

Ordinance No. 1416

Amending the Fridley City Code Chapter 205, Zoning, to Allow Interim Uses

The City Council of the City of Fridley does ordain, after review, examination and staff recommendation that the Fridley City Code be amended as follows:

Section 1

That the Fridley City Code Chapter 205, Zoning, be hereby amended as follows:

205.05 Administration and Enforcement

6. Interim Use Permit

A. Definition and Purpose.

(1) An interim use is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

(2) The purposes for allowing interim uses are:

(a) To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction;

(b) 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 will be replaced in the future by a permitted or special conditional use allowed within the respective district;

(c) To allow a use that is seasonal in nature; or

(d) To allow a use for a limited period of time that reasonably uses the property where it is not reasonable to use it in the manner otherwise provided in the zoning ordinance or comprehensive plan.

B. Application. An application for an interim use permit must comply with the provisions for a conditional Special Use Permit in the section of this chapter titled Special Use Permit.

C. Procedure. An interim use application will be processed in accordance with the procedure for conditional Special Use Permits established in this chapter.

D. General Standards. No interim use permit may be granted unless the City Council determines that the use will comply with the following:

- (1) The use will not delay anticipated development or redevelopment of the site;
- (2) The use will not adversely impact implementation of the Comprehensive Plan;
- (3) The use will not be in conflict with provisions of the city code on an ongoing basis;
- (4) The use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;
- (5) The date or event that will terminate the use can be identified with certainty;
- (6) The use will not impose additional unreasonable costs on the public;
- (7) The applicant has signed a consent agreement stating that the applicant, owner, operator, tenant and/or user has no entitlement to future re-approval of the interim use permit and that the interim use permit will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
- (8) The applicant agrees in writing to any conditions that the City Council deems appropriate for the use including the requirement for a financial security to ensure removal of all evidence of the use upon termination.

E. Uses Permitted with an Interim Use Permit may include but are not limited to:

- (1) Interim use of an identified Redevelopment Site unlikely to redevelop within the interim use permit period;
- (2) Temporary structures in use until a permanent facility can be constructed;
- (3) Off-site parking;
- (4) Seasonal uses not otherwise provided for in this Chapter;
- (5) Any other uses determined by the City Council to be the same or similar type uses.

F. Effect of Permit.

- (1) An interim use permit is effective only for the location specified in the permit.
- (2) An interim use permit, including any conditions, shall run with the land and shall not be affected by a change in ownership of the property unless it is stated in the interim use permit that a change in ownership of the property will terminate the interim use permit.

(3) The issuance of an interim use permit does not confer on the property any vested right.

(4) The granting of an interim use permit by the City does not constitute, imply, or guarantee the granting of any other required approvals (e.g., a building permit).

G. Termination.

(1) An interim use permit expires and the interim use must terminate at the earlier of:

(a) The expiration date of the interim use permit;

(b) The occurrence of any event identified in the interim use permit for the termination of the use;

(c) Revocation of the interim use permit; or

(d) An amendment to city code that no longer allows the interim use.

(2) An interim use permit expires if the interim use ceases operation for a continuous period of at least one year.

H. Revocation or Modification. The City Council may review an interim use permit periodically and may revoke a permit upon violation of any condition of the permit, any law of the United States or the State of Minnesota, or any city ordinance. If it is discovered after approval of the interim use permit that the city's decision was based at least in part on false, misleading, or fraudulent information, the City Council may revoke the permit, modify the conditions, or impose additional conditions to ensure compliance with this section. The procedure for revocation will be the same as that for Special Use Permits specified in this section. All costs incurred by the City during the revocation process may be assessed to the property.

I. Amendments. All requested amendments to the conditions of an existing interim use permit shall be processed in the same manner as a new application.

J. Renewals. The property owner may initiate renewal of an Interim Use Permit set to expire. Application requirements for renewal of an existing interim use permit shall be the same as for a new application.

(1) Terminated interim use permits cannot be renewed.

(2) Upon receiving a complete application for an interim use permit renewal, the City shall send notice of the requested renewal to all property owners within 350 feet of the parcel(s) containing the interim use. If any objections are raised within 10 days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the City shall prepare a resolution to approve outlining the conditions and stipulations

of renewal for consideration by the City Council. The City Council at its discretion may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.

