ARTICLE 3 ZONING ADMINISTRATION AND ENFORCEMENT

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§ 155.31 DIRECTOR OF PLANNING

The City Council shall appoint a Director of Planning. The Director of Planning, or his/her designated agent, shall enforce this chapter and shall perform the following duties:

(A) *Permits*. Issue zoning permits pertaining to the zoning ordinance and make and maintain records thereof;

(B) *Inspections*. Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter;

(C) *Records*. Coordinate with the City Clerk to maintain permanent and current records of this chapter, including but not limited to: all maps, amendments and conditional uses, variances, appeals and applications therefore;

(D) *Applications*. Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies;

(E) *Interpretation*. Interpret the provisions of this chapter and related provisions of the City Code, including determinations of Zoning Use Types and Classifications as specified in Article 2, § 155.24.A;

(F) *Enforcement*. Institute in the name of the city proceedings against a violator as provided for in this chapter;

(G) *Work Program*. Recommend a program of work pursuant to Section 30.095 of the City Code to the Planning Commission prior to the beginning of each calendar year and at such other times as the Planning Commission may request;

(H) *Reporting*. Submit a yearly report to the Planning Commission in January of each year summarizing the activities of the Planning Department during the previous year, including information related to housing, public infrastructure, city facilities, industrial and commercial

development, enforcement actions, and other such information as the Director of Planning deems relevant. This report should also include any recommended changes to the Comprehensive Plan or various land use ordinances.

§ 155.32 APPLICATIONS AND REVIEW PROCESS.

(A) *Application form and fee*. The following general provisions apply to all applications required under this chapter.

(1) Application form. All applications for any site plan, conditional use permit, zoning verification, variance, or for any other city approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the city, to the Director of Planning.

(a) *Information required*. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. In addition, the Planning Department shall develop a list of other information required for each type of permit. The information list shall be attached to the application form. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.

(i) Grading. If grading or stormwater management is proposed, grading or stormwater management plans meeting the requirements of the Lake City Grading Handbook shall be submitted with the application.

(2) Fee. The application shall be accompanied by the required fee as established by resolution of the City Council. If a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M. S. § 462.361 (judicial review), as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.

(B) *Application requirements*.

(1) Submission materials. Submission materials for applications required under this chapter shall include the following specific information:

(a) Site plan drawn to scale showing parcel and building dimensions.

(b) Location of all buildings and their size, including square footage.

(c) Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks.

(d) Landscape plans meeting the requirements of Section 155.89 of Article 6 of this Zoning Ordinance.

(e) Grading and Erosion Control Plans meeting the requirements of Section155.86, Article 6 of this Zoning Ordinance.

(f) Type or types of business or activity and proposed number of employees.

(g) Proposed floor plan of any building with use indicated.

(h) Building elevation drawings of any new construction or building renovation proposed.

(i) The Director of Planning may require that the applicant supply proof of ownership of the property for which a permit is requested.

(j) The Director of Planning may require traffic generation information to determine the adequacy of existing transportation infrastructure.

(k) Such other information as may be required by the Director of Planning, Planning Commission or City Council.

(2) Waiver of submission materials. The Director of Planning may waive certain submission requirements for projects that will have a minimal impact on surrounding properties or in instances when said submission requirements are impractical given the nature of the proposed development.

(C) ***THIS SECTION HAS BEEN MOVED AND REVISED***

(D) *State established time limit for final action*. The City shall comply with the time limits as established by Minnesota Statute § 15.99 (time deadline for agency action), as it may be amended from time to time, with regards to taking action on any applications subject to said Statute.

§ 155.33 PUBLIC HEARING REQUIREMENTS

This section contains requirements for public hearings held by the Planning Commission, Board of Adjustment or City Council under this Ordinance.

(A) *Notification of general public*. The Director of Planning shall set the date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, not less than ten days prior to the hearing.

(B) *Notification of surrounding property owners*. For any application for which a public hearing is required, the Director of Planning shall notify all property owners within the affected zone and within three hundred fifty feet (350') of the outer boundaries of the property in question.

(1) Failure of any property owner to receive such notification shall not invalidate the proceedings.

(2) The City Council may waive the mailed notice requirements for a city-wide amendment to the zoning ordinance initiated by the Planning Commission or City Council.

(C) Hearing Procedures

(1) Public Hearings conducted by the Planning Commission, City Council, and Board of Adjustment.

(a) The Director of Planning or his/her representative shall summarize the application and any associated information.

(b) The applicant shall be allowed to summarize the request and call any witnesses to support his/her request.

(c) The public shall be allowed to make statements concerning the request subject to reasonable limits that may be set by the body conducting the hearing.

(d) The Planning Commission, City Council and Board of Adjustment may establish other procedures as needed to ensure due process for those parties involved with the hearing.

(2) <u>Appeal Hearings</u>. The Board of Adjustment shall hold a hearing and make a decision on any appeal submitted in accordance with Section 155.38 of this Article. The Board of Adjustment shall establish rules for due process during appeal hearings and any party to the appeal may appear at the hearing in person or by agent or attorney. At a minimum, the following hearing procedure will be followed:

(a) Appellant shall present a case and may call any witnesses necessary in support thereof;

(b) Respondent may ask questions of appellant’s witnesses;

(c) Respondent may call witnesses;

(d) Appellant may ask questions of respondent's witnesses;

(e) Respondent may summarize his or her position;

(f) Appellant may summarize his or her position;

(g) Generally, the Minnesota District Court Rules of Civil Procedure shall apply for the conduct of the hearing.

§ 155.34 PERMITS, CERTIFICATES AND LICENSES

(A) *Building permits*.

(1) Compliance. A building permit is required for the construction or structural alteration of a building or any part thereof. Other construction activity may require a permit in accordance with the Minnesota State Building Code. Demolition, wrecking or removal of any structure shall require a demolition or moving permit. No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all requirements of the Minnesota State Building Code as adopted by the City of Lake City pursuant to Section 150.60, Title XV of the City Code have been fully met.

(2) Concurrent applications. If the proposed development requires a zoning amendment, variance or conditional use permit, or other permit required under this Article, the applicant shall secure all required permits prior to the issuance of a building permit for said development.

(3) Administrative review of permits for existing platted lots. If the proposed development does not involve a zoning amendment, variance or conditional use permit, and proposes a use, structure or expansion of an existing structure on an existing platted lot, the Director of Planning may review the application and approve or deny the permit.

(4) Expiration. Any building permit issued by the city shall expire and by limitation be null and void if a certificate of occupancy and final completion has not been issued within the following applicable period of time after the date of permit issuance:

(a) Single-family residential dwellings, including new construction, remodeling or additions: 18 months;

(b) Accessory buildings on single-family residential properties: 12 months;

(c) All multi-family and nonresidential construction: 24 months unless a shorter or longer time is specified by the City Council at the time the

original permit is issued;

(d) *Extension*. The Building Official may grant a 90-day extension if there is an unusual hardship, such as bad weather. An expired building permit may be reissued once, by the Building Official, for one-half the original permit fee. Thereafter, if the permitted work is not completed within the applicable time period, a new permit may be issued only upon such conditions as the City Council by resolution may prescribe, including financial guarantees of completion by the specified date.

(e) *Time limitations for exterior work*. All exterior work shall be completed as follows:

(i) Within six (6) months of the date of the issuance of the Certificate of Occupancy all disturbed and exposed ground shall be covered with established grass or other ground cover;

(ii) All exterior construction, including siding, roofing, doors, windows and finish shall be completed and present a finished appearance within 12 months of the start of construction. Tar paper, unfinished plywood, fiberboard insulation, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be an exterior finish shall not be considered an acceptable exterior finish;

(iii) Failure to complete exterior work as required herein shall result in suspension of the existing permit until a reinstatement fee equal to 100% of the original building permit has been made. Reinstatement of a building permit does not extend the original term of the permit. The reinstatement fee shall also be paid prior to re-issuance of any subsequent permit for exterior work that was not completed under a prior permit that expired.

(B) *Certificate of zoning compliance*. A certificate of zoning compliance is a zoning permit that is intended as a means of administratively reviewing a new use, change in use, or structural change that does not require a building permit.

(1) When required. A certificate of zoning compliance is required for the following activities:

(a) A new use classification within an existing building or structure;

(b) A change of use classification within an existing building or structure;

(c) Addition, removal or change in parking or other on-site improvements;

(d) Small accessory structures that do not require a building permit;

(e) Home occupations;

(f) Swimming pools, spas and hot tubs;

(g) Antennas;

(h) Fences less than six feet in height;

(i) Stormwater management activities and structures;

(j) Other situations requiring additional review or interpretation, as specified elsewhere in this Ordinance.

(2) Expiration of a certificate of zoning compliance. Where a certificate of zoning compliance use has been established and is discontinued for any reason for a period of one (1) year or longer, the certificate of zoning compliance shall become null and void.

(C) *Certificate of Occupancy*. No vacant land shalt be occupied or used and no buildings hereafter erected, altered or moved shall be occupied until a certificate of occupancy has been issued by the Director of Planning and the Building Official. Such certificate shall show that the building or premises or part thereof and the use thereof are in conformity with the International Building Code and the provisions of this chapter. Such certificate shall be issued only when the building or premises and the use thereof conform to all the requirements of this chapter.

(D) *Temporary use permit*. Temporary use permits are authorized to allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in Comprehensive Plan; and to allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future. Examples of temporary uses include but are not limited to model homes, trailers used in construction and sales of dwellings or land, and occupancy of mobile home during construction of a principal building. Temporary use permits shall conform to the following provisions:

(1) Standards. The Planning Commission shall recommend a temporary use permit and the City Council shall issue such temporary use permit only if it finds that such use at the proposed location:

(a) Meets the standards for a conditional use permit;

(b) Will terminate upon an identified date, such date shall not to exceed 6 months from the date of issuance of the permit and such date to be stated on the temporary use permit;

(c) Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future; and

(d) Will be subjected to, by agreement with the owner, any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the temporary use and any temporary structures upon the expiration of the temporary use permit.

(2) Public hearing required. The Planning Commission shall hold a public hearing on each complete application for a temporary use permit as provided in Section 155.33 of this Article. After the close of the hearing on a proposed temporary use permit, the City Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council

(3) Termination. A temporary use permit shall terminate upon the occurrence of any of the following events, whichever first occurs:

(a) The date stated in the permit;

(b) A violation of conditions under which the permit was issued;

(c) A change in the city's zoning regulations which renders the use nonconforming; or

(d) The use has been discontinued for a minimum of three (3) months.

(E) *Sign permit*. A sign permit shall be authorized for a sign that conforms to the sign regulations in Article 5. An application, on a form provided by the Director of Planning, shall be submitted with the required fee by the owner of the proposed sign. The Director of Planning shall issue a sign permit if all of the regulations in Article 5 are met.

(F) *Single event license*. A single event license shall be required on private property to allow a use for a single time only for a period of time not to exceed seven (7) days. Examples of single event licenses include, but are not limited to: circuses, carnivals, auctions or fairs on private property. Single event licenses shall conform to the following provisions:

(1) Application and fee. An application, on a form provided by the Director of Planning, shall be submitted with the required fee by the operator of the proposed event.

(2) Standards. The Director of Planning shall issue a single event license only if the following standards are met:

(a) The proposed event is compatible with other uses in the district where the event is proposed.

(b) The operator must show proof of adequate insurance to cover the type of event proposed. Such insurance shall indemnify the City of Lake City against any and all potential liability arising from the licensed event.

(c) The proposed event will terminate upon an identified date, not to exceed seven (7) days from the first day of the event, and such beginning and termination dates shall be stated on the single event license.

(d) Limitations on daily hours of the event may be imposed.

(e) The proposed event will not impose costs on the public; or if so, all costs will be paid by the applicant prior to the event or a bond shall be posted by the applicant prior to the event in sufficient amount to cover all foreseeable public costs, unless otherwise waived by the City Council.

(f) The proposed event will be subjected to, by agreement with the operator, any conditions that the Director of Planning has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover anticipated costs of cleaning the property and adjacent public rights-of-way and removing any structures associated with the event.

(G) *Grading permit*. A permit shall be required for all non-agricultural project(s) or activities that will result in the movement of more than fifty (50) cubic yards of earth or the disturbance of more than one-half acre of land, and for construction of a building or structure on steep slopes, as specified in Article 6, Section 155.84. The Director of Planning may issue a grading permit only if the grading plan meets the requirements of the Lake City Grading and Stormwater Management Handbook.

(H) *Certificate of Design Review*. Prior to commencement of any development activity within the B-1 Central Business District not requiring review by the Planning Commission (and not otherwise deemed exempt by this section), an applicant shall receive a Certificate of Design Review from the Lake City Design Review Committee. Approval of said Certificate is not a requirement for an application to proceed; the process is instead intended to encourage a design standard for the Central Business District.

(1) Lake City Design Review Committee. A committee with representation as follows shall have the authority to issue a Certificate of Design Review in accordance with design guidelines found in Sections 155.156 and 155.157 of this Ordinance: two (2) members of the Heritage Preservation

Commission, two (2) members of the Planning Commission, and one (1) member of the Economic and Development Authority.

(2) Review Process. The Director of Planning shall call for meetings of the Design Review Committee as needed to review applications under this section; these meetings should be conducted no more than 14 days after the submission of a request for a Certificate of Design Review. All reviews under this section shall be completed within 30 days of filing an application for design review. If a Certificate of Design Review is not issued with this timeframe, an applicant may proceed in accordance with the submitted plans.

(a) *Notification*. All applicants shall be notified in advance of a Design Review Committee meeting, and shall have the right be present and address issues that may be raised at said meeting.

(b) *Review by professional*. The Design Review Committee request assistance from a design professional as part of its review. The cost of review by such design professional shall be charged to the applicant, and shall not exceed $1,000 unless otherwise agreed to by the applicant.

(3) Alternate Forms of Review.

(a) *Planning Commission*. For those applications under this Ordinance that require review by the Planning Commission, the Planning Commission shall consider the design guidelines found in Sections 155.156 and 155.157 as part of its recommendation to the City Council. Applications reviewed by the Planning Commission shall not require a separate Certificate of Design Review, but shall follow the same guidelines that would otherwise be considered by the Design Review Committee.

(b) *Commercial Revitalization Program*. A Certificate of Design Review shall not be required for any development activity that receives funding under the Lake City Commercial Revitalization Program or a funding program that requires compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties or the design review guidelines found in Sections 155.156 and 155.157 of this Ordinance.

(c) *Designated Historic Sites*. Structures that have been designated as a historic site or that are located within a historic district in accordance with Chapter 153 of the City Code shall follow the process for review of Permits as specified in said Chapter. A separate Certificate of Design review shall not be required for these projects.

(4) Development Activity Defined. Development Activity includes remodeling, altering, or repairing a structure in any manner that will change the exterior appearance of said structure. Development activity also includes the construction of new parking lots and installation of signage. No permits required by Section 155.34 of this Ordinance shall be approved until a Certificate of Design Review, if required, has been issued.

(a) *Exempt Activities*. The following shall activities shall be exempt from review under this Section:

(i) Ordinary repairs and maintenance that will not change the exterior appearance of a structure;

(ii) Removal of existing signage without replacement unless said signs are an integral part of the building;

(iii) Emergency repairs ordered by the Director of Planning in order to protect public health and safety;

(iv) Exterior alteration, addition, or repair of a structure used as a single-family residence which does not increase the number of dwelling units in the structure or does not increase the total square footage of floor space in the structure by more than twenty percent (20%);

(v) Temporary signage, installed in accordance with Section 155.73 of this Ordinance, or during which time an application for permanent signage is pending under this Ordinance;

(vi) Maintenance of existing signage advertising an on-site business;

(vii) Alterations only to the interior of a structure.

(5) Demolition Review. The Planning Commission shall review any application for the demolition of structure within the B-1 Central Business District in accordance with the standards of Section 155.156 (B). No demolition permits shall be issued in the B-1 District until this review has been completed.

(I) *Existing permits*. Any permit outstanding at the time of adoption of these provisions shall be subject to the provisions of this Chapter as it was in existence as of the date the permit was approved. (Ord. 452, 9/24/2007)

§ 155.35 PLANNING COMMISSION

The Planning Commission shall provide assistance to the City Council in the administration of this chapter. The recommendations of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission shall review, hold public hearings and make recommendations to the City Council on all applications for zoning amendments and conditional use permits using the criteria in Section 155.36 (zoning amendments) and Section 155.37 (conditional use permits) of this Article. The Planning Commission shall be formed and operate in conformance with Chapter 30 of this Code and specifically with Sections 30.090 through 30.103.

§ 155.36 ZONING AMENDMENTS

(A) *Criteria for granting zoning amendments*. The City Council may adopt amendments to the zoning ordinance and zoning map in relation to land uses within a particular district or to the location of the district line. Such amendments shall be used as a means to reflect changes in the goals and policies of the city as reflected in the Comprehensive Plan.

(B) *Types of amendments*.

(1) Rezoning. A change in the boundary of a zoning district on the Official Zoning Map, referred to as a rezoning.

(2) Text amendment. A change in the text of zoning district regulations or any other provision of this Chapter.

(C) *Initiation of proceedings*. Proceedings for a text amendment or a rezoning may be initiated by one of the following three methods:

(1) By petition of an owner or owners of property that is proposed to be rezoned or for which a text amendment for a change in a district regulation is proposed;

(2) By recommendation of the Planning Commission;

(3) By action of the City Council.

(D) *Application requirements for zoning amendments initiated by petition*. A petition for a Zoning Amendment shall be submitted to the Director of Planning on such form as required by Section 155.32.A. of this Article and accompanied by the following information:

(1) Conceptual site plan drawn to scale showing all affected parcels and general concept for development.

(2) General location of all buildings and their approximate dimensions and square footage.

(3) Approximate location of all curb cuts, driveways, access roads, parking areas, off-street loading areas, and sidewalks.

(4) Conceptual landscape plan indicating general planting areas for trees, shrubs, and lawns.

(5) Conceptual grading, erosion control, and storm water management plan.

(6) Conceptual sewer and water utility plan for the development.

(7) Narrative indicating the types of uses or business that is contemplated for the development, number of employees, parking and traffic impacts, and other pertinent information about the proposed development.

(8) The Director of Planning may require the applicant to supply proof of ownership of the property for which the amendment is requested that illustrates legal or equitable interest in the property.

(E) *Hearing requirements*. The Planning Commission shall hold a public hearing on each complete application for a Zoning Amendment as provided in Section 155.33 of this Article. After the close of such hearing, the Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council.

(F) *Effect of denial of application*. No application of a property owner for an amendment to the text of this chapter or the zoning map shall be considered by the Planning Commission within the one year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

(G) Relationship to Comprehensive Plan. Any rezoning shall be consistent with the current City of Lake City Comprehensive Land Use Plan. If the rezoning is not consistent with the current Comprehensive Plan, an amendment to the Comprehensive Plan shall be requested and such amendment must be approved prior to or concurrent with approval of the rezoning request.

(H) *Coordination with adjoining communities*. Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the Planning Commission and the adjacent community or county for review and comment prior to action by the City Council granting or denying the zoning district classification change. A period of at least ten (10) days shall be provided for receipt of comments. Such comments shall be considered as advisory only.

§ 155.37 CONDITIONAL USE PERMITS

(A) *Required findings*. Conditional use means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls only upon a finding that all of the following provisions are met:

(1) The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city.

(2) The use or development conforms to the most current City of Lake City Comprehensive Land Use Plan.

(3) The use or development is compatible with the existing neighborhood.

(4) The proposed use meets all specific development standards for such use listed in Article 7 of this Chapter.

(5) If the proposed use is in a flood plain or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 151 (Floodplain Regulations) and Chapter 152 (Shoreland Regulations).

(6) The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.

(7) The proposed use will not be hazardous or disturbing to existing or future neighboring uses.

(8) The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.

(9) The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

(10) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.

(11) Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.

(12) The proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

(B) *Application Requirements*. Conditional Use Permit applications shall be submitted to the Director of Planning on such form and accompanied by such information as required by Section 155.32.A of this Article and with the submission materials listed in Section 155.32.B of this Article:

(C) *Public hearing required*. The Planning Commission shall hold a public hearing on each complete application for a conditional use permit as provided in Section 155.33 of this Article. After the close of the hearing on a proposed conditional use permit, the City Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council.

(D) *Final decision by City Council*. The City Council shall make the final decision on a conditional use permit after a public hearing by the Planning Commission. The City Council may approve, approve with conditions or deny the application.

(E) *Conditions*. In reviewing applications for conditional use permits, the Planning Commission and Council may attach whatever reasonable conditions they deem necessary to mitigate anticipated adverse impacts associated with these uses, to protect the value of property within the district and to achieve the goals and objectives of the Comprehensive Plan. In determining such conditions, special consideration shall be given to protecting immediately adjacent properties from objectionable views, noise, traffic and other negative characteristics associated with such uses.

(1) The conditions shall include all specific development standards for such use listed in Article 6 of this Chapter.

(2) If the proposed use is in a flood plain or shoreland area, the conditions shall include specific standards for such use listed in Chapter 151 (Floodplain Management) and Chapter 152 (Shoreland Management).

(3) In addition, conditions may include, but are not limited to, the following:

(a) Controlling the number, area, bulk, height and location of such uses;

(b) Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow and control and access in case of fire or other catastrophe;

(c) Regulating off-street parking and loading areas where required;

(d) Controlling the location, availability and compatibility of utilities;

(e) Requiring berming, fencing, screening, landscaping or other means to protect nearby property; and

(f) Requiring other conditions to create compatibility of appearance with surrounding uses.

(F) *Findings for denial*. If the Planning Commission recommends denial of a conditional use permit or the Council orders such denial, it shall include in its recommendation or determination findings as to the specific ways in which the proposed use does not comply with one or more specific findings required by this chapter.

(G) *Permittee*. A conditional use permit shall be issued for a particular use and not for a particular person, except in the case of a permit granted for the uses of land reclamation, mining or soil or mineral processing. In such cases, a permit shall be issued to the particular person making application for such permit and such permit shall not be transferred or assigned for use by another without the written consent of the city. However, such consent by the city shall not be unreasonably withheld.

(H) *Periodic review*. A periodic review of the use may be attached as a condition of approval of a conditional use permit.

(I) *Term of permit*. Unless otherwise stipulated, the term shall be the life of the use.

(J) *Revocation*. Failure to comply with any condition set forth in a conditional use permit, or any other violation of this chapter, shall be a misdemeanor and shall also constitute sufficient cause for the termination of the conditional use permit by the City Council following a public hearing conducted in accordance with Section 155.33 of this Article.

(K) *Expiration*. If substantial construction has not taken place within 12 months of the date on which the conditional use permit was granted, the permit is void except that, on application, the Council, after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six months, the conditional use permit shall become void. This provision shall apply to conditional use permits issued prior to the effective date of this chapter, but the six-month period shall not be deemed to commence until the effective date of this chapter.

§ 155.38 APPEALS AND THE BOARD OF ADJUSTMENT

The Board of Adjustment is hereby established pursuant to this chapter and Minnesota law. The Board of Adjustment shall have those powers and authority as provided by Minnesota law and as hereinafter provided for. The Board of Adjustment shall be formed and operate in conformance with Chapter 30 of this Code and specifically with Sections 30.205 through 30.207.

(A) *Powers of the Board of Adjustment*.

(1) Review of administrative decisions. The Board of Adjustment shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by such an administrative official charged with enforcing this chapter. Such appeal may be made by any person, firm or corporation aggrieved by an officer, department, board or bureau of the city.

(2) Variances. The Board of Adjustment shall also have the power to grant variances to the provisions of this chapter under certain conditions. The conditions for the issuance of a variance are as indicated in Section 155.39 of this Article. No use variances (uses different than those allowed in the district) shall be issued by the Board of Zoning Adjustment.

(B) *Procedures for appeals.*

(1) Filing of appeals. All appeals to the Board of Adjustment shall be in writing and filed with the office of the City Clerk within 14 calendar days of the date of mailing of the notice of the order, requirement, decision or determination from which the appeal is made.

(2) Hearings. The Board of Adjustment shall conduct a hearing regarding all appeals in accordance with Section 155.33.C. of this Article.

(3) Notice. Written notice of the hearing shall be provided to the parties to the hearing and mailed not less than 14 days prior to the hearing.

(4) Orders. The Board shall, within a reasonable time, make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made. The reasons for the decision of the Board of Adjustment shall be stated in the order. A majority vote of the Board of Adjustment shall be necessary to reverse any decisions of an administrative office of the city or to decide in favor of the applicant.

§ 155.39 VARIANCES

(A) *In general*. The Board of Adjustment has the power to grant variances to the provisions of this chapter under the following procedures and standards, as well as those outlined in MN Statutes 2010 Section 394.27 and 462.357, as it may be amended from time to time. (Ord. No. 510, 5/14/2012)

(B) *Use variances prohibited*. A variance shall not be granted for any use that is not a listed permitted or conditional use under this chapter for property in the zone where the property is located.

(C) *Application Requirements*. Variance applications shall be submitted to the Director of Planning on such form and accompanied by such information as required by Section 155.32.A. of this Article and with the submission materials listed in Section 155.32.B of this Article:

(D) *Hearing requirements*. The Board of Adjustment shall hold a public hearing on each complete application for a variance as provided in Section 155.33 of this Article. All findings and decisions of the Board of Adjustments concerning variances shall be final, subject to the appeals process described in Section 155.39.G. of this Article.

(E) *Required findings*. The Board of Adjustment shall make findings of fact that the proposed action complies with the requirements of Minn. Stats. § 462.357 and any amendments thereto, which include, but are not limited to:

(1) Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; and

(2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

(3) The variance, if granted, will not alter the essential character of the locality; and

(4) The variance, if granted, is in harmony with the purpose and intent of the ordinance; and

(5) The variance, if granted, is consistent with the City's Comprehensive Plan. (Ord. No. 510, 5/14/2012)

(F) *Economic considerations alone do not constitute practical difficulties*. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Ord. No. 510, 5/14/2012)

(G) *Conditions*. The Board of Adjustment may impose such restrictions and conditions upon the property that is the subject of the variance as may be necessary to comply with the standards established by this chapter or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance.

(H) *Appeals to City Council*. The applicant shall have the right to appeal the decision of the Board of Adjustment to the City Council within ten (10) days after the decision by the Board.

(I) *Effect of denial*. No application by a property owner for a variance shall be submitted to the Board of Adjustment within a six (6) month period following a denial of such a request unless, in the opinion of the Board, new evidence of change in circumstances warrant it.

(J) *Expiration*. A variance shall be deemed to authorize only one particular use and shall expire if work does not commence within twelve (12) months of the date of granting such variance or if that use ceases for more than six consecutive months.

(K) *Revocation*. The Board of Adjustment may revoke a variance if any conditions established by the Board as part of granting the variance request are violated.

§ 155.40 VIOLATIONS AND ENFORCEMENT

(A) *Enforcing officer*. It shall be the duty of the Director of Planning to cause the provisions of this chapter to be properly enforced.

(B) *Violations*.

(1) Violations. Any person who shall violate or refuse to comply with any of the provisions of this Chapter shall be subject to the provisions of this Section.

(2) Separate offenses. Each day that the violation is permitted to exist shall constitute a separate offense.

(C) *Investigation and administrative enforcement*.

(1) Investigation of violation. The Director of Planning shall investigate alleged violations of this Chapter. Investigation of a violation may require accessing the property where the violation is alleged to have occurred. The Director of Planning shall notify the landowner of the need for investigation and make a reasonable attempt to gain permission from the landowner for access to the property and structures for investigative purposes. If the landowner is not responsive, the Director of Planning may, upon probable cause of a violation, enter upon the property, but not enter any structures, for the sole purpose of investigation. If access to the property is specifically denied by the landowner, the Director of Planning shall obtain a judicial order prior to entering upon the property. Entering a structure for investigative purposes shall occur only upon permission of the landowner or issuance of a judicial order.

(2) Administrative enforcement.

(a) *Notice of violation*. Whenever in the judgment of the Director of Planning a determination is made upon investigation that a particular permit holder has not complied with this Chapter, the Director of Planning shall issue written notice of violation to the owner of record and require him or her to complete the work.

(b) *Cease and desist order*. Upon investigation, if the Director of Planning has probable cause to believe a violation of this Chapter has occurred and that immediate stoppage of work is necessary to minimize harm caused by such violation, the Director of Planning may issue a cease and desist order to halt the progress of any property modification. When any work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.

(3) Service of notice. Service of a cease and desist order shall be in person by city law enforcement. Service of a notice of violation shall be in person or by mail. If the premises are not occupied by the owner of record and the address of the owner of record is unknown, service on the owner of record may be had by posting a copy of the notice on the premises.

(4) Code violation citation. If a violation is not remedied within fifteen (15) days of the date of issuance of the notice of violation, the city official issuing the notice shall issue a code violation citation to the notified owner of record.

(D) *Correction by City and recovery of cost*. Upon issuance of a code violation citation the Director of Planning may cause work to be completed at the expense of the city to correct the violation. The city shall recover such expense as an administrative fee, either by civil action against the person or persons served or to certify the same to the County Auditor for collection in the manner as taxes and special assessments are certified and collected.

(E) *Civil and criminal enforcement*. Any violations of the provisions of this Chapter or failure to comply with any of its requirements by a landowner or their agent shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes § 394.37. The provisions of this Ordinance may be enforced through criminal prosecution, civil remedy, or both. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to a civil remedy.

(F) *Injunctive relief allowed*. The city may sue for injunctive relief on any violation, including restoration of the premises to its existing condition prior to the violation.

(G) *Administrative fee for enforcement*. The Director of Planning shall charge an administrative fee, as set by resolution of the City Council, to compensate for time spent

involving the investigation and prosecution of violations, and including any expenses incurred during the investigation.

(H) *After the fact applications and fees*. Any person making application for a permit after the commencement of work requiring a permit shall be charged an additional administrative fee. In the event the application for a permit is denied or the action permitted does not include all or part of the work commenced prior to approval of said permit, the Director of Planning shall require correction and/or restoration of the concerned property to its original state, including removal of structures or improvements.