

PLANNING COMMISSION

APRIL 20, 2020

6:30 O'CLOCK P.M.

1. Call to Order
2. Minutes of the Previous Meeting – March 9, 2020
3. Wilker Conditional Use Permit
 - a. Wilker on site report
 - b. Pictures
 - c. Overhead Shot
 - d. Staff Report
 - e. Conditions for Conditional Use Permit
4. Zoning Ordinance Rewrite
 - a. Memo PZ Training
 - a1. PZ Training Presentation Notes
 - b. General Provisions and Administration
 - b1. Table of Ordinance Outline Changes
 - b2. 154 Article 01 Provisions and General Administration – Clean Draft
 - b3. 154 Article 01 Provisions and General Administration – Redlined Copy
5. Other
6. Adjourn

1 MINUTES OF PLANNING COMMISSION MEETING

2 March 9, 2020

3
4 Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at
5 City Hall on the 9th day of March, 2020 at 6:30 PM

6
7 **THE FOLLOWING MEMBERS WERE PRESENT:** Commissioner Ferris, Commissioner Zelinske,
8 Commissioner Torkelson, Commissioner Tinsley and Commissioner Fitch.

9
10 **THE FOLLOWING WERE ABSENT:** Commissioner Thompson and Commissioner Burton

11
12 **THE FOLLOWING WERE ALSO PRESENT:** City Administrator Tim Ibisch, City Clerk Rappe, Laura
13 Chamberlain, Tim O'Morro, Sonja Thompson, Jamie Judisch, Dawn Lorentz, Mike Lorentz, Christie
14 Bausman, Julie Nagorski, Jason Wilker, Doug Buck, Coy Borgstrom and Nick Newman.

15 **CALL TO ORDER AT 6:30PM**

16
17 **MINUTES OF THE PREVIOUS MEETING JANUARY 13, 2020 - Motion made to Approve the January**
18 **13, 2020 Meeting Minutes made by Commissioner Tinsley, second by Commissioner Torkelson with All**
19 **Voting Aye.**

20 **MINUTES OF THE PREVIOUS MEETING FEBRUARY 10, 2020 - Motion to Approve the February 10, 2020**
21 **Minutes as Submitted made by Commissioner Zelinske, second by Commissioner Tinsley with All**
22 **Voting Aye.**

23 **PUBLIC HEARING FOR KWIK TRIP CONDITIONAL USE PERMIT** – Administrator Ibisch stated that Kwik
24 Trip intends on demolishing the existing building on their previous property and repave it for truck
25 parking. The lighting plan and easements are in the packet. City Attorney Leth stated that there is an
26 error in the description of the legal easement agreement and Kwik Trip is working on updating that
27 wording. Administrator Ibisch referred the Commissioners to the criteria of issuing the conditional use
28 Permit. Nick Newman was in attendance representing Kwik Trip.

29 Public hearing opened

30 No comments

31 Public hearing closed

32
33 Discussion: Commissioner Tinsley questioned the lighting for the crosswalk. Administrator Ibisch stated
34 that the lighting plan is in the packet and he believes there is enough ambient lighting. Mr. Newman
35 stated there is not a direct street light. Mr. Newman stated that this is not intended for people who will
36 be walking back and forth from the store, the principal is for the people to use the store and fill up and
37 then go park for the time they need. Mr. Newman stated that this is an opportunity for Kwik Trip to
38 provide an extra service for their customers who tend to use their parking lot for that now. There is
39 quite a bit of lighting that comes from the current store that flows onto the street. Administrator Ibisch
40 stated that Guy Kohlnhofer, County Engineer, would require a change of access permit and would not

41 permit a crosswalk. The Planning Commission was in agreement that the following conditions be
42 addressed; a condition that the easement language be updated, the appropriate building and demo
43 permits be obtained, all necessary permits including NPDES Construction Storm Water, Dodge County
44 right-of-way, MnDOT Drainage/Work in Right of Way, Along with the City Engineer comments except
45 #10 which would have been a requirement for a crosswalk.

