

OATH OF OFFICE

Deputy Clerk Etzel administered the Oath of Office to Commissioner Shannon Sand. Commissioner Sand's term will expire on December 31, 2013.

CALL TO ORDER

Chair Buoy called the regular meeting of the City of Rockford Planning and Zoning Commission to order on **April 11, 2013** at 7:01 p.m. The meeting was held in the Council Chambers of City Hall, 6031 Main Street, Rockford, MN.

ROLL CALL

Roll call was taken and the following members were present: Buoy, Fuller, Petersen-Biorn, Sand and Werman. The following members were absent: none. Also in attendance were Planner Dan Licht, Deputy Clerk Etzel and Council Member Martinson.

PUBLIC HEARING – Interim Use Hobby Dog Kennel/4030 Woodhill Court

The City is in receipt of an application for an Interim Conditional Use Permit for a Hobby Dog Kennel at 4030 Woodhill Court. The property is zoned R-1 Single Family. Staff published notice in the official newspaper at least 10 days prior to the public hearing and mailed notice to all affected property owners within 350' as required.

The applicant, Gary Tapp has three (3) Tibetan Mastiff dogs. All three dogs will be in the house or within the fenced area. The owners do not sell dogs as a commercial business. Ordinance #1001.12, Subd. 3 B requires an interim hobby kennel if more than two dogs are at one site.

The Planning Commission reviewed the conditional use application to make sure that it complies with Conditional Use standards per ordinance section 1001.03 Subd. 5 & 6.

Chair Buoy opened the hearing to public comments at 7:03 pm.

Gary Tapp of 4030 Woodhill Court was present to answer any questions the Planning Commission might have. He is renting the property from Ryan Bernard, who has given him permission to have three dogs at the rental property. Mr. Tapp stated they have a chain link fence about 4' or 5' in height to keep the dogs from roaming and a wooden fence towards the front yard. The dogs weigh about 125 pounds, which is on the smaller side for their breed.

Commissioner Petersen-Biorn asked Mr. Tapp if the dogs are aggressive and he stated no, but they are protective. His dogs like kids. The Tibetan Mastiffs are not listed on the dangerous dog list.

The three dogs they have are all males and they have no intentions of breeding. This breed of dog likes to be in a pack.

Heidi Faber of 4000 Woodhill Court has three young children and is worried about the size of the dogs. Mr. Tapp stated the dogs will be in the house, unless they are home and he supervises when they are outside. Ms. Faber's other concerns was the dogs barking is deep and it encourages the other dogs in the neighborhood to bark. Mr. Tapp stated his neighbor has beagle dogs that bark frequently. Each owner needs to control their own dog.

Naomi Teske, 9001 Woodhill Drive lives right behind the applicants house. The previous owner had three dogs and they did not come and speak at the public hearing and there were issues. She loves dogs, but has concerns about their dogs affecting outdoor enjoyment when the neighborhood dogs don't start barking. It makes it hard to enjoying being outside. Ms. Teske was glad to hear the intentions was not to have the dogs outside unless supervised; and being respectful of the other neighbors.

Mr. Tapp would like to introduce his dogs to the beagles and other dogs in the neighborhood. Ms. Taske noted there are a lot of dogs in the neighborhood and to be mindful of how these three dogs will affect the other dogs in the area.

Mr. Tapp said the beagle dogs bark at everything.

Chair Buoy closed the public hearing at 7:16 p.m.

The Planning Commission had no further discussion

MOTION was made by Petersen-Biorn, seconded by Fuller to recommend City Council consider approval of the Interim Use Permit for 4030 Woodhill Court with the following conditions:

1. That no more than three (3) dogs are allowed on the premises; and if one dog dies or needs to be put down, it cannot be replaced.
2. That all dogs must be restrained when not inside the premises; either in a kennel, fenced area, or leashed.
3. That all dogs must be licensed with the city and the renewal fee paid.
4. That a kennel license must be submitted every year along with the required kennel fee.
5. Fencing must be maintained as per the ordinance regulations.
6. No noise before 7:00 a.m. or after 10:00 p.m. per the Noise Ordinance 903.
7. All provisions of Section 1001.03 Subd. 5 D are met.
8. A review will be done annually or more frequently if complaints are received by the City.
9. If several complaints in the course of a year are made, the permit may be revoked.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, PETERSEN-BIORN, SAND AND WERMAN

The recommendations from the Planning Commission will be submitted to the City Council at their April 23, 2013 regular meeting for final approval or denial.

PUBLIC HEARING – Interim Use Hobby Dog Kennel/6601 Winfield Circle

The City is in receipt of an application for an Interim Conditional Use Permit for a Hobby Dog Kennel at 6601 Winfield Circle. The property is zoned R-2 Single Family. Staff published notice in the official newspaper at least 10 days prior to the public hearing and mailed notice to all affected property owners within 350' as required.

