(~~[3]4~~) below. The~~

ALTERNATIVE ORDINANCE OPTION B

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 business days of the decision. If the Planning Commission action results in a tie vote, or if the approval or denial action is not consistent with the staff recommendation, the final site and building plan application is automatically sent to the City Council for final action.

~~[(3)]~~4) 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, or other application that requires City Council action~~[when City Council review is required for the related application]~~.

~~[(4)]~~ The City Council will review and act upon any tie vote by the Planning Commission or 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.

§ 21.501.03 FINAL DEVELOPMENT PLANS.

(c) Review, ~~and~~ approval, and appeals. Final development plans must be reviewed and acted upon as follows:

(1) New final development plans and major revisions to previously approved final development plans with requested flexibility as specified in § 19.38.01(c) must be reviewed by the Planning Commission and acted upon by the City Council, which has the authority to attach conditions of approval[-];

(2) Major revisions to previously approved final development plans without requested flexibility as specified in § 19.38.01(c) must be reviewed and acted upon by the Planning Commission, which has the authority to attach conditions of approval. The applicant or a member of the public may appeal the decision of the Planning Commission to the City Council by submitting an appeal request with supporting materials within three business days of the decision. The appellant will be given the opportunity to present their case in front of the City Council. If the Planning Commission action results in a tie vote, or if the approval or denial action is not consistent with the staff recommendation, the application is automatically sent to the City Council for final action. If the final development plans application is related to an associated rezoning or Comprehensive Plan amendment application, the City Council must act on the final development plans application; and

(3) Minor revisions to previously approved final development plans will be reviewed and acted upon by the Planning Manager, unless the Planning Manager determines the application should be heard by the Planning Commission due to potential environmental

ALTERNATIVE ORDINANCE OPTION B

or land use impacts. In such cases, the notice and hearing procedures of subsection (c)(2) shall apply. When the Planning Manager does act on an application, [who] they have[s] 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] Planning Commission by submitting an appeal[s] request, fee, and any supporting materials within three business days of the decision. The appellant will be given the opportunity to present their case in front of the Planning Commission. Following the Planning Commission decision on an appeal request, the applicant may appeal the Planning Commission decision to the City Council by submitting an appeals request and any supporting materials within three business days of the decision. The appellant will be given the opportunity to present their case in front of the City Council.

(d) *Revisions.* Revisions to final development plans are considered minor if:

(1) ~~The [re is no] proposed increase to the [proposed] number of dwelling units is four or less;~~

(2) Any proposed increase in the floor area of structures on site does not exceed 25% or a total of [4]20,000 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;

(5) There is no alteration to a plan modification previously required by the Planning Commission or City Council; ~~[or]and~~

(6) The proposed new building or building addition to an unplatted property, if applicable, does not exceed 1,000 square feet.

§ 21.501.04 CONDITIONAL USE PERMITS.

(d) *Review and approval.* Conditional use permit applications must be reviewed and acted upon by the Planning Commission ~~[, except for the uses listed in subsection (d)(1) below, which must be reviewed by the Planning Commission and acted upon by the City Council].~~ If the Planning Commission action results in a tie vote, or if the approval or denial action is not consistent with the staff recommendation, the conditional use permit application is automatically sent to the City Council for ~~[their]final action.~~ If the conditional use permit application is related to an associated rezoning, Comprehensive Plan amendment, or other application that requires City Council action, the City Council must act on the application.

~~[(1) City Council review. Because of higher potential to negatively impact surrounding property, the following use types must be reviewed by the Planning Commission and acted upon by the City Council when a conditional use permit is required by the underlying zoning district.~~

ALTERNATIVE ORDINANCE OPTION B

- ~~(A) Clubs and lodges;~~
- ~~(B) College or university;~~
- ~~(C) Convention center;~~
- ~~(D) Hospitals, sanitariums and rest homes;~~
- ~~(E) Household hazardous waste and recycling collection facilities;~~
- ~~(F) Junk car disposal businesses;~~
- ~~(G) Open storage as a primary use;~~
- ~~(H) Reserved;~~
- ~~(I) Pawn shops;~~
- ~~(J) Places of assembly;~~
- ~~(K) Planned developments;~~
- ~~(L) Post secondary educational institutions;~~
- ~~(M) School (K-12), public or private;~~
- ~~(N) Solid waste transfer stations;~~
- ~~(O) Manufactured home parks;~~
- ~~(P) Reserved;~~
- ~~(Q) Public and public utility buildings in the BP Overlay Zoning District;~~
- ~~(R) Firearm sales, primary;~~
- ~~(S) Firing range;~~
- ~~(T) Work/live units;~~
- ~~(U) Self-storage facilities;~~
- ~~(V) Cultural campus; and~~
- ~~(W) Data center.]~~