46 **Motion to Approve the Conditional Use Permit for a Parking Lot per Section 154.080(4) of the Kasson**
47 **City Code of Ordinances with Conditions set forth made by Commissioner Zelinske, second by**
48 **Commissioner Torkelson with All Voting Aye.**

49 **DISCUSSION ON THOMPSON ADDITION REVISION** – The City Council directed this to come back to
50 Planning Commission. The final plat has not yet been filed. Sonja Thompson and Jamie Judisch, spoke
51 on behalf of Aaron Thompson. Ms. Thompson stated that they had not filed a final plat to not be in
52 competition with another developer in town. They have changed their focus from townhomes to
53 smaller townhomes in a four plex configuration. These will be priced at a maximum of \$250K. There will
54 be two four plexes on the west side and one four plex on the east side. The outlot will stay vacant for
55 the time being. The street will be a private street maintained by the HOA. Administrator Ibisch asked
56 the Planning Commission if these were enough changes to start the process over or would they like to
57 amend the final plat. Commissioner Fitch stated this is not an issue for fire trucks. These will be slab on
58 grade two story buildings, the one on the east side could have a basement but that is concept as
59 opposed to the plan. They plan to start construction on the west units first. **Motion to Proceed With**
60 **The Final Plat As Amended with the New Design made by Commissioner Fitch, second by**
61 **Commissioner Zelinske with All Voting Aye.**

62 **WILKER CONDITIONAL USE PERMIT** – Administrator Ibisch stated that there is a timeline set with the
63 tabling of this from the January meeting. Ms. Chamberlain stated the considerations that the
64 Commissioners should take into consideration when making this decision. The applicant has submitted
65 an updated development plan for the site, showing the main building with the expansion. The plan
66 shows signs, lighting and landscaping. Ms. Chamberlain showed estimated dimensions of the lots and
67 buildings. Outdoor storage is required to be screened in an R-1 district. There is not a parking standard
68 for gardens and nurseries but the city could apply other standards.

69 Chairman Ferris stated that a couple of conditions that were on the original CUP have been dropped.
70 Ms. Chamberlain stated that condition #13 would require any expansion or extra buildings to come back
71 for an exception to the CUP. Chairman Ferris asked the City Administrator if the City has the resources,
72 to continually monitor this CUP, Administrator Ibisch stated that we do not.

73 Administrator Ibisch stated that he believes that a buffer would be one of the most important items in
74 terms of conditions. We could go through the conditions point by point, we are not that far apart from
75 what Mr. Wilker has proposed.

76 Commissioner Zelinske stated that he would be willing to drop it from 300 trees to 150 trees, 50 trees a
77 year for three years. Chairman Ferris stated a landscaping business is not allowed but a garden and
78 nursery is allowed in an R-1 District. Mr. Wilker agreed to have Ron Unger, City Arborist, meet him to

79 come out to his property to count trees and shrubs and bufferyards. Commissioner Zelinske asked if
80 Mr. Wilker would be ok planting 150 trees in the three years, Mr. Wilker stated that he had planted
81 trees, but they are not big yet. Mr. Wilker that he believes it is unfair for the City to tell him what kind
82 and size of trees to sell and plant. Mr. Wilker will plant saplings but they would not meet the diameter.
83 He has nursery stock to sell to the west of his main building.

84 Mr. Wilker stated that there is screening on the south side of his property and the homeowners have
85 never complained. He stated that the screen between the driveways is a safety issue and that he does
86 have ornamental trees and pine trees along the north east and north sides of the property. Mr. Wilker
87 asked what hardcover was and believes that if you count his right of way and easements he is within the
88 allowed greenspace. Commissioner Zelinske stated that their biggest concerns were the screening, the
89 trees and the addition to the building and Mr. Wilker could talk with Ron Unger about what he can do to
90 green up the property for the percentage of hardcover. Mr. Wilker stated the addition to the building
91 would be to get his equipment inside.

92 The Planning Commission asked for an extension of 30 days in writing. Mr. Wilker stated he would
93 agree to the 30 day extension and to have Ron Unger contact him to come out.

94 Commissioner Fitch asked if it is practical to sell 50 trees a year and to plant 50 trees a year. He thinks
95 buffers are fine and his big issue is that we are not requiring that he plant trees that he cannot use.
96 Another concern is being able to follow up on an annual basis to make sure that we are all doing what
97 we said we would do.