The applicant, Lyle Myers has three whippets. All three dogs will be in the house and within the fenced area. The owners do not sell dogs as a commercial business. Ordinance #1001.12, Subd. 3 B requires an interim hobby kennel if more than two dogs are at one site.

The Planning Commission reviewed the conditional use application to make sure that it complies with Conditional Use standards per ordinance section 1001.03 Subd. 5 & 6.

Chair Buoy opened the hearing to public comments at 7:18 pm.

Lyle Myers of 6601 Winfield Circle North was present to answer any questions the Planning Commission might have. They just acquired the third dog at the end of December. Two are performance dogs. They weigh about 30 pounds. There are two males and the one female is spayed. These are very friend dogs that can be shy. This breed has two speeds: asleep or fast. The back yard is has a large 6' chain link fenced area. The dogs are not jumpers. Mr. Myers likes to take the dogs for walks to the Lake Sarah Dog Park.

Chair Buoy closed the public hearing at 7:21 p.m.

The Planning Commission had no further discussion

MOTION was made by Buoy, seconded by Werman to recommend City Council consider approval of the Interim Use Permit for 6601 Winfield Circle North with the following conditions:

1. That no more than three (3) dogs are allowed on the premises; and if one dog dies or needs to be put down, it cannot be replaced.
2. That all dogs must be restrained when not inside the premises; either in a kennel, fenced area, or leashed.
3. That all dogs must be licensed with the city and the renewal fee paid.
4. That a kennel license must be submitted every year along with the required kennel fee.
5. Fencing must be maintained as per the ordinance regulations.
6. No noise before 7:00 a.m. or after 10:00 p.m. per the Noise Ordinance 903.
7. All provisions of Section 1001.03 Subd. 5 D are met.
8. A review will be done annually or more frequently if complaints are received by the City.
9. If several complaints in the course of a year are made, the permit may be revoked.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, PETERSEN-BIORN, SAND AND WERMAN

The recommendations from the Planning Commission will be submitted to the City Council at their April 23, 2013 regular meeting for final approval or denial.

***CONSENT AGENDA/SET AGENDA**

MOTION was made by Fuller, seconded by Buoy to approve all items on the consent agenda.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, PETERSEN-BIORN, SAND AND WERMAN

***Approve Regular Planning and Zoning Minutes/January 10, 2013**

MOTION was made by Fuller, seconded by Buoy to approve the minutes of the January 10, 2013 Regular Planning and Zoning Meeting.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, PETERSEN-BIORN, SAND AND WERMAN

OPEN FORUM

Chair Buoy called for open forum, no one from the public spoke.

Rockford High School Track and Field Reconstruction

Staff updated the Planning Commission regarding land alteration for the track and field reconstruction project at the Rockford High School. The Planning Commission may be involved in the future should they move forward with the parking lot expansions, which would require a conditional use permit.

Wright County Ordinance Amendment

Planner Licht explained this is a good addition to Wright County's Rural Commercial Tourism ordinance and recommends they make the amendment they are proposing at their May 9th meeting. Mr. Licht has sent comments to Wright County for another city and will do so for the City of Rockford.

Deputy Clerk's Report

The Deputy Clerk's report included: Welcome Planning Commissioner Sand, April 25th P&Z meeting cancelled, May 9th P&Z public hearing meeting, Rockford School District updates, Event Center Committee meeting on April 16th and upcoming local events: Lion's Greenback Dinner, City Wide Clean-Up Day, Fire Department Pancake Breakfast, 1000 Hearts Day of Service and Parkwood Park grand opening on May 11th of the Jim Thome Park.

Reviewed Ordinance #1001.09 Add'l Requirements, Exceptions, and Modifications

At the meeting on May 24, 2012, the Planning Commission started reviewing Section 1001.09 Additional Modifications, Exceptions and Modifications. During the January 10, 2013 meeting the Planning Commission requested a draft ordinance for review before calling for a public hearing. Planner Licht prepared a draft ordinance and reviewed the proposed changes to the ordinance with the Planning Commission regarding Ordinance #1001.09. The following are the proposed ordinance changes:

Section 1. Section 1001.01, Subd. 3 of the City Code is hereby amended to read as follows:

Subd. 3. Private Agreements. This chapter does not abrogate any easement, covenant, or any other private agreement where such is legally enforceable but which shall not be enforced by the City; provided, that where the regulations of this chapter are more restrictive, or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this chapter shall be controlling.

