Lanesboro Planning & Zoning Commission
Regular Meeting Agenda
Wednesday, August 19, 2026 – 6:00 p.m.
Lanesboro City Council Chambers

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However, due to potential technical issues, full functionality is not guaranteed.
https://us02web.zoom.us/j/87349495987?pwd=ux3f20B2DvNEzVlV1rM0aZCKLgPhHw.1
Meeting ID: 873 4949 5987 | Passcode: 833122

6:00 p.m. – Public Hearing

- Application to re-zone parcel ID 190205000: Request by Michelle Leon and Steve Neuharth for zoning amendment to classify parcel ID 190205000 as C-1 Downtown Commercial District. The property is located at 109 Elmwood Street East, Lanesboro, Minnesota.

Call to Order

A. Agenda Approval
Motion _____ **Second** _____
B. Public Comments
C. Consent Agenda
   a. Minutes of Regular Meeting, July 15, 2026
Motion _____ **Second** _____

Continued Business

A. Discuss Regulation of Data Centers

New Business

A. Consider Zoning Amendment Application for Parcel ID 190205000
Motion _____ **Second** _____

Next Meeting: Wednesday, September 16, 2026 at 6:00 p.m.

Adjourn Regular Meeting

Commissioners: Alicia Pearson, Michael Seiler, Jeff Lepper, Aaron Gage and Jonathan Levine

Lanesboro Planning and Zoning Commission
Regular Meeting Minutes
Wednesday, July 15, 2026 – 6:00 p.m.
Lanesboro City Council Chambers

Members Present:
☐ Aaron Gage ☒ Jeff Lepper ☒ Jonathan Levine ☒ Alicia Pearson ☐ Michael Seiler
Staff:
☒ Mitchell Walbridge ☒ Darla Taylor

Public Hearing: Lot split application for Parcel ID 190221000
Member Lepper called the public hearing to order at 6:00 p.m.

- Terry Campbell commented on the sewer and water utility service access points for the proposed lot. Campbell also stated he thinks an existing fence on the property encroaches beyond the property line of the parcel.
- Patricia Capua commented it is her intention to use the back part of the existing lot for construction of a single-family dwelling.

Member Lepper closed the public hearing at 6:05 p.m.

Member Seiler called the regular meeting to order at 6:05 p.m.

A. **Agenda Approval:** A motion was made by Member Lepper to amend the agenda to put New Business ahead of Continued Business; Member Levine seconded the motion. All members voted in favor; motion carried.
   A motion was made by Member Levine to approve the amended agenda; Member Pearson seconded the motion. All members voted in favor; motion carried.
B. **Public Comments:** No public comments were shared.
C. **Consent Agenda:**
   a. Minutes of Regular Meeting, June 17, 2026
   A motion was made by Member Levine to approve the Consent Agenda; Member Pearson seconded the motion. All members voted in favor; motion carried.

New Business

A. **Consider Simple Lot Split Application for Parcel ID 190221000:** A motion was made by Member Lepper to open discussion on the application; Member Levine seconded the motion. All members voted in favor; motion carried.
   Zoning Administrator Walbridge explained that the applicant's intent to build a single-family dwelling would likely require one if not two variances to be granted from the zoning code. No variance applications were submitted to date. After a process review with the city attorney, Administrator Walbridge recommended tabling the lot split application without prejudice to allow the applicant to submit any variance applications as well. This would allow the Zoning Commission and the City Council to consider the entire development plan comprehensively.
   A motion was made by Member Lepper to table consideration without prejudice; Member Levine seconded the motion. During discussion, members of the commission agreed they would like to see all zoning applications and considerations as one comprehensive approval package. All members voted in favor; motion carried.
B. **Consider Rescheduling August 19, 2026, Regular Meeting:** Administrator Walbridge explained that a change in meeting date is no longer needed due to the lot split application discussion being tabled to the next regular meeting of the commission. No action was taken.

Continued Business

DRAFT

A. **Discuss Regulation of Data Centers:** As requested by the commission, Administrator Walbridge presented an overview of state and local regulatory processes on data centers. A motion was made by Member Pearson to table discussion; Member Lepper seconded the motion. During discussion, the commission agreed that they would like staff to conduct further research into example ordinances. All members voted in favor; motion carried.

A motion was made by Member Pearson to adjourn the meeting; Member Levine seconded the motion. All members voted in favor; motion carried.

The meeting adjourned at 6:36 p.m.

Respectfully submitted,

Mitchell Walbridge
City Administrator/City Clerk

DRAFT

CITY OF HARMONY

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY CODE TO ESTABLISH REGULATIONS GOVERNING DATA CENTER DEVELOPMENT WITHIN THE CITY OF HARMONY.

SECTION 1. PURPOSE AND INTENT

The purpose of this ordinance is to establish clear regulatory standards governing the development and operation of data center facilities within the City of Harmony; protect public health, safety, and welfare; preserve Harmony's rural character and environmental resources; ensure responsible management of water, air, and land resources; and provide transparent regulatory standards for developers, utilities, and the public.

SECTION 2. APPLICABILITY

This ordinance applies to data centers, data center campuses, cryptocurrency mining facilities, and associated data center utility infrastructure located within the City of Harmony. Such facilities shall be permitted only within the Industrial Technology (IT) zoning district established by this ordinance.

SECTION 3. DEFINITIONS

Data Center: A facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer or network equipment, systems, servers, appliances, and other associated components related to digital data operations. The facility may also include air handlers, power generators, cooling or temperature-control systems, utility substations, and other associated infrastructure necessary for sustained operations.

Data Center Campus: a facility comprised of more than one principal Data Center, and includes any Data Center accessory structures or uses, and other systems, equipment, piping, conduit and other ancillary equipment, structures, and other appurtenances that are incidental to and/or needed for the construction, support, operation, repair, maintenance, or security of the Data Center(s) or the data center campus.

Data Center Energy Systems: means energy generation and storage systems, including electrical generators or engines, electric substations, transformers, back-up power generators, battery energy storage systems, used or intended to be used as sources of electrical power during normal operations, or as back-up temporary power when the main source of power is interrupted; electric transmission and distribution lines; and pipelines.

SECTION 4. INDUSTRIAL TECHNOLOGY ZONING DISTRICT

4.1 Purpose

Data center uses are highly variable in size, scope, impact, and potential issues, and all such variables may have differential impacts on existing and future land uses, or on the City's land use plans and regulations. Data center uses also often entail significant electrical demand and specialized infrastructure requirements. The purpose of the Industrial Technology zoning district is to provide for, and regulate, data center development in appropriate locations, specifically within areas zoned as Industrial Districts.

4.2 Applicability

All data center or data center campus development within the City of Harmony shall be regulated by this section.

4.3 Permitted Principal Uses and Structures.

Permitted principal uses and structures within the Industrial Technology District are those permitted principal uses and structures identified in Section 604.1 for Industrial Districts.

4.4 Permitted Accessory Uses and Structures.

Permitted accessory uses and structures within the Industrial Technology District are those permitted accessory uses and structures identified in Section 604.1 for Industrial Districts.

4.5 Conditional Uses.

The following are conditional uses in the Industrial Technology District and require an Industrial District Conditional Use Permit meeting the procedural and performance standards of this ordinance, and all generally applicable standards of the Harmony Zoning Ordinance:

(a) Data Center

(b) Data Center Campus

(c) Cryptocurrency mining facilities of any size.

(d) Expansion of an approved conditional use that results in an increase in electrical demand, square footage, or infrastructure capacity.

4.6 Approval Criteria, Conditional Use Permit.

No Conditional Use Permit within the Industrial Technology District shall be approved unless the land has been zoned Industrial Technology. Application for rezoning to Industrial Technology District and for a Conditional Use Permit may run concurrently.

No permit for work within the Industrial Technology District as approved by the Conditional Use Permit may be issued until the applicant has demonstrated compliance with all of the Industrial Technology District Performance and Design Standards and has met the assigned conditions of approval to the satisfaction of the City.

4.7 Environmental Review

If an EAW, EIS or AUAR is applicable for the proposed Industrial Technology District project under State law, such review must be completed. Individual components of an Industrial Technology development which may require separate environmental review as regulated by State law may be completed after application.

SECTION 5. INDUSTRIAL TECHNOLOGY DISTRICT CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

Proposals for an Industrial Technology District Conditional Use Permit shall include at least the information below to be considered complete. All costs of application and preparation of submission materials, including required studies, are borne by the applicant.

1. A project narrative, including:

    (a) Statement outlining the applicant's proposed objectives for the Data Center site, and public values that will be achieved by the project by phase (if applicable) including general projections for tax base, building valuation, sustainability in operations and site design, employment creation or other community benefits.

    (b) Statement of how the project will meet each of the Performance and Design Standards as required by this ordinance.

    (c) A narrative description of proposed Data Center site uses and operations, including anticipated or known accessory or temporary uses.

    (d) If the proposed Data Center site is to be developed in phases, a proposed phasing of full proposed Data Center site development, including number of phases, development timeline for each phase and for the full proposed Data Center site.

2. A proposed site development plan, identifying and/or illustrating:

(a) The proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, and date of plan preparation or revision.

(b) The legal boundaries of each separate parcel comprising the proposed site.

(c) The zoning classification for all lands within 1 mile of the external perimeter property lines of the proposed Data Center site.

(d) The location of proposed improvements, including but not limited to:

i. Data Center and accessory uses or structures

ii. Data Center Energy Systems

iii. Parking

iv. Lighting

v. Screening/buffering

vi. Perimeter fencing, and

vii. All ground-mounted equipment and utility infrastructure

(e) Evidence of compliance with all applicable setback requirements

(f) Estimated square footage calculation of full usable/buildable area within the Data Center site.

(g) Total maximum impervious surface coverage within the Data Center site.

(h) Easements and rights-of-way within or adjacent to the subject Data Center site property boundary, including detail on ingress and egress from the subject site to abutting or adjacent public right of ways.

(i) Location, width, and names of existing and proposed streets and rights of way within and immediately adjacent to the subject Data Center site property boundary and all connection points to public right of ways.

3. Delineation and functional assessment of wetlands and/or watercourses over the proposed Data Center site property and within 200 feet of the external perimeter property lines of the proposed Data Center site dated within the last five years.

4. Delineation of the ordinary high-water levels of all water bodies.

5. A Utility Impact Plan, which shall include:

   (a) Identification of annual electricity demand, energy storage capacity (if applicable), and proposed back-up power.

   (b) A site plan showing structures/facilities to be constructed to support operations, including water, wastewater, electric, natural gas, other infrastructure, and public utility service facilities.

   (c) Identification and description of any existing or proposed transmission lines and other facilities that would be required in order to connect the proposed facilities to the grid, and any permits or other approvals needed to support such construction.

   (d) Identification of any existing or proposed pipelines or gas transmission lines.

   (e) A description of any power sources proposed to be constructed or sited and operated, including emissions profile, noise, copies of applications for any required state or federal air permits.

   (f) Information concerning any proposed grid interconnection.

   (g) Documentation, including written verification from the applicable service providers, demonstrating that:

      i. Public utility capacity and related electrical infrastructure is or will be sufficient in size and capacity to ensure that the power requirements of the proposed project can safely be accommodated without adverse effect on the availability, reliability, quality, cost, or safety of the electric service to other customers.

      ii. Any system designed for cooling and operation of the facility will meet all applicable standards of this ordinance as well as state and federal law.

      iii. Water, stormwater, and wastewater management and treatment capacity is or will be sufficient to ensure that the requirements of the proposed project can be accommodated without adverse effects on the availability, reliability, quality, cost, or safety of the water, wastewater, and stormwater management and treatment services to other customers.

      iv. Any enhancements or improvements required in order for such utility services to continue to be available without adverse effect or additional cost to existing customers will be in place before operation of the proposed project.

6. A Water and Wastewater Management Plan, which shall include:

    a. Projected daily and peak water demand.

    b. The source(s) of the water supply, including certification from any public water supplier that it will supply the daily and peak water need and that the demand can be met without adverse effect on the availability, quality of service, potability of the water, or other qualitative or quantitative impacts on existing customers.

    c. Documentation that the Data Center design and equipment has incorporated technology and best practices to minimize water waste, maximize efficiency of water use, and to reclaim and recycle water to the extent possible.

    d. Documentation that any improvements to the water or wastewater utility infrastructure needed to serve the proposed Data Center will be paid for by the applicant.

    e. Documentation that only a closed-loop water or liquid cooling system or air-based cooling system will be used.

7. An ambient noise study prepared by a third-party engineer, which shall include:

    a. Assessment of baseline ambient levels of noise before construction, measured in all directions at the external perimeter property lines on which the Data Center is proposed to be located and any related activity is proposed to be conducted, and at the nearest Noise Area Classification ("NAC") 1 receiver as defined in Minn. R. 7030.0050, subp. 2.

    b. An acoustical study prepared by a qualified noise consultant showing:

        i. Expected daytime and nighttime sound levels, including generator noise and other equipment noise, modeled at multiple distances and at the external perimeter property lines.

        ii. Specific recommended mitigation measures to ensure compliance with the Minnesota Pollution Control Agency ("MPCA") noise standards established in Minn. Rules Ch. 7030, and to minimize disturbance caused by low-frequency noise and vibrations.

        iii. The study must include both A-weighted (dBA), C-weighted (dBC), and Z-weighted measurements, with full frequency spectra to identify low-frequency and tonal components.

    c. The City shall require the applicant to conduct post construction compliance test, during operation, within six months of beginning operation to verify the actual sound levels and the effectiveness of constructed mitigation measures. The test must utilize the same

methodology used for the initial acoustical study. If the review finds that post construction noise exceeds the maximum permissible sound levels at any external perimeter property boundaries or the locations used during the initial acoustical study or mitigation measures to address low frequency noise or vibrations are inadequate, the applicant shall be required to develop and submit for review and approval, mitigation measures to bring noise levels within acceptable limits.

d. The City may order an additional noise study once per year during peak operation of the Data Center facility. The Data Center operator must provide the results of the noise study, conducted by a third-party engineer, to the City within 30 days of the request by the City or show proof that they have contracted with a third-party engineer, and the results will be available in a reasonable amount of time.

    i. Where any noise study identifies greater than maximum permissible sound levels at any external perimeter property boundary, the City may, after reasonable notice and an opportunity to cure the conditions contributing to the exceedance, suspend or revoke the conditional use permit

8. A traffic study assessing the impact of the Data Center facility construction and operation on road and rail traffic to and within the Data Center site.