98 **Motion to Receive an Extension from Mr. Wilker for 30 Days and to have Mr. Unger go to the Property**
99 **and Come Back to the Planning Commission with a Report to set terms that are agreeable for both,**
100 **made by Commissioner Zelinske, second by Commissioner Torkelson with All Voting Aye.**

101 Ms. Chamberlain will follow up with an extension letter and a list for the City Arborist.

102 OTHER – Administrator Ibisch stated that at the April meeting we will start working on Zoning Ordinance
103 again.

104 Adjourn 7:54PM

105 Respectfully Submitted,
106
107
108
109

110 _____
111 Linda Rappe, City Clerk
112

Site Visit Review – CUP Request

Address: 1103 8th Avenue NW

Property Owner: Jason Wilker

Owner Contact: P: 507.208.1819 E: wilkerlandscaping@hotmail.com

Reviewer Name: Ronnie Unger

Reviewer Contact: P: 507-421-2278 E: parknrec@cityofkasson.com

Site Visit Date: MARCH 12, 2020 10:30 A.M.

Screening – Outdoor Storage Areas

Refer to 2019 Aerial (Attached); please include the information for each area – only count plants that appear to be alive/viable (dead plants should not be counted)

Area	A	B	C	D	E	F
Planting Type(s)	Hybrid Poplars	PRAIRIE FIRE CRABAPPLE pink Spire Amur Flame Clump	PRAIRIE FIRE CRABAPPLE pink Spire CRABAPPLE white Pine	NO plantings	Junipers Spirea	Thornless Hawthorns Spring Snow Crabapples
Planting Count (by type)	23 Hybrid Poplars	2 PRAIRIE FIRE 1 pink Spire 2 Amur Flame Clump	5 PRAIRIE FIRE 4 pink Spire 3 white Pine	NONE	3 Junipers 6 Spirea	5 Thornless Hawthorns 6 Spring Snow Crabapples
Planting Height (by type)	22'-25' Hybrid Poplars	8' PRAIRIE FIRE 8' pink Spire 8' Amur Flame Clump	8' PRAIRIE FIRE 8' pink Spire 4' white Pine	NONE	4' Junipers 1' Spirea (Color)	8' Thornless Hawthorns 8' Spring Snow Crabapples
Additional Screening Type(s) E.g. fence, berm, wall, hedge	NONE	NONE	Dirt & Wood chip BERM	NONE	NONE	NONE
Additional Screening height	NONE	NONE	3' BERM	NONE	NONE	NONE
Can the outdoor storage area be seen from the public road and/or adjacent properties? (Take picture of each)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Are there any additional areas of outdoor storage that are not indicated in the table above? Note: Outdoor storage areas include any areas where landscaping materials and/or equipment/vehicles are stored outside

☒ Yes (please indicate location on 2019 Aerial)

☐ No

Area's North And West of Main Shop.

Bufferyards

Refer to 2019 Aerial; please include the information for each area – only count plants that appear to be alive/viable (dead plants should not be counted)

Area	G	H	I
Planting Type(s)	Hybrid Poplars River Birch American Linden	white pine	Hybrid poplars
Planting Count (by type)	22 Hybrid Poplars 4 River Birch 3 American Lindens	5 white pine	20 Hybrid poplars
Planting Height (by type)	25' Hybrid Poplars 20' River Birch 16' American Linden	8' white pines	6' Hybrid poplars

→ please see Comments Section

Accessory Building

2019 Aerial shows one accessory building near the center of the site; if there are more accessory buildings on site, please include same information for additional buildings and draw location on 2019 Aerial

• Building Dimensions

- Width: 20' feet
- Length: 30' feet
- Height: 15' feet

• Is the building on a slab?

☐ Yes

☒ No

• Is the building pole/post type construction?

☐ Yes

☒ No

Hoop Building

• Additional Sait SHED (MOVABLE SKIDS)

- Width 12' feet
- Length 12' feet
- Height 12' feet

• Additional Storage Containers: Total of 9

Growing Area

The applicant has indicated the western portion of the lot will be for growing of nursery plants and some plants within the area have been recently planted; this does not include the irrigated Nursery Stock area near the main building and bunkers. Please provide a count of these plants. Note: plants counted towards bufferyards or screening, above, may not count towards nursery plants.