Section 2. Section 1001.04, Subd. 7 of the City Code is hereby amended to include the following provision:

D. Required Merger Of Common Ownership Lots: Within the Shoreland Overlay District, if in a group of two (2) or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel is nonconforming as to lot width, lot area, or lot frontage such individual lot or parcel shall not be sold or developed as a separate parcel of land, but shall be combined with adjacent lots or parcels under the same ownership or control so that the combination of lots or parcels will equal one or more zoning lots each meeting the full lot requirements of this title lessening the nonconformity.

Section 3. Section 1001.09, Subd. 1.B of the City Code is hereby amended to read as follows:

- B. Height limitations set forth elsewhere in this chapter may be increased by one hundred (100) percent when applied to the following:
1. Monuments.
 2. Flagpoles.
 3. Cooling towers.

Section 4. Section 1001.09, Subd. 1.C of the City Code is hereby amended to read as follows:

- C. Height limitations set forth elsewhere in this Chapter may be increased when applied to the following:
1. Church spires, belfries, or domes which do not contain usable space.
 2. Water towers.
 3. Chimneys or smokestacks, ~~WECS, radio and television towers.~~
 4. WECS as regulated by this Chapter.
 5. Satellite dishes, radio and television towers as regulated by this Chapter.
 6. Personal wireless communication towers.

Section 5. Section 1001.09, Subd. 1.E.6 of the City Code is hereby repealed and subsequent sections renumbered accordingly:

6. ~~When a satellite dish, television antenna, or radio antenna is located on the roof of a building, the applicant shall furnish the City Building Official with building plans and structural components of the satellite dish, television antenna or radio antenna displaying the means of securing the structure to the roof of a building. The Building official must approve the building plans.~~

Section 6. Section 1001.09, Subd. 2.A.5 of the City Code hereby is amended to read as follows:

5. When a future public street alignment and/or right-of-way width is known, ~~as indicated on the adopted City Thoroughfare Guide based on the Transportation Plan,~~ the front yard setbacks of a proposed structure shall be measured from the known future right-of-way.

Section 7. Section 1001.09, Subd. 2.B of the City Code hereby repealed and subsequent sections renumbered accordingly:

~~B. A wall, fence or hedge may occupy part of the required front, side, or rear yard.~~

Section 8. Section 1001.09, Subd. 2.D of the City Code is hereby amended to read as follows:

D. ~~The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth which may cause danger to traffic on a street or public road by obscuring the view. The required front yard shall not be obstructed above a height of three feet. Visibility from any street or driveway shall be unobstructed above a height of three (3) feet, measured from where both street or driveway centerlines intersect within the triangle described as beginning at the intersection of the projected curb line (or edge of shoulders for rural sections) of two (2) intersecting streets or drives, thence forty five (45) feet along one curb line, thence diagonally to a point forty five (45) feet from the point of beginning along the other curb line.~~

Section 9. Section 1001.09, Subd. 2.E of the City Code is hereby amended to read as follows:

E. ~~In determining the depth of a lot where the rear yard opens into an alley, one half of the width of the alley, but not exceeding ten feet, may be reduced to not less than five (5) feet considered as a portion of the rear yard subject to the following qualifications:~~

- ~~1. The depth of any rear yard shall not be reduced to less than ten feet by the application of this exception.~~
21. If the door of any building or improvement, except a fence, attached or detached garage opens toward an alley, it shall not be erected or established closer to the centerline of the alley than a distance of the minimum setback shall be fifteen (15) feet.

Section 10. Section 1001.09, Subd. 3.B.d.3 of the City Code is hereby amended to read as follows:

- 3) Turf slopes in excess of ~~2:1~~ 2:1 are prohibited unless approved by the Zoning Administrator.

Section 11. Section 1001.09, Subd. 5 of the City Code is hereby amended to read as follows:

Subd. 5. Seventy Percent (70%) Lot Provision.

A. Intent. The City recognizes that many existing platted residential lots within the City are not able to meet the City's present requirements with respect to lot area, depth, area, width, coverage and setbacks. Land owners initiating plans to make improvements to, or to develop or redevelop these lots often create the need for the City to grant variances to the Zoning Ordinance to relieve some hardship caused by the strict enforcement of the City's Zoning Ordinance when applied to these lots. ~~This seventy percent (70%) lot provision ordinance is adopted to minimize these hardships while allowing the city to retain the schedule of lot development standards it has determined is desirable for new residential development.~~

- B. ~~Lot Provision~~Criteria. A lot or parcel of land which has been platted on, or prior to, June 1, 1989, shall be deemed a buildable lot and may be used for single family detached dwelling purposes provided:
1. The lot has frontage on a public right-of-way;
 2. The lot is within the current R-1 district and does not meet the requirements of the city zoning ordinance, Section 1001.12, Subd. 6 and 7, as to lot area, depth, width, coverage and setbacks;
 3. It can be demonstrated that City sewer and water has been or shall be properly installed;
 4. The measurements of the lot's area, depth, width, coverage and setbacks are all within seventy percent (70%) of the requirements of ~~ordinance Section 1001.12, Subd. 6 and 7~~ of the respective Zoning District in which the lot is located.