9. List all other permits and authorizations needed for construction and operation of the Data Center and include copies or links to the applications.

SECTION 6. INDUSTRIAL TECHNOLOGY DISTRICT PERFORMANCE AND DESIGN STANDARDS

Any development within the Industrial Technology District shall comply with the standards as follows and such standards shall be adopted as part of the ordinance. Any deviation from these standards requires approval of a variance.

6.1 Building Standards

1. Minimum Lot Size. Data Centers over 100,000 square feet in gross floor area shall have a minimum lot area of 5 acres.

2. Maximum Height. Data Centers and freestanding accessory structures or uses may not exceed 60 feet in height. The maximum height shall be inclusive of rooftop appurtenances and rooftop accessory uses.

3. Data Centers and all accessory uses and structures shall be arranged, designed, and constructed to be harmonious and compatible with the site and with the surrounding properties.

4. Data Center building exterior finishes shall consist of materials compatible in grade and quality to the following:

    a. Decorative rock face block.
    b. Glass.
    c. Cast in place concrete or pre-cast concrete panels.
    d. Brick.

5. Accessory building exterior finishes shall consist of materials compatible in grade and quality to the following:

    a. Decorative rock face block.
    b. Glass.
    c. Cast in place concrete or pre-cast concrete panels.
    d. Brick.
    e. Exterior insulated finish systems.

6. All buildings must be constructed to minimize glare or reflection on adjacent properties and roadways and should use appropriate textured glass, anti-reflective coating, and screening.

7. Data Center equipment may be ground mounted or roof top mounted.

6.2 Parking

1. One parking space shall be required for each employee, based upon the number of employees projected to work during the largest shift, plus 5 spaces for visitors.

6.3 Electricity Demand

1. Total energy use for any Data Center or Data Center Campus shall not exceed 55 megawatts of power.

6.4 Water Use Standards

1. Data Center facilities must employ a closed-loop water or liquid cooling system, or an air-based cooling system, that results in zero net water withdrawal and no wastewater discharge. Data Center facilities must not employ evaporative or open-loop cooling systems.

2. Annual domestic water use shall not exceed 60,000 gallons unless approved by the City following verification that water is not used for cooling.

3. Facilities shall install dedicated water meters and submit annual water consumption reports.

6.5 Noise Standards

1. Data Center facilities are subject to and must comply with all criteria outlined in Section 5(7) of this ordinance.

2. Noise levels from the operation of the Data Center or any accessory uses shall comply with Minnesota Rules 7030.0040 through 7030.0080 (L10 and L50 standards).

3. Data Center facilities shall be designed and built to incorporate sound mitigation methods to reduce sound levels emanating from the Data Center, or any appurtenant or accessory use.

6.6 Setback, Buffer and Screening Standards

1. Setback Requirements. All Data Centers and accessory uses or structures, other than transmission and distribution powerlines, pipelines delivering electricity or natural gas to the property, and ingress/egress for road and rail traffic, shall be located:

    a. At least 300 feet from all external perimeter property lines of the Data Center regardless of the zoning classification of the adjacent property.

    b. At least 500 feet from residential property lines or the boundary of any Residential, Commercial, or Agricultural District.

    c. Where necessary to ensure compliance with the noise limits provided in Section 6.5 at the external perimeter property boundary, or to minimize visual impact, the City may require a greater setback distance.

2. Buffer and Screening Requirements.

    a. Buffer areas shall include vegetative screening, berms, fencing, or other visual barriers as required by the City.

    b. All Data Centers and accessory uses or structures, other than transmission and distribution powerlines, pipelines delivering electricity or natural gas to the property, and ingress/egress for road and rail traffic, shall be screened on all sides from all existing public roads, as well as adjoining properties, utilizing a mixture of screening materials, berms, and landscaping. Screening shall be designed to provide year-round visual buffering, and may be accomplished using any combination of the following:

        i. Vegetative buffers
        ii. Berms
        iii. Fencing
        iv. Architectural walls
        v. Landscape screening

c. Trees or shrubs used for screening must block visibility by at least eighty (80) percent throughout the entire year. The effective screening height of the trees or shrubs shall be at least four (4) feet in height at the time of planting.

d. Rooftop and wall-mounted equipment shall be fully screened when viewed from a comparable grade from adjoining properties and from public roads via screening walls or parapets which match the building materials of the building on which they are located.

e. Fencing or walls shall be constructed of maintenance-free vinyl fencing or ornamental metal such as wrought iron or comparable brick, stone, masonry, or decorative stamped and colored concrete, which mimics brick, stone or masonry.

f. Chain-link fencing may be used for security purposes and shall be black or black-coated vinyl and shall not include slats.

g. The owner and operator of any Data Center shall have an affirmative and continuing duty to ensure that all buffering/screening standards and requirements are maintained on an ongoing basis.

6.7 Lighting Standards

All exterior lighting associated with Data Centers or accessory uses or structures shall comply with the following standards:

1. Exterior lighting levels measured at the external perimeter property line shall not exceed one (1) foot-candle. Lighting levels shall be measured using standard photometric methods at ground level along the property boundary

2. Lighting shall be designed and installed to minimize glare, light trespass, and skyglow.

3. All exterior lighting fixtures shall be fully shielded and directed downward.

4. Lighting shall be designed to illuminate only the intended area and shall not spill onto adjacent properties or public rights-of-way.

6.8 Generator Operation Standards

1. Permitted Generator Use. Backup generators may only be operated for the following purposes:

    a. Backup or emergency electrical supply when the primary source of electricity is interrupted or unavailable. Continuous generator use outside of power outages or interruptions is prohibited.

    b. Routine maintenance or readiness testing of generator equipment.

2. Testing Restrictions.

    a. Generators shall be tested no more than once per week per generator, and testing shall be capped at 100 hours per generator per calendar year.

    b. Testing shall only occur during the hours of 8:00 A.M. to 4:00 P.M., Monday through Friday.

    c. The City may require additional restrictions where testing creates noise impacts to adjacent properties.

3. All generator systems shall comply with applicable Minnesota Pollution Control Agency (MPCA) and U.S. Environmental Protection Agency (EPA) emissions standards. All backup diesel generators shall meet Tier 4 EPA emission standards.

SECTION 7. ANNUAL OPERATIONAL REPORTING

Data Center operators shall submit an annual operational report to the City on or before _____, each calendar year, which includes the following:

1. Annual electricity consumption
2. Peak electricity demand levels
3. Total generator runtime
4. Annual water consumption
5. Emissions inventory

If the operator fails to comply by the set annual reporting deadline a late-fee in an amount set by the City will be assessed.

SECTION 8. COMMUNITY BENEFIT AGREEMENT

The City may require an applicant for a conditional use permit to enter into a Community Benefit Agreement (“CBA”) intended to offset the impacts and costs of Data Center development on City resources and infrastructure including, but not limited to environmental resources, emergency responders (fire, emergency medical services and police), roadways and transportation infrastructure, water and sanitary sewer systems, and local government administration. To facilitate this intended purpose, the terms of the CBA may include, but are not limited to:

1. Public infrastructure improvements.
2. Creation of or improvements to public park and recreation facilities.
3. Donation of first responder equipment or training.
4. Protection or preservation of natural resources, including, but not limited to, farmland, undeveloped forest or grassland, or waterways.

5. Monitoring of environmental conditions on and around the Data Center site.
6. Mitigation of community impacts identified in any environmental review, or study, plan or assessment.
7. Costs of City staff or consultants associated with the technical review of application or permitting materials, or monitoring of Data Center facility development and operation.
8. Fees in lieu of any of the foregoing items.

SECTION 9. PERMIT REVOCATION AND DEFAULT

9.1 Default.

A conditional use permit holder shall be considered in default if any of the following occur:

1. Failure to comply with conditions of the conditional use permit.
2. Failure to comply with any provision of this ordinance.
3. Failure to maintain financial assurance, escrow accounts, or required reporting.
4. Failure to correct violations within the timeframe specified by the City.

9.2 Notice of Violation.

If the City determines that a violation has occurred, the City shall issue a written notice of violation identifying:

1. The nature of the violation
2. The required corrective actions
3. Timeframe for compliance

The notice of violation shall also inform the recipient of the right to request a hearing before the City Council to appeal the notice of violation. An appeal request pursuant to this Section must be submitted in writing to the City within seven (7) days of the date of the notice of violation. A hearing on the requested appeal must be held by the City Council within thirty (30) days of the date of the notice of violation.

9.3 Corrective Action.

The conditional use permit holder shall have thirty (30) days from the date of the notice of violation to correct violations unless the City determines, in its sole discretion, that immediate corrective action is necessary to protect public health, safety, and welfare. In the event, an appeal is requested, the 30-day time-period for corrective actions shall not begin until a decision is issued by the City Council on the appeal.

9.4 Enforcement Actions.

If the conditional use permit holder fails to correct a violation within the timeframe specified herein, the City may take enforcement action following a public hearing to be held by the City Council. Such enforcement actions may include:

1. Civil penalties or fines
2. Order to suspend of operations
3. Revocation of the conditional use permit
4. Legal action to enforce ordinance requirements

9.5 Revocation.

Following a public hearing held by the City Council, the City may revoke a conditional use permit if violations identified in the required notice of violation are not corrected or if continued operation of the Data Center facility poses a risk to public health, safety, or welfare. Upon revocation, the operator shall cease operations and initiate decommissioning procedures in accordance with the approved decommissioning plan.

SECTION 10. Transparency

City staff and officials, including City Council, Board or Commission members, shall not enter into any confidentiality or non-disclosure agreement regarding Data Center proposals, including Data Center applications or permits, that limit lawful public transparency and compliance with the Minnesota Government Data Practices Act, except as required by law for the protection of protected proprietary or trade secret information.

ORDINANCE 865

CITY OF MONTICELLO
WRIGHT COUNTY, MINNESOTA

AN ORDINANCE AMENDING THE MONTICELLO CITY CODE, TITLE XV, LAND USAGE, CHAPTER 153: ZONING ORDINANCE, SECTIONS 153.012 DEFINITIONS, 153.045 INDUSTRIAL BASE ZONING DISTRICTS, 153.046 OVERLAY ZONING DISTRICTS, 153.090 USE TABLE, 153.091 USE-SPECIFIC STANDARDS, 153.092 ACCESSORY USE STANDARDS TO ESTABLISH A DATA CENTER PLANNED UNIT DEVELOPMENT ZONING DISTRICT

***THE CITY COUNCIL OF THE CITY OF MONTICELLO HEREBY ORDAINS*:**

Section 1. Section §153.012, Definitions, is hereby amended to add or amend the following:

Data center, accessory. A use which is incidental and subordinate in both area and extent to a principal use of property and which serves the principal use for the purpose of storage, management, processing, and transmission of digital data, which houses computer or network equipment. Such accessory use shall not include any mechanical equipment not fully shielded by building walls and shall not include any external power generation equipment.

Data center. A facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer or network equipment, systems, services, appliances, and other associated components related to digital data storage and operations, together with its accessory and appurtenant facilities, which may also include offices, air handlers, back-up power generators, water cooling systems and water storage facilities, utility substations, and other associated infrastructure necessary to support sustained operations at a data center. The term Data Center shall not include accessory digital data computing facilities as defined by this ordinance which are not the principal use of a property in extent or area but which perform similar functions. The term Data Center shall not include data mining as defined by this ordinance.

Data center campus. A facility comprised of more than one principal data center building, but otherwise interconnected by power supply, communication systems, power generation or other operational systems to form a unified Data Center facility. This definition may include, but shall not be limited to, “Technology Campus”, “Cloud Computing Center”, “Information Technology Campus”, and similar phrases and terms. May include accessory and appurtenant facilities as defined by this ordinance for “data center”. The term data center campus shall not include data mining as defined by this ordinance.

Data center floor area ratio (DCFAR). The floor area ratio for a data center or data center campus facility shall be defined as the ratio obtained by dividing the total gross floor area of the principal and accessory data center building(s) within the Data Center Planned Unit Development by the total net land area of the proposed Data Center Planned Unit Development, where net land area is defined as the gross land area of the Data Center Planned Unit Development less the square footage of stormwater ponding or public waters (measured from ordinary high water level), wetlands (measured from the delineation line), easements necessary for public improvements, right of way required to be platted for any purpose, and land area for required setbacks and perimeter buffer yards established per this ordinance. Accessory uses or structures which are not buildings such as electrical substations, parking areas, etc. shall not be considered eligible floor area. All measurements shall be to the nearest 1/10th of an acre.

Data mining. A temporary or portable structure used primarily for the storage, management, processing, and transmission of digital data, specifically including but not limited to cryptocurrency, which houses computer or network equipment, systems, services, appliances, and other associated components related to digital data storage and operations. Such facilities are less than 20,000 square feet individually or when assembled in multiple temporary or portable structures and are not constructed of customary industrial building materials such as concrete panels, masonry block, brick or other similar materials. These facilities include no permanent employment on-site.

Section 2. Section §153.045, Industrial Base Zoning Districts, is hereby amended to add the following:

(F) ***Data Center Planned Unit Development (DCPUD) Zoning District***

(1) *Purpose.* The City Council finds that data center uses are highly variable in size, scope, impact, and potential issues, and all such variables may have differential impacts on existing and future land uses, or on the City's land use plans and regulations. The purpose of the Data Center Planned Unit Development (DCPUD) Zoning District is to provide for, and regulate, Data Center development in appropriate locations, specifically within areas that are otherwise designated for Light Industrial Park land uses in the Monticello Comprehensive Plan (2040 Vision + Plan), as it may be amended. It is the intent of this ordinance that all costs of development and infrastructure attributable to data center development, if approved, shall be borne by the data center developers, owners, and/or operators, and that approvals, if granted, shall

provide for financial guarantees in this regard as a condition of any such approvals. There shall be no inherent right to rezoning to DCPUD.

