



CITY COUNCIL MEETING

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| AGENDA SECTION | CONSENT AGENDA |
| MEETING DATE | APRIL 13, 2026 |

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| ITEM: | Second Reading of Ordinance No. 1725, and Ordinance to Amend Chapter 9 – Land Use: 9.103 Definitions, 9.105 Nonconformities, 9.106 General Development Standards, and 9.107 Specific Development Standards | | |
| <i>Presenting Item: Aaron Chirpich, City Manager</i> | | | |
| DEPARTMENT: Community Development | | BY/DATE: Ursula Brandt, City Planner/ March 30, 2026 | |
| CORE CITY STRATEGIES: <i>(please indicate areas that apply by adding an “X” in front of the selected text below)</i> | | | |
| X Community that Grows with Purpose and Equity | | X Engaged, Effective and Forward-Thinking | |
| _ High Quality Public Spaces | | _ Resilient and Prosperous Economy | |
| _ Safe, Accessible and Built for Everyone | | _ Inclusive and Connected Community | |

BACKGROUND

During the February 4 Planning Commission Meeting Staff brought forward four areas in the Zoning Code to be updated with the goal of adjusting the Zoning Code to better reflect community needs while promoting consistency in future development and being in compliance with State and Federal laws and other city ordinances. Planning Commission held a Public Hearing on the proposed zoning text amendment on March 3, 2026 and gave a positive recommendation (6-0) as presented.

CURRENT STATUS

Places of Worship

The Religious Land Use and Institutionalized Persons Act (RLUIPA) passed in 2000 and mandates that religious assemblies and institutions be treated at least as well as non-religious assemblies and institutions. The City’s zoning code restricts “religious facilities/places of worship” to residential zones with a conditional use permit, while allowing “auditorium/places of assembly”, “banquet hall”, “club or lodge”, “theater-live performance” and “theater – movie” in commercial zones. This creates a conflict with RLUIPA.

Staff is recommending the code be updated to add “religious facilities/places of worship” as permitted with a conditional use permit in General Business (GB) and Central Business District (CBD). Based on Planning Commission comments staff is also recommending updating the specific development standards associated with “religious facilities/places of worship” to include requiring a transportation management plan to address off street parking, traffic control and the impact of the facility on surrounding roadways.

Non – Conformities

State Statute 462.357 Subdivision 1e states: “Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration,

maintenance, or improvement, but not including expansion”. The City’s zoning code does not allow for “replacement” and is therefore in conflict with the State Statute.

Staff is recommending amending *9.105 Nonconformities (C) Nonconforming Structures (4) Repair and maintenance* to include replacement that does not increase the nonconformity in any way.

Multiple-family dwelling, when above a first-floor commercial use

The City’s zoning code permits “multiple-family dwelling, when above a first-floor commercial use” in the Central Business District (CBD), but restricts “Single family dwelling, when accessory to a commercial use” to the Limited Business (LB) district with a conditional use permit.

Staff is recommending changing the allowed use to “single and multiple family dwelling, when above a street level commercial use” in the Central Business District (CBD) to allow single apartments above commercial uses. Staff is recommending the language to be changed from first floor to street level to account for properties that have lower levels that exit out into parking lots.

Smoke Shops

On November 24, 2025, the City Council adopted Ordinance 1720 regarding Chapter 5.3 Tobacco Regulations. 9.103, 9.106 and 9.107 in the Zoning Code need to be updated to reflect the changes.

Staff Recommends the following changes.

9.103 Definitions

~~SMOKE TOBACCO PRODUCT SHOP~~. A retail establishment that has obtained an appropriate license, in which greater than 90% of the business’s gross revenue must be from the sale of tobacco, tobacco products or smoking related accessories, and prohibits persons under 21 from being present or enter at all times.

ACCESSORY TOBACCO RETAILER. A retail establishment that has obtained an appropriate license from the City and that derives no more than 45% of its gross revenues from the sale of licensed products.

9.106 General Development Standards

Table of Uses

| | | | | | |
|--|---|---|---|---|---|
| Smoke Shops (43) <u>Tobacco Product Shop</u> | P | P | P | P | P |
|--|---|---|---|---|---|

Add the Accessory Tobacco Retailer use to the table as permitted in all commercial districts.