Section 12. Section 1001.09, Subd. 7 of the City Code is hereby amended to read as follows:

Subd. 7. ~~**Contiguous Platted Lots.** In a group of contiguous platted lots under a single ownership, if any individual lot does not meet the minimum requirements of the city's zoning ordinance, Section 1001.06, Subd. 4, such individual lots cannot be considered as separate parcels of land for purposes of sale or development, but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land each meeting the full minimum requirements of the city zoning ordinances.~~Reserved.

Section 13. Section 1001.09, Subd. 8.E.1 of the City Code is hereby amended to read as follows:

1. The swimming pool shall be filled only through the property owner's water meter or at the owner's expense.

Section 14. Section 1001.09, Subd. 11 of the City Code is hereby amended to add the following provisions with subsequent sections renumbered accordingly:

A. Approval Required. No person shall hereafter construct or cause to be constructed or erected within the City any fence without first making an application for and securing approval by the Zoning Administrator.

Section 15. Section 1001.09, Subd. 11.B.1 of the City Code is hereby amended to read as follows:

1. Every fence shall be constructed in a professional and substantial manner and of substantial material limited to maintenance free material or weather resistant wood, such as pressure treated lumber, cedar or redwood, reasonably suitable for the purpose for which the fence is proposed to be used. The materials and design shall also be compatible with other structures in the area in which the fence is located and shall not cause blight or a negative impact.

Section 16. Section 1001.09, Subd. 11.B of the City Code is hereby amended to add the following provision:

4. All fences require approval from the Zoning Administrator prior to installation and construction.

Section 17. Section 1001.09, Subd. 11.E of the City Code is hereby amended to read as follows:

E. ~~Easements—Public & Private.~~

- ~~1. Utility and Drainage and Utility Easements. Fences may be constructed within public and private utility and drainage easements provided that:~~
- ~~a. The fence and its design is subject to the approval of the Public Works Supervisor.~~
 - ~~b. Removal of the fence or a portion thereof for the purpose of utilizing the easement shall be at the property owner's expense.~~
- ~~2. Maintenance. The city may require a property owner to secure an easement from an abutting property owner for the necessary maintenance of a proposed fence if such structure is located within two (2) feet of the property line.~~

Section 18. Section 1001.09, Subd. 11.F.1 of the City Code is hereby amended to read as follows:

1. ~~Corner Lots. No fence, wall or planting shall rise over three feet in height above the street curb level within twenty feet of any street right-of-way corner, so as to interfere with traffic visibility.~~ Front Yards.
- a. Within front yards or side yards of a corner lot abutting a public right of way the fence shall not exceed forty eight inches (48") in height and shall be at least seventy five percent (75%) open space for the passage of air and light except as provided for by Section 1001.09, Subd. 11.F.1.b of this Chapter.
 - b. A fence with a height greater than forty-eight (48) inches and/or less than seventy-five (75) percent open space may be constructed within the required rear yards and side yard of a corner lot abutting collector or arterial street by administrative permit, provided that:
 - (1) The fence does not exceed six (6) feet in height.
 - (2) The fence is setback ten (10) feet from the lot line abutting a collector or arterial street right-of-way.
 - (3) For interior lots, a gate or other opening is to be provided in the fence to allow for maintenance of the street side boulevard.
 - (4) The fence along a side lot line abutting a collector or arterial street right-of-way shall not extend into a required front yard and be no closer to the front lot line than a point intersecting the front line of the principal building.

Section 19. Section 1001.09, Subd. 12.B.2 of the City Code is hereby amended to read as follows:

2. All buildings in the ~~C-1, C-2, C-3, C-O and I-1~~ and POS District shall be constructed of solid wall masonry, pre-cast concrete, aggregate panels, or wood frame masonry veneer (excluding stucco). Wood and metal exterior may be

allowed as part of window and door frames or fascia treatment of the exterior wall facing design.

