

PART II - LAND DEVELOPMENT REGULATIONS  
Chapter 126 - ZONING  
ARTICLE II. - ADMINISTRATION AND ENFORCEMENT  
DIVISION 2. CONDITIONAL USES

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***DIVISION 2. CONDITIONAL USES<sup>1</sup>***

**Sec. 126-65. Purpose.**

The principal objective of this chapter is to provide for an orderly arrangement of compatible building and land uses, and for the proper location of all types of uses required in the social and economic welfare of the city. To accomplish this objective, each type and kind of use is classified as permitted in one or more of various districts established by this chapter. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses that it may be necessary to allow because of their unusual characteristics and/or service they provide the public. These special uses require particular consideration as to their proper appearance and location in relation to adjacent established or intended uses, or to the planned development of the community.

(Code 1977, § 13-107.1)

**Sec. 126-66. Issuance.**

Conditional use permits may be issued for any of the following:

- (1) Any of the uses or purposes for which such permits are required or permitted by the provisions of this chapter;
- (2) Public utility or public service uses or public building in any district when found to be necessary for the public health, safety, convenience or welfare;
- (3) Commercial excavating of natural materials used for building or construction purposes, in any district;
- (4) To classify as a conforming use any nonconforming institutional use existing in any district at the time of the establishment of such district; or
- (5) To permit the location of any of the following uses in a district from which they are excluded by the provisions of this chapter; library, community center, church, hospital, any institution of an educational, philanthropic or charitable nature, cemetery, mausoleum, or columbarium.

(Code 1977, § 13-107.2)

**Sec. 126-67. Initiation.**

An application for a conditional use may be made by any governmental office, department, board, or commission or by any person or persons having a freehold interest or a contractual interest or which may become a freehold interest in the parcel described in the application.

(Code 1977, § 13-107.3)

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**Sec. 126-68. Procedure.**

<sup>1</sup>State law reference(s)—Conditional use permits, Minn. Stats. § 462.3595; conditional uses, Minn. Stats. § 462.357, subds. 1b, 8.

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- (a) *Applications.* Applications for conditional use permits shall be made by the owner or owners of the property and shall be filed with the zoning administrator. All applications shall be accompanied by an administrative fee established as set forth in chapter 22 plus all additional expenses incurred by the city and shall include the following information:
- (1) A description of the proposed use;
  - (2) A legal description of the property including plat and property identification number;
  - (3) A map or plat showing the property in question and all property within 350 feet of the boundaries of the property in question;
  - (4) The names and addresses of the owners of record of all property within 350 feet of the boundaries of the property in question; and
  - (5) Any other information required by the zoning administrator, planning commission, or city council.
- (b) *Referral to planning commission.* Before any conditional use permit may be granted, the request therefor shall be referred to the planning commission for study concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood, and for its recommendation to the city council for the granting of such conditional use permit and the conditions thereof, if any, or for the denial of such conditional use permit.
- (c) *Public hearing.* The planning commission shall hold at least one public hearing on the proposal to issue a conditional use permit. Notice of the time and place of the public hearing shall be given not more than 30 days nor less than ten days in advance of the public hearing by publishing a notice in the official newspaper of the city and by mailing in the U.S. mail, a notice of the public hearing at least ten days prior to the date of the public hearing, to the owner or owners of the property under consideration and all property owners within 350 feet of the subject property. This notice shall describe the particular conditional use and shall contain a brief description thereof. The county auditor's records shall be used for determination of ownership and mailing addresses. Following the public hearing, the planning commission shall make its findings of fact and recommendations in writing upon the proposal to the city council within 60 days following the completion (closing) of the public hearing. If no recommendations are transmitted by the planning commission within the 60 days specified, the city council shall take action without recommendations.
- (d) *Issuance.* The city council may hold whatever public hearing it deems advisable. In considering applications for conditional use permits under this division, the city council shall consider the advice and recommendations of the planning commission and the effect of the proposed use upon the health, safety, morals, and welfare of occupants of surrounding lands, including, but not limited to, the factors of noise, glare, odors, existing and anticipated traffic conditions, including parking facilities on adjacent streets, the effect on values of property in the surrounding area, and the effect of the proposed use on the comprehensive plan. If it shall determine by resolution that the proposed use will not be detrimental to the health, safety, morals or general welfare of the community and that the same is in harmony with the general purpose and intent of this chapter and the comprehensive plan, the city council may grant such permits and may impose conditions and safeguards therein.
- (e) *Denial.* Conditional use permits may be denied by resolution of the city council when there is a determination and findings of fact by the city council that the proposed use will be detrimental to the health, safety, morals, or general welfare of the community or that the proposed use is not in harmony with the general purpose and intent of this chapter or the comprehensive plan.

