

Part 6. Conditional uses and interim uses.

206.01 Purpose. The purpose of a conditional use permit (CUP) and an interim use permit (IUP) is to authorize and regulate uses that are permitted by this chapter if certain conditions, having been designated by this chapter or by the city council, are met. The use shall comply with all standards of this chapter and any additional conditions, including conditions of operation, location, arrangement, and construction, as may be necessary to protect public health, safety, or welfare.

206.02 Application. Application for a CUP or IUP shall be made to the city on an official city application form. An application for a CUP or IUP shall be accompanied by a fee as set forth by the city council. Such application shall also include written and graphic materials fully explaining the proposed change, development, or use. The city may require that the applicant submit the following information before the application can be deemed complete:

- 1) Legal description of the subject property;
- 2) Evidence of ownership or an interest in the property;
- 3) General location map;
- 4) Principal land uses within 350 feet of the property;
- 5) Certificate of survey, to scale, showing applicable existing and proposed conditions including property lines and dimensions, building location and setbacks, dimensions of building, curb cuts, driveways, access roads, parking, off-street loading areas, septic system, and well;
- 6) Landscape plan drawn to scale showing applicable existing and proposed vegetation and plantings, plant schedule including information about the plant size, quantity, type and root condition, and groundcover;
- 7) Grading and drainage plan;
- 8) Soil conditions;
- 9) Building floor plans, elevations, and sections;
- 10) Description of type of business or activity and proposed number of employees; and
- 11) Other information as may be required by the city.

206.03 Notice.

- 1) Pursuant to Minnesota Statutes, an application for a CUP or IUP shall be approved or denied within 60 days from the date of its official and complete submission. The 60 day review period can be extended an additional 60 days pursuant to Minn. Stats. § 15.99. If the initial 60 day review period is extended, the city must provide written notice of the extension to the applicant before the end of the initial review period.
- 2) Upon receipt of a complete application, as determined by the city and following preliminary staff analyses of the application, the city, when appropriate, shall set a public hearing following proper hearing notification. Notice of the hearing shall be published in the official newspaper at least ten days prior to the hearing. Written notification of said hearing shall be mailed at least ten days prior to all owners of land within 350 feet of the boundary of the property in question in all business districts and in the R-1 and R-2 districts. A notice shall be sent to all owners of land within 1,250 feet of the boundary of the property in question in the RR district.

3) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this chapter provided a bona fide attempt to comply with the provisions of this chapter has been made. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be made a part of the record.

206.04 Procedure.

1) The planning commission shall consider if the proposed use is consistent with the general purpose and intent of this chapter and the comprehensive plan. Its judgment shall be based upon, but not limited to, the following:

- a) The impact of the proposed use on the health, safety, and general welfare of the occupants of the surrounding lands;
- b) Existing and anticipated traffic conditions, including parking facilities on adjacent streets and lands;
- c) The effect of the proposed use on public utilities;
- d) The effect of the proposed use on property values;
- e) The effect of the proposed use on the comprehensive plan;
- f) The ability of the proposed use to meet the standards of this chapter;
- g) The results of a market feasibility study, if requested by the city, when the purpose for which the conditional use is being requested relies on a business market for its success;
- h) The effects of the proposed use on groundwater, surface water, and air quality;
- i) The proposed use is allowed with a CUP or IUP in the zoning district in which it is proposed; and
- j) The effect of the proposed use on natural resources.

2) The planning commission, city council, and city staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the consent of the applicant.

3) The applicant or the applicant's representative may appear before the planning commission and city council in order to present information and answer questions concerning the proposed request.

4) The planning commission shall make findings of fact and make a recommendation on such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this chapter. Such recommendation shall be in writing and accompanied by the report and recommendation of the city staff.

5) The city council shall not grant a CUP or IUP until it has received a report and a recommendation from the planning commission and the community development department, or until 60 days after the first regular planning commission meeting at which the request was considered except as may be limited by Minn. Stats. § 15.99.

6) Upon receiving the recommendation of the planning commission, the community development department shall schedule the application for consideration by the city council. Such reports and recommendations shall be entered in and made a part of the permanent record of the city council meeting.

7) In connection with the issuance of CUPs and IUPs in nonconforming situations, the city council may require nonconformities to conform to the regulations contained in the zoning regulations and may impose such additional restrictions or conditions as it deems necessary to protect the public interest. When appropriate, restrictive covenants may be imposed regarding such matters.

8) The city council may impose and the applicant shall pay costs incurred by the city for monitoring compliance with the conditions of the CUP or IUP.

9) Approval of a request shall require passage by a majority vote of the entire city council.

206.05 Certification of taxes paid. Prior to approving an application for a CUP or IUP, the applicant shall provide certification to the city that there are no delinquent property taxes, special assessments, interest, or city utility fees due upon the parcel of land to which the CUP or IUP application relates.

206.06 Length of conditional use and interim use. Any use permitted under the terms of any CUP or IUP shall be established and conducted in conformity with the terms of such permit and of any conditions imposed in connection therewith. CUPs shall remain in effect for so long as the conditions agreed upon are observed, provided that nothing in this chapter shall prevent the city council from acting or amending official controls to change the status of conditional uses. IUPs shall remain in effect for as long as stated in city council approved conditions.

206.07 Revocation.

1) A violation of any condition set forth in a CUP or IUP shall be a violation of this chapter, and failure to correct said violation within 30 days of written notice from the city shall terminate the permit.

2) Revocation shall not occur earlier than ten city working days from the time the written notice of revocation is served upon the permittee, or if a hearing is requested, until written notice of the city council action has been served on the permittee.

3) Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis of the revocation, the facts which support the conclusion that a violation or violations have occurred, and a statement that if the permittee desires to appeal, s/he must within ten city working days, exclusive of the day of service, file a request for a hearing.

4) The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the City of Hayfield by midnight of the tenth city working day following service.

5) Following the receipt of a request for a hearing, the city shall set a time and place for the hearing which shall be conducted in accordance with the procedures to appeal decisions of the city as set forth in this chapter.

206.08 Records of CUPs and IUPs. A certified copy of any CUP or IUP shall be filed with the Dodge County Recorder. The city shall maintain a record of all CUPs and IUPs issued including

information on the use, location, conditions imposed by the city council, time limits, review dates, and such other information as may be appropriate.

206.09 Amendment. Holders of a CUP or IUP may propose amendments to the permit at any time following the procedures for a new permit set forth in this chapter. No significant changes in the circumstances or the scope of the permitted uses shall be undertaken without approval of those amendments by the city council. The city shall determine what constitutes significant change. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of structures and/or premises, and operational modifications resulting in increased external activities and traffic, and the like. The planning commission may recommend and the city council may approve significant changes and modifications to CUPs or IUPs, including the application of additional or revised conditions.

206.10 Expiration. Any CUPs granted by the city shall "run" with the land and shall be perpetual unless violation of conditions has occurred and city council has taken action for the revocation of the CUP. Unless the city council specifically approves a different time when action is officially taken on the request, IUPs which have been issued under the provisions of this chapter shall expire without further action by the planning commission or city council unless the applicant commences the authorized uses within three years of the date the IUP is issued.

K. *Reapplication.* No application for a CUP or IUP for a particular use on a particular parcel shall be resubmitted for a period of one year from the date of the denial of the previous application unless a decision to reconsider such matter is made by a majority vote of the full city council.