Section 20. Section 1001.09, Subd. 13.B of the City Code is hereby amended to read as follows:

- B. ~~Special Permit~~ Administrative Approval Required. All telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead electric transmission lines and substations less than 33 KV, and related structures, when installed in any public right-of-way in any zoning district, shall require ~~a special permit approved by the city council, upon~~ by the Zoning Administrator with recommendation from the City Engineer ~~and Zoning Administrator.~~

Section 21. Section 1001.09, Subd. 13.C of the City Code is hereby amended to read as follows:

- C. Procedural Requirements. All telephone lines, pipelines for local distribution, underground transmission lines, overhead electric transmission lines less than 33 KV, and related structures, which are extended to serve more than one (1) parcel and are proposed to be installed at locations other than in public right-of-way, shall require ~~a special permit issued by the City Council~~ approval by the Zoning Administrator ~~after review with~~ recommendation by the City Engineer ~~and Zoning Administrator.~~ Approval by the City shall be based upon the information required to be furnished in the procedural requirements as outlined in Section 1001.09, Subd. 13D, ~~Installation Requirements of this Section.~~

Section 22. Section 1001.09, Subd. 13.D.1 of the City Code is hereby amended to read as follows:

1. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the City to review the proposed project and agree to pay all costs incurred by the City in review of the application.

Section 23. Section 1001.09, Subd. 13.E.1 of the City Code is hereby amended to read as follows:

1. All receiving or transmission facilities (i.e., facilities not required for local distributing network) and overhead transmission and substation lines in excess of 33KV and up to 100KV shall be a conditional use in all districts subject to the following requirements:
 - a. Adherence to all applicable Federal Aviation Administration (FAA) and State performance standards.
 - b. The performance standards as specified in subsection 3 of this Section are adhered to.
 - c. The procedural and review standards for conditional use permits are followed as specified in Section 1001.03, Subd. 5 of this Chapter.
 - d. Any alteration of an existing use (i.e., building expansion, change/intensification in use, etc.) involving items not identified upon initial approved plans shall require a conditional use permit amendment.

Section 24. Section 1001.09, Subd. 13.E.2 of the City Code is hereby repealed with subsequent Sections renumbered accordingly.

- ~~2. All television, audio, or telephone transmission or receiving facilities which exceed the height limits established by the applicable zoning district and exemptions thereto, shall require a conditional use permit subject to the following requirements:~~
 - ~~a. Adherence to all applicable Federal Aviation Administration (FAA) and State performance standards.~~
 - ~~b. The performance standards as specified in this Chapter are adhered to.~~
 - ~~c. In no case shall the facilities exceed one hundred fifty (150) feet in height.~~
 - ~~d. The procedural and review standards for conditional use permits are followed as specified in Section 1001.03, Subd. 5 of this Chapter.~~
 - ~~e. Any alteration of an existing use (i.e., building expansion, change/intensification in use, etc.) involving items not identified upon approved initial plans shall require a conditional use permit amendment.~~

Section 25. Section 1001.09, Subd. 13.E. of the City Code is hereby amended to include the following provision:

3. This Section shall not apply to overhead electric transmission lines and substations greater than 100kV.

Section 26. Section 1001.09, Subd. 14 of the City Code is hereby repealed in its entirety and replaced with the following provisions:

Subd. 14. Home Occupations.

- A. Purpose: The purpose of this Section is to maintain the character and integrity of residential areas, to prevent competition with commercial districts, to encourage telecommuting, and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood.
- B. Application: All occupations conducted in the home shall comply with the provisions of this section. This section shall not be construed, however, to apply to home occupations accessory to farming, nor home offices as defined by this Chapter.
- C. Procedures:
 1. Administrative Permit:
 - a. Except as required by this section, home occupations shall require approval from the Zoning Administrator issued subject to the conditions of this Chapter, other applicable City ordinances and State law.
 - b. The permit shall remain in full force and effect until such time as there has been a change in conditions or until such time as the provisions of this Section have been breached.

2. Declaration Of Conditions: The Zoning Administrator may impose such conditions on the granting of an administrative permit as may be necessary to carry out the purpose and provisions of this Section.
 3. Effect Of Permit: An administrative permit may be issued for a period of one (1) year, after which the permit may be reissued for periods of up to three (3) years each.
 4. Transferability: Administrative permits shall not run with the land and shall not be transferable.
 5. Lapse Of Administrative Permit B-y Nonuse:
 - a. Whenever within one (1) year after granting an administrative permit, the use as permitted by the permit shall not have been initiated, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Zoning Administrator.
 - b. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to initiate the use.
 6. Renewal Of Permits:
 - a. An applicant shall not have a vested right to renewal of an administrative permit by reason of having obtained a previous permit.
 - b. In applying for and accepting a permit, the permit holder agrees that their monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment.
 - c. Each application for the renewal of a permit will be considered de novo without taking into consideration that a previous permit has been granted. The previous granting or renewal of a permit shall not constitute a precedent or basis for the renewal of a permit.
- D. General Provisions: All home occupations shall comply with the following general provisions and according to definition, the applicable requirement provisions.
1. No home occupation shall produce light, glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
 2. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
 3. Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.
 4. No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and State fire and police recommendations.
 5. All home occupations shall be conducted entirely within the living quarters of the principal dwelling and may not be conducted in any portion of an attached private garage or within accessory buildings.

6. There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.
7. The home occupation shall meet all applicable fire and building codes.
8. There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling with the exception of one (1) sign not to exceed four (4) square feet in area.
9. All home occupations shall comply with the provisions of the City Code regarding nuisances.
10. No home occupation shall be conducted between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.
11. No person other than those who customarily reside on the premises shall be employed by the home occupation.
12. Home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway or guest parking area for multiple-family dwellings, where no vehicle is parked so as to obstruct a public street, sidewalk or trail or private driveway.
13. Allowed home occupations:
 - a. Home occupations include and are limited to:
 1. Business consulting service.
 2. Hair salon.
 3. Instructional classes with not more than one (1) pupil at a time. Additional students receiving instruction at one time may be allowed for single family uses subject to approval of an interim use permit.
 4. Massage therapy.
 5. Photography studio.
 6. Small appliance repair.
 7. Tailoring, sewing and alternations.
 - b. Home occupations shall not involve any of the following:
 1. Repair service or manufacturing which requires equipment other than found in a dwelling.
 2. Services which consists of more than one pupil, client, or customer at a time.
 3. Over-the-counter retail sale of merchandise produced off the premises.

E. Inspection: The City hereby reserves the right upon issuing any home occupation permit to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this Chapter or any conditions additionally imposed.

Section 27. Section 1001.09, Subd. 17.F of the City Code is repealed with subsequent sections renumbered accordingly:

~~F. Temporary Real Estate Sales Offices. A temporary real estate sales office in a model home for sales in an approved development until that development is completed may be approved in conjunction with the final plat. A site plan shall be submitted, including~~

~~signage and parking facilities. Street access shall be from approved internal streets; any public improvements serving the use shall not involve improvements assessable outside the development; signs shall be approved with the site plan; and no residential occupancy shall be certified until the structure has been fully converted to a residence. The use shall be subject to the conditional use permit issuance standards of this chapter.~~

Section 28. Section 1001.09, Subd. 17.F of the City Code is hereby amended to read as follows:

I. Secondary Living Quarters and Accessory Apartments.

1. Secondary Living Quarters. Secondary living quarters that include kitchen facilities for housing multiple generations may be allowed an accessory use within a single family dwelling provided that:

- a. The design and construction of the principal building is not a two-family dwelling as defined by this Chapter.
- b. There shall be an interior connection between the main living area and accessory living quarters that is able to be unlocked from each side of the connection and that is not secured by a deadbolt or keyed lockset.

2. Accessory Apartments. Accessory apartments constitutes a small renters apartment in a single family home which is subordinate to the principal residential use and requires approval of a conditional use permit. The purpose of permitting temporary accessory apartments is to:

- 1a. Provide older homeowners with a means of obtaining, through tenants, in accessory apartments, rental income, companionship, security, and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.
- 2b. Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old.
- 3c. Make housing units available to moderated income households who might otherwise have difficulty finding homes within the town.
- 4d. Develop housing units and single family neighborhoods that are appropriate for households at a variety of stages in the life cycle, thereby lessening fluctuations in the neighborhood demand for particular services such as education.
- 5e. Protect stability, property values, in the single family residential character of the neighborhood by ensuring that temporary accessory apartments are installed only in a owner-occupied house and under such additional conditions as may be appropriate to further the purposes of this ordinance and does not violate the density of the R-1 District.

3. Performance Standards. Secondary living quarters and accessory apartments shall comply with the following requirements:

- a. The principal building shall be served by single municipal water, sanitary sewer, gas and/or electric utility service lines each with a single meter for the respective utility where applicable.
- b. The principal building shall have one (1) heating and air conditioning system.

- c. There shall be three (3) garage stalls having directed exterior access (not in a tandem arrangement) attached to the principal building with a driveway access in front of each stall so as to allow direct vehicle maneuvering to each of the stalls.

Section 29. Section 1001.09, Subd. 19.B.3 of the City Code is hereby repealed:

- ~~3. Compliance: For public health purposes, uses existing on the effective date of this Section, shall come into compliance no later than 1 July 2000.~~

Section 30. Section 1001.09 of the City Code hereby is amended to include the following provisions:

Subd. 23. Antennas.