(2) *Applicability.* All data center or data center campus development within the City of Monticello shall be regulated by this section.

(3) *Approval Criteria, Rezoning.* No land shall be zoned as DCPUD unless the application is found consistent with all of the following factors, or if inconsistent, where the City Council specifically finds that the facility as proposed has mitigated any inconsistent factor.

(a) Land is guided as Light Industrial Park in the City's applicable Comprehensive Plan.

(b) Land is zoned I-1 (Light Industrial District) in the City's applicable zoning ordinance if within the municipal boundary of the City of Monticello at the time of application for rezoning.

(c) The applicant will demonstrate that the project will be served with and connected to City sanitary sewer and water supplies for specified data center demands and is able to demonstrate to the satisfaction of the City that the DCPUD will not create shortages in the capacity of the City's sanitary sewer and water supplies or create an inability to provide adequate utility service in other existing or planned areas of the City, including the Monticello Orderly Annexation Area.

(d) The applicant will provide financial guarantees for the installation of all municipal utilities, transportation, and any other public services or infrastructure necessary to support the DCPUD, and for any infrastructure improvements or mitigation for the expected public infrastructure impact or capacity increase created or required by the DCPUD, and will identify a timeline satisfactory to the City for the submission of payments and securities for such infrastructure.

(e) The applicant will provide the necessary financial guarantees to extend necessary municipal utilities to the DCPUD site, and if developed in phases will avoid the stranding or incomplete extension of municipal infrastructure resources to the furthest extent of the DCPUD or other extension point as determined by the City. Except where expressly approved by the City Council, all public rights of way or easements shall be dedicated and/or extended to limits of the property zoned DCPUD to facilitate extension to adjoining property as a part of first-phase of development.

(f) The applicant will demonstrate that the project will be adequately served with electricity supplies for the specified data center demands from the local electric power supplier as required by phase if applicable and demonstrates power supply capacity to existing property owners in the City and planned areas of the City, including the Monticello Orderly Annexation Area.

(g) The applicant demonstrates that the project will provide adequate vehicular and non-vehicular transportation facilities, such as roadways, pathways, sidewalks or similar, to serve the project and will adequately extend such facilities to serve adjoining future development areas.

(h) The DCPUD will not displace other land uses the City deems important for the stable, long-term growth of the community, including other industrial lands or other lands critical to the achievement of the City's long-range development goals, and the City determines that absorption of land area for data center development is appropriate based on the City's industrial and other long-range land use development goals as described in the Monticello 2040 Plan and other adopted City planning documents.

(i) The DCPUD will provide identifiable public benefits, including the creation and maintenance of tax base, and will avoid negative impacts such as those identified in this section, over the long term.

(j) The DCPUD identifies and demonstrates adequate compliance with the provisions of this section and State law for exterior impacts perceptible from the boundaries of the facility, including but not limited to those for noise and lighting impacts.

(k) The DCPUD will demonstrate compliance with all other applicable sections of this chapter.

(l) All applicable State Pollution Control Agency, Department of Natural Resources, Department of Health, and Department of Transportation requirements are met to the City's satisfaction.

(m) The DCPUD will not conflict with other elements of the City's Comprehensive Plan.

(4) *Approval Criteria, Conditional Use Permit.* No Conditional Use Permit within the DCPUD shall be approved unless the land has been zoned DCPUD. No permit for work within the DCPUD as approved by the DCPUD Conditional Use Permit may be issued until the applicant has demonstrated compliance with all

of the DCPUD Minimum District Performance Standards and has met the assigned conditions of approval to the satisfaction of the City

(5) *Principal uses*. Principal uses allowed in the DCPUD are as follows, subject to an approved DCPUD Conditional Use Permit meeting the procedural and performance standards of this section, and all generally applicable standards of the Monticello Zoning Ordinance:

(a) Data Center.

(b) Data Center Campus.

(6) *Accessory uses*. The following accessory uses are permitted uses in the DCPUD, subject to the procedural and Minimum District Performance Standards of this section, and all generally applicable standards of the Monticello Zoning Ordinance.

(a) Offices and office buildings.

(b) Security buildings.

(c) Support facilities such as outdoor generators, mechanical or electrical equipment, electrical substations and transmission structures, or similar elements which are necessary to support the principal use.

(d) Off-Street Parking, subject to the requirements of the Monticello Zoning Ordinance Section §153.067 per Parking Schedule #2.

(e) Signs, Fencing, and Off-Street Loading subject to the provisions of this chapter, except as otherwise prohibited or regulated by this section.

(f) Roof-mounted solar-energy systems or green-roof installations.

(g) EV charging stations.

(h) Wireless telecommunication service antenna and support structure(s) necessary to the function of the DCPUD, subject to the requirements of this section for setback and height.

(i) Any other use that is subordinate to and serving the principal use and customarily incidental to the principal use. Such use shall be authorized by DCPUD Conditional Use Permit.

(7) *Prohibited uses.* The following uses are specifically prohibited in the DCPUD:

(a) The use of cargo or shipping containers, railroad containers, semi-trailer containers, and other similar storage containers, or any building that does not meet the building standards of this section, except that metal

post-frame buildings for the purpose of construction activities may be authorized under the temporary use requirements of this section.

(b) Commercial wind energy systems.

(c) Commercial telecommunication towers as defined by this chapter.

(d) Ground-mounted solar energy systems.

(e) Outdoor storage as defined by this chapter.

(f) Data mining as defined by this ordinance.

(8) *Temporary uses.* Temporary uses shall be permitted uses within the DCPUD subject to the Minimum District Performance Standards of this section. Such uses are limited to:

(a) Temporary construction staging areas and construction activities directly related to the applicable phase of development.

(b) Temporary buildings intended solely for the storage of construction materials and construction offices directly related to the applicable development phase, or to the replacement of materials and equipment for the DCPUD.

(9) *Environmental Review.* If an EAW, EIS or AUAR is applicable for the proposed DCPUD project under State law, such review must be completed prior to application. Individual components of a DCPUD development which may require separate environmental review as regulated by State law may be completed after application. Such review is subject to the applicable provisions of this chapter.

(10) *Minimum district performance standards*. Any development within the DCPUD shall comply with the standards as follows and such standards shall be adopted as part of the DCPUD ordinance. Any deviation from these standards requires approval of a variance, which shall be reviewed in accordance with §153.028.

(a) The minimum data center floor area ratio (DCFAR) for the DCPUD and any individual phase of the DCPUD shall be as follows. At no time shall any individual developed phase of the DCPUD be constructed at an FAR of less than these standards, exclusive of the extent of approved site grading limits.

<100 acres	0.25
100-199 acres	0.24
200-299 acres	0.23

300-399 acres	0.22
400-499 acres	0.21
500+ acres	0.20

(b) The minimum setback for all principal and accessory structures and/or uses shall be as follows. Any appurtenant elements shall be subject to the principal use setbacks as follows.

Table X-X					
Structure or Use	Setback from DCPUD Property Line to Structure or Use within DCPUD (Setbacks also applicable for parcels adjacent to the DCPUD boundary but for intervening street easement or ROW) The greater applicable setback for an adjacent parcel shall apply.				
	Parcels used for principal agricultural uses only	Parcels used, guided or zoned for residential, civic/institutional or mixed-uses	Parcels owned by a government entity for public parkland or public recreational purposes	Parcels guided or zoned commercial	Parcels guided or zoned industrial
Principal building structure(s) when any mechanical equipment and support facilities such as generators and cooling systems are: • fully screened by principal building(s), or • surrounded by a solid wall structure from all points of the	100’	200’, except that for sites over 300 gross acres, setback shall be 300’	200’	100’	100’

DCPUD boundary, or • located within a principal building(s), or • ground mounted on or along an interior façade of the site's principal structure(s)					
Principal building structure(s) when any mechanical equipment and support facilities including generators or cooling systems is oriented to any exterior portion of the principal building structure(s) and is not: • fully screened by principal building(s), or • surrounded by a solid wall structure from all points of the DCPUD boundary, or • located within a principal building(s), or • ground mounted on or along an interior façade of the site's principal structure(s)	200'	500', except that for sites over 300 gross acres, setback shall be 700'	500'	200'	100'

In such case, the applicable setback for such accessory use equipment shall be as follows:					
	200’	500’, except that for sites over 300 gross acres, setback shall be 700’	500’	200’	100’
Off-Street Parking (including drive aisles)	100’	150’	150’	50’	50’
Off-Street Loading Facilities	100’	150’	150’	100’	100’
Fences or Walls	May be placed at any location, except such fences or walls may not be located within a drainage and utility easement without an approved license agreement or within a designated wetland buffer area.				
Other Accessory Buildings and Structures (exceptions: lighting)	50’	100’	100’	50’	50’

(c) The maximum height for principal and accessory structures shall be 50’. Accessory and temporary structures shall not exceed 25’ in height.

i. Appurtenant structures may not exceed the maximum height for principal or accessory structures as set above.

ii. Private telecommunication antenna within the DCPUD may exceed this height up to a maximum of 100’.

iii. Electrical substation equipment within the DCPUD are exempt from this height requirement.

(d) Principal building exterior finishes shall consist of materials compatible in grade and quality to the following:

i. Decorative rock face block.

ii. Glass.

iii. Cast in place concrete or pre-cast concrete panels.

iv. Brick.

(e) Accessory building exterior finishes shall consist of materials compatible in grade and quality to the following:

i. Decorative rock face block.

ii. Glass.

iii. Cast in place concrete or pre-cast concrete panels.

iv. Brick.

v. Exterior insulated finish systems.

(f) Temporary uses within the DCPUD shall be subject to the following standards:

i. Setbacks shall be established by the City within the adopted DCPUD ordinance.

ii. All temporary construction staging areas must be fully paved.

iii. Temporary buildings or uses, specifically including construction staging areas must be fully screened in accordance with the standards of this section.

iv. The maximum height of temporary buildings or structures shall be 25’.

v. Construction offices shall be consistent with building materials requirements of this section for accessory uses.

vi. Temporary construction activities within the DCPUD shall be subject to operational hours of 8 AM – 7 PM, Monday-Saturday and shall be subject to the lighting standards of this chapter.

(g) The DCPUD shall be designed and built to incorporate sound mitigation methods to reduce sound levels emanating from the DCPUD. Sound emanating from the facility, or from any appurtenant or accessory use or element of the facility shall be in compliance with and regulated by the State of Minnesota pollution control standards and rules.

i. Prior to approval, an Ambient Noise Study shall be submitted by a third-party engineer identifying current noise sources and determining whether existing levels meet or exceed MPCA levels, and which provides calculations which can be compared to future

proposed equipment levels to evaluate changes to ambient conditions.

ii. Prior to commencement of operation of the DCPUD principal use facilities, the operator must conduct an additional noise study, preparing calculations for proposed equipment to determine noise levels as measured at the property line of neighboring property to the DCPUD or other noise sensitive uses as reasonably determined by the City. Where results exceed limits, the operator of the DCPUD shall be required to submit plans which detail the installation of sound mitigation measures within the DCPUD boundary which are necessary to compliance with MPCA noise rules.

iii. Upon commencement of the operation of the DCPUD, the operator of a DCPUD must provide a liaison to respond to complaints about noise emanating from the DCPUD.

iv. An additional sound study shall be completed once per year during peak operation of the DCPUD mechanical equipment upon commencement of operation of the DCPUD principal use facilities. Such study shall utilize similar locations and methods used in the Ambient Noise Study for comparison purposes. The DCPUD operator must provide the results of the noise study, conducted by a third-party engineer, to the City within 30 days of the request by the City or show proof that they have contracted with a third-party engineer and the results will be available in a reasonable amount of time.

v. Pursuant to City Code 130.09(D), the City may require a Noise Impact Statement for low-frequency sound emissions and demonstrate mitigation plans consistent with the recommendations of the Statement.

(h) Back-up power generators within the DCPUD may only be used for back-up electrical supply during a power outage. Curtailment of power supply or voluntary shutdown of power is not considered a power outage.

i. Testing of generators may only occur between the hours of 8 AM and 5 PM, Monday through Friday. A testing schedule must be filed and approved annually with the City no later than January 15 of each year.

ii. On-site fuel storage for back-up power generators shall be subject to the accessory structure setback, height limitations, and screening requirements of this section. Such storage shall comply with all MPCA and State Fire Marshal requirements, all other permit, testing and

listing requirements, and all applicable codes and standards such as NFPA 58.

(i) All site lighting must meet the requirements of §153.063. Lighting, and is subject to the following additional requirements:

i. Illumination must be 0.0 footcandles at the property line abutting properties used, zoned or guided for residential, civic or institutional, recreational, or parkland uses.

ii. No external light source shall be located closer than 50’ from any property line of a parcel used, zoned or guided for residential, parkland or recreational uses.

iii. Security plan exemption provisions of §153.063(G) are not eligible for areas zoned DCPUD.

(j) Any outdoor facilities or equipment such as back-up generators, parking and private circulation areas, temporary construction staging areas and temporary buildings or structures, other mechanical equipment regardless of location, security or chain link fencing when located within 200’ of the DCPUD property line, or any other similar outdoor facilities shall be fully screened to 100% opacity when viewed at comparable grade from abutting property used, zoned, or guided for residential or recreational uses, and from the public right of way, with the exception of designated entrance points. Screening is subject to the following additional requirements and exceptions:

i. Landscaping materials used for screening may be counted toward the minimum site landscaping requirements of this chapter.

ii. Landscaping utilized for screening must be designed by a qualified landscape architect to meet the opacity requirements within 3 years of planting.

iii. Screening may be accomplished through individual or combination use of fencing or walls which meet the materials requirements of this section, landscaping, and/or berming.

iv. Landscaping materials and berming used for screening may be located within the required structure setback; fences and walls are subject to the structure setback above.

v. In all cases, fences or walls used for screening purposes must install the required perimeter buffer landscaping materials of this section on the exterior side of the wall.

vi. Chain link fence with slats shall not be used for screening purposes.

(k) All trash enclosures and storage must be located within a building meeting the materials requirements of this section.

(l) Rooftop and wall-mounted mechanical equipment shall be fully screened when viewed at comparable grade from adjoining properties, and from the public right of way via screening walls or parapets which match the building materials of the building on which they are located.