9.107 Specific Development Standards

(43) ~~Smoke Tobacco Product shops.~~

- (a) ~~The smoke shop~~ Must have an entrance door opening directly to the outdoors.
- (b) Share no wall with, and has no part of its structure adjoined to any other business or retailer, unless the wall is permanent, completely opaque and without doors, windows and pass-throughs to the other business or retailer
- (c) Shall share no walls with, and has no part of its structure directly adjoined to, another tobacco retailer
- ~~(b) Greater than 90% of the business’s gross revenue must be from the sale of tobacco, tobacco products or smoking related accessories.~~
- ~~(c) A tobacco department or section of any individual business establishment with any type of liquor, food or restaurant license shall not be considered a smoke shop.~~
- ~~(d) The total number of city issued smoke shop licenses shall at no time exceed five.~~

- (d) Any existing ~~smoke tobacco product~~ shops at the time of the passage of Ord. ~~1570~~ 1720 shall comply fully with the ordinance by ~~December 31, 2019~~ January 1, 2026.

Changes by Code Section

1. 9.103 Definitions update Smoke Shop to Tobacco Product Shop, make the definition consistent with the definition in Ordinance 1720 and add the definition of Accessory Tobacco Retailer.
2. 9.105 Nonconformities to include replace in Repair and Maintenance of a Nonconforming structure but does not allow for an increase in nonconformity with the replacement.
3. 9.106 General Development Standards (S) Table of Uses
 - a. Amend 'Multiple family dwelling, when above a first floor commercial use' to 'Single and Multiple family dwelling, when above street level commercial use'.
 - b. Change the name of Smoke Shops to Tobacco Product Shops.
 - c. Add Accessory Tobacco Retailer as permitted in all Commercial Districts.
 - d. Add Religious facility/place of worship as a Conditional Use in General Business and Central Business District.
4. 9.107 Specific Development Standards
 - a. Amend (35) Religious facilities/places of worship for consistency and to require a transportation management plan.
 - b. Amend (43) Smoke Shops to be in alignment with Ordinance 1720 as presented above.

ZONING ORDINANCE AMENDMENT FINDINGS OF FACT

Section 9.104 (F) of the Zoning Ordinance outlines certain findings of fact that must be met in order for the City to grant approval for a zoning amendment. The findings are as follows:

(a) The amendment is consistent with the comprehensive plan.

The City's 2040 Comprehensive Plan identifies strengthening the identify and image of the community as a desirable place to live, work, and play as well as preserving and enhancing the existing viable commercial and industrial areas within the community. The zoning code amendments proposed will help achieve more consistency with the 2040 Comprehensive Plan.

(b) The amendment is in the public interest and is not solely for the benefit of a single property owner.

The zoning text amendments are to come into compliance with current City, State and Federal regulations to ensuring consistency across zoning districts.

(c) Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.

The amendment is not to change the zoning classification of a particular property.

(d) Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its current zoning classification.

The amendment is not to change the zoning classification of a particular property.

PLANNING COMMISSION AND CITY COUNCIL ACTION

On March 3, 2026 the Planning Commission held the required Public Hearing. No public comments were received before or during the public hearing. Planning Commission unanimously voted to recommend the City Council approve Ordinance 1725.

City Council reviewed the proposed changes at the March 23 City Council Meeting and recommended approval. City Council voted 4-0 to set the second reading of the Ordinance.

STAFF RECOMMENDATIONS

Staff recommends approval of Ordinance No. 1725.

RECOMMENDED MOTION(S):

MOTION: Move to waive the reading of Ordinance amendment No. 1725, there being ample copies available to the public.

MOTION: Move to approve the second reading of Ordinance 1725, being an ordinance to amend Chapter 9 – Land Use: 9.103 Definitions, 9.105 Nonconformities, 9.106 General Development Standards, and 9.107 Specific Development Standards, and to direct staff to send the summary ordinance for publication in the legal newspaper.

ATTACHMENTS

1. Ordinance 1725
2. Summary Ordinance