(Code 1977, § 13-107.4)

## **Sec. 126-69. Special provisions.**

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- (a) Conditional use permits that are issued but not used within one year of the date of approval shall lapse. The conditional uses may be reviewed by the city council after one year.
  - (b) All conditional use permit applications for areas subject to flooding shall also comply with chapter 114, floodplain regulations.
  - (c) Conditional use permits are nontransferable except for permits issued for conditional uses specified under the allowable uses sections of this chapter for the various zoning districts.

(Code 1977, § 13-107.5)

## **Sec. 126-70. Land alterations.**

- (a) *Permit required.* A conditional use permit shall be required in all cases where excavation, grading and filling of any land within the city would result in a substantial alteration of existing ground contour or would change existing drainage or would cause flooding or erosion and would deprive an adjoining property owner of lateral support and would remove or destroy the present ground cover resulting in less beneficial cover for present and proposed development, uses and enjoyment of any property in the city. The term "substantial alteration" shall be defined as the extraction, grading, or filling of land involving movement of earth and materials in excess of 150 cubic yards.
- (b) *Application.* Application for a land alteration conditional use permit shall be subject to the regulations of section 126-68 and shall contain the following additional information:
  - (1) A legal description of the land to be altered;
  - (2) The nature of the proposed alteration and future use of the property;
  - (3) The starting date and approximate completion date of the operation;
  - (4) The names of all owners of the land to be altered;
  - (5) The names and addresses of all owners and occupants of the adjoining land that may be affected by said land alterations; and
  - (6) The identification of the route to be used in hauling.
- (c) *Bonding.* The city council may require from the person securing a land alteration conditional use permit adequate proof of bonding in the form of a performance bond, sufficient in value to cover the expense of the completion of the development plan or to bring such portion of the completed project to a safe grade and elevation so as to be healthful and safe to the general public and to provide safe and adequate drainage of the site.
- (d) *Safety precautions.* If, during the land alteration work, it becomes necessary for the person altering the land to create a condition of grade or drainage not in the interest of health or safety, it shall become that person's duty to correct immediately the dangerous situation created, as well as fence such area from the general public during the period of danger.
- (e) *Replacement of landscaping.* The person responsible for the proposed land alteration shall agree to replace cover that has been removed, by seeding or sodding, such cover to be replaced within 30 days after completion of grading. Where construction of homes or buildings is being done over an extended period of time, the zoning administrator or city council may require replacement of ground cover on a portion of the area before the entire project is completed.
- (f) *Correction of hazardous excavation.* The city council may, in addition to any or all other remedies available for violation of this section, order the owner to correct any hazardous excavation, grading, or filling on his land.

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- (1) *Order.* The order shall:
    - a. Be in writing;
    - b. Recite the grounds therefore;
    - c. Specify the necessary work; and
    - d. Provide a reasonable time for compliance, not to exceed 30 days.
  - (2) *Service.* The order shall be served by registered mail to the last known address of the owner of record, or his agent, if an agent is in charge of the excavation, grading, or filling, and upon the occupying tenant, if there is one.
  - (3) *Enforcement.* If the owner of the land fails to comply with the order within the time set forth therein, the city council shall cause the necessary work to be completed to bring the land within reasonable standards of health and safety.