(m) Site landscaping shall meet the required minimum site landscaping standards of this chapter, with the additional requirements or exceptions follows:

i. The DCPUD shall provide for established sodding or seeding in all ground cover areas not otherwise used for tree or shrub plantings except as exempted for approved native plantings.

ii. The DCPUD shall provide irrigation systems for all landscaped areas except as exempted for approved native plantings.

iii. The DCPUD shall not be required to install island delineation landscaping as required by this Chapter.

iv. The use of native species is encouraged.

(n) A perimeter buffer shall be installed around the entire perimeter of the DCPUD District and maintained for the duration of DCPUD facility operation as follows:

i. Installation of such buffer shall be required regardless of any intervening or abutting roadway or public right of way.

ii. The required perimeter buffer for the DCPUD perimeter boundary shall be installed and completed with the first phase of development and prior to any other construction within the DCPUD, within the exception of the location of designated construction entrance(s).

iii. Such buffer must include a berm of a minimum height of 10’ above the adjacent roadway centerline elevation or property line elevation directly adjacent (whichever is higher.

iv. Evergreen canopy tree species meeting the size requirements of this chapter shall be planted in two rows of 6’ on-center staggered intervals along the entire buffer and located on the exterior down-slope of the required berm.

v. The perimeter buffer may be located within the applicable structure setback and shall be located at the exterior side of any screening wall.

vi. The perimeter buffer shall not be required where the DCPUD property boundary directly abuts a property used for existing industrial uses but shall be required when adjacent to or abutting all other property uses, including vacant land, public right of way or public street easement.

vii. The use of native species and variation in species planting is encouraged.

(o) Fencing or walls shall be constructed of maintenance-free vinyl fencing or ornamental metal such as wrought iron or comparable, brick, stone, masonry or decorative stamped and colored concrete which mimic brick, stone or masonry.

(p) Chain link fencing may be used for security purposes and shall be black or black coated vinyl and shall not include slats.

(q) The facility shall provide parking for employees or service personnel at a rate per §153.067, Parking Schedule #2.

(r) Electrical substations directly serving the DCPUD shall be exempt from the minimum district performance standard requirements of this section, but shall be subject to the following requirements:

i. Must be located within the DCPUD boundary.

ii. Must comply with the accessory setbacks as established herein.

iii. Must comply with the lighting standards established herein.

iv. Must comply with the perimeter buffer requirements of this section.

v. Electrical transmission lines extended to the substation are not subject to §153.065 Underground Utilities.

(s) In addition to the standards of this section, all other provisions of the City's ordinance, including zoning and subdivision regulations, shall apply to the facility, unless otherwise exempted. Except for regulations of applicable zoning overlay districts, where the terms of this section vary from the zoning and subdivision regulations, the requirements of this section shall apply.

(11) *DCPUD Initiation of Proceedings.* Requests for DCPUD concept plan , rezoning to DCPUD, and DCPUD conditional use permit shall be initiated by

application of the property owner or other person having authority to file an application pursuant to § 153.027(B), Authority to File Applications.

(12) *DCPUD Application.*

(a) Submission of a DCPUD Concept Plan Submittal is at the option of the DCPUD proposer and is specifically not a formal land use application. Submissions shall be in accordance with this section and are not subject to the Specific Review Procedures and Requirements of this Chapter for Planned Unit Development.

(b) Application for rezoning to DCPUD shall be noticed in accordance with the public notification requirements for Planned Unit Development as found in §153.027 Common Review Procedures and Requirements.

(c) Application for DCPUD Conditional Use Permit shall be noticed in accordance with the public notification requirements for Conditional Use Permit as found in §153.027 Common Review Procedures and Requirements.

(d) Application for rezoning to DCPUD and DCPUD Conditional Use Permit may run concurrently.

(e) Applications for Preliminary and Final Plat as applicable for a DCPUD site shall be submitted in accordance with § 152: Subdivisions.

(f) All required applications are subject to the adopted fee and escrows established by City ordinance.

(g) Rezoning to DCPUD does not revoke, rescind or otherwise render as not applicable the requirements of this ordinance for any applicable overlay district effective at the time of annexation and as required by State law.

(h) All other requirements or provisions not specifically provided for by this section or otherwise exempted shall be as per City Code.

(13) *DCPUD Concept Plan Submittal.* Prior to submitting application for rezoning for the proposed DCPUD, the applicant is encouraged, at its option, to prepare an informal concept and present it to the Planning Commission and City Council at a concurrent workshop, as scheduled by the Community Development Department. The purpose of the concept plan review submittal is to:

(a) Provide preliminary feedback on the concept in collaboration between the applicant, City staff, Planning Commission, and City Council.

(b) Provide a forum for public engagement and information on the DCPUD prior to a requirement for extensive engineering and other plans.

(c) Provide a forum to identify potential issues and benefits of the proposal which can be addressed at succeeding stages of PUD design and review.

(14) *DCPUD Concept Plan Submittal Requirements.* Proposals for a DCPUD Concept Plan Submittal shall include at least the information below to be considered complete (except as exempted by the Community Development Department based on a written request submitted by the proposer).

(a) A listing of contact information including name(s), address(es), email(s) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates.

(b) A listing of the following site data: Address, current land use guidance, current zoning, parcel size in gross acres and square feet, and current legal description(s).

(c) A narrative explaining the applicant's proposed objectives for the DCPUD, and public values that the concept submitter believes may be achieved by the project.

(d) A narrative description of proposed DCPUD uses and systems, including anticipated or known accessory or temporary uses.

(e) A narrative description of the public infrastructure requirements of the DCPUD as known, including the timing for the extension of municipal utilities to the DCPUD and to adjacent properties, if applicable.

(f) Conceptual information on proposed power transmission routing within the city and to the boundary of the DCPUD, if known.

(g) Calculation of the estimated DCPUD FAR at full site build-out.

(h) Outline a conceptual development schedule indicating the approximate date when construction of the project, or stages of the same, can be expected to begin and be completed (including the proposed phasing of construction of public improvements and recreational and common space areas).

(i) For sites over 20 acres, a stakeholder engagement plan detailing how the DCPUD operator will engage and communicate with residents, property owners, local utilities and the City throughout the DCPUD application and development process.

(j) A concept plan proposal illustrating:

i. Proposed DCPUD District boundary.

ii. Layout of proposed lots and proposed uses. Denote outlots planned for public dedication and/or open space (schools, parks, etc.).

iii. General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel.

iv. Location of existing and proposed streets within and immediately adjacent to the subdivision parcel.

v. Proposed sidewalks and trails.

vi. Proposed location of any electrical substation(s).

vii. General location of wooded areas or significant features (environmental, historical, cultural) of the parcel.

viii. Location of municipal utility systems and connection points that will serve the property including the proposing routing to demonstrate service to the furthest extent or boundary of the DCPUD.

ix. Location of proposed access points to public right of way.

(15) *DCPUD Concept Plan Submission Review.* Upon receiving a PUD concept plan proposal, the Community Development Department shall:

(a) Schedule a joint workshop of the Planning Commission and City Council and shall provide notice of the meeting to all property owners within 350 feet of the property boundary of the proposal. During the joint workshop, the Planning Commission and City Council may make comment on the merit, needed changes, and suggested conditions which may assist the proposer in future application for proposed rezoning and PUD development plan.

(b) The Planning Commission and City Council will also take comment from the public as part of the joint workshop. The comment is explicitly not a public hearing on the concept and the public comments are intended to represent preliminary feedback related to the DCPUD concept information.

(c) The Council and Planning Commission shall make no formal decision as part of the consideration. The City Council and Planning Commission's comments are explicitly not an approval or decision on the project and are intended to represent preliminary feedback on the DCPUD concept information and its relationship to the comprehensive plan and this DCPUD ordinance.

(16) *Neighborhood Meeting.* The DCPUD concept proposer is encouraged to host a neighborhood meeting prior to submission of a formal application for rezoning to DCPUD.

(17) *DCPUD Rezoning Application Submittal Requirements.* Proposals for Rezoning to DCPUD shall include at least the information below to be considered complete (except as exempted by the City Council based on a written request submitted by the proposer, in which case the application shall be considered incomplete until decision of the Council has been made on the requirement). All costs of application and preparation of submission materials, including required studies, are borne by the applicant.

(a) Proof of title in a form approved by the City Attorney.

(b) Legal description and graphic exhibit of the property for which the DCPUD is requested.

(c) Certificate of survey for the full DCPUD property boundary signed by a registered land surveyor and current within three months of application to include legal description, all public utilities, and detail of private utilities and easements, rights of way, and any other easements of record.

(d) Project narrative, including:

i. Existing zoning district(s) and comprehensive plan land use designation of subject DCPUD property area and all adjacent lands within 350’ of the subject DCPUD property boundary.

ii. Statement explaining the applicant's proposed objectives for the DCPUD, and public values that will be achieved by the project by phase (if applicable) including general projections for tax base, building valuation, sustainability in operations and site design, employment creation or other community benefit.

iii. Statement of how the project will meet each of the Approval Criteria and Minimum District Performance Standards as required by this section.

iv. A narrative description of proposed DCPUD uses and operations, including anticipated or known accessory or temporary uses, such description shall include any information on transmission line corridors or routes within the city.

v. For sites over 20 acres, a stakeholder engagement plan detailing how the DCPUD operator will engage and communicate with residents,

property owners, local utilities, and the City throughout the DCPUD application and development process.

vi. If the DCPUD is to be developed in phases, a proposed phasing of full DCPUD site development, including number of phases, development timeline for each phase and for the full DCPUD.

vii. Calculation detailing the gross area calculation of the full DCUD, and the proposed DCPUD FAR at full build-out.

viii. Maximum building coverage within the DCPUD site improvement boundary.

(e) Ambient Noise Study meeting the Minimum district performance standards requirements of this section.

(f) A conceptual utility study that identifies both City and private utility supply and demand on the relevant system, including water and wastewater system information. Such study shall illustrate the phasing for construction of municipal water and wastewater systems, and shall demonstrate to the satisfaction of the City that the proposed municipal facility can both (1) be adequately served by the existing or planned capacity of the utility, and (2) will not impede access or limit service capacity to those utilities by other future users in the City's planning and service territory; (3) is designed to provide adequate service to the furthest extent of the DCPUD, and (4) that the applicant has provided sufficient information regarding the financial capacity and ability to secure performance to support the required improvements or system upgrades.

(g) To the extent it is known, the location of all electrical substation and transmission equipment proposed to be located within the DCPUD.

(h) Listing and status of all required federal and state permitting as known at the time of application.

(i) A fiscal summary statement, including:

i. An analysis of the projected cost of any public infrastructure necessary to adequately serve the project as identified above by phase.

ii. Statement identifying the applicant's proposed contribution to provide such public infrastructure and service demand.

(j) The proposed location, area and duration of any accessory or temporary uses within the DCPUD.

(k) DCPUD sites shall be responsible for completion of the electric utility provider's required studies and shall provide a statement indicating completion of the required study and summarize power capacity for the DCPUD, the proposed routing plan, and required electrical infrastructure improvements.

(l) General statement of telecommunication system improvements so as to avoid any local service interruption during normal operations.

(18) *DCPUD Conditional Permit Application Submittal Requirements.* Proposals for DCPUD Conditional Use Permit shall include at least the information below to be considered complete (except as exempted by the City Council based on a written request submitted by the proposer, in which case the application shall be considered incomplete until decision of the Council has been made on the requirement). All costs of application and preparation of submission materials, including required studies, are borne by the applicant.

(a) DCPUD project narrative meeting the requirements as provided for DCPUD rezoning submittal.

(b) DCPUD site improvement plan(s), illustrating:

i. Citation of the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and true north arrow.

ii. Depiction of the DCPUD site area illustrating minimum setbacks lines for the DCPUD site as required by this section.

iii. Estimated square footage calculation of full usable/buildable area within the DCPUD.

iv. Total maximum impervious surface coverage within the DCPUD.

v. Outlots planned for public dedication and/or open space.

vi. Easements and rights-of-way within or adjacent to the subject DCPUD property boundary, including detail on ingress and egress from the subject site to abutting or adjacent public right of way.

vii. Location, width, and names of existing and proposed streets and rights of way within and immediately adjacent to the subject DCPUD property boundary and all connection points to public right of way.

viii. Proposed sidewalks and trail connection points to public rights of way and any planned public sidewalk and pathways.

ix. Area calculations for gross land area, wetland areas, wetland buffers, right-of-way dedications, conservation areas, and proposed public parks. Proposed public utility easement corridors and/or rights of way necessary to serve the DCPUD and to extend municipal utilities to the further extent of the DCPUD boundary.

(c) All data required for Preliminary Plat as provided in § 152.040(A) and (B).

(d) Delineation and functional assessment of wetlands and/or watercourses over the DCPUD property and within 200 feet of the perimeter of the subdivision parcel dated within the last five years.

(e) Delineation of the ordinary high-water levels of all water bodies.

(f) Preliminary grading, drainage and erosion control plan prepared by a registered professional engineer providing for stormwater management planning based on the maximum impervious surface area of the site. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question.

(g) Preliminary landscaping plan illustrating the proposed location for the required perimeter buffer demonstrating to the extent practical the required width and placement necessary to meet the requirements of this section, and detailing the location, species and count for landscaping materials required by the Minimum District Performance Standards for the perimeter buffer.

(h) Traffic study which shall include adjacent local roadways where access is provided and nearest collector roadways, as well as the collector roadways intersections with the nearest arterial roadway, which shall be required for all sites over 20 acres and at the discretion of the City Engineer for sites under 20 acres, evaluating:

i. Average Daily Traffic and Peak Hour traffic volumes for passenger vehicles during normal operations.

ii. Average Daily Traffic and Peak Hour traffic volumes and routes for construction traffic during each phase of site development.

iii. Project volume, routes and frequency for commercial vehicles supporting routine operations.

iv. Proposed location of right of way and pathway connections, including sidewalks and trails, through or along the site perimeter to ensure system connectivity to the furthest extent of the DCPUD boundary.

v. Any insufficient street or intersection design pursuant to project construction, projected by phase.

vi. Proposed improvements to mitigate insufficient design, including an analysis of the projected cost of any public infrastructure necessary to adequately serve the project as identified above, by phase. Necessary roadway and pedestrian improvements shall be designed in accordance with City standards.

vii. Sufficient information regarding the applicant's financial capacity to support the required improvements and system upgrades.

