

CHAPTER 2. ADMINISTRATION AND ENFORCEMENT

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9-2-1 General Provisions.

- A. *Purpose.* This Chapter is established to set forth the procedures required for the administration of this Title, to outline the powers and duties of the officials and bodies charged with such administration, to establish standards for required land use approvals, and to provide for its enforcement in a manner which adds to the quality of land use and development and protection of the public health, safety, and welfare.
- B. *Compliance with conditions of approval.* All land use approvals made pursuant to this Title shall remain in effect as long as all of the conditions and guarantees of such approval are observed. Failure to comply with such conditions and guarantees shall constitute a violation of this Title and may result in termination of the land use approval.
- C. *Pending applications.* No new application for land use approval for the same project or proposal shall be submitted or accepted until all previous applications for such project or proposal have been finally acted upon or withdrawn.

9-2-2 Duties of Decision-Making Bodies and Officials.

- A. *Zoning Administrator.* Except where otherwise specifically provided in this Title, the Zoning Administrator, or his or her assignee, shall be responsible for the administration, interpretation, and enforcement of the provisions of this Title.
- B. *Development Review Committee.* The Development Review Committee, consisting of City staff members as appointed by the City Administrator, is established to review plans for conformance with the technical requirements of this Title and to make recommendations to the Planning Commission and City Council regarding applications for land use approval.
- C. *Planning Commission.* The Planning Commission, as established and organized under Title 2, Chapter 1 of the Savage City Code, shall have the advisory and decision-making powers granted to it as identified within this Chapter and elsewhere in this Title.

9-2-3 General Application Procedures.

- A. *Submittal forms.* All applications for land use approval shall be made on forms approved by the City and available from the Zoning Administrator.
- B. *Pre-application conference.* A pre-application conference with the Zoning Administrator shall be required prior to submission of any application for land use approval. The purpose of the conference is to acquaint the applicant with applicable procedure and Title requirements, to provide for an exchange of information regarding the proposed project, and to identify potential

opportunities and constraints for development of a given site.

- C. *Submission of technical studies.* The City may require applicants for land use approval to submit such technical studies as may be necessary to enable the Planning Commission and City Council to evaluate the application. Such studies may include, but not be limited to, traffic studies, engineering studies, environmental impact assessments, and economic impact reports. The costs of such studies shall be borne by the applicant, with the persons or firms preparing the study approved by the Zoning Administrator.
- D. *Completeness of application.* No application for land use approval shall be deemed complete until all items that are required in support of the application have been submitted. In cases where an application is determined to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within ten (10) days from the date of submission, specifying the items of information that are needed.
- E. *Application and submission deadlines.* The Zoning Administrator shall administratively set submission deadlines for all applications requiring public hearing. Compliance with such deadlines shall generally be required in order to have the application placed on an agenda to be heard by the Planning Commission. At the discretion of the Zoning Administrator, non-agenda items may be brought before the Planning Commission for consideration, provided, however, that the Planning Commission may refuse to hear a non-agenda item at its sole discretion.
- F. *Application fees.* Fees for all applications provided for in this Title shall be established by resolution of the City Council and are non-refundable, except when an application is withdrawn by the applicant prior to notice of public hearing.
- G. *Required action by review bodies.* Pursuant to Minnesota Statutes 15.99, any application for zoning approval shall be approved or denied within sixty (60) days from the date of its official and complete submission, unless extended pursuant to Statute or a time waiver is granted by the applicant. If applicable, processing of the application through required state or federal agencies shall extend the review and decision-making period an additional sixty (60) days unless the applicant waives this limitation.
- H. *Reconsideration of land use approval applications.* No application for land use approval that has been denied by the City Council, in whole or in part, shall be reconsidered for a period of six (6) months from the date of City Council action on the application, except on grounds of new evidence or proof of a change in conditions.
- I. *Judicial review.* Any person aggrieved by a decision or order of the City Council acting pursuant to this Title may have such decision or order reviewed by the District Court, subject to the provisions of State law.

9-2-4 Public Hearings.