~~6.~~ 7. Variances

A. Planning Commission.

The City Council has established the Planning Commission to serve as the Board of Appeals and Adjustment, and to exercise all the authority and perform all functions of said Board pursuant to Minnesota Statute Sections 462.351 to 462.36 4 and operate according to the Fridley City Code.

B. Petition By Owner.

A variance may be granted when it is in harmony with the general purposes and intent of this Chapter and when the variance is consistent with the Comprehensive Plan. A property owner may request a variance when the owner establishes that there are practical difficulties in complying with this Chapter. An application must be filed with the City and must state the exceptional conditions and the peculiar and practical difficulties claimed as a basis for a variance. A practical difficulty means:

- (1) The property owner proposes performance standards for the property in a reasonable manner, but not permitted by the Zoning Code.
- (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner.
- (3) The variance, if granted, will not alter the essential character of the locality.

C. Hearing.

Within thirty (30) days after filing a completed application, the Planning Commission shall hold a hearing thereon and shall hear such persons that want to be heard. Notice of such hearing shall be mailed out at least ten (10) days before the date of the hearing to each owner of affected property situated wholly or partially within 350 feet of the requested variance location.

D. Recommendations By Planning Commission.

The Planning Commission must act and report its recommendations within a reasonable time so that the City Council can act on the application within sixty (60) days of receipt of completed application. The Planning Commission may impose conditions in the granting of a variance that the Commission considers necessary to protect adjacent properties.

E. Variances In R-1 Zoning.

(1) In areas zoned R-1 (One Family Dwelling District) and S-1 (Hyde Park Neighborhood District), the Planning Commission has the authority to grant final approval of variances when all of the following conditions are met:

(a) There is unanimous agreement of the Planning Commission.

(b) The staff concurs with the recommendations of the Planning Commission.

(c) The general public attending the meeting or responding to the notice of public hearing have no objection.

(d) The petitioner is in agreement with the recommendation.

(2) When the above conditions are not met, the variance request must be reviewed by the City Council.

F. Record Of Action Taken.

The Planning Commission shall provide for a written record or video recording of its proceedings which shall include the minutes of its meeting, its findings and the recommendation, approval, or denial of each matter heard by it. The finding of fact shall contain the following:

(1) The public policy which is served by requirement; and

(2) The unique circumstance of the property that cause practical difficulties in the strict application of the requirement; and

(3) Any stipulations of the variance approval.

G. Action By The City Council.

The City Council must act on the recommendation of the Planning Commission and decide on the action to be taken within sixty (60) days of the notice of variance.

H. Lapse Of Variance By Non-use.

If work as permitted by a variance is not commenced within one year and completed within two years after granting-of a variance, then the variance shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the City at least twenty (20) days before the expiration of the original variance. The request for extension shall state

facts showing a good faith attempt to complete the work permitted in the variance. Such petition shall be presented to the City Council for review and/or decision.

~~7.~~ 8. Appeals

A. Planning Commission.

The City Council established the Planning Commission to serve as the Board of Appeals and Adjustment and to exercise all the authority and perform all functions of said Board pursuant to Minnesota Statute Sections 462.351 to 462.364 and operate according to the Fridley City Code.

B. Petition by Owner.

Any person aggrieved by an alleged error in any order, requirement, decision, or determination made by a code enforcement officer or any other duly authorized agent in the enforcement of this Chapter, may request a hearing before the Planning Commission. The appeal must be made in writing to the Community Development Director according to the terms and procedures established in Chapter 128 of City Code, and must clearly describe the code section under appeal, the facts of the matter, and the mailing address of the owner.

C. Hearing.

The Community Development Director shall notify the Planning Commission and the property owner of the hearing's date, time, and place. Within sixty (60) days after filing an appeal from the administrative order, the Planning Commission shall hold a public hearing thereon, unless a date is agreed upon by the property owner and the City. Both the property owner and representatives of the City may appear at the hearing with Council and may call witnesses and present relevant and competent evidence.

D. Recommendations by Planning Commission.

Within ten (10) days after such hearing, the Planning Commission shall reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination of the code enforcement officer or other duly authorized agent.

E. Record of Action Taken.

The Planning Commission shall provide for a written record or video recording of its proceedings which shall include the minutes of its meeting, its findings and the recommendation, approval, or denial of each matter heard by it.