(i) A utility study that identifies both City and private utility supply and demand on the relevant system, including water and wastewater system information, and shall demonstrate to the satisfaction of the City that the proposed municipal facility can both (1) be adequately served by the existing or planned capacity of the utility, and (2) will not impede access or limit service capacity to those utilities by other future users in the City's planning and service territory; (3) is designed to provide adequate service to the furthest extent of the DCPUD, and (4) that the applicant has provided sufficient information regarding the financial capacity and ability to secure performance to support the required improvements or system upgrades. Such study shall include:

i. Provide a municipal utility phasing plan which demonstrates alignment with the proposed development phasing and timing.

ii. Provide preliminary plans for extension of all public facilities, including the connection points, sizing and alignment of all utility lines, roadways, pedestrian facilities, and other such public infrastructure to the furthest extent of the DCPUD boundary with phasing plan as determined by the City Engineer and approved by City Council.

iii. Identify deficiencies in the public system pursuant to the project and provide a mitigation plan for identified deficiencies.

iv. Updates or additional system plans or studies for public utilities reflecting the impact of increased demands and infrastructure

required by the DCPUD; to be prepared to the specification of the City Engineer.

v. Include an analysis of the projected cost of any public infrastructure necessary to adequately serve the project as identified above by phase, and to ensure that the infrastructure required by this section is adequately accounted for.

vi. Sufficient information regarding the applicant's financial capacity to support the required system studies, public improvements and system upgrades.

vii. The applicant may request that the City complete such utility studies, at the applicant's cost.

(j) If an environmental review was required for the DCPUD development proposal, the final approved mitigation plan shall be provided with a detailed narrative on how the proposed DCPUD Conditional Use Permit submissions address components of the mitigation plan and timeline for implementation or completion of each mitigation plan requirement, including detail on the financial participation of the applicant.

(k) For sites over 20 acres and for any DCPUD site to be developed in phases, a construction impact plan including designated construction traffic routes and mitigation plans for lighting, noise, vibration and dust.

(l) Any other information as directed by the Community Development Department required to evaluate the specific DCPUD proposal.

(19) *DCPUD Rezoning Review.*

(a) Application for rezoning to DCPUD shall be reviewed in accordance with this section.

(b) The hearing for rezoning may run concurrently with the hearing for the DCPUD Conditional Use Permit.

(c) As part of the review process for the DCPUD rezoning application, the Community Development Department shall generate an analysis of the proposal against the Approval Criteria of this section to formulate a recommendation regarding the rezoning to the Planning Commission and City Council.

(d) The Planning Commission shall hold a public hearing on the DCPUD rezoning application and consider the application's consistency with the intent and purpose of the DCPUD and comprehensive plan goals. The

Planning Commission shall make recommendations to the City Council on the merit, needed changes, and suggested conditions of the proposed DCPUD rezoning. The Community Development Department may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review, and the City Council will hold any required public hearing. The City Council may hold a public hearing on the request for DCPUD rezoning if they deem such necessary.

(e) After consideration of the Planning Commission recommendation and hearing, the City Council may approve the DCPUD rezoning. The City Council's decision will include the required conditions of the proposed rezoning. Approval of the amendment to rezone to DCPUD shall require the approval of the majority of all the members of the City Council, except where state law may specifically require a super majority.

(f) Approval of the rezoning to DCPUD shall occur by adoption of a rezoning ordinance for the subject property specifying the uses, standards, and other requirements of said DCPUD zoning district. Such ordinance shall create a zoning district that is specific to the property for which the PUD was applied and shall be designated in such a way as to be able to mark the official zoning map to identify the DCPUD ordinance. The DCPUD ordinance shall also designate that such property is thereby rezoned to the DCPUD district as adopted. Such ordinance shall include an effective date clause which may delay the effective date of the ordinance until such time as the applicant has met each of the conditions of approval required by the City Council, and in addition to other requirements including publication. No approvals are valid, and no permits may be issued, until the ordinance takes effect. If the applicant fails to meet the conditions as described, the ordinance shall not take effect, will not be published, and the subject property shall retain its previous zoning designation.

(g) After consideration of the Planning Commission recommendation and/or hearing, the City Council may, in its sole discretion, deny the DCPUD rezoning. Such denial shall be based on findings of fact that specify the conditions where the application fails to meet the required terms of the DCPUD zoning process, standards, or other requirements therein. The City shall be under no obligation to approve any DCPUD rezoning and no

DCPUD applicant shall have any expectation or right of approval of any such rezoning.

(20) *DCPUD Conditional Use Permit Review.*

(a) Application for DCPUD Conditional Use Permit shall be reviewed in accordance with this section.

(b) The hearing for DCPUD Conditional Use Permit may run concurrently with the hearing for the DCPUD rezoning.

(c) As part of the review process for the DCPUD Conditional Use Permit application, the Community Development Department shall generate an analysis of the proposal against the Approval Criteria of this section to formulate a recommendation regarding the permit to the Planning Commission and City Council.

(d) The Planning Commission shall hold a public hearing on the DCPUD Conditional Use Permit application and consider the application's consistency with the intent and purpose of the DCPUD and comprehensive plan goals. The Planning Commission shall make recommendations to the City Council on the merit, needed changes, and suggested conditions of the proposed DCPUD Conditional Use Permit. The Community Development Department may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review, and the City Council will hold any required public hearing.

(e) The City may assign conditions as part of its review relating to the Minimum District Performance Standards, the required public improvements and completion dates for improvements, the fiscal requirements, guarantees and securities necessary for the construction of all required public improvements and timing of their submission, required site development fees and escrows and timing of their submission, specification of required public improvement warranties, and any other conditions deemed necessary to support the DCPUD and to mitigate the impact created or required by the DCPUD.

(f) The Conditional Use Permit shall require ongoing compliance with approved landscaping and screening plans for the full extent and operation of the effective DCPUD.

(g) After consideration of the Planning Commission recommendation and/or hearing, the City Council may, in its sole discretion, deny the DCPUD Conditional Use Permit. Such denial shall be based on findings of fact that specify the conditions where the application fails to meet the required terms of the DCPUD Conditional Use Permit process, standards, or other requirements therein. The City shall be under no obligation to approve any DCPUD Conditional Use Permit and no DCPUD applicant shall have any expectation or right of approval of any such Conditional Use Permit.

(h) For any DCPUD which includes subdivision of parcels which have no direct frontage on a public street, the Conditional Use Permit shall require common maintenance and easement agreement.

(i) The Conditional Use Permit shall require submission of a Site Plan review per this chapter.

(j) No permit for work within the DCPUD as approved by the DCPUD Conditional Use Permit may be issued until the applicant has demonstrated compliance with all of the DCPUD Minimum District Performance Standards and has met the assigned conditions of approval to the satisfaction of the City.

(21) *Site Plan review.* Following approval of the DCPUD rezoning and Conditional Use Permit, development within the DCPUD shall be subject to the Site Plan review process of this chapter. Site plans shall be consistent with the approved DCPUD ordinance, DCPUD Conditional Use Permit and all other applicable provisions of this section.

(22) *Timeline for performance.*

(a) A building permit for a principal structure within the first phase of development on site shall be filed within 5 years of the City Council approval date of the DCPUD Conditional Use Permit. One extension from this requirement may be granted by the Council upon request for extension by a person having authority to file an application. An extension shall be requested in writing and filed with the city at least 14 days before the five year date. The request for extension shall specify the desired timeline of extension and shall state facts showing a good faith attempt was made to meet the building permit submission requirement. Such request shall be presented to the Council for a decision. The City Council may deny or modify the extension timeline at its sole discretion and there shall be no inherent right to extension. The City Council may act after the 5-year period to revoke the DCPUD rezoning and any

approved Conditional Use Permit, and rezone the land to any other zoning district, following a public hearing to be held by the City Council.

(b) If there is a lapse of more than 5 years between completion of any individual phase and proceeding to any subsequent and successive phase of development, notwithstanding on-going construction within an active phase of development, the City Council may act after the 5 year period to revoke the DCPUD rezoning and Conditional Use Permit for the undeveloped portions of the DCPUD and require amendment to the DCPUD ordinance and Conditional Use Permit , and rezone the undeveloped land to any other zoning district, following a public hearing to be held by the City Council. Extensions from this requirement for each phase may be granted by the Council upon request for extension by a person having authority to file an application. An extension shall be requested in writing and filed with the city at least 14 days before the expiration of the 5-year period, which shall be based on the certificate of occupancy last principal building completed for the prior phase. The request for extension shall specify the desired timeline of extension and shall state facts showing a good faith attempt was made to meet the building permit submission requirement. Such request shall be presented to the Council for a decision. The City Council may deny or modify the extension timeline at its sole discretion and there shall be no inherent right to extension.

(23) *Amendment to DCPUD*. Approved DCPUDs may be amended upon request by those who have authority to submit an application per this section. At such time, the applicant shall make an application to the city for a DCPUD amendment which shall follow the same process as defined in this section for Conditional Use Permit. Such amendment shall not:

1. Introduce any other principal use inconsistent with this section. In such case, the application shall request revocation of the DCPUD for that portion of the land proposed for the amended principal use(s) and shall be subject to the application requirements of this chapter, as applicable.
2. Eliminate, diminish, or vary from the minimum performance standards of this section.

(24) *Revocation*. If at any time the facility is in violation of the conditions of approval, the City Council may revoke the DCPUD and DCPUD ordinance, revoke the governing DCPUD Conditional Use Permit approval, and rezone the land to

any other zoning district, following a public hearing to be held by the City Council.

Section 3. Section §153.090, Use Table – Base Zoning Districts, Industrial Uses, is hereby amended as follows:

(1) Insert column: DCPUD

(2) Insert row: Data center/Data center campus

(3) Data center/Data center campus DCPUD Conditional Use Permit

(4) Prohibited in all other zoning districts.

(5) Additional Requirements: §153.045.

Section 4. Section §153.092, Accessory Use Standards, Table 5-4, is hereby amended as follows:

(1) Insert row: Data center, accessory.

(2) Data center, accessory shall be Conditionally permitted in I-1 and I-2 districts only.

(3) Additional Requirements: May be allowed within previously approved Planned Unit Development Districts by amendment to PUD.

Section 5. The City Clerk is hereby directed to make the changes required by this Ordinance as part of the Official Monticello City Code, Title XV, Zoning Ordinance, and to renumber the tables and chapters accordingly as necessary to provide the intended effect of this Ordinance. The City Clerk is further directed to make necessary corrections to any internal citations that result from said renumbering process, provided that such changes retain the purpose and intent of the Zoning Ordinance as has been adopted.

Section 7. This Ordinance shall take effect and be in full force from and after its passage and publication. The ordinance in its entirety and map shall be posted on the City website after publication. Copies of the complete Ordinance and map are available online and at Monticello City Hall for examination upon request.

ADOPTED BY the Monticello City Council this 27th day of April, 2026.

_____

Lloyd Hilgart, Mayor

ATTEST:

_____

Jennifer Schreiber, City Clerk

AYES:

NAYS:

Docusign Envelope ID: AC6841E3-60FF-86F2-823B-00ECBFC56A3E

CITY OF LANESBORO
APPLICATION #_____
TAX ID NUMBER #190205000

Request for Zoning Amendment Application (R-2 to C-1)

1. Applicant(s)
   a. Applicant(s): Michelle Leon and Steve Neuharth.
   b. Date: May 28, 2026.
   c. Applicant(s) Address: 5688 Oak Forest Lane, Houston, MN 55943.
   d. Phone: [redacted]
2. Property Information
   a. Legal Description of property: Lanesboro Original Plat Lots 4 & 5, Block 19 (Note: Not to be used on legal documents).
   b. Property address if different from applicant(s): 109 Elmwood St E, Lanesboro, MN 55949.
   c. Parcel ID: 190205000.
   d. Current zoning designation: R-2 Multiple-Family Residential District.
   e. Future Land Use Identified in Comprehensive Plan: unidentified
   f. Requested zoning designation: C-1 Downtown Commercial District.
3. Type of Amendment Requested (check one)
   a. ☒ Zoning District boundary amendment (indicate on zoning map)
   b. ☐ Zoning District Regulation amendment (note section #'s below)
   c. ☐ Zoning Ordinance Provision amendment (note section #'s below)
   d. ☐ Comprehensive or Land Use Plan amendment (note section #'s below)
4. Ordinance Sections Implicated (if applicable)
   a. Zoning Districts and permitted uses:
      1. R-2 Multiple Family Residential District.
      2. C-1 Downtown Commercial District.
   b. Vacation dwelling unit definition: vacation dwelling unit is defined as a dwelling unit offered for periods of 1 to 29 nights.
   c. C-1 permitted lodging and vacation dwelling units: C-1 permits lodging services and permits vacation dwelling units provided they are located above the first-floor level.
   d. Amendments procedure: Amendments are addressed in § 151.61.

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e. Public notice and hearing: Public notice and hearing requirements are addressed in § 151.52.

5. Brief Description of Requested Amendment and Expected Effect of Proposal

   a. Applicants request a zoning amendment to rezone the subject property located at 109 Elmwood St E, Lanesboro, Minnesota (Parcel ID 190205000) from the R-2 Multiple Family Residential District to the C-1 Downtown Commercial District.

   b. The expected effect of the proposal is to align the zoning designation with the existing commercial character of the immediate area and to allow continued lawful use of the property for short-term lodging/vacation dwelling unit purposes consistent with the City's definitions and permitted uses in the C-1 district.

   c. The zoning ordinance is intended to ensure public health, safety, and general welfare and to ensure land uses are properly situated in relation to one another. The property in questions is currently situated directly adjacent to the C-1 district, and the proposed rezoning would expand that existing C-1 district to include the applicant's property. The requested change would not implicate any other properties other than the applicant's property referenced herein.

   d. Applicants anticipate no undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements, and no undue adverse impact on public health, safety, or welfare as a result of the requested zoning amendment.