~~[[2]1) *Appeal of Planning Commission decision.* The applicant or a member of the public may appeal the decision of the Planning Commission to the City Council by submitting an appeal[s] request with supporting materials within three business days of the decision. The appellants will be given the opportunity to present their case in front of the City Council.~~

~~[[3]2) *Conditions of approval.* The entity empowered to take action on a given conditional use permit application has the authority to attach conditions of approval to that application. Any modifications to conditions of approval must be made by the entity that was originally empowered to act upon the conditional use permit.~~

ALTERNATIVE ORDINANCE OPTION B

(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) Places of assembly and schools;

(B) Licensed congregate living facilities serving five or more persons and licensed residential facilities serving seven or more persons;

(C) Home businesses;

(D) Towers; and

~~[(E) Tennis courts accessory to single-family dwellings;]~~

~~[(F)E] Private and commercial parks and recreational facilities as a principal use;~~
~~and].~~

~~[(G) Groupings of two-family dwellings.]~~

§ 21.501.05 INTERIM USE PERMITS.

(d) *Review and approval.* Interim use permit applications must be reviewed and acted upon by the Planning Commission~~[, except for the uses listed in subsection (d)(1) below, which must be reviewed by the Planning Commission and acted upon by the City Council].~~ If the Planning Commission action results in a tie vote, or if the approval or denial action is not consistent with the staff recommendation, the interim use permit application is automatically sent to the City Council for their final action. If the interim use permit application is related to an associated rezoning, Comprehensive Plan amendment, or other application that requires City Council action, the City Council must act on the application.

~~[(1) *City Council review.* Because of higher potential to negatively impact surrounding property, the following use types must be reviewed by the Planning Commission and acted upon by the City Council when an interim use permit is required by the underlying zoning district:~~

~~—(A) Open storage; and~~

~~—(B) Remote airport parking.]~~

ALTERNATIVE ORDINANCE OPTION B

([2]1) *Appeal of Planning Commission decision.* The applicant or a member of the public may appeal the decision of the Planning Commission to the City Council by submitting an appeal[s] request with supporting materials within three business days of the decision. The appellants will be given the opportunity to present their case in front of the City Council.

([3]2) *Conditions of approval.* The entity empowered to take action on a given interim use permit application has the authority to attach conditions of approval to that application. Any modifications to conditions of approval must be made by the entity that was originally empowered to act upon the interim use permit.

(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 Planning Commission or City Council at the time of approval, but in no event more than five years from the date of approval;

(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 Planning Commission or City Council makes the findings set forth in subsection (e) above 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.

§ 21.501.13 NEIGHBORHOOD UNIT DEVELOPMENTS.

(d) *Procedures.*

(2) *Application content.* Applications for an amendment to a Neighborhood Unit Development must consist of an application for a conditional use permit and revised final site plan for a Neighborhood Unit Development. If the amendment requires platting, a concurrent application for a preliminary plat in accordance with the requirements of Chapter 22 of this code is required. The preliminary plat, together with the documents required by this Section, constitute the final site plan. The final site plan approved by the City Council will be the document controlling those aspects of site development regulated by this section.

ALTERNATIVE ORDINANCE OPTION B

~~[(A) Conditional use. See § 21.501.04 for applicable regulations.]~~

[(B)A] *Final site plan.* In addition to documents required by Chapter 22 for application for approval of preliminary plats, the applicant must submit final site plans which include the following:

(e) *Special requirements.*

(1) *Design requirements.*

(A) *Mandatory requirements.* Unless relief from these requirements is granted by the Planning Commission or City Council by the granting of a variance, the following design requirements apply to all approved Neighborhood Unit Developments:

DIVISION B: APPLICATION PROCESSES

§ 21.502.01 APPLICATION PROCESSES.

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

(b) *Table key.* The following labeling conventions apply to the table in this section.

(1) DRC means Development Review Committee. The issuing authority may waive DRC review, but also may require DRC review for building and other permits under Chapter 15 of the city code.

(2) ST means staff.

(c) *Application processes and fees.* See City Code Appendix A for fees.