- A. Purpose. The purpose of this Section is to establish predicable and balanced regulations for the siting and screening of wireless communications equipment, including technology associated with amateur radio service, satellite dishes, personal wireless service, radio or television transmitting antennas, public safety communication, and public utility microwave equipment, in order to accommodate the growth of wireless communication systems within the City while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. The provisions of this Section are intended to maximize the use of existing towers, structures, buildings, and collocations to accommodate new wireless telecommunication antennas in order to minimize the number of towers needed to serve the community.
- B. General Provisions: The following standards shall apply to all cellular telephone, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and shortwave radio transmitting and receiving antennas:
1. All obsolete and unused antennas shall be removed by the property owner within twelve (12) months of cessation of operation at the site, unless an exemption is granted by the Zoning Administrator.
 2. All antennas shall be in compliance with all building and electrical code requirements and as applicable shall require related permits.
 3. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications, and as may be necessary as determined by the zoning administrator and building official, shall be verified and approved by a structural engineer.
 4. When applicable, written authorization for antenna erection shall be provided by the property owner.
 5. No advertising message shall be affixed to the antenna structure or tower.
 6. The height of the antenna shall be the minimum necessary to function satisfactorily, as verified by an engineer or other qualified professional.
 7. Antennas shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
 8. When applicable, proposals to erect new antennas shall be accompanied by any required federal, state, or local agency licenses or permits.
 9. If a new tower is to be constructed, it shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable

antennas for at least one additional use, including, but not limited to, other cellular communication companies, local police, fire and ambulance companies. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

10. Towers under two hundred feet (200') in height shall be painted a non-contrasting color consistent with the surrounding area such as: blue, gray, brown, or silver, or have a galvanized or oxidized finish to reduce visual impact.

11. Provide documentation or studies utilized to determine the necessary location and height of the antenna, including the following analysis:

a. Existing service area of the provider.

b. Service area of the provider including the area at the height limits for an antenna established by this Section.

c. Location, height and ability to collocate on other existing antenna support structures owned by the applicant or other provider capable of providing service to all or a portion of the proposed service area.

12. Tower Design:

a. Wireless communication towers shall be of a monopole design unless the city council determines that an alternative design requested by the applicant would better blend into the surrounding environment. This provision does not apply to amateur radio towers or commercial and public radio or television towers.

b. Except for amateur radio towers, a proposal for a new tower shall not be approved unless the zoning administrator finds that the antennas cannot be accommodated on an existing or approved tower, building, or structure within one mile search radius ($1/2$ mile search radius for towers under 100 feet in height) of the proposed tower due to one or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of the existing or approved tower, building, or structure as documented by a structural engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified engineer and interference cannot be prevented at a reasonable cost.

(3) Existing or approved towers, buildings, or structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified engineer.

(4) Other unforeseen reasons that make it unfeasible to locate the antennas upon an existing or approved tower or structure.

(5) Existing or approved towers, buildings, or other structures do not exist in the service area, or do not meet the needs of the user. Documentation shall be provided at the time of application clearly demonstrating why existing structures do not meet the needs of the users.

(6) The applicant shall demonstrate in writing that a good faith effort to collocate on existing towers or structures was made, but an agreement could not be reached.

13. Setbacks. All towers shall comply with each of the minimum setback requirements:

a. Towers shall meet the principal structure setbacks of the underlying zoning district with the exception of industrial zoning districts, where the tower may encroach into the rear setback area, provided that the rear property line abuts another industrial use and zoning district and the tower does not encroach upon any easements.

b. Setback requirements for all personal wireless service or commercial and public radio and television transmitting antennas, public safety communication antennas, and public utility towers, may be reduced or its location in relation to a public street modified at the discretion of the city council, to allow the integration of the structure into an existing or proposed structure, such as a light standard, power line support device, or similar structure.

C. Accessory and Secondary Use Antennas: The following standards shall apply to all accessory and secondary use antennas including radio and television receiving antennas, satellite dishes, TVROs (television receive only) two meters (2 m) or less in diameter, shortwave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio and television receivers, but not including antennas used in the amateur radio service regulated by this Section.

1. Single satellite TVROs accessory to a residential use shall not exceed one meter (1 m) in diameter.

2. Accessory or secondary use antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements, or buffer yard, and shall be set back a minimum of ten (10) feet from all lot lines.

3. Guywires or guywire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of five (5) feet from all lot lines.

4. Height:

a. The height of accessory or secondary use antennas and necessary support structures or towers, whether freestanding or mounted on another structure, may extend a maximum of fifteen (15) feet above the height restriction for the affected zoning district.

b. A height greater than fifteen (15) feet above the height restriction for the affected zoning district may be allowed by approval of an interim use permit provided that the additional height is the minimum required for the antenna to function properly.

D. Amateur Radio Service Antennas. The following standards shall apply to all accessory use antennas and towers used in the amateur radio service:

1. Exempt Provisions: Antennas and support structures for federally licensed amateur radio stations and used in the amateur radio service shall be exempt from the requirement of subsections Subd. 23.C.3, 6, 9 and 11 of this chapter.

2. Installation Requirements: Antennas and towers used in the amateur radio service shall be installed in accordance with the instructions furnished by the manufacturer of the antenna or tower. Because of the experimental nature of the amateur radio service, antennas mounted on such towers may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
3. Location:
 - a. Amateur radio service antennas and towers shall not be erected in any required yard (except a rear yard) or within a public or private utility and drainage easement, and shall be set back a minimum of ten (10) feet from all lot lines.
 - b. Guywires or guywire anchors shall not be erected within public or private utility and drainage easements or required buffer yard, and shall be set back a minimum of five (5) feet from all lot lines.
4. Tower Design:
 - a. Height:
 - (1) Except as provided for in subsection 4.a(2) of this section, antennas and towers used in the amateur radio service may extend a maximum of two (2) times the maximum height restriction for the specific zoning district when in use. When not in use, such equipment shall be restricted to a height not greater than the height of the principal structure or thirty five (35) feet, whichever is higher.
 - (2) Vertical pole antennas not exceeding three inches (3") in diameter that are utilized in the amateur radio service may extend to a maximum height of forty five (45) feet.
 - b. Fail Points: Amateur radio towers shall have fail points so as to assure that the structure will collapse on the subject site and not extend to and jeopardize life or adjacent property.
5. More Than One Tower: The installation of more than one tower or support structure per property shall require approval of an interim use permit.

E. Personal Wireless Service Antennas.

1. Antennas Located Upon A Public Or Quasi-Public Structure Or Existing Tower: Personal wireless service antennas located upon public structures or existing towers shall require approval of the Zoning Administrator and shall comply with the following standards:
 - a. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a qualified engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the personal wireless service system and to provide adequate wireless coverage and capacity to areas not currently served.
 - b. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be

situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.

c. The antennas shall comply with the following standards:

(1) Antennas mounted on public structures shall not extend more than fifteen (15) feet above the structural height of the structure to which they are attached.

(2) Roof mounted antennas shall not extend more than ten (10) feet above the roof, and shall be set back at least the height of the antenna structure from the roof edge.

(3) Wall or facade mounted antennas may not exceed more than five (5) feet above the roof line and must be constructed of a material or color which matches the exterior of the building.

(4) Antennas may be mounted to quasi-public structures that are allowed to exceed the maximum height requirements of the base district pursuant to subsection Subd. 23.C.12.b of this Section. The location of antennas on such structures may not exceed the height of the structure and must be architecturally compatible in form and color.

2. Antennas Not Located Upon A Public Structure Or Existing Tower: Personal wireless service antenna not located upon a public or quasi-public structure or existing tower shall require the processing of an interim use permit and shall comply with the following standards:

a. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a qualified engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the wireless system and to provide adequate portable coverage and capacity to areas not currently adequately served.

b. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a single ground mounted pole provided that:

(1) The pole does not exceed seventy five (75) feet in height, except as may be allowed by approval of an interim use permit.

(2) The setback of the pole from the nearest residential property line is not less than the height of the antenna. Exceptions to such setback may be granted if a qualified engineer specifies in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances.

c. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.

d. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty percent (50%) shall be provided around the support structure.

- F. Radio, Television and Utility Microwave Antennas: Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:
1. Such antennas shall be considered an allowed interim use within the industrial districts.
 2. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a setback equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.
 3. Unless the antenna is mounted on an existing structure, at the discretion of the City, a fence not greater than eight feet (8') in height with a maximum opacity of fifty percent (50%) shall be provided around the support structure and other equipment.
 4. Towers in excess of one hundred fifty (150) feet may be of a lattice design.
- G. Additional Submittal Requirement: In addition to the information required elsewhere in this Chapter, development applications for towers, excluding amateur radio towers, shall include the following supplemental information:
1. A letter of intent committing the tower owner and their successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
 2. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities when they are abandoned, unused or become hazardous shall be submitted to the City.
- H. Processing: Applications required by this Section to locate a personal wireless service antenna shall be processed in accordance with FCC rules where more restrictive than Minnesota statutes 15.99:
1. The City Council shall act on wireless facility requests within a period not longer than ninety (90) days from submission of the request for collocations of a personal wireless service antenna upon an existing tower or structure.
 2. The time frames for action by the City Council may be extended by mutual consent of the applicant and Zoning Administrator.
 3. An application under this chapter shall not be denied solely on the basis that service is available from another provider.

After reviewing the proposed ordinance amendments, the Planning Commission decided to call for a public hearing.

MOTION was made by Buoy, seconded by Fuller to approve a public hearing on May 9, 2013 to amend ordinance #1001.09.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, PETERSEN-BIORN, SAND AND WERMAN

Adjournment

MOTION TO ADJOURN was made by Buoy, seconded by Petersen-Biorn.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, PETERSEN-BIORN, SAND AND WERMAN

Chair Buoy adjourned the meeting at 7:53 p.m.

Submitted by Audra Etzel, Deputy Clerk