F. Appeal to Council.

Any person aggrieved by the decision of the Planning Commission may appeal that decision to the City Council by filing notice of such appeal with the Community Development Director within twenty (20) days of receiving notice of the Planning Commission's decision. The appeal must be in writing and must include a statement of the alleged errors or omissions of the Planning Commission. The City Council shall review the record and recommendation created by the Planning Commission within twenty (20) days following an appeal request and shall reverse or affirm wholly or partly, or modify the order, requirement, decision, or determination of the Planning Commission. If the Council fails to make a timely decision, the appeal shall be deemed to have been approved.

~~8.~~9. Vacations

A. Process.

A party desiring to vacate any public right-of-way or easement, may file a written vacation request with the City together with the fee established in Chapter 11 of the City Code and the documentation required by the City on the application.

B. Public Water.

If a public right-of-way included in a vacation application adjoins a body of public water, a written notice must be sent to the Commissioner of the Minnesota Department of Natural Resources at least sixty (60) days before the hearing on the matter. In such cases, the City may provide for an extension of no more than sixty (60) days of the period for consideration of the application by notifying the applicant in writing. Failure of a property owner to receive notice shall not invalidate any such proceedings as set forth within this Chapter.

C. Council Hearing and Action.

- (1) Hearing. The City Council shall conduct a public hearing following notice described in this Section on the vacation request. The City Council shall follow such procedures as established by the City Charter for approval of vacation requests.
- (2) Notice. The public hearing shall follow a minimum two (2) week's published and posted notice and a minimum ten (10) day written notice to any adjoining property owner and on public right of way vacations.
- (3) Reservation of Interest. The City Council may specify the extent to which such vacation affects existing easements therein and the extent to which the vacation affects the authority of any person, corporation or city owning or controlling electric or telephone poles and lines, gas and sewer lines, or water pipes, mains and hydrants, thereon or thereunder, to continue to maintain the same or to enter upon such public right of

way or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto.

9. ~~10.~~ Building Permits

- A. No construction shall commence until a building permit has been issued indicating that the existing or proposed structure and the use of the land, comply with this Chapter and all building codes.
 - (1) All applications for building permits which will affect the outside dimensions of a structure, shall be accompanied by three (3) copies of a site plan.
 - (2) If the site consists of land not a part of a subdivision or land composed of partial lots, the site plan shall be attached to a survey or a registered land survey showing the actual dimensions of the lot, lots or parcel to be built upon. The site plan shall also show dimensions of existing and or proposed structures to be erected or structurally altered, their location on the site in relation to the outside boundary, the required off-street parking plan, proposed and existing grades, which indicate drainage considerations, and such other information as may be necessary to provide for the enforcement of these regulations.
 - (3) Site plans submitted for all uses except one and two family dwellings shall contain lighting and landscape plans, and all site improvements are to be bonded at the rate of 3% of the total project cost up to a maximum amount of \$60,000, guaranteed by letter of credit or bond to the City.
 - (4) The Council may waive the bond requirement, but a performance agreement would then be required from the land owner, requiring the work to be done within a reasonable time, to be fixed in the agreement, and if such improvements are not completed within the time specified, the City may construct or complete such improvements and assess the cost against the owner.
- B. No building permit will be issued unless sufficient construction plans or written description of construction, grading, excavating and filling as required by the City to assure reasonable structural safety and adequacy of building and finished grades for the proposed use have been submitted and approved.
- C. Once construction of the foundation has been completed, an as-built certificate of survey showing the location of the foundation shall be required, before the framing of the structure is begun.
- D. All institutional, multiple dwelling, commercial and industrial developments must obtain a parking lot (land alteration) permit before paving may begin on any parking lot built or added onto, that is not a part of a building permit. A plan for the parking lot shall be submitted to

the City for approval. This plan shall show the proposed site, structures, access drives, off-street loading spaces, screening, lighting, stacking spaces, curbing, drainage, striping, landscaping, parking spaces, existing structures within 100 feet of the site and paving specifications. If the proposed plan meets all City and State requirements, a land alteration permit shall be issued.