- A. *Public notice.* For all land use applications requiring a public hearing as set forth in this Title, notice of the public hearing shall be given in the following manner. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this Section has been made.
 - 1. *Newspaper of general circulation.* The Zoning Administrator shall publish notice of the time, place, and purpose of the public hearing at least once, not less than ten (10) days nor more than thirty (30) days before the hearing, in a legal newspaper of general circulation. For purposes of computing time, both the day of publication and the day of the public hearing shall be excluded.
 - 2. *Affected property owners.* Except in the case of zoning text amendments or zoning map amendments affecting an area greater than five (5) acres, the Zoning Administrator shall mail notice to all owners of record of property located in whole or in part within three hundred fifty (350) feet of the boundaries of the subject property, as identified in the records of the Scott County Assessor's office, not less than ten (10) days nor more than thirty (30) days before the hearing. It shall be the applicant's responsibility to provide an

abstractor's certificate showing the names and addresses of all property owners within said notification area. Such certificate shall be submitted concurrent with other required application materials.

- B. *Notification regarding natural resources.* When an application for a conditional use permit, variance, appeal, zoning amendment, expansion of a non-conforming use, or other similar land use review relates to the Floodplain or Shoreland Overlay Districts, as established in Chapters 19 and 21, the Zoning Administrator shall submit to the Minnesota Commissioner of Natural Resources a written notice of public hearing at least twenty-one (21) days in advance of the hearing.
- C. *Procedures.* All hearings conducted shall be open to the public. Any person may appear and testify at a hearing either in person or by duly appointed agent or attorney. Upon the conclusion of public input, the review body shall announce its decision or recommendation or shall continue the matter to a subsequent meeting. No additional public notice shall be required once the public hearing on an item has been opened. The review body shall keep minutes of its public hearings, and shall also keep records of its official actions. Decisions of the review body shall be filed in the office of the Zoning Administrator.
- D. *Continuances.* Any applicant or authorized agent may request the continuance of a public hearing, provided that a written request is filed with the Zoning Administrator at least two (2) business days prior to the date of scheduled public hearing. The Planning Commission and City Council, upon majority vote, may grant a continuance upon good cause, provided that the record indicates the reason for such continuance, any conditions placed upon said continuance, and the date on which the item will be considered. At the discretion of the Planning Commission or City Council, re-notification of public hearing may be required.
- E. *Notice to applicant regarding decision.* The Zoning Administrator shall notify the applicant for any land use approval, in writing, of the City Council's decision within ten (10) days. In the event that the request for approval was denied, the letter shall clearly state the reasons for such denial.

9-2-5 Appeals.

- A. *Appeals of decisions by administrative staff.* All findings and decisions of the Zoning Administrator or other official involved in the administration of this Title shall be final subject to appeal to the Planning Commission, except as otherwise provided by this Title. Any affected person may initiate such a request by filing an appeal with the Zoning Administrator on an approved form. All appeals shall be filed within sixty (60) days of the date of the decision. The Planning Commission shall hold a public hearing on each complete application for appeal and, after the close of the hearing, shall make findings and submit its recommendations to the City Council.
- B. *Action by the City Council on appeals.* The City Council, acting as the Board of Appeals and Adjustments, shall make the final decision regarding all appeals requests. Approval shall require a majority vote of the City Council.
- C. *Expiration of appeal.* If substantial development or construction has not taken place within one (1) year of the date of approval of an appeal, such appeal shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the appeal and shall state facts showing a good faith effort to complete work permitted under the original approval.

9-2-6 Zoning Amendments.

- A. *Purpose of zoning amendments.* Amendments to the text of the this Title and the Official Zoning Map are made for the purpose of promoting the public health, safety, and general welfare, and in consideration of changing conditions, conservation of property values, the trend of development, and the current and anticipated future uses of property.
- B. *Initiation of zoning amendments.* Amendments shall be initiated by the City Council, Planning Commission, or by petition of any person with a legal or equitable interest in a property, as follows:
 - 1. *Amendments initiated by petition.* An application for amendment to the zoning

classification of a particular property shall be filed with the Zoning Administrator on an approved form and be accompanied by an accurate boundary survey of the property, concept development plan, and any other information determined by the Zoning Administrator to be necessary for review of the request.