6. Applicant Certification (Owner/Authorized Agent)

   a. Applicants certify that they are the owner(s) or authorized agent(s) of the aforementioned property.

   b. Date: 5/28/2026.

   c. Signature of Applicant(s): DocuSigned by: Michelle Leon

   Printed Name: Michelle Leon

   d. Signature of Applicant(s): DocuSigned by: Michelle Leon

   Printed Name: Steve Neuharth

Docusign Envelope ID: AC6841E3-60FF-86F2-823B-00ECBFC56A3E

7. Narrative Statement Explaining Nature of and Reason for Request (Attachment A)
    a. Applicants submit the following narrative statement in support of the requested zoning amendment.

Attachment A: Narrative Statement in Support of Zoning Amendment (R-2 to C-1)

1. Property and existing improvements. The subject property is located at 109 Elmwood St E, Lanesboro, Minnesota 55949, Parcel ID 190205000.
2. Requested zoning change. Applicants request that the City amend the zoning map and/or zoning designation applicable to the subject property to change the zoning classification from R-2 Multiple Family Residential District to C-1 Downtown Commercial District.
3. Compatibility with C-1 district uses. The C-1 district recognizes lodging services and also addresses vacation dwelling units as defined by the zoning code.
4. Consistency with ordinance intent. The zoning ordinance's stated intent includes ensuring land uses are properly situated in relation to one another, directing growth into appropriate areas, protecting existing property, and preserving and developing the economic base of the City. The requested rezoning furthers all those stated intentions.
5. Public health, safety, and welfare. Applicants submit that the requested zoning amendment will not create an undue adverse impact on public health, safety, or welfare and is consistent with the City's general standards for land use decisions under the zoning ordinance.
6. Procedural compliance. Applicants acknowledge that zoning amendments require public notice and hearing as provided by City ordinance and Minnesota law, including mailed notice to owners within 350 feet where applicable.

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8. General Development Plan (Attachment B)

    a. Applicants submit the following general development plan describing the potential development of the property, including proposed building use and site considerations.

Attachment B: General Development Plan (Conversion to Single Unit; Permitting; Compliance)

a. Project overview. Applicants intend to convert the existing residential structure from a duplex configuration to a single dwelling unit.

b. Use and occupancy. The property will continue to be used as a dwelling unit and may be offered for short-term occupancy consistent with the City's definition of vacation dwelling unit (1 to 29 nights).

c. Permits and approvals. Applicants will obtain and comply with all required City permits and approvals, including any land use permit required prior to construction or alteration, and will submit plans demonstrating compliance with applicable zoning standards.

d. Compliance with laws and codes. Applicants will ensure the dwelling unit remains in compliance with applicable building, housing, electrical, plumbing, heating, and related City codes as applicable to the proposed use and any required approvals.

e. Site impacts. No expansion of building footprint is proposed as part of this general development plan. Any future exterior alterations, parking modifications, or site changes will be submitted for City review as required by ordinance and permitting processes.

9. Filing Requirements Acknowledgment

    a. Applicants acknowledge the filing requirements, including submission of a completed application form, narrative statement, general development plan, and required fee in a format suitable for photocopying or electronic submission.

10. Agreement to Pay City Professional Fees (Escrow) (Attachment C)

    a. Applicants acknowledge that an application is only considered complete if it includes all necessary information, the application fee, an escrow payment, and an executed agreement to pay City professional fees.

Attachment C: Addendum to Development Application Agreement to Pay City Professional Fees

1. Applicant(s) Name: Michelle Leon and Steve Neuharth.
2. Address of Property Involved: 109 Elmwood St E, Lanesboro, MN 55949.
3. I/we, the undersigned Applicant(s), hereby agree that I/we will pay all fees and charges that may be incurred by the City for planning, engineering, legal, and any other professional services directly related to and incurred by the City during the examination, review and processing of this Application, and during any necessary enforcement action subsequent to this request.
4. I/we understand that the application fee is only an administrative charge intended to defray costs associated with City Staff services and resources required for the processing of this request.

Docusign Envelope ID: AC6841E3-60FF-86F2-823B-00ECBFC56A3E

5. I/we agree to deposit the funds in escrow with the City, and understand that additional escrow funds may be required if direct costs exceed the escrow deposit.
6. If direct costs to the City are less than the sum placed in escrow, then the balance will be refunded to the Applicant(s) upon final disposition of the request by the City.

7. Signature of Applicant(s): DocuSigned by: Michelle Leon 7B8695 1E8DF940A...

   Date: 5/28/2026.

8. Signature of Applicant(s): DocuSigned by: [signature] 3614906B2D4F4DC...

   Date: 5/28/2026.

11. Signatures (Applicant(s) and Property Owner)

Signature of Applicant(s): DocuSigned by: Michelle Leon 7B8695 1E8DF940A... Date: 5/28/2026.
Printed Name: Michelle Leon

Signature of Applicant(s): DocuSigned by: [signature] 3614906B2D4F4DC... Date: 5/28/2026.
Printed Name: Steve Neuharth

Signature of Property Owner: DocuSigned by: Michelle Leon 7B8695 1E8DF940A... Date: 5/28/2026.
Printed Name: Michelle Leon

Signature of Property Owner: DocuSigned by: [signature] 3614906B2D4F4DC... Date: 5/28/2026.
Printed Name: Steve Neuharth

12. For Office Use Only
    1. Approval/Denial recommended by the Planning Commission on _____ by _____.
    2. Approval/Denial by the City Council on _____ by _____.
    3. Complete Application accepted on: 05-28-2026

5-28-24
pd $250.00
app fee

RELEVANT LINKS:

Cities may encounter this issue in the zoning drafting process, when specifying permitted and conditional uses for a district. More commonly, the issue often arises in the context of reviewing a particular zoning application. For example, a city may wish to deny a CUP for a new bank in a city, because officials believe too many banks already exist in an area or that a new bank may put long-established businesses out of business. This type of economic favoritism is not permitted in zoning ordinance drafting or application.

K. Estoppel

Compare, *State, City of Eden Prairie v. Liepke*, 403 N.W.2d 252 (Minn. Ct. App. 1987) with *Frank's Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604 (Minn. 1980). *Stillwater Tp. V. Rivard*, 547 N.W.2d 906 (Minn. Ct. App. 1996).

Generally, in Minnesota, the administration of zoning ordinances represents a governmental, not a proprietary function and, as a result, cities generally can enforce its ordinance without threat of others arguing that the city had not enforced the ordinance in other circumstances (or, in other words, asking for "estoppel" of the enforcement now). A heavy burden of proof falls on a party trying to estop (or prevent) cities from enforcing ordinances; however, the courts differ on the extent prior city action relied upon by a landowner can support later enforcement of ordinances. For example, the courts have prevented a city from enforcing an ordinance that the city had not enforced in the past when the applicant proved to the court that the city, through its language or conduct, induced the applicant to rely, in good faith, to his or her detriment or prejudice, that the city would not enforce the ordinance again. However, a mere lapse in time does not diminish a city's ability to enforce its zoning ordinances. To avoid estoppel arguments, a best practice for cities is to consistently enforce its ordinances.

Pilgrim v. City of Winona, 256 N.W.2d 266 (Minn. 1977).

IV. Zoning ordinance adoption and amendment

A.G. Op. 59-A-32 (Jan. 25, 2002).
Pilgrim v. City of Winona, 256 N.W.2d 266 (Minn. 1977).

The Municipal Planning Act mandates a procedure for the adoption or amendment of zoning ordinances for both statutory and charter cities. The city council, the planning commission or affected property owners, by petition, may initiate an amendment to a zoning ordinance.

City of Waconia v. Dock, 961 N.W.2d 220 (Minn. 2021).

Cities must be careful to follow the procedure for any regulations related to land use, structures, and allowed uses. Failure to follow the statutory procedures my invalidate an ordinance. For example an ordinance regulating docks was deemed to serve a zoning purpose and therefore the statutory procedure was required.

RELEVANT LINKS:

Minn. Stat. § 462.357, subd. 4.

An amendment, not initiated by the planning commission, must be referred to the commission, if there is one, for study and report. The city council may not act on such an amendment until it has received the recommendation of the planning commission or until 60 days have passed from the date of the reference of the amendment without a report by the planning agency.

Minn. Stat. § 462.357, subd. 3.

A public hearing must be held by the council or the planning commission (if one exists) before a city adopts or amends a zoning ordinance. Public hearings also must precede the granting of variances, conditional use permits, or re-zonings, with the exception that a municipality does not have to hold a public hearing on the application for a temporary family health care dwelling for those cities that have not opted out of that state law.

A. Notice and hearing

Minn. Stat. § 462.357, subd. 3.
See LMC information memo *Newspaper Publication.*

A notice of the time, place and purpose of the hearing must be published in the official newspaper of the municipality at least ten days prior to the day of the hearing.

If an amendment to a zoning ordinance involves changes in district boundaries affecting an area of five acres or less, a similar notice must be mailed, at least ten days before the day of the hearing, to each owner of affected property and property situated completely or partly within 350 feet of the property to which the amendment applies. Failure to give mailed notice to individual property owners, or defects in the notice, does not invalidate the proceedings, provided the city made a genuine attempt to comply with this subdivision.

B. Proceedings

The chairperson has the responsibility of conducting the public hearing. Generally, best practice for a hearing involves city staff presenting, followed by the applicant.

City staff should identify the subject property, describe the nature of the application, present the zoning and planning issues, and explain the action to be taken by the planning commission, board of appeals, or city council. Then, the applicant should have the opportunity to present. At this juncture, an applicant can submit information showing that the proposal complies with a city's comprehensive plan and zoning ordinance. The planning commission, board of appeals, or city council should ask the applicant whatever questions they have about the proposal.

RELEVANT LINKS:

The chairperson should ask for statements from the public in support of the application, as well as any statements against the proposal. The chairperson should encourage people to present factual evidence for public consideration.

C. Adoption

Minn. Stat. § 462.357, subds. 2, 5.
A.G. Op. 59-A-32 (Jan. 25, 2002).

After the planning commission, board of appeals, or city council has received all the evidence and everyone has had an opportunity to speak, the public hearing should be concluded. The planning commission, board of appeals, or city council should then discuss the proposal, remembering that the discussions must comply with the Open Meeting Law. If applicable, the planning commission or board of appeals then makes a recommendation to the city council on the application. If, in the alternative, the hearing takes place before the council, the council should either deny or approve the application. In acting or making a recommendation, the planning commission, board of appeals, or city council should base its decision on detailed findings of fact and reduce those findings into a written statement that becomes part of the record. Zoning ordinances must be adopted by a majority vote of all of the members of the council. For example, this would mean three votes on a five-member council. One Minnesota attorney general opinion has found that charter cities may not provide for different voting requirements in their city charter, because the Municipal Planning Act supersedes inconsistent charter provisions.

D. Publication

Minn. Stat. § 412.191, subd. 4.
Minn. Stat. § 331A.02.
Minn. Stat. § 331A.04.
See Handbook, *Meetings, Motions, Resolutions, and Ordinances* for more information on publishing ordinances in summary form.

After adopting or amending a zoning ordinance, the council must publish or summarize it in the official newspaper.

V. Zoning ordinance administration

A. The 60-Day Rule

Application Log for 60-Day Rule, LMC Model Form.

A city must approve or deny any request related to zoning within 60 days of receipt of an application. This requirement is known as the "60-Day Rule" and applies to, among other things, rezoning requests, conditional use permits, and variances.

RELEVANT LINKS:

Minn. Stat. § 15.99.
Manco of Fairmont v. Town Bd. of Rock Dell Twp, 583 N.W.2d 293 (Minn. Ct. App. 1998).
Hans Hagen Homes, Inc. v. City of Minnetrista, 728 N.W.2d 536 (Minn. 2007).

Minn. Stat. § 237.163, Subd. 3(c).

Minn. Stat. § 462.358, subd. 3b.

The 60-Day Rule requires cities to approve or deny a written request relating to zoning within 60 days. If a city fails to act on request in that time, the request becomes deemed approved. The underlying purpose of the rule is to keep governmental agencies from unnecessarily delaying development requests. Minnesota courts generally demand strict compliance with the rule.

State law specifically exempts permits for collocation of small wireless facilities on city owned structures from the 60-Day Rule. State law requires that applications for permits to place small wireless facilities on city-owned structures get approved or denied within 90 days, specifically stating that Minnesota's 60-Day Rule does not apply. Additionally, the 60-day time period does not apply to applications for subdivision approval. The subdivision statute provides its own time periods of 120 days for preliminary plat approval and 60 days for final plat approval.

1. Scope of the rule

Minn. Stat. § 15.99, subd. 1(c).
Minn. Stat. § 15.99, subd. 2(a).
Minn. Stat. § 462.358, subd. 3b.
Advantage Capital Mgmt, v. City of Northfield, 664 N.W.2d 421 (Minn. Ct. App. 2003).
Ridge Creek Inc. v. City of Shakopee, No. A09-178, unpublished (Minn. Ct. App. 2010) (wetland application related to zoning).
500, LLC v. City of Minneapolis, 837 N.W.2d 287 (Minn. 2013).

The rule applies to a "request a related to zoning." The courts have been rather expansive in their interpretation of the phrase "related to zoning," and many requests affecting the use of land have been treated as subject to the law. While it seems clear the language includes requests for conditional use permits, variances, and rezoning, courts also have found the law applicable to requests for sign permits, wetlands determination review, heritage preservations certificates, and road permits. The statute creates an exception for subdivision and plat approvals, since those processes have separate timeframes. The Minnesota Court of Appeals has ruled that the rule does not apply to building permits and state law also specifically exempts applications for permits to site small wireless facilities.

The Legislature defines a written request as a submission on a city-approved application form, or if no such form exists, submission in writing with the specific governmental approval sought listed on the first page of the document.

2. Applications

Minn. Stat. § 15.99, subd. 1(c).

An applicant must submit a request, in writing, on the city's application form, if one exists. A request not on the city's form must clearly identify, on the first page, the approval sought. A city may reject, as incomplete, a request not on the city's form or if the request does not include information required. The request may also be considered incomplete if it does not include the required application fee.

RELEVANT LINKS:

Minn. Stat. § 15.99, subd. 3(a).

Restarting 60-Day Timeclock Letter, LMC Model Form.

The 60-day time period does not begin to run if the city notifies the landowner, in writing and within 15 business days of receiving the application, that the application is incomplete. The city also must detail the missing information. As a best practice, the city should give some thought to exactly what information it requires for various types of land use applications.

A city may want to develop a checklist and review its zoning ordinances to make explicit the required items. This will not only help the applicant but will act as a fail-safe mechanism for city staff who need to thoroughly evaluate applications within the first 15 days.

Minn. Stat. § 15.99, subd. 3(c).

If a city grants an approval within 60 days of receiving a written request—and a city can document this—it complies with the statute, even if that approval requires the applicant to meet certain conditions. Subsequently, if the applicant fails to meet the conditions, a city may revoke or rescind the approval. An applicant cannot use the revocation or rescission to claim a city did not meet the 60-day time limit.

Tollefson Dev., Inc. v. City of Elk River, 665 N.W.2d 554 (Minn. Ct. App. 2003).

When a zoning applicant materially amends an application, the 60-day period runs from the date of the written request for the amendment, not from the date of the original application. However, minor changes to a zoning request should not affect the running of the 60-day period.

3. Denials

Minn. Stat. § 15.99, subd. 2(a).

When denying a request, the authority denying the request must give written reasons for its denial at the time of denial.

Johnson v Cook County, 786 N.W.2d 291 (Minn. 2010).
Minn. Stat. § 15.99, subd. 2(c).
Hans Hagen Homes, Inc. v. City of Minnetrista,728 N.W. 2d 536 (Minn. 2007).

When a multimember governing body, such as a city council or planning commission, denies a request, it must state the reasons for the denial on the record and provide the applicant with a written statement of those reasons. The written statement of the reasons for denial must be consistent with reasons stated in the record at the time of denial. The 60-day deadline requirement is separate from the written reason requirement, meaning the statute does not mandate that those two requirements happen concurrently.

Pursuant to statute, if the written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the request but before the expiration of the time allowed for making a decision under this section.

Minn. Stat. § 15.99, subd. 2(b).

A number of court decisions have reviewed the question of what constitutes a denial. In most situations, the courts have required that the city council actually pass a resolution or motion denying the request. However, state statute provides that the failure of a motion to approve an application constitutes a denial, provided that those voting against the motion state on the record the reasons why they oppose the request.

RELEVANT LINKS:

This provision usually comes into play when a motion to approve an application fails because of either a tie vote, or lack of the required number of votes to pass.

Johnson v. Cook County, 786 N.W.2d 291 (Minn. 2010).

A city's failure to give an applicant a written statement of the reasons for its denial of a zoning request within the time deadline does not trigger the automatic-approval penalty.

Indeed, the court has stated that the "denial is complete when a city votes to deny the application and adopts a written statement of its reasons for denial, whether or not the city provides notice to the applicant." However, cities should keep in mind that when a zoning authority fails to record legally sufficient reasons for the denial of a zoning request factually supported in the record, a prima facie case of arbitrariness is established, making a denial more vulnerable on appeal.

4. Extensions

Minn. Stat. § 15.99, subd. 3(f).

Ridge Creek Inc. v. City of Shakopee, No. A09-178, (Minn. Ct. App. 2010) (unpublished decision) (wetland application related to zoning).

Extending 60-Day Time Period Letter, LMC Model Form.

The law allows a city the opportunity to give itself an additional 60 days (up to a total of 120 days) to consider an application, but the city must follow specific statutory requirements. In order to avail itself of an additional 60 days, the city must give the applicant all of the following:

- Written notification of the extension before the end of the initial 60-day period.
- The reasons for extension.
- The anticipated length of the extension.

American Tower, L.P. v. City of Grant, 636 N.W.2d 309(Minn. 2001).

Northern States Power Co. v. City of Mendota Heights, 646 N.W.2d 919 (Minn. Ct. App. 2002).

The courts have been particularly demanding on local governments regarding this requirement and have required local governments to meet each element of the statute. An oral notice or an oral agreement to extend is insufficient. The reasons stated in the written notification should be specific, informing the individual applicant the exact reasons for the delay.

The need for more time to fully consider the application may be an adequate reason. However, as stated in one Minnesota Supreme Court case, the written notification should not take the form of a blanket statement on the zoning application that "the city will need the extension".

Minn. Stat. § 15.99, subd. 3(g).
Application Log for 60-Day Rule, LMC Model Form.

An applicant also may request an extension of the time limit in writing. If a city receives such a request from an applicant, the city should thoroughly document receiving that request.

RELEVANT LINKS:

Minn. Stat. § 15.99, subd. 3(g).

Waiver of 60-Day Extension Letter, LMC Model Form.

Minn. Stat. § 15.99, subd. 3(d), (e).

Minn. Stat. ch. 116D.
Minn. R. ch. 4410.

Minn. Stat. § 15.99, subd. 2(a), (e).

Once a city has granted itself one 60-day extension, the city must then negotiate additional extensions with the applicant. A city can go beyond 120 days only if it gets the approval of the applicant. A city must initiate the request for additional time in writing and have the applicant agree to an extension in writing. The applicant also may ask for an additional extension by written request.

The 60-day time period also is extended if a state statute requires a process to occur before the city acts on the application and the process will make it impossible for the city to act within 60 days. For example, this situation may arise if an environmental review process needs to occur.

If a city or state law requires the preparation of an environmental assessment worksheet (EAW) or an environmental impact statement (EIS) under the state Environmental Policy Act, the response deadline on the application is extended until 60 days after the completion of the environmental review process. Likewise, if a proposed development requires state or federal approval in addition to city action, the 60-day period for city action gets extended until 60 days after the applicable state or federal entity grants the required prior approval.

On occasion, a local city zoning ordinance or charter may contain similar or conflicting time provisions. The 60-Day Rule generally supersedes those time limits and requirements.

Cities should adopt a procedure or set of procedures to ensure planning staff, the planning commission, and the city council follow the 60-Day Rule. City staff should develop a timetable, guidelines and forms (checklists for each application may be helpful) to ensure that no application is deemed approved because the city could not act fast enough to complete the review process.

B. Organizational structure for review of zoning applications

The pressures posed by the 60-Day Rule mandate that any city with a zoning ordinance have in place an efficient system of zoning administration.

Generally, this system consists of both staff and city officials ensuring that zoning applications get reviewed and answered in a timely manner and that zoning ordinance provisions get enforced.

1. The zoning administrator

Typically, a city will have a staff person identified as the “Zoning Administrator,” who serves as the first point of contact with the public on zoning matters and who provides and receives zoning application forms.

RELEVANT LINKS:

Generally, this person also will perform a preliminary review of the application, refer the application to the Planning Commission (if one exists) or City Council for review, and offer one or both bodies a staff report reviewing the adequacy of the application. Depending on the size of a city and the number of zoning applications a city typically receives, the position of zoning administrator may be a full-time position or a part-time position. In some cities, the city clerk simply bears the additional title of zoning administrator.

2. The planning commission

See LMC information memo *Planning Commission Guide.*

Cities may choose to establish planning commissions to assist in zoning administration but need not do so unless a city has adopted a comprehensive plan (if so, then a planning commission is mandatory). Usually, cities benefit by creating a planning commission because city council officials have multiple budgeting, legislative and administrative duties that they must perform, in addition to land use responsibilities. Planning commissions, on the other hand, focus solely on zoning and development.

Minn. Stat. § 462.354, subd. 1.

City councils create planning commissions by ordinance or charter and those commissions may vary in size. City council members may be appointed to serve as commission members. Once formed, planning commissions, with city council consent, may adopt bylaws or their own rules of procedure. A city may provide the planning commission with staff, including legal counsel, as necessary.

Minn. Stat. § 462.357, subd. 3.

In many cities, all applications for conditional use permits, rezoning and variances are submitted to the planning commission for review. If a planning commission exists, state law requires that the planning commission review zoning ordinance amendments and amendments to the official map. With limited exceptions, the planning commission's generally serves in an advisory role when reviewing all types of zoning applications. However, the city council often gives the planning commission recommendations great weight in its considerations, even though not bound by them.

Minn. Stat. § 462.357, subd. 3.

The planning commission may hold required public hearings on behalf of the city council, such as a hearing for a zoning ordinance amendment.

3. Planning departments

Minn. Stat. § 462.354, subd. 1.

Cities also may form a planning department. In cities that chose this option, the planning commission becomes advisory to the planning department while the planning department takes on the role of advising the city council.

RELEVANT LINKS:

4. The city council

Minn. Stat. § 462.3595.

In many cities, the city council makes the final determination on all applications for rezoning, conditional use permits, and interim use permits after consulting the zoning administrator, planning commission and City Attorney as needed. However, the Municipal Planning Act allows cities to delegate final decision-making authority concerning conditional use permits to a "designated authority" (presumably the Planning Commission).

Minn. Stat. § 463.355, Subd. 4.

The city council cannot delegate its authority to grant rezoning applications and interim use permits.

5. Board of zoning adjustment and appeals

Minn. Stat. § 462.354, subd. 2. Minn. Stat. § 462.357, subd. 6. Minn. Stat. § 462.359.

State law requires all cities that have adopted or have in effect a zoning ordinance or an official map to provide, by ordinance, a board of appeals and adjustments. The council may designate itself as the board of appeals and adjustments or appoint a separate board or the planning commission to serve the city in this capacity. If the board is a separate body, the council can establish, in its ordinance, the effect of board decisions, including if those decisions are:

- Final, subject only to judicial review.
- Appealable to the council and then subject to judicial review.
- Only advisory to the council, who then will make the final determination.

The board hears requests for variances from the zoning code and makes the determination to grant or deny the variance. In addition, the Board of Appeals and Adjustment hears requests for reconsideration of zoning applications (usually denials), where an applicant has alleged an error in the administration of the zoning ordinance. Upon a denial of a land use or zoning permit or the denial of a request to build on land identified for public use on an official zoning map, the board of appeals and adjustments may, upon appeal filed with it by the landowner, grant the permit or approval for the building if the board finds that:

(a) the entire property of the appellant cannot yield a reasonable return to the owner without the permit or approval is granted, and (b) after balancing the interests of the municipality against those of the owner of the property, the grant of such permit or approval is required to further justice and equity.

RELEVANT LINKS:

Minn. Stat. § 462.354, subd. 2.
Minn. Stat. § 15.99.

The ordinance establishing the board must provide notice and time requirements for hearings before the board. The board must issue its order within a reasonable time and requests before the board must comply with the 60-Day Rule.

C. Standards for reviewing zoning applications: limits on city discretion

State, by Rochester Ass'n of Neighborhoods v. City of Rochester, 268 N.W.2d 885 (Minn. 1978).

Zweber v. Credit River Twp., 882 N.W.2d 605 (Minn. 2016).

Graham v. Itasca County Planning Com'n, 601 N.W. 2d 461 (Minn. Ct. App. 1999).

When adopting a zoning ordinance, cities use their legislative (law-making) authority and have discretion in choosing their language and identifying uses as permitted, prohibited, or conditional in particular districts. In exercising their legislative authority, cities' zoning decisions must be constitutional, rational, and in some way related to protecting the health, safety, and welfare of the public.

When reviewing zoning decision, courts typically use a standard known as the "rational basis standard." Under this standard, a court will uphold a city's decision if it (1) serves a legitimate public purpose and (2) there is a rational basis for the city to believe that the decision will further that purpose. The district court has direct review of these types of decisions, as well as any derivative constitutional claims that arise from the legislative decision.

In contrast, when interpreting or administering an existing zoning ordinance (for example, when deciding if a proposed use complies with ordinance criteria for permitted conditional uses), a city has less discretion. Generally, when reviewing a zoning application (other than rezoning applications), a city no longer serves in its legislative capacity, but rather exercises a quasi-judicial function. Instead of legislating for the broad population as a whole, a city makes a quasi-judicial (judge-like) determination about an individual zoning application regarding whether the application meets the standards of the city ordinance.

Zweber v. Credit River Twp., 882 N.W.2d 605 (Minn. 2016).

In quasi-judicial circumstances, a city must follow the standards and requirements of the adopted ordinance. If an application meets the requirements of the ordinance, generally the city must grant it. If a city denies an application, the stated reasons for the denial must all relate to the applicant's failure to meet standards established in the ordinance. In sum, cities have a great deal of liberty to establish the rules, but once established, cities are equally bound by the rules as the public.

These quasi-judicial decisions, on the other hand, are reviewable only through the filing of a petition for a writ of certiorari with the court of appeals (as opposed to district court for review of legislative decisions). Sometimes quasi-judicial decisions also may present derivative claims, which the court of appeals does not have jurisdiction to hear on the writ. Cities should work with their city attorneys to follow proper process.

RELEVANT LINKS:

A city acts in a quasi-judicial manner when it reviews applications for:

- Conditional use permits.
- Interim use permits.
- Variances.

Northwestern College v. City of Arden Hills, 281 N.W.2d 865 (Minn. 1979). *Vill. of Edina v. Joseph*, 264 Minn. 84, 119 N.W.2d 809, 815, (1962). *Billy Graham Evangelistic Ass'n v. City of Minneapolis*, 667 N.W.2d 117 (Minn.2003). *Melleyco P'ship v. West St. Paul City*, 874 N.W.2d 440 (Minn. Ct. App. 2016).

With respect to reviewing quasi-judicial decisions (involving judgment and discretion), the Supreme Court has cautioned reviewing courts against substituting their judgment for that of the body making such a decision, guiding those courts to determine whether that body was within its jurisdiction, was not mistaken as to the applicable law, and did not act arbitrarily, oppressively, or unreasonably, and to determine whether the evidence could reasonably support or justify the determination. This means that, when assessing conflicting evidence in quasi-judicial cases, an appellate court does not independently weigh the evidence, but rather, reviews the record "to determine whether there was legal evidence in the record to support the zoning authority's decision."

Billy Graham Evangelistic Ass'n v. City of Minneapolis, 667 N.W.2d 117, 124 (Minn.2003).