### **Sec. 126-71. Shooting Range.**

The city council may issue a conditional use permit to an organization, corporation, or individual to operate a shooting range within the city, subject to the following provisions:

- (a) Indoor shooting ranges are permitted with a conditional use permit, provided the use is allowed in the zoning district affecting the property and the use complies with this section.
- (b) Shooting Ranges are prohibited outdoors.
- (c) Applications.
  - (1) Applications shall be directed to the city and contain the name of the organization, corporation, or individual and a description of the property to be used, the proposed security system and safety plan, proof of liability insurance, and the names of all the residents within 1,000 feet of the licensee and subsequent to the public hearing the city council may, at its discretion, grant or deny the conditional use permit.
  - (2) The city may require other conditions or application material as appropriate.
- (d) Requirements of the Shooting Range.
  - (1) The city council shall require that the shooting range be operated in a safe manner and the city council may, at its discretion, set standards for the operation of the shooting range prior to issuance of the conditional use permit.
  - (2) The city council may at its discretion, restrict the use of the shooting range during certain times to prevent the shooting range from becoming a public nuisance.
  - (3) The applicant shall provide documentation that the shooting range will conform to the noise standards in Minn. Stat. 87A. The city council can set reasonable standards subject to the limitations in Minn. Stat. 87A.05.
  - (4) There shall be no outdoor storage associated with an indoor shooting range.
  - (5) All indoor shooting ranges shall be constructed in accordance with federal, state, and local building codes relating to shooting ranges. Specialized inspections and documentation by a qualified professional may be required as part of the building permit process to verify the indoor shooting range system is constructed and installed to the manufacturer's specifications.
  - (6) The design and construction of the shooting range shall completely confine all ammunition rounds within the building and in a controlled manner. The design and construction of the

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shooting range shall be performed by a professional engineer registered in the State of Minnesota. The certified plans shall include the specifications and construction of the bullet traps, ceilings, and exterior and interior walls and floors.

(7) Firearms and ammunition used in indoor shooting ranges shall be limited to the capabilities of the range's system and building construction.

(8) The indoor shooting ranges shall be equipped with a ventilation system that filters out potential lead contaminants prior to exhausting to the exterior of the building.

(9) All indoor shooting ranges shall operate in accordance with the Minnesota laws and regulations of the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives. A copy of the operator's license with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives shall be provided to the city.

(10) An organized shooting range that has received a conditional use permit from the city council may, notwithstanding other provisions of this code, loan or furnish weapons to minors under the age of 18 years to handle and use weapons, provided that such dangerous weapons may be discharged and used by the minors only on the shooting range grounds and only under the direct supervision of an adult member or some other adult authorized by the range to supervise minors.

(11) Any firearms or weapons stored overnight on the premises shall be properly secured, per direction of the police chief and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(12) All indoor shooting ranges shall have a security system and safety plan approved by the police chief.

(13) No sales of firearms, ammunition, or firearm accessories shall be permitted unless the operator holds a valid federal firearms license, and has a security and storage system approved by the police chief. In the case of a change of ownership of the retail sales, notification to the city is required in writing and the new operator's license with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives shall be provided to the city.

(14) In the case of a change of ownership of the shooting range, notification to the city is required in writing and the new operator's license with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives shall be provided to the city.

(15) The conditional use permit for a shooting range must comply with the standards set forth in sections 126-65-126-71.

(16) It shall be unlawful to own or operate a shooting range in the city unless a conditional use permit has been issued by the city council.

*(e) Denial and Revocation.*

(1) The city council may at its discretion, revoke the conditional use permit immediately if the operator has allowed unsafe conditions to exist on the premises or if the licensee has violated any of the standards provided by the council, building official, or any federal or state laws.

(2) No conditional use permit under this section shall be issued to an applicant if the applicant or designated operator is: a person who is not a citizen of the United States or a resident alien, a person convicted of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession of firearms within five years of the application, a person who has had a federal or state firearms related-license or permit revoked within five years of the application, or a person who is ineligible to receive, sell or possess firearms under Minnesota or federal law.

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**Secs. 126-7~~1~~2—126-98. Reserved.**