

ORDINANCE 26-

Introduced by Councilor

**AN ORDINANCE AMENDING CHAPTER 50, ARTICLE II, DIVISION 1, SECTION 50.0052**

THE CITY COUNCIL OF ALBERT LEA, MINNESOTA ORDAINS:

SECTION 1. Chapter 50 – Zoning, Article II. – Administration and Enforcement, Division 1. – Generally, Section 50.0052. – Conditional uses, of the Code of Ordinance of the City of Albert Lea, Minnesota is hereby amended to read as follows:

**Sec. 50.0052. – Conditional uses.**

- (a) *Generally.* In addition to those uses specifically classified and permitted in each zoning district, there are certain uses which it may be necessary to allow because of their unusual characteristics or the service they provide to the public. These conditional uses require particular consideration as to their proper location in relation to adjacent established or intended uses or to the planned development of the community. The conditions controlling the location and operation of such conditional uses are established by the following subsections of this section.
- (b) *Authority.* The council shall have the authority, after having received the recommendations of the planning commission, to permit or deny the conditional uses of land or structures or both, if the council finds that the proposed location and establishment of any such use will be desirable or necessary to the public convenience or welfare and will be harmonious and compatible with other uses adjacent to and in the vicinity of the selected site.
- (c) *Procedures.*
- (1) An application, available on request in the city planner's office, shall be filed in triplicate with the city planner and may be made by any governmental office, department, board, or commission or by any person having a freehold interest or a contractual interest which may become a freehold interest applicable to the parcel described in the application.
  - (2) Applications may not be made for noncontiguous or scattered sites. Each site shall require its own application and each application shall be considered on its own merits.
  - (3) A fee set from time to time and a schedule of which is on file in the city clerk's office is authorized for the filing of each such application.
  - (4) A public hearing shall be held on each application within thirty (30) days after submittal of the application to the planning commission. The planning commission shall make its findings based on the following points:

- a. Current and anticipated traffic congestion.
  - b. Population and density.
  - c. Noise.
  - d. Effect on adjoining land values.
  - e. Public health, safety and welfare.
  - f. Aesthetics.
- (5) Notice of the public hearing shall be published in the local newspaper not less than ten (10) days prior to the date of hearing. Such notice shall include the date, time and place of the hearing and a reasonable identification of the subject site.
- (6) All property owners within three hundred fifty (350) feet of the subject site shall be notified by U.S. mail not less than ten (10) days prior to the public hearing. Such notice shall contain the date, time, place and purpose of the public hearing. Upon filing with the city an application for a conditional use permit in the floodplain, the city shall submit by mail to the commissioner of natural resources a copy of the application for proposed conditional use sufficiently in advance so that the commissioner will receive at least ten (10) days' notice of the hearing. A copy of all decisions granting conditional use permits within the floodplain shall be forwarded by mail to the commissioner of natural resources within ten (10) days of such action.
- (7) The planning commission shall present its findings and recommendations to the council within thirty (30) days following the date of the public hearing.
- (8) The council may, upon recommendation of the planning commission, impose such conditions and safeguards upon the premises benefitted by a conditional use permit as may be deemed necessary to prevent injurious effects therefrom upon other properties in the neighborhood. The council shall act on the recommendations of the planning commission within thirty (30) days of their receipt. The council may also request that evidence of sufficient bonding be supplied by the property owner to ensure satisfactory compliance with the conditions established by the conditional use permit.
- (9) There shall be required a five-sevenths (5/7) vote of the council to override a recommendation of denial from the planning commission.
- (10) Denial of a conditional use permit shall constitute a finding that the conditions required for approval do not exist. No application which has been denied wholly or in part shall be resubmitted for a period of six (6) months from the date of the denial, except on new grounds of new evidence or proof of changes of conditions found to be valid by the planning commission. Each resubmission shall constitute a new filing, and a new currently required filing fee shall be paid.

- (11) Upon denial of a conditional use permit, the applicant shall be notified in writing of the denial and the reasons for the denial
- (12) Once the council has approved a conditional use permit, all work related to the permit shall begin within twelve (12) months of the date that the conditional use permit is approved, ~~or the conditional use permit shall be considered invalid.~~ The city council may grant an extension after twelve (12) months provided that all aspects of the original conditional use permit remain the same, including location, construction, screening, landscaping and parking.
- (13) Procedures to be followed in reviewing and approving a conditional use permit within all floodplain districts shall be as follows:
- a. The applicant shall furnish the following information and any additional information as deemed necessary by the city for determining the suitability of the particular site for the proposed use:
    1. Plans drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of such to the location of the stream channel.
    2. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - b. Transmit one (1) copy to each of the following of the information described in subsection (c)(13)a of this section for evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters:
    1. City planner.
    2. City engineer.
    3. Department of natural resources.
    4. Army Corp of Engineers.
    5. U.S. Soil Conservation Service.
    6. County watershed district.
  - c. Based upon the technical evaluation of the agencies enumerated in subsection (c)(13)b of this section, the city shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

- (14) The city shall make its decision regarding the requested conditional use permit subject to all of the requirements of this section and the following:
- a. The danger to life and property due to increased flood heights or velocities caused by encroachment.
  - b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - e. The importance of the services provided by the proposed facility to the community.
  - f. The requirements of the facility for a waterfront location.
  - g. The availability of alternative locations not subject to flooding for the proposed use.
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - i. The relationship of the proposed use to the comprehensive plan and floodplain management programs for the area.
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
  - l. Such other factors which are relevant to the intent of this chapter and chapter 38.
- (15) Conditions attached to conditional use permits. Upon consideration of the factors and findings required in this section, the city shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this section. Such conditions may include, but are not limited to, the following:
- a. Modification of waste treatment and water supply facilities.
  - b. Limitations on period of use, occupancy, and operation.
  - c. Imposition of operational controls, sureties, and deed restrictions.

- d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

That the motion for the adoption of the foregoing resolution was duly seconded by Councilor , and upon a vote being taken thereon, the following voted in favor thereof: Councilors Christensen, Baker, Herman, Olson, Van Beek, Anderson, and Mayor Murray;

And, the following voted against the same: None. Mayor Murray declared the resolution passed.

Introduced and read the first time on the 9<sup>th</sup> day of March, 2026

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Mayor Rich Murray

Filed and attested on the 10<sup>th</sup> day of March, 2026

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Secretary of the Council