<i>Application Process</i>	<i>Review and Decision Making Authority</i>					<i>Notice</i>		
	<i>DRC</i>	<i>ST</i>	<i>HE</i>	<i>PC</i>	<i>CC</i>	<i>N</i>	<i>Mail</i>	

Planned Developments

Final development plan	R	R		PH	DM	N	500	
Major revisions to final development plans <u>with requested flexibility</u>	R	R		PH	DM	N	500	
Major revisions to final development plans <u>without requested flexibility</u>	R	R		PH DM		N	500	
Minor revisions to final development plans		DM						

Final Site and Building Plans

ALTERNATIVE ORDINANCE OPTION B

Appeal of decision by the Planning Manager		R		<u>DM</u>	[DM]			
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Conditional Use Permits (CUPs)								
[CUP—acted upon by City Council]	[R]	[R]		[PH]	[DM]	[N]	[500]	
Conditional Use Permit[—acted upon by Planning Commission]	R	R		PH DM		N	500	
Appeal of decision by the Planning Commission (fee applies only if applicant appeals)		R			PH DM	N	500	

Interim Use Permits (IUPs)								
[IUP—acted upon by City Council]	[R]	[R]		[PH]	[DM]	[N]	[500]	
Interim Use Permit[—acted upon by Planning Commission]	R	R		PH DM		N	500	
[IUP—reapplication for succeeding IUP (same use on the same site)]	[R]	[R]		[PH]	[DM]	[N]	[500]	
Appeal of decision by the Planning Commission (fee applies only if applicant appeals)		R			PH DM	N	500	

Variances								
Variance for single- and two-family dwellings	R	R		PH <u>DM</u>	[DM]	N	200	
Variances for other uses	R	R		PH <u>DM</u>	[DM]	N	200	
[Administrative variance]		[R]	[PH R]		[DM]	[N]	[200]	
[Appeal to Planning Commission of administrative variance denial]		[R]		[PH]	[DM]	[N]	[200]	

Miscellaneous								
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Change in condition sent to both Planning Commission and City Council		R		PH R	DM	N	*	
[Accessory dwelling unit approval]	[R]	[DM]						
Certificate of appropriateness for historical preservation		R		<u>PH DM</u>	[PH DM]			

ALTERNATIVE ORDINANCE OPTION B

Certificate of appropriateness – appeal of Planning Commission decision		R			DM			
Moratorium/interim ordinance adoption		R			DM			

Mural permit – appeal of permit denial		R		DM	[DM]			
Tent/canopy permit		DM						
Tent/canopy – appeal of permit denial or time extension request denial		R			DM			
Tent/canopy – request for time extension		R		PH DM	[PH-DM]	N		
Time extension on expiration		DM						

DIVISION H: GENERAL PROVISIONS

§ 21.507.03 REASONABLE ACCOMMODATION

(a) Purpose. The City has a legitimate interest in imposing regulations to protect the public health, safety, and general welfare. However, these regulations may not be applied in a manner that denies reasonable accommodation as required by the Americans with Disabilities Act and the Federal Fair Housing Amendments Act of 1988. It is the policy of the City to provide reasonable accommodation for persons with disabilities seeking fair and equal access to housing in compliance with federal law. Reasonable accommodation means granting a modification or waiver of city regulations or policies to an individual with a disability, or to a developer of housing for an individual with a disability, when necessary to eliminate barriers to housing opportunities as required by law. The process for making and acting upon requests for reasonable accommodation is set forth in this section.

(b) Initiation. A person may request the modification or waiver of city regulations or policies by submitting a request in writing to the Planning Manager or through the City’s reasonable accommodation form for people with disabilities. For the purposes of this section, "person" includes an individual with a disability, his or her representative, or, with respect to housing, a developer or provider of housing for an individual with a disability. The application must include a detailed explanation of why the modification or waiver is reasonably necessary for the person with a disability to have an equal opportunity to use or enjoy housing. If the request relates to a matter requiring specific review or approval by the City, then the applicant must file the request for reasonable accommodation concurrently with the application seeking the review or approval. When the data requested by the application seeking review or approval qualifies as protected data under state or federal data laws, the City Manager may waive the concurrent filing of the otherwise required application.

ALTERNATIVE ORDINANCE OPTION B

(c) Review. The Planning Manager, in consultation with the City's Americans with Disabilities Act Coordinator and City Attorney, has the authority to consider and act on requests for reasonable accommodation, except that requests associated with another city review or approval must be considered and decided prior to approval of a reasonable accommodation. A reasonable accommodation final decision will be made within the time established by M.S. § 15.99, as it may be amended from time to time. A reasonable accommodation decision must be in writing and may include the imposition of reasonable conditions. In making a decision, the following factors must be considered:

(1) Whether there is a qualifying disability;

(2) Whether the request is needed to allow a person with a disability equal opportunity to use and enjoy a dwelling or live in a particular neighborhood, in the same manner as a person without disabilities;

(3) Whether the request is reasonable, considering such things as undue financial impact or unreasonable administrative burden on city resources, the potential impact on surrounding uses, the extent to which the accommodation meets the stated need, and other alternatives that may meet that need;

(4) Whether the request would constitute a fundamental alteration of the city's regulations, policies, or procedures; and

(5) Any other factor that may have a bearing on the request.

(d) Decision. The Planning Manager's written decision, including notice of the right to appeal, must be mailed to the applicant and, if it impacts land use or zoning, to the owners of all properties that immediately abut the property that is the subject of the request and are potentially impacted by the reasonable accommodation as determined by the Issuing Authority. An aggrieved party may appeal the Planning Manager's decision to the City Council by submitting a written appeal request to the Planning Manager within ten days after the decision was mailed to that party. Unless properly appealed, the Planning Manager's decision is the final decision of the City. If appealed, the decision of the City Council is final. Only the aggrieved applicant and property owners who received notice of the written determination have a right to appeal.

(e) Applicability.

(1) An approved request is granted only to an individual and, if related to land use, zoning, or real property, does not run with the land. If the request relates to land use, zoning or use of real property, the Planning Manager has the discretion to determine the accommodation runs with the land when:

(A) The accommodation is physically integrated into the residential structure and cannot easily be removed or altered; or

(B) The accommodation is to be used by another individual with a disability.

(2) In these instances, the Planning Manager may require that the applicant record

ALTERNATIVE ORDINANCE OPTION B

a covenant agreeing to comply with conditions established in the determination before the issuance of any permits related to an approved reasonable accommodation.

(3) Fees. There will be no fee imposed in connection with a request for reasonable accommodation or an appeal of a decision made pursuant to the provisions of this section.

Section 5. That Appendix A of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strikethrough~~ text and adding those words that are underlined, to read as follows:

APPENDIX A: ADMINISTRATIVE RELIEF AND FEE SCHEDULE

This appendix contains the various fees adopted by ordinance in the listed sections of the City Code.

CODE SECTION	CROSS-REF	DESCRIPTION	FEE
CHAPTER 21: Zoning and Land Development			

§ 21.502.01(c)	§ 21.502.01(b)(11)	Planned Developments	
		Preliminary development plan	\$830
		Revisions to preliminary development plans	\$830
		Final development plan	\$1,660
		Major revisions to final development plans <u>with requested flexibility</u>	\$830
		<u>Major revisions to final development plans without requested flexibility</u>	\$420
		Minor revisions to final development plans	\$130

CODE SECTION	CROSS-REF	DESCRIPTION	FEE
CHAPTER 21: Zoning and Land Development			

§ 21.502.01(c)	§ 21.502.01(b)(11)	Conditional Use Permits (CUPs)	
		[CUP—acted upon by City Council]	[\$880*]
		Conditional Use Permit <u>[—acted upon by Planning Commission]</u>	\$220*
		Appeal of decision by the Planning Commission (fee applies only if applicant appeals)	\$210*
		Suspension or revocation of CUP	No fee
		Interim Use Permits (IUPs)	
		[IUP—acted upon by City Council]	[\$420]
		<u>Interim Use Permit [—acted upon by Planning Commission]</u>	\$220
		[IUP—reapplication for succeeding IUP (same use on the same site)]	[\$250]
		Appeal of decision by the Planning Commission (fee applies only if	\$210

ALTERNATIVE ORDINANCE OPTION B

		applicant appeals)	
		Suspension or revocation of IUP	No fee

CODE SECTION	CROSS-REF	DESCRIPTION	FEE
CHAPTER 21: Zoning and Land Development			

§ 21.502.01(c)	§ 21.502.01(b)(11)	Variances	
		Variance for single- and two-family dwellings	\$310*
		Variance for other uses	\$610*
		[Administrative variance]	[\$220*]
		Appeal of decision by the [tø] Planning Commission (fee applies only if applicant appeals)[of administrative variance denial]	\$220*

§ 21.502.01(c)	§ 21.502.01(b)(11)	Miscellaneous	
		Floodplain Permit	\$130
		Certification of floodplain zoning compliance	\$95
		Change in condition sent directly to City Council	\$220*
		Change in condition sent directly to Planning Commission	\$220*
		Change in condition sent to both Planning Commission and City Council	\$420*
		[Accessory dwelling unit approval]	[\$120]

Passed and adopted this _____ day of _____, 2024.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney