

ORDINANCE 613

**CITY OF SHOREWOOD
COUNTY OF HENNEPIN
STATE OF MINNESOTA**

**AN ORDINANCE APPROVING AN AMENDMENT TO
SHOREWOOD CITY CODE CHAPTER 1201 RELATIVE TO ADMINISTRATION, AMENDMENTS,
CONDITIONAL USE PERMITS, AND INTERIM USE PERMITS**

THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA, ORDAINS:

SECTION 1: City Code Section 1201.02 is hereby amended as set forth below by adding the underlined language and deleting the ~~striketrough~~ language as follows:

1201.02. DEFINITIONS.

...

INTERIM ~~CONDITIONAL~~ USE. A temporary use of property until a particular date, until the occurrence of a particular event or until the use is no longer allowed by zoning regulations.

INTERIM ~~CONDITIONAL~~ USE PERMIT. A permit issued by the City Council in accordance with procedures specified in § 1201.04 of this code.

...

SECTION 2: City Code Section 1201.03, Subd. 2. c. is hereby amended as set forth below by adding the underlined language and deleting the ~~striketrough~~ language as follows:

1201.03 GENERAL PROVISIONS.

Subd. 2. *General building and performance requirements.*

c. *Property development.*

...

(4) Except in the case of planned unit development as provided for in § [1201.06](#) of this chapter, not more than one principal building shall be located on a lot. The city may, by interim ~~conditional~~ use permit, allow a single-family residential dwelling to remain on a lot while a new dwelling is being constructed on the same lot, provided that:

(a) The new dwelling shall conform to the setback requirements of the zoning district in which it is located;

(b) Construction of the new dwelling shall not result in substantially greater site alteration (for example, tree removal or grading) than if the original house is first removed;

(c) The property owner must provide an estimate from a licensed contractor for the cost of removing the original dwelling and restoring the site. From this estimate the city shall require a cash escrow or letter of credit in the amount of 150% of the estimate to ensure that the original dwelling will be removed within two weeks of the date that a certificate of occupancy is issued for the new dwelling. In no instance shall the original home remain on the property longer than two years;

(d) The property owner shall provide the cash escrow or letter of credit referenced in (c) above at the time a building permit is issued for the new dwelling. The new dwelling shall not be occupied until a certificate of occupancy has been issued; and

(e) The request shall be subject to the requirements of § [1201.04](#) Subd. 4. of this chapter.

...

SECTION 3: City Code Section 1201.03, Subd. 17 is hereby amended as set forth below by adding the underlined language and deleting the ~~striketrough~~ language as follows:

Subd. 17. *Plan review.*

a. *Purpose.* The purpose of this subdivision is to establish a formal plan review procedure and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through ~~his or her~~ their officially submitted plan documents. The provisions of Section 1201.04 apply to plan review applications with the exception of public notice and public hearing requirements.

b. *Plans required.* In addition to other plan requirements outlined in this chapter, site and construction plans will be required and shall be submitted to and approved by the ~~Building Official~~ Zoning Administrator prior to the issuance of any building permit.

c. *City Council action.* Except in the case of minor projects, additions or alterations as determined by the Zoning Administrator, all building and site plans for multiple- family or commercial construction shall be subject to review by the Planning Commission and approval by the City Council.

d. *Plan agreements.* All site and construction plans officially submitted to the city shall be treated as a formal agreement between the ~~building contractor~~ applicant and the city. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard or specification without prior submission of a plan modification request to the ~~Building Official~~ Zoning Administrator for ~~his or her~~ their review and approval.

e. *Performance agreement and guarantee.* A performance agreement and guarantee may be required to be executed for plan reviews in accordance with City Code 1201.04, Subd. 3. f. when recommended by the Zoning Administrator and approved by the City Council.

~~e~~f. *Enforcement.* The Building Official or Zoning Administrator shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the

provisions of this section has been officially documented by the Building Official or Zoning Administrator.

SECTION 4: City Code Section 1201.04 is hereby amended as set forth below by adding the underlined language and deleting the ~~strike through~~ language as follows:

1201.04 ADMINISTRATION, AMENDMENTS, ~~AND~~ CONDITIONAL USE PERMITS AND INTERIM USE PERMITS.

Subd. 1. *Procedure.*

a. Pursuant to M.S. § 15.99, an application for a conditional use permit shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to statute or a time waiver is granted by the applicant. Pursuant to M.S. § 15.99, the city staff is hereby authorized to extend the 60-day time limit by a time period not to exceed 60 additional days, provided written notice of such extension is provided to the applicant before the end of the initial 60-day period.

b. *Application.* Notwithstanding anything to the contrary in this chapter, all applications for any amendments to map or Chapter, site plan, conditional use permit, interim use permit, land use permit, variance, or for any other city approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the city, if the city has a form, to the Zoning Administrator.

The application shall be accompanied by a fee and escrow deposit as provided for by City Council ordinance. This fee shall not be refunded.

The application shall also be accompanied by one hard copy and one electronic copy (in a format identified by the Zoning Administrator) of detailed written and graphic materials fully explaining the proposed change, development or use and as may be listed elsewhere in City Code.

Every application shall contain the legal description of the property and a statement of the specific permit or action being sought.

Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.

The Zoning Administrator is authorized to reject in writing any incomplete application within 15 business days of receipt, stating the reasons ~~or~~ for its rejection, including what information is missing. This rejection shall be sent by first-class mail or email to the applicant.

c. *Staff review/technical assistance reports.* Upon receipt of a complete application for an amendment, ~~or~~ conditional or interim use permit, the Zoning Administrator shall, when deemed

necessary, refer the request to appropriate staff to ~~insure~~ ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council. The Zoning Administrator shall also instruct the appropriate staff persons to mail notice to property owners within the required public notification distance for the respective application and post signage on or in front of the subject property indicating that an application is under consideration.

~~—(1) Notwithstanding anything to the contrary in this chapter, all applications for any site plan, conditional use permit, land use permit, variance, or for any other city approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the city, if the city has a form, to the Zoning Administrator. The Zoning Administrator is authorized to reject in writing any incomplete application within 15 business days of receipt if the application is incomplete, stating the reasons or its rejection, including what information is missing. This rejection shall be sent by first class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.~~

~~—(2) If a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.~~

d. *Public hearing.* Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for amendments, conditional use permits or interim use permits for a regularly scheduled Planning Commission meeting and publish a notice in the official newspaper no less than ten days prior to the hearing. The notice shall contain a description of the request and the time and place of the public hearing. Written notification of the hearing shall also be mailed at least ten working days prior to the date of the hearing to all owners of land within 500 feet of the boundary of the property related to a conditional/interim use permit and 750 feet of the boundary of the property related to an amendment. Failure of a property owner to receive the notice shall not invalidate any proceedings as set forth within this chapter.

e. *Referral to City Council.* Upon receipt of the Planning Commission report and recommendation, the Zoning Administrator shall place the request and any report and

recommendation on the agenda of ~~the next an upcoming~~ regularly scheduled meeting of the City Council.

f. *City Council action.* Upon receiving the request and any report and recommendation of the Planning Commission and the city staff, the City Council ~~shall have the option to set and hold a public hearing if deemed necessary and~~ shall make a decision on the request and record as deemed necessary adopt findings of fact.

(1) Approval of a request for a zoning district amendment, where the classification of a property will change from residential to commercial, shall require passage by a four-fifths vote of the full City Council. Requests for all other zoning district amendments, text amendments and conditional and interim use permits shall require a simple majority vote of the full City Council.

(2) In the case of a conditional or interim use permit, the Council may impose any condition it considers necessary to protect the public health, safety and welfare.

(3) In the case of an amendment, the amendment shall not become effective until the time as the City Council approves an ordinance reflecting the amendment and after the ordinance is published in the official newspaper.

(4) Whenever an application for an amendment, ~~or conditional~~ or interim use permit, or site plan review has been considered and denied by the City Council, a similar application ~~for the amendment or conditional use permit~~ affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial; a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six months from the date of the second denial, unless a decision to reconsider the matter is made a simple majority of the full City Council.

Subd. 2. *Amendments.*

a. *Initiation.* The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this chapter. Any person owning real estate, or anyone who has received a property owner's written authorization, within the city may initiate a request to amend the district boundaries or text of this chapter so as to affect his or her own real estate.

b. *Review criteria. Requests to amend the text or the district boundaries of this chapter shall be consistent with the Comprehensive Plan and shall be found by the City Council to meet at least one of the following review criteria:*

(1) The zoning district boundary or designation was originally adopted in error or is no longer consistent with the Comprehensive Plan.

(2) Times and conditions have changed since the text or district boundaries were adopted.

Subd. 3. *Conditional use permit.*

a. *Purpose.* The purpose of a conditional use permit is to provide the City of Shorewood with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. ~~In making this determination, whether or not the conditional use is to be allowed, the city may consider the nature of the adjoining land or buildings, whether or not a similar use is already in existence and located on the same premises or on other lands immediately close by, the effect upon traffic into and from the premises or on any adjoining roads and all other or future factors as the city shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.~~

b. *Informational requirement.* The information required for all conditional use permit applications generally consists of the following items and shall be submitted with the application.

(1) Certified survey prepared by a registered licensed surveyor, at a scale of one inch to ten feet, 20 feet, 30 feet, 40 feet, 50 feet or 60 feet, which shall include, but not be limited to:

(a) The location and dimensions of boundary lines, buildings, structures, topography, wetlands, and similar features, and the like;

(b) The distance between boundary lines and buildings, structures and other improvements;

(c) The location of adjacent buildings located within 20 feet of the exterior boundaries of the property in question;

(d) The area of the lot and a detailed description of the existing and proposed impervious surface coverage;

(e) The legal description of the property;

(f) Any public or private easements;

(g) Any municipal utilities, private wells or private on-site wastewater treatment systems, and other utilities.

(2) Site development plans at a scale of one inch to ten feet, 20 feet, 30 feet, 40 feet, 50 feet or 60 feet (unless indicated otherwise), which shall include:

(a) Location and dimensions of all proposed buildings on lots and the distance between proposed buildings and structures to property lines;

(b) Location and number of existing and proposed parking spaces;

(c) Vehicular circulation and dimensions;

(d) Architectural elevations (type and materials used in all external surfaces) and concept floor or room plans at a scale of one inch to four feet, eight feet, 16 feet or as may be appropriate as determined by the Zoning Administrator;

(e) Lighting plan consistent with § [1201.03](#) Subd. 2.v. of this chapter;

(f) Curb cuts, driveways, number of parking spaces.

(3) Grading plan, which shall include:

(a) Existing contour;

(b) Proposed grading elevations;

(c) Drainage configuration;

(d) Storm sewer catch basins and invert elevations;

(e) Spot elevations;

(f) Proposed road profile;

(g) Graphic scale: all plans shall be expressed as one inch to ten feet, 20 feet, 30 feet, 40 feet, 50 feet or 60 feet.

(4) Landscape plan, which shall include:

(a) Location of all existing trees, type, diameter and which trees will be removed;

(b) Location, type and diameter of all proposed plantings;

(c) Location of and material used for all screening devices;

(5) Proof of ownership of the land for which a conditional use permit is requested;

(6) A narrative indicating the proposed use, operational features of the use including, but not limited to, hours of operation, number of employees, and the like, and compliance with § [1201.04](#) Subd. 1.d. of this chapter;

(7) Any information required by the applicable zoning district;

(8) Other information as determined by the Zoning Administrator or City Council.

c. *Review criteria.* In reviewing a Conditional Use Permit, the City Council shall consider the recommendation of the Planning Commission and the following review criteria:

(1) The proposed use, and its related construction, would be consistent with the policies and provisions of the Comprehensive Plan.

(2) The proposed use would be compatible with present and future land uses in the area and would not tend to or depreciate the area in which it is proposed.

(3) Adequate public facilities and services, including existing and anticipated traffic concerns, are available or can be reasonably provided to accommodate the proposed use.

(4) The proposed use conforms to the applicable regulations of the zoning district in which it is located and otherwise conforms to all applicable regulations of the City Code.

(5) The proposed use will not be detrimental to the health, safety and general welfare of the occupants of surrounding lands.

d. *Conditions of approval.* In permitting a new conditional use permit or amending an existing conditional use permit, the Planning Commission may recommend and the City Council may impose, in addition to the standards and requirements expressly specified by this code, additional conditions that the Planning Commission or City Council consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include but are not limited to the following:

(1) Increasing the required lot size or yard dimension;

(2) Limiting the height, size or location of buildings;

(3) Controlling the location and number of vehicular access points;

(4) Increasing the street width;

(5) Increasing the number of required off-street parking spaces;

(6) Limiting the number, size, location and lighting of signs;

(7) Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.

(8) The property on which the conditional use is located shall not become in violation of any requirements of the Shorewood City Code or any conditions imposed by City Council.

ee. *Lapse of conditional use permit by non-use.* Whenever, within one year after granting a conditional use permit, the use as permitted by the permit shall not have been completed or utilized, then the permit shall become null and void unless a petition for an extension of time in

which to complete or utilize the use has been granted by the City Council. The extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original conditional use permit. ~~There shall be no charge for the filing of the petition.~~ The extension request shall be accompanied by a fee set by the City of Shorewood Fee Schedule as may be amended. The request for extension shall state facts showing all efforts to complete or utilize the use permitted in the conditional use permit. The petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision. The Conditional Use Permit or any amendments thereto shall be recorded at the Office of the County Recorder.

~~d~~f. *Performance agreement and guarantee.*

(1) Except in the case of ~~non-income producing residential property single-family and two-family properties~~, upon approval of a conditional use permit, interim use permit, or site plan, the developer shall execute a performance agreement in the form drafted by the Zoning Administrator and approved by the City Council and provide a letter of credit, or cash deposit prior to the issuance of building permits or beginning the proposed improvements or development and shall remain in place until the project is completed. The letter of credit shall automatically renew until all approved improvements have been completed as determined by the Zoning Administrator/City Engineer and shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the city. The Zoning Administrator may periodically reduce the financial guarantee based on the completion of improvements, as outlined in the agreement.

(2) The security shall be in the amount of one and one-half times the City Engineer's or City Building Official's estimated costs of labor and materials for the proposed improvements or development. The project can be handled in stages ~~up~~ upon the discretion of the City Engineer and Building Official-Zoning Administrator.

(3) The city shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and ordinances of the city has been issued by the City Building Official.

(4) Failure to comply with the conditions of the conditional use permit, interim use permit, site plan, or City Code ~~the ordinances of the city~~ shall result in forfeiture of the security.

f. Revocation. A conditional use permit may be revoked if there is not substantial compliance with the conditions of approval.

Subd. 4. *Interim ~~conditional~~ use permit.*

a. *Purpose.* The purpose and intent of an Interim ~~conditional~~ Use Permit is:

(1) To allow a use for a brief period of time while permanent location is obtained or constructed; or

(2) To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future; or

(3) To allow a use that is reflective of anticipated long-range change to an area and that is in compliance with the Comprehensive Plan, provided that the use maintains harmony and compatibility with surrounding uses and is in keeping with the performance standards of this code; or

(4) To provide a mechanism for allowing changes to a nonconforming use of property contingent upon a plan for cessation of the nonconforming use within a specified period of time.

b. *Informational requirement and procedure.* The information required and the procedure to be followed for all interim ~~conditional~~ use permit applications shall be the same as that required for a conditional use permit as provided for in this section.

c. *Termination.* An interim ~~conditional~~ use shall terminate on the happening of any of the following events, whichever occurs first:

(1) The date or event stated in the permit;

(2) Upon violation of conditions under which the permit was issued;

(3) Upon change in the city's zoning regulations that renders the use nonconforming;

(4) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

d. *General standards.* An interim ~~conditional~~ use permit shall comply with all of the following:

(1) Conform to the applicable general building and performance requirements of § 1201.03, Subd. 2 of this code;

(2) The use is allowed as an interim use in the respective zoning district;

(3) The date or event that will terminate the use can be identified with certainty;

(4) The use will not impose additional unreasonable costs on the public if it is necessary for the public to take the property in the future;

(5) The user agrees to any conditions that the City Council deems appropriate for permission of the use. The conditions shall be set forth in a development agreement between

the property owner and the city, which agreement shall be recorded with the Hennepin County Recorder or Registrar of Deeds.

e. *Conditions of approval.* In permitting a new interim **conditional** use permit or amending an existing interim **conditional** use permit, the Planning Commission may recommend and the City Council may impose, in addition to the standards and requirements expressly specified by this code, additional conditions that the Planning Commission or City Council consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include but are not limited to the following:

- (1) Increasing the required lot size or yard dimension;
- (2) Limiting the height, size or location of buildings;
- (3) Controlling the location and number of vehicular access points;
- (4) Increasing the street width;
- (5) Increasing the number of required off-street parking spaces;
- (6) Limiting the number, size, location and lighting of signs;
- (7) Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.

(8) The property on which the interim use is located shall not become in violation of any requirements of the Shorewood City Code or any conditions imposed by City Council.

~~f. *Violations.* After two nuisance or code violation complaints have been made and verified with written notice to the holder of the interim conditional use permit, a public hearing may be called within 60 days of the last complaint to reconsider the interim conditional use permit.~~

f. *Lapse of interim use permit by non-use.* Whenever, within one year after granting an interim use permit, the use as permitted by the permit shall not have been completed or utilized, then the permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. The extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original interim use permit. The extension request shall be accompanied by a fee set by the City of Shorewood Fee Schedule as may be amended. The request for extension shall state facts showing all efforts to complete or utilize the use permitted in the interim use permit. The petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision. The Interim Use Permit or any amendments thereto shall be recorded at the Office of the County Recorder.

g. *Revocation.* An interim use permit may be revoked if:

- (1) The property is found to be in violation of the conditions listed in the interim ~~conditional~~ use permit; or
- (2) If access to the property for purpose of making and inspection is refused to the Zoning Administrator or ~~its~~ their designee. ~~The same process established for granting the interim conditional use permit shall be followed when considering revocation of an interim conditional use permit.~~

(1987 Code, § 1201.04) (Am. Ord. 383, passed 3-25-2002; Am. Ord. 389, passed 8-12-2002; Am. Ord. 550, passed - -2018; Am. Ord. 569, passed 8-26-2019; Am. Ord. 575, passed 12-14-2020)

SECTION 5: This Ordinance shall take effect upon publication in the City's official newspaper.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA this 13th day of January, 2025.



JENNIFER LABADIE, MAYOR

ATTEST:



SANDIE THONE, CITY CLERK