2. *Amendments initiated by the City Council or Planning Commission.* The City Council or the Planning Commission may initiate amendments to the text of this Title or to the zoning classification of specific properties in the manner provided by Minnesota Statutes 462.357.
- C. *Hearing on zoning amendments.* The Planning Commission shall hold a public hearing on each valid and complete application for zoning amendment and all amendments initiated by the City Council or Planning Commission. After the close of the hearing on a proposed zoning amendment, the Planning Commission shall make findings, pursuant to Section 9-2-6-E, and shall submit the same together with its recommendations to the City Council.
- D. *Action by the City Council on zoning amendments.* The City Council shall make the final decision regarding all zoning amendments. Amendment of this Title or the zoning district boundaries shall require a majority vote of the City Council, provided however that when a proposed zoning district revision involves a change from a residential designation to a commercial or industrial designation, a two-thirds (2/3) majority vote shall be required.
- E. *Required findings on zoning amendments.* The City Council shall make each of the following findings before granting approval of a request to amend this Title or to change the zoning designation of an individual property:
 1. The proposed amendment is consistent with the applicable policies of the City's Comprehensive Plan.
 2. The proposed use is or will be compatible with present and future uses of land in the area.
 3. The proposed use conforms to all performance standards contained herein and in the City Code.
 4. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
 5. The existing zoning classification was designated in error or there have been significant changes in neighborhood development patterns or community goals and policies that render the existing zoning inappropriate.

9-2-7 Conditional Use Permits

- A. *Purpose of conditional use permits.* A conditional use permit is a zoning device that is intended as a means of reviewing uses that, because of their unique characteristics, require special consideration with respect to the objectives of the Comprehensive Plan and with respect to impact on surrounding properties. A conditional use permit is granted for the particular use of a specific property, and may be transferred to subsequent owners so long as the use does not change.
- B. *Application for conditional use permit.* Any person having a legal or equitable interest in a property may file an application for such use when it is identified as a conditional use within the zoning district in which the property is located. An application for a conditional use permit shall be filed with the Zoning Administrator on an approved form. A written description of the proposed use, boundary survey and a detailed site plan, including information as specified in Section 9-2-10-E, shall also accompany the application form unless specifically waived by the Zoning Administrator.
- C. *Hearing on application for conditional use permit.* The Planning Commission shall hold a public hearing on each complete application for a conditional use permit. After the close of the hearing on a proposed conditional use, the Planning Commission shall make findings, pursuant to Section 9-2-7-E, and shall submit the same together with its recommendations to the City Council.
- D. *Action by City Council on conditional uses.* The City Council shall make the final decision regarding all applications for conditional use. Approval of the conditional use permit shall require a majority vote of the City Council.

- E. *Required findings for conditional use permits.* The City Council shall make each of the following findings before granting a conditional use permit:
1. The conditional use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare.
 2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
 3. The conditional use will be designed, constructed, operated, and maintained in a manner that is compatible in appearance with the existing or intended character of the surrounding area.
 4. The conditional use will not impose hazards or disturbing influences on neighboring properties.
 5. The conditional use will not substantially diminish the value of neighboring properties.
 6. The site is served adequately by essential public facilities and services, including utilities, access roads, drainage, police and fire protection and schools or will be served adequately as a result of improvements proposed as part of the conditional use.
 7. Adequate measures have been or will be taken to minimize traffic congestion in the public streets and to provide for adequate on-site circulation of traffic.
 8. The conditional use is consistent with the applicable policies and recommendations of the City's Comprehensive Plan or other adopted land use studies.
 9. The conditional use, in all other respects, conforms to the applicable regulations of the district in which it is located.
- F. *Established conditions of approval.* The City Council may establish any reasonable conditions of approval that are deemed necessary to mitigate adverse impacts associated with the conditional use, to protect neighboring properties, and to achieve the objectives identified elsewhere in this Title.
- G. *Site improvement performance agreement and financial guarantee.* The applicant, as may be applicable, shall be required to guarantee completion of all improvements as shown on the approved site plan and as required by the conditional use permit approval. Such guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as specified in Section 9-2-10-L.
- H. *Revocation of conditional use permit.* Failure to comply with any condition set forth as part of conditional use permit approval shall constitute a violation of this Title and is subject to the enforcement process identified elsewhere in this Title. Continued non-compliance shall also constitute grounds for revocation of the conditional use permit, as determined by the City Council following a public hearing on the matter.
- I. *Expiration of conditional use permits.* If substantial development or construction has not taken place within one (1) year of the date of approval of a conditional use permit, such permit shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the conditional use permit and shall state facts showing a good faith effort to complete work permitted under the original approval.
- J. *Discontinuance of conditional use permits.* Where a conditional use has been established and is discontinued for any reason for a period of one (1) year or longer, or where a conditional use has been changed to a permitted use or to any other conditional use, the conditional use permit shall be deemed to be abandoned.

9-2-8 Interim Uses.

- A. *Purpose of interim uses.* An interim use is a use not currently allowed by this Title, which may be

permitted as a temporary use of property in the following cases:

1. To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction.
 2. To allow a use which 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 conditional use allowed within the respective district.
 3. To allow a use which is reflective of long-range change in an area and which is in compliance with the Comprehensive Plan, provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.
- B. *Authorization of interim use.* The City Council may approve an interim use of property as defined and authorized by Minnesota Statutes 462.3597.
- C. *Application for interim use.* Any person having a legal or equitable interest in a property may file an application to use such land for one (1) or more interim uses. An application for interim use shall be filed with the Zoning Administrator on an approved form and shall be accompanied by such information as is requested by the Zoning Administrator to facilitate review.
- D. *Hearing on application for interim use.* The Planning Commission shall hold a public hearing on each valid and complete application for an interim use as provided in Section 9-2-4. After the close of the hearing on a proposed interim use, the Planning Commission shall make findings, pursuant to Section 9-2-8-F, and shall submit the same together with its recommendations to the City Council.
- E. *Action by City Council on interim uses.* The City Council shall make the final decision regarding all applications for interim use. Approval shall require a majority vote of the City Council.
- F. *Interim use findings.* The City Council shall make the following findings in order to approve an interim use:
1. The proposed use meets the standards of a conditional use permit is established in Section 9-2-7-E.
 2. The proposed use conforms to applicable general performance standards identified in Chapter 4.
 3. The use is allowed as an interim use in the respective zoning district.
 4. The date or event that will terminate the use can be identified with certainty.
 5. The use will not impose additional unreasonable costs on the public.
 6. The user agrees to any conditions that the City Council deems appropriate for permission of the use.
- G. *Termination of interim use.* An approved interim use shall terminate upon the occurrence of any of the following events:
1. The termination date or event specified with approval of the interim use.
 2. Any violation of the conditions under which the interim use was approved.
 3. A change in this Title that would render the use non-conforming.
- H. *Expiration of interim use permits.* If the authorized use has not commenced within one (1) year of the date of approval of the interim use permit, such permit shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the interim use permit and shall state facts showing a good faith effort to complete work permitted under the original approval.
- I. *Site improvement performance agreement and financial guarantee.* The applicant, as may be applicable, shall be required to guarantee completion of all improvements as shown on the

approved site plan and as required by the interim use permit approval. Such guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as specified in Section 9-2-10-L.

9-2-9 Variances.

- A. *Purpose of variances.* Variances are intended to provide a means of departure from the literal requirements of this Title where strict adherence would cause undue hardship due to special conditions or circumstances unique to a site. It is not the intent of this Section to allow a variance for a use that is not permitted within a particular zoning district.
- B. *Application for variance.* Any person having a legal or equitable interest in a property may file an application for one (1) or more variances. An application for a variance shall be filed with the Zoning Administrator on an approved form and shall be accompanied by a boundary survey, site plan and any other information deemed necessary by the Zoning Administrator to facilitate review.
- C. *Hearing on application for variance.* The Planning Commission shall hold a public hearing on each valid and complete application for a variance. After the close of the hearing on a proposed variance, the Planning Commission shall make findings, pursuant to Section 9-2-9-E, and shall submit the same together with its recommendations to the City Council.
- D. *Action by City Council on variances.* The City Council shall make the final decision regarding all applications for variance from the provisions of this Title. Approval shall require a majority vote of the City Council.
- E. *Required findings for variance.* The City Council shall not vary the regulations of this Title unless it makes each of the following findings based upon the evidence presented to it in each specific case:
1. Because of the particular physical surroundings, or the shape, configuration, topography, or other conditions of the specific parcel of land involved, strict adherence to the regulations of this Title would cause undue hardship. Economic consideration alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Title.
 2. The conditions upon which a variance is based are unique to the parcel of land for which the variance is sought and are not applicable, generally, to other properties within the same zoning classification.
 3. The alleged difficulty or hardship is caused by this Title and has not been created by any persons presently having an interest in the parcel of land.
 4. The granting of the variance will not alter the essential character of the locality or be injurious to other property in the vicinity in which the parcel of land is located or substantially diminish property values.
 5. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or public safety.
 6. The requested variance is the minimum action required to eliminate the hardship.
- F. *Variance conditions and guarantees.* The City Council may impose such conditions on any proposed variance as it deems reasonable and necessary to protect the public interest and to ensure compliance with the standards and purposes of this Title and the City's Comprehensive Plan.
- G. *Site improvement performance agreement and financial guarantee.* The applicant, as may be applicable, shall be required to guarantee completion of all private improvements as shown on the approved site plan and as required by the variance approval. Such guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as specified in Section 9-2-10-L.
- H. *Expiration of variance.* If substantial development or construction has not taken place within one (1) year of the date of approval of a variance, such variance shall be considered void unless a

petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the variance and shall state facts showing a good faith effort to complete work permitted under the original approval.

9-2-10 Site Plan and Building Design Review

- A. *Purpose.* The purpose of this Section is to establish a formal site plan review procedure for commercial, industrial, institutional, and multiple-family development projects and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Title.
- B. *Exemptions.* Except in those cases specifically cited in this Title, the following shall be excepted from the requirements of this Section:
1. Single-family and two-family dwellings.
 2. Minor revisions or additions to existing structures, provided that the proposed modifications do not exceed thirty (30) percent of the floor area of said structure or ten-thousand (10,000) square feet, whichever is less.
 3. Accessory structures, provided that all standards established in Section 9-4-10 are satisfied.
- C. *Sketch plan.* Prior to formulation of a site plan, an applicant may present a sketch plan to the Zoning Administrator prior to filing of a formal application. The Zoning Administrator shall have the authority to refer said plan to the Planning Commission and/or City Council for discussion, review, and informal comment. Any opinions or comments provided to the applicant are to be considered advisory only and shall not constitute a binding decision on the request. The plan is intended to be conceptual but shall be drawn to scale with topography of a contour interval not greater than two (2) feet and may include the following:
1. The proposed site with reference to existing development, topography, and drainage conditions on adjacent properties, at least to within two-hundred (200) feet.
 2. Natural features.
 3. General location of existing and proposed structures.
 4. Tentative access, circulation and street alignments, both public and private.
 5. Amenities to be provided such as recreational areas, open space, walkways, and landscaping.
 6. General location of parking areas.
 7. Proposed public sanitary sewer, water and storm drainage.
 8. A statement showing the proposed density of the project with the method of calculating said density also shown.
 9. Other items as may be deemed necessary by the Zoning Administrator.
- D. *Application for site plan approval.* Any person having a legal or equitable interest in a property may file an application for site plan approval. Such application shall be filed with the Zoning Administrator on an approved form and shall be accompanied by a boundary survey, a site plan including information specified in Section 9-2-10-E, and any other information deemed necessary by the Zoning Administrator to facilitate review.
- E. *Required information.* The following exhibits shall accompany each application for site plan review, unless specifically waived by the Zoning Administrator:
1. Site boundaries, buildings, structures and other improvements shall be identified on site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:

- a. Scale of plan, at one (1) inch equals fifty (50) feet or less.
 - b. North point indication.
 - c. Existing boundaries with lot dimensions and area.
 - d. Existing site improvements.
 - e. All encroachments.
 - f. Easements of record.
 - g. Legal description of the property.
 - h. Ponds, lakes, rivers or other water features bordering on or running through the subject property.
2. A site plan utilizing a copy of the current certificate of survey as a base for the subject property, depicting the following:
- a. Name and address of developer/owner.
 - b. Name and address of architect/designer.
 - c. Date of plan preparation.
 - d. Dates and descriptions of all revisions.
 - e. Name of project or development.
 - f. All proposed improvements, including:
 - (1) Required and proposed setbacks.
 - (2) Location, setback, and dimensions of all proposed buildings and structures.
 - (3) Location of all adjacent buildings located within one-hundred (100) feet of the exterior boundaries of the property in question.
 - (4) Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles.
 - (5) Location, number, and dimensions of proposed loading spaces.
 - (6) Location, width, and setbacks of proposed curb cuts and driveways.
 - (7) Vehicular circulation.
 - (8) Sidewalks, trails, and walkways.
 - (9) Location and type of all proposed lighting, including details of all proposed fixtures.
 - (10) Location of recreation and service areas.
 - (11) Location of rooftop equipment and proposed screening.
 - (12) Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.
 - (13) Location, size, and type of water and sewer system mains and proposed service connections.
3. A grading/stormwater management plan in accordance with the provisions established in Chapter 26.
4. A landscaping and screening plan in accordance with the provisions of Chapter 25.
5. Other plans and information as required by the Zoning Administrator including but not limited to:

- a. Architectural elevations, color drawings or renderings, and sample building materials of all principal and accessory buildings, identifying type and color of materials used on all exterior surfaces.
 - b. Typical floor plan and room plan drawn to scale with a summary of square footage for each use or activity.
 - c. Type, location, and size of all proposed signage.
 - d. Vicinity map showing the property in relation to near by highways or major street intersections.
 - e. Sound source control plan.
- F. *Review procedures.* The Zoning Administrator shall forward the site plan to the Planning Commission for review. The site plan shall be evaluated based on its compliance with the Comprehensive Plan, provisions of this Title, and other applicable City codes and policies, with a recommendation made to the City Council.
- G. *Action by City Council on site plans.* The City Council shall make the final decision regarding all applications for site plan approval. Approval shall require a majority vote of the City Council.
- H. *Relationship to building permit.* Upon approval of the site plan by the City Council, the Building Official will be authorized to release a building permit for the proposed project pursuant to adopted building and fire codes. The site plan approval process does not imply compliance with the requirements of said building and fire codes.
- I. *Plan agreements.* All site and construction plans officially submitted to and approved by the City Council shall be treated as a formal agreement between the applicant and the City of Savage. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard, or specification without prior submission of a plan modification request.
- J. *Plan modifications.* The Zoning Administrator may approve minor revisions to a previously approved site plan if they are warranted by engineering or other circumstances that were not foreseen at the time the plans were approved. All other revisions, including changes to approved building materials and/or colors, will require approval by the City Council in accordance with the review procedures established in this Chapter.
- K. *Expiration of site plan.* Unless otherwise specified, the approved site plan shall become null and void within one (1) year of the date of approval unless the property owner or applicant has substantially commenced construction of any building, structure, addition or alteration, or use requested as part of the approved plan or unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the site plan and shall state facts showing a good faith effort to complete work permitted under the original approval.
- L. *Site improvement performance agreement and financial guarantee.* Following the approval of a site plan required by this Title and prior to issuance of a building permit, the applicant, if deemed necessary by the City Council, shall guarantee to the City the completion of all improvements as shown on the approved site plan and as required by the site plan approval. This guarantee shall be made by means of a site performance agreement and a financial guarantee as provided below:
1. The applicant shall execute the site performance agreement on forms provided by the City. The agreement shall define the required work and reflect the terms of this Chapter as to the required guarantee of the performance of the work by the applicant.
 2. The required work includes, but is not limited to, private exterior amenities such as landscaping, turf establishment, private driveways, parking areas, curb and gutter, recreational facilities, wetland buffers, erosion control, fences and screening, and other similar facilities. The required work shall also include all aspects of the tree preservation plan, if applicable.
 3. A financial guarantee shall be submitted with the executed site performance agreement as provided herein:

- a. Financial guarantees acceptable to the City include cash escrow, an irrevocable letter of credit, or other financial instrument that provides equivalent assurance to the City and which are approved by the Zoning Administrator.
 - b. The term of the financial guarantee shall be for the life of the site improvement performance agreement, and it shall be the applicant's responsibility to insure that a submitted financial guarantee shall continue in full force and effect until the Zoning Administrator shall have approved and accepted all of the work undertaken to be done and shall thereby have released the guarantee or reduced the amount of the guarantee as provided in this Chapter.
 - c. When any instrument submitted as a financial guarantee contains provision for an automatic expiration date, after which the instrument may not be drawn upon, notwithstanding the status of the site performance agreement or of the required work, it shall be the applicant's responsibility to notify the City in writing, by certified mail, at least sixty (60) days in advance of the expiration date of the intent to either renew or to not renew the instrument. If the instrument is to be renewed, a written notice of extension shall be provided at least thirty (30) days prior to the expiration date. If the instrument is not to be renewed, and has not been released by the Zoning Administrator, another acceptable financial guarantee in the appropriate amount shall be submitted at least thirty (30) days prior to the expiration date. Upon receipt of an acceptable substitute financial guarantee, the Zoning Administrator may release the original guarantee.
 - d. The amount of the financial guarantee shall be established by the Zoning Administrator based upon an itemized estimate of the cost of all required work as provided by the applicant. A cash escrow or irrevocable letter of credit shall be in the amount of one-hundred twenty-five (125) percent of the approved estimated cost. The amount of any other approved financial instrument shall be determined by the Zoning Administrator.
 - e. At the option of the City the applicant may submit a separate financial guarantee for that portion of the required work consisting solely of landscaping improvements with another financial guarantee for all other exterior amenities and improvements that comprise the work. All trees shall be warranted to be alive, of good quality, and disease-free for twelve (12) months from the time of planting. Any subsequent replacement shall be warranted for twelve (12) months from the time of planting.
4. The time allowed for completion of the required improvements shall be set forth in the site performance agreement. This agreement and the financial guarantee shall provide for forfeiture to the City to cure a default or reimburse the City the cost of enforcement measures. As the applicant completes various portions of such required work, the Zoning Administrator may release such portion of the financial guarantee as is attributable to such completed work. Landscaping improvements shall not be deemed complete until the City has verified survivability of all required plantings through one (1) winter season, defined for the purposes of this Section as the period between October 31 and April 30.
 5. The applicant shall notify the Zoning Administrator in writing when all or part of the required improvements have been completed in accordance with the approved plan and may be inspected. Upon receipt of such notice, the Zoning Administrator shall be responsible for the inspection of the improvements to determine that the useful life of all work performed meets the standards for the particular industry, profession or material used in the performance of the work. Any required work failing to meet such standards shall not be deemed to be complete and the applicant shall be notified in writing as to required corrections. Upon determination that required work has been completed, including the winter season survivability of landscape plantings, notice shall be given to the applicant of the date of completion and action taken by the Zoning Administrator to release, or to reduce the amount of, the financial guarantee.

9-2-11 Enforcement.

This Title shall be enforced by the Zoning Administrator, who is authorized to take any appropriate actions or proceedings against a violator as provided by statute, charter, or ordinance. Such activities may include, but not be limited to, the following:

- A. Periodic inspection of buildings, structures, or uses of land to determine compliance with the terms of this Title.
- B. Notification, in writing, of any person responsible for violating a provision of this Title, indicated the nature of the violation and ordering the action necessary to correct it.
- C. Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions or alterations; order discontinuance of illegal work being done; or take any other action authorized by this Title to insure compliance with or to prevent violation of its provisions, including cooperation with the City Attorney in the prosecution of complaints.
- D. Seek immediate enforcement, without prior written notice, whenever it is determined that an emergency exists in relation to the enforcement of a provision of this ordinance which requires immediate action to protect the health, safety, or welfare of occupants of any structure, or the public.

9-2-12 Violation.

Any person who violates any of the provisions of this Title shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under State law. Each day that a violation is permitted to exist shall constitute a separate offense.