- E. Every permit issued by the City under the provisions of this Code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained, and the fee therefor shall be one-half (1/2) the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such; work; and provided further that such suspension or abandonment has not exceeded one (1) year.
- F. Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence work under that permit when he or she is unable to commence work within the time required by this Section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

10-11. Certificate of Occupancy

- A. A certificate of occupancy shall be obtained for all new construction stating that all provisions of this Chapter and the Chapter of the Fridley City Code entitled "Building and Related Permit Fees" are in compliance.
- B. A certificate of compliance shall be issued to all existing legal nonconforming and conforming uses which do not have a certificate of occupancy after all public health, safety, convenience and general welfare conditions of the City Code are in compliance.
- C. No permit or license required by the City of Fridley or other governmental agency shall be issued by any department official or employee of the City of such governmental agency, unless the application for such permit or license is accompanied by proof of the issuance of a certificate of occupancy or certificate of compliance.

11-12. Enforcement

Violation A Misdemeanor; Penalty.

The owner of a building or premises in or upon which a violation of any provisions of this Chapter has been committed, or shall exist; or the lessee of the entire building or entire premises in or upon which a violation has been committed or shall exist; or the owner or lessee of any part of the building, or premises in or upon which such violation has been committed or shall exist, shall be guilty of a misdemeanor, and subject to all penalties provided for such violations under the provision of Chapter 901 of this Code each and every day that such violation continues. Any such person who, having been served with an order to remove any such violation, shall fail to comply with said order to remove any such violation, within ten (10) days after such service, or shall continue to violate any provisions of the regulations made under authority of this Chapter in the respect named in such order shall be guilty of a misdemeanor and subject to all penalties provided for such violations under the provisions of Chapter 901 of this Code. Each day that such violation continues shall be a separate violation.

Section 2

That the Fridley City Code be hereby amended by updating Chapter 209, Fees as follows:

Fridley City Code
Chapter 209 Fees

209.12.7 Planning And Zoning Fees

Code	Subject	Fee
M.S. § 462.355	Comprehensive Plan Amendment	\$1,500
217	Condominium (annual registration) - 2-4 units - 5-12 units - 13-24 units - Over 24 units	\$20 \$30 \$40 \$50
217.04	Condominium conversion registration (one-time fee) - 2 units - 3-7 units - 8-12 units - Over 12 units	\$500 \$750 \$1,000 \$1,000 + \$50 per unit for every unit over 12
208	Conservation Plan Review (as part of building permit for new construction)	\$450
205	Farmers Market Event Permit	\$100
<u>205</u>	<u>Interim Use Permit</u> - <u>R-1</u> - <u>All others</u>	<u>\$1,000</u> <u>\$1,500</u>

211	Lot Splits	\$1,250
205.24	Master Plan, Application or Amendment	\$1,500
203	Manufactured Home Parks	\$30 + \$1 per trailer site (one-time fee)
214	Signs and/or Billboards <ul style="list-style-type: none"> - Permanent wall sign - Permanent free-standing/monument - Permanent re-face/face-change - Temporary sign 	<ul style="list-style-type: none"> \$100 \$200 \$50 \$100 plus (\$200 deposit refunded if conditions met)
205.30	Telecommunications Permit to add Equipment to an Approved Site	\$400/user/tower
	Small Cell Telecommunications Towers and Facilities District	\$500
	- 205.30.24 Distributed Antenna System (DAS) Application Fee	\$1,500
	- 205.30.24 DAS Application Review Fee	\$2,000
	- 205.30.9(9) DAS Abandonment Escrow	
205.30	Temporary Outdoor Display Permit	\$75
205.33	Transit Oriented District (TOD) Project Plan Application	\$1,500
205.33	TOD Tree Substitution Fee to TOD Capital Project Fund	\$500 per tree
211	Plat <ul style="list-style-type: none"> - Up to 200 lots - Each additional lot 	<ul style="list-style-type: none"> \$1,500 \$15
205	Rezoning	\$1,500
205	Special Use Permit <ul style="list-style-type: none"> - R-1 - All others 	<ul style="list-style-type: none"> \$1,000 \$1,500
205	Vacations, Right of Way or Easement	\$1,500
205	Variance <ul style="list-style-type: none"> - R-1 - All others 	<ul style="list-style-type: none"> \$500 \$1,400
205	Wetlands <ul style="list-style-type: none"> - Certifying Exemptions - Replacement Plan Application - No Loss Determination - Appeal of Decision 	<ul style="list-style-type: none"> \$1,500 \$1,500 \$1,500 \$1,500

Passed and adopted by the City Council of the City of Fridley on this xx day of [Month], 2023.

Scott J. Lund - Mayor

Melissa Moore - City Clerk

Public Hearing: September 11, 2023

First Reading: September 11, 2023

Second Reading:

Publication: