

# Proposed Wabasha County Zoning Ordinance Revisions

June 25, 2018 Public Hearing

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## 16.01 Enforcement.

- (1) The provisions of this Ordinance shall be administered by the Planning and Zoning Department.
- (2) When any work has been stopped by the Zoning Administrator for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely removed.
- (3) The Zoning Administrator may issue citations and/or call upon the County Attorney to perform such duties as necessary to enforce the provisions of this Ordinance.
- ~~(4) No land use permit application, conditional use permit application, or variance application shall be considered if a violation of this Ordinance exists on the respective parcel identified on the application form.~~

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## ARTICLE Chapter 18 Conditional & Interim Uses

### 18.01 Conditional/Interim Uses

Within the unincorporated area of the County, all uses designated under this Ordinance as conditional/*interim* uses shall be required to obtain a conditional/*interim* use permit approved by the Board of County Commissioners.

Conditional and interim use permits shall only be granted in accordance with Minnesota Statutes, Chapter 394, including the public hearing provisions thereof and the provisions of that statute shall apply to all conditional or interim use permits issued under this ordinance. Any use listed in this Ordinance as a conditional use may, at the discretion of the County, be processed and allowed as an interim use in accordance with Minn. Stat. Chapter 394.303 if:

1. Such use will conform to the zoning regulations;
2. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
3. The user agrees to any conditions that the County deems appropriate for permission of the use.
4. Public hearings on the granting of interim use permits shall be held in the manner provided in Chapter 394.26 Minn. Stat.

## 18.02 **Application**

Applications for conditional/~~interim~~ use permits shall be made to the Zoning Administrator. In order to be considered a complete application, the applicable fee shall be paid and the application shall be accompanied by a site plan showing such information as is necessary to show compliance with this Ordinance, including but not limited to:

1. Legal description of the property.
2. Site plan showing parcel and building dimensions.
3. Location of all buildings and their square footage.
4. ~~Curb-cuts~~, driveways, access roads, parking spaces, off-street loading areas, sidewalks and utilities.
5. Landscaping and/or screening plans.
6. Drainage plan.
7. Sanitary sewer and water plan with estimated use per day.
- ~~8. Soil type.~~
9. The applicant shall have obtained all necessary township ~~permits (only applicable in townships that have land use ordinances), county, state and federal permits~~ and provide such other information as necessary and reasonable to adequately review the requests.

## 18.03 **Notification and Public Hearing**

- (1) Upon receipt in proper form of the application and other required material, and the applicable fee, the Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. Such public hearing may be continued from time to time and additional hearings may be held.
- (2) Notice of the time, place and purpose of any public hearing shall be given by publication in a newspaper of general circulation in the town, municipality or other area concerned and in the official newspaper of the County at least ten (10) days before the hearing.
- (3) Written notice of the meeting will be sent to all property owners of record within one-quarter (1/4) mile of the affected property or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners. Written notice shall also be given to the affected Board of Town Supervisors and the Council of any municipality within two miles of the affected property.

## 18.04 **Approval, Disapproval or Modification**

The County Planning Commission shall make its decision upon the application and forward its recommendations to the Board of County Commissioners. In reporting its

recommendations to the Board of County Commissioners, the County Planning Commission shall report its findings with respect thereto and all facts in connection therewith, and may designate conditions and require guarantees deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall make a decision upon the application for a conditional use permit.

#### 18.05 Findings

In considering a conditional use permit application, the Planning Commission shall apply the following standards:

1. Whether the conditional use will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or would substantially diminish and impair property values within the immediate vicinity.
2. Whether the conditional use would impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area.
3. Whether adequate utilities, access roads, drainage, soil erosion control measures and other necessary facilities have been or are being provided.
4. Whether adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
5. Whether adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these would constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
6. Whether other factors bearing on the public health, safety and welfare would dictate either approval or grant of the conditional use permit.

#### 18.06 Conditional Use Permits within Floodplain and Shoreland Areas

- (1) A copy of an application for a conditional use permit within any designated Floodplain or Shoreland district shall be forwarded to the Minnesota Department of Natural Resources by the Zoning Administrator sufficiently in advance so that the Commissioner of the Department of Natural Resources will receive it at least ten (10) days prior to the required hearing.
- (2) A copy of all decisions granting any conditional use permit within any designated floodplain or shoreland district shall be forwarded to the Department of Natural Resources within ten (10) days after such decision.
- (3) Procedures to be followed by the Planning Commission in passing on conditional use permit applications within all Floodplain Districts shall be as follows:

- (a) The applicant shall be required to furnish each of the following information and such additional information as deemed necessary by the Planning Commission for determining the suitability of the particular site for the proposed use:
  - 1. Plans ~~in triplicate~~ drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.
  - 2. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  
- (b) The information described in Chapter 18.06(1) shall be transmitted to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
  
- (c) Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
  
- (4) In passing on conditional use permit applications for projects in a Floodplain or Shoreland district, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance, as well as the following additional factors:
  - (a) The danger to life and property due to increased flood height or velocities caused by encroachments.
  - (b) The danger that materials may be swept onto other lands or downstream to the injury of others or in a fashion that may block bridges, culverts or other hydraulic structures.
  - (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (e) The importance of the services provided by the proposed facility to the County.
  - (f) The requirements of the facility for the specific location in the Floodplain or shoreland area as proposed by the Applicant.
  - (g) The availability of alternative locations not subject to potential flooding for the proposed use.
  - (h) The compatibility of the proposed use with existing adjacent development and development anticipated in the foreseeable future.
  - (i) The relationship of the proposed use to the Comprehensive Land Use Plan and Floodplain Management Program for the area.
  - (j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

- (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - (l) Such other factors which are relevant to the purposes of this Ordinance.
- (5) Procedures to be followed by the Planning Commission in passing on conditional use permit applications for the replacement of wetlands in addition to other factors in this Ordinance, shall include:
- (a) The applicant shall be required to furnish the following information and additional information necessary to determine the suitability of the particular project:
    - 1. ~~Three (3)~~ A copy of the replacement plan to the Department of Environmental Services. The replacement plan shall contain all plan sheets, drawn to scale; wetland designation; wetland acreage; acreage to be destroyed or diminished; activity description; location of replacement wetland; the acreage of replaced wetland; and a time schedule for completion.
    - 2. Specifications for construction of the wetland replacement project.
    - 3. Items required in Chapter 18.06(3)(a).
- (6) In passing on a conditional use permit application that involves the replacement of a wetland, the Planning Commission shall consider all relevant factors specified in this Ordinance as well as the following additional factors:
- (a) The ratio of replaced wetland acreage to wetland acreage destroyed or diminished.
  - (b) The location of the destroyed or diminished wetland and the replaced wetland.
  - (c) The value and type of the destroyed or diminished wetland and the replaced wetland.
  - (d) The replacement schedule for the constructed wetland.
  - (e) The availability of alternatives that would avoid or minimize the impact on the wetland to be replaced.
  - (f) The consistency of the replacement plan with the Wabasha County Comprehensive Local Water Plan.
  - (g) The replacement plan follows the principles listed below in order of priority:
    - 1. Avoid direct or indirect impacts that may destroy or diminish the wetland.
    - 2. Limit the degree or magnitude of the wetland activity and its implementation.
    - 3. Rectify impacts by replacement.
    - 4. Reduce or eliminate long-term impact.
  - (h) The replacement activities will be conducted consistent with the ecology of the affected landscaped area.
  - (i) An inspection schedule exists to monitor the success of the replacement plan and correct any inadequacies.

(7) Upon consideration of the factors listed above and the purpose of this Ordinance, the Planning Commission shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance and/or preserve and protect the public health, safety and welfare. Such conditions may include, but are not limited to, the following:

- (a) Modification of waste treatment and water supply facilities.
- (b) Limitations on period of use, occupancy, and operation.
- (c) Imposition of operational controls, sureties, and deed restrictions.
- (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (e) Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

#### 18.07 **Compliance**

Any use permitted under the terms of any conditional/**interim** use permit shall be established and conducted in conformity with the terms of such permit.

#### 18.08 **Review**

A periodic review of the permit and its conditions shall be maintained. **Conditional/Interim Use** permits ~~shall~~ may be issued for a particular use on a specific parcel ~~and not or~~ for a particular person or firm.

#### 18.09 **Revocation**

~~A violation of any condition set forth in a conditional use permit shall be a violation of this Ordinance and such permit shall be subject to revocation by the County Board.~~ A conditional or interim use permit may be revoked by the County Board for good cause, upon due notice and hearing. Good cause shall include any violation of the agreed upon conditions attached to the conditional/interim use permit or a violation of this Ordinance.

(1) **Notice of Intent to Revoke.** A written notice of intent to revoke shall be prepared by the Wabasha County Zoning Administrator or his/her representative. This notice shall include the following:

- (a) Identity and address of the conditional or interim use permit holder(s).
- (b) Legal description of the property.

- (c) The facts alleged to constitute good cause to revoke and the dates or approximate dates of alleged violation(s).
- (d) The date, time, and place of the public hearing of the County Board meeting at which time revocation of said conditional or interim use permit will be considered and determined.
- (e) The right of said conditional or interim use permit holder or his authorized representative to attend and be heard at said hearing.

#### 18.10 **Discontinuance**

~~A conditional use permit shall become void if the property is not utilized for the purpose intended by the permit within one year after being granted by the Board, or if the use allowed by the conditional use permit is discontinued for a period of ninety (90) days. A conditional/interim use permit shall remain in effect for so long as the conditions agreed upon are observed and such use has not been expanded, intensified, or changed.~~

#### 18.11 **Recording**

- (1) A certified copy of any conditional use permit shall be filed with the County Recorder for record. The conditional use permit shall include the legal description of the property involved.
- (2) The Zoning Administrator shall be responsible for recording with the County Recorder any conditional use permit issued by the Board.
- (3) The Zoning Administrator shall provide to the applicant a copy of the order issued by the Board of Commissioners stating that it has been filed with the County Recorder's Office.

#### 18.12 **Reapplication**

No application for a conditional/**interim** use permit which has been denied in whole or in part shall be resubmitted for a period of six (6) months from the date of said order of denial.