In these quasi-judicial situations, due process and equal protection (or lack thereof) represent factors for determining if the local government acted unreasonably or arbitrarily. Due process and equal protection under the law demand that similar applicants be treated uniformly by the city. The best process for ensuring similar treatment among applicants is to establish standards in the ordinance and to provide that if standards are met, the zoning permit must be granted. An application generally only may be denied for failure to meet the standards in city ordinances.

A reviewing court will overrule a quasi-judicial city zoning decision if it determines that the decision was arbitrary or capricious (failed to treat equally situated applicants equally or failed to follow ordinance requirements).

1. Standard of review for re-zoning applications

State, by Rochester Ass'n of Neighborhoods v. City of Rochester, 268 N.W.2d 885 (Minn. 1978).

An application for a rezoning really serves as a request for an amendment to the zoning ordinance, and, as such, represents a quasi-legislative decision. When reviewing applications for re-zoning, the court has ruled that a city continues to act in a legislative capacity, even though the re-zoning application may only relate to one specific parcel owned by one individual.

The law presumes an existing zoning ordinance constitutional, and an applicant only is entitled to a change if they can demonstrate that the existing zoning is unsupported by any rational basis related to the public health, safety and welfare.

RELEVANT LINKS:

Minn. Stat. § 15.99, subd. 2(a).
See Section V-A, *The 60-Day Rule*.

2. Making a record of the basis for zoning decisions

The 60-Day Rule requires a city provide reasons for its denial of a zoning request within a certain time. The reasons for denial must be stated on the record. In addition, a city must provide the applicant with a written statement of the reasons for denial.

The reasons for denial or approval, whether written or stated on the record, constitute the city's "findings of fact" on the application.

SuperAmerica Group, Inc. v City of Little Canada, 539 NW 2d 264 (Minn. Ct. App. 1995).
Swanson v City of Bloomington, 421 NW 2d 307 (Minn. 1988).
Larson v Washington County, 387 N.W.2d 902 (Minn. Ct. App 1986).
See LMC information memos, *Taking the Mystery Out of Findings of Fact*.

Findings of fact are essential to the zoning process and provide the reviewing court a record to sustain a city's zoning decision. When a land use decision is challenged in court, the reviewing court upholds a city's decision if the findings of fact demonstrate a rational and legally sufficient basis for the decision.

Zylka v. City of Crystal, 293 Minn. 192, 167 N.W.2d 45 (1969).

See Sections V-C-3-c, *conditional use permits* and V-C-3-d, *requests for variances from the zoning ordinance*, for more information on the standards of review for conditional use permits and variances.

Findings of fact should state all the relevant facts the city considered in making its decision on the zoning application. A fact is relevant if it proves or disproves that the application meets the legal standards of the city ordinance and state law related to the zoning request. In evaluating any particular zoning request, the reviewing body should apply the relevant facts to the particular standards that govern the specific type of decisions being made. These standards will be set out in the city's ordinance, state law, or through court decisions.

a. Neighborhood opposition

Certain zoning issues may generate vocal public opposition. It is important to recognize that neighbors have legitimate interests. While property owners may develop expectations about the regulation of their own land, they also develop expectations of neighboring property. For city officials, the process of gathering public input can cause chaos at meetings. Many cities find the following suggestions helpful when gathering public input:

- Land use ordinances are accessible and easy to read.
- Address potential issues proactively by involving residents early in the planning and zoning process.
- Actively educate the public about the planning and zoning process or the project in question.

RELEVANT LINKS:

After hearing from the public, cities sometimes struggle with handling vocal neighborhood opposition in their findings of fact. The decision-making body should not cite vague or general statements of public opposition, including mere comments about fears or speculations, as a finding of fact when denying a zoning application.

August v. Chisago County Bd. of Commissioners, 868 N.W.2d 741 (Minn. Ct. App. 2015) (neighbors' personal experiences with increased noise and increased traffic sufficient finding of fact). *Roselawn Cemetery v. City of Roseville*, 689 N.W2d 254, 260 (Minn. Ct. App. 2004) (city council can disregard an expert's opinion when presented with conflicting non-experts' opinions, so long as the reasons are concrete and based on observations, not merely on fear or speculation.").

However, a decision-making body may consider and cite neighborhood opposition when that opposition arises out of specific, fact-based effects of the project. A significant part of the zoning process is the public hearing mandated by the Municipal Planning Act. The Municipal Planning Act requires that all parties interested in an application, including the applicant and neighbors, have the opportunity to speak and present their views on the application. While broad, general statements of opposition may not qualify as a reasonable finding of fact, specific statements made by the public that are concrete and factual in nature and relate to the public welfare do rise to the level of acceptable findings.

For example, stating as a finding that "public opposition to the project is strong" would not suffice. However, stating that, "neighbors in the vicinity of the project made numerous statements at the public hearing that streets in the area are already highly congested. The addition of a shopping mall would significantly increase congestion on streets already at capacity" would suffice. Where possible, findings of fact that refer to statements by the public should be corroborated by studies and/or expert testimony or opinions.

b. Conducting a public hearing

Public hearings are required prior to a city acting on numerous types of zoning issues. A public hearing must be held for:

Minn. Stat. § 462.357, subd. 3.
Minn. Stat. § 462.3595, subd. 2.
Minn. Stat. § 462.357, subd. 3.

- Zoning ordinance adoption or amendment.
- Conditional use permits.
- Rezonings.

City ordinances also may require hearings for other matters. For example, some cities view variances as a type of zoning amendment and hold hearings for variance requests. As this represents an unsettled area of law, cities should consult their city attorney on the practice of holding hearings for variances.

RELEVANT LINKS:

At a minimum, notice of the hearing must be published in the official newspaper at least 10 days prior to the hearing, and direct notice must be mailed to property owners within a 350-foot radius of the land in question (including landowners within the 350-foot radius who may live outside the city). Some zoning ordinances may require additional notice and cities should comply with those requirements as well.

Public hearings should include a complete disclosure of the proposal, and a fair and open assessment of the issues raised. A public hearing must include an opportunity for the general public (and interested parties) to hear and see all information, to ask questions, to provide additional information, to express either support or opposition, or to suggest modifications to the proposal.

For more information on conducting public hearings see Minnesota Mayor's Handbook.

A city should conduct public hearings for purposes of developing findings of fact to support the city's decision to grant or deny a zoning application. As a result, it may be helpful for a city to provide the public with guidelines for the procedure of the hearing and to encourage the public to present only factual evidence for public consideration.

3. Review of specific types of zoning applications

Cities need procedures in place to help them review the different types of zoning applications they receive.

Cities typically receive applications for conditional use permits, interim uses, variances and requests for re-zonings.

As discussed above, most all of these applications must comply with the 60-Day Rule. However, cities process each type of application differently since state law (and likely local ordinance as well) establishes specific requirements for granting each type of application. Cities should work with their city attorney to make sure they comply with applicable state law and ordinances.

a. Permitted uses

The administrative procedures used for processing permitted use zoning requests varies from city to city. For example, some cities will have their building inspector confirm that a use is permitted and meets all applicable zoning rules at the time a building permit is issued with no other formal action from a city. Other cities, that may not enforce the State Building Code, may require all landowners seeking to develop or build to apply for a formal zoning permit. The permit issued confirms that the use is permitted and meets all other applicable zoning standards.

RELEVANT LINKS:

Stotts v. Wright County, 478 N.W.2d 802 (Minn. Ct. App. 1991).

City of North Oaks v. Sarpal, 797 N.W.2d 18 (Minn. 2011).
Mohler v. City of St. Louis Park, 643 N.W.2d 623 (Minn. Ct. App. 2002).

Minn. Stat. § 462.357, subd. 6.
Kismet Investors v. County of Benton, 617 N.W.2d 85 (Minn. 2000).

An applicant for a variance is not entitled to a variance merely because similar variances were granted in the past, although, in granting variances, a city ought to be cautious about establishing precedent.

Error by city staff in approving plans does not entitle a person to a variance. While the result might be harsh, a municipality cannot be estopped from correctly enforcing a zoning ordinance, even if the property owner relies, to his or her detriment, on prior city action.

As discussed above, the most common requests for variances relate to physical conditions on the property. For example, setbacks and height restrictions. On occasion a city may receive requests for variances related to uses. For example, a request to use the property for a landscaping business out of a home in a residential district. These are commonly referred to as a use variance.

Minn. Stat. § 462.357, subd. 6.

A city may not grant a use variance if the use is not allowed in a zoning district. This may occur when the local zoning ordinance specifically lists prohibited uses (such as industrial uses in a residential zone) or when a zoning ordinance lists permitted uses and then prohibits all uses not specifically listed. These types of requests should be dealt with by an amendment to the zoning ordinance and not a variance.

Minn. Stat. § 462.357, subd. 6(2).

Finally, state statute creates two use variances that a city may always choose (but is not required) to permit through a variance. State statute specifically empowers cities to grant use variances for solar energy systems, where a variance is needed to overcome inadequate access to direct sunlight, and for the temporary use of a single-family residence as a two-family residence.

e. Requests for rezoning or zoning ordinance amendments

Minn. Stat. § 462.357.
Minn. Stat. § 462.358, subd. 2a.
Minn. Stat. § 15.99.

Cities have the authority to rezone (such as changing a designation from residential to mixed commercial) or otherwise amend the zoning regulations governing types of property (such as adding a permitted or conditional use).

Because rezoning serves as an amendment to the actual zoning ordinance, all the procedures for amendments to the zoning ordinance apply.

Minn. Stat. § 462.357, subd. 4.
See Part V-A, *The 60-day rule*.

The planning commission, council, or a petition by an individual landowner, may initiate rezoning. If a request for rezoning does not come from the planning commission, the matter must be referred to the planning commission for study and report.

RELEVANT LINKS:

The 60-Day Rule discussed previously applies to rezoning requests and an automatic grant of the rezoning will result if the city does not comply with the rule.

Sun Oil Co. v. Vill. of New Hope, 300 Minn. 326, 220 N.W.2d 256 (1974).
Kelber v. City of St. Louis Park, 289 Minn. 456, 185 NW 2d 526 (1971).

Rezoning represents a legislative act and needs only to have a rational basis relating to public health, safety, morals, or general welfare. A city must document, in findings of fact, the rational basis for the rezoning decision. If a city has followed a comprehensive planning process, the findings of fact should further the city's comprehensive plan. For example, the fact that property zoned for residential purposes has greater value if used for commercial purposes has never been grounds for rezoning when the surrounding property is predominantly residential.

(1) Rezoning residential property

Minn. Stat. § 462.357, subd. 2.

When property gets rezoned from residential to commercial or industrial, a two-thirds majority of all members of the city council is required. (This means there must be four affirmative votes on a five-member council, in most cases.) For other rezoning decisions, a simple majority vote of all members is all that is required, meaning three out of five votes for a five-member council.

A.G. Op. 59-A-32 (Jan. 25, 2002).

The Minnesota attorney general has issued an opinion that charter cities may not alter this voting requirement in their charter. The purpose of state law is to provide a uniform set of procedures for city planning and such procedures apply to all cities, charter or statutory.

(2) Spot zoning

Amcon Corp. v. City of Eagan, 348 N.W.2d 66 (Minn.1984).

Property owners to do not have vested rights in the specific zoning of their parcel.

Olsen v. City of Hopkins, 178 N.W.2d 719, 288 Minn. 25 (Minn. 1970).
Three Putt, LLC v. City of Minnetonka, No. A08-1436 (Minn. Ct. App 2009) (unpublished decision).

Cities may exercise their legislative discretion to rezone property in furtherance of the public, health, safety and welfare. However, cities should avoid a type of rezoning known as "spot zoning."

State, by Rochester Ass'n of Neighborhoods v. City of Rochester. 268 N.W.2d 885 (Minn. 1978).

Spot zoning usually involves the rezoning of a small parcel of land in a manner that:

- Has no supporting rational basis that relates to promoting public welfare.
- Establishes a use classification inconsistent with surrounding uses and creates an island of nonconforming use within a larger zoned district (for example one lot where industrial uses are permitted in an otherwise residential zone).

RELEVANT LINKS:

- Dramatically reduces the value for uses specified in the zoning ordinance of either the rezoned plot or abutting property.

Alexander v. City of Minneapolis, 125 N.W.2d 583, 267 Minn. 155 (Minn. 1963).

Spot zoning that results in a total destruction or substantial diminution in the value of property may be considered a form of regulatory taking of private property without compensation.

In these rare instances, courts may award a property owner compensation for damages related to a legislative rezoning.

D. Environmental review

See Handbook, *Environmental Regulations* for more information on environmental review.
Minn. Stat. § 116D.
Minn. R. ch. 4410.
Minn. Stat. § 16D.02.

Minnesota has adopted a comprehensive and detailed environmental review program to determine the significant environmental effects of private and governmental actions. The idea behind the program is that if governmental bodies require documents that identify the environmental consequences of a proposed development and those documents are available to the public, decision-makers can incorporate environmental protection into the proposed development. The law prohibits the issuance of permits or development prior to completion of necessary documents.

Minn. Stat. § 15.99, subd. 3(d), (e).
Minn. Stat. § 116D.
Minn. R. ch. 4410.
See Section V-A *The 60-Day Rule*.

The state-mandated environmental review process usually occurs in conjunction with a city's administration of its zoning ordinance. The environmental review process may require a city to delay consideration of an application. The 60-Day Rule allows an extension for these purposes.

E. Fees and escrow

Minn. Stat. § 462.353, subd. 4(a).
Minn. Stat. § 462.353, subd. 4(b).

Proper zoning administration can require significant financial commitment from a city. However, a city may establish land use fees under the Municipal Planning Act sufficient to defray the costs incurred by a city in reviewing, investigating, and administering an application related to the zoning ordinance.

Fees must be fair, reasonable, proportionate, and linked to the actual cost of the service for which the fee is imposed. All cities must adopt management and accounting procedures to ensure fees are maintained and used only for the purpose for which they are collected. Upon request, a city must explain the basis of its fees.

Minn. Stat. § 471.462.

Upon request by an applicant for a permit, license, or other approval relating to real estate development or construction, cities must provide a written non-binding estimate of consulting fees to be charged to the applicant based on the information available at that time.