	Type	Count	Height
Planting Type 1	BALSAM Fir	8	2'
Planting Type 2	BLACK Hill Spruce	10	6'
Planting Type 3	River Birch	3	10'
Planting Type 4	Amur Maple clump	5	8'
Planting Type 5	Arbutus's	6	6'

Parking & Loading

- Number of employees on a maximum shift (ask applicant): 4
- Are there any retail sales on-site (do customers visit site to purchase plants/materials directly?)
☐ Yes ☒ No (He bills them)
- Indicate on 2019 Aerial where parking is allowed and how many vehicles can fit in that area 10-12 Vehicles
- Indicate on 2019 Aerial where the loading space is located See Aerial Map

Other Standards

Glare

Note the location of exterior lights on the property:

1 South End of Main building
 2 East Side of Main building
 1 North Side of Main building
 TOTAL of 4 yard lights

- Are they directional towards the ground? yes - ALL of them
- Are there any concerns about light glare impacting adjacent properties or the public road? NO

Comments:

All lights Are for Security Purpose

Refuse

Indicate on the 2019 Aerial the location where refuse/waste is collected and stored (☒ check box if indoors)

Located Next to Main building (shop). - (Roll-up Door)

- Is there any loose debris/waste on the site? NO
- Are there any inoperative vehicles parked on site? 1

Comments:

F350 Ford Pickup - Located North side of Property.

Selling Vehicle - will be moved soon.

Signs

Indicate on the 2019 Aerial the location of the existing sign

Comments:

Located in Area D on Aerial Map.

Additional Notes

... Butteryard H Area - He planted Around 20 white Pine trees, 2' in height, Along the West Side of his Property, running North to South 2 Years Ago. Around 17 of those Pines have died and will need to be replaced. He Said he will replace those Pines this Year 2020. A fence line with 4' wooden Posts runs the entire length in Area H. (North to South). About 30' feet South to North of the fence line has no cable wiring. the remaining Post do have Cable wiring Connecting Posts to the North. I Marked on the Aerial Map in Area H where there is Also A 6'-8' Dirt & grass Berm running North & South.

Screening Area C

Berm



Screening Area A



Screening Area I



Butter yard H Area



Butteryard H Area

Berm



Butteryard H Area

Berm

Berm



Butteryard H Area

Fence Posts



Butteryard G Area



Butteryard G Area



Butteryard G Area

Growing Area G



Butteryard F Area



Butteryard F Area



Butteryar2 E Area



Butteryard in Front of Parking Area



Butterjar2 - Front of main shop



Sign Area D



Growing Area I



Growing Area I



Growing Area H

Hoop Building



Nursery Area



Growing Area G



Main Shop South View

Loading Area

Parking



Loading Area

SALT shed

Waste shed



2019 Aerial (Dodge County)



Property Boundary (Dodge County 2019 Aerial)

Additional Property Boundary (Applicant Survey 2017)



STAFF REPORT

TO: Planning and Zoning Commission
FROM: HKGi
DATE: April 15, 2020
SUBJECT: Conditional Use Permit for a Nursery in the R-1 Zoning District
APPLICANT: Jason Wilker
OWNER: Jason Wilker
LOCATION: 1103 8th Avenue NW; PID No. 240290800
MEETING DATE: April 20, 2020
COMPREHENSIVE PLAN: MDR – Medium Density Residential
ZONING: R-1 Single Family Residential District



Figure 1: Subject Parcel

OVERVIEW

The applicant, Jason Wilker, has applied for approval of a Conditional Use Permit (CUP) for a nursery in the R-1 Zoning District. The CUP will allow for the continuance of an existing non-conforming use on a parcel located on the northwest border of Kasson (see Figure 1).

BACKGROUND

- This item was tabled at the Planning and Zoning Commission meeting on January 13, 2020. The Staff report for that meeting has been attached for reference

REVIEW PROCEDURE

60-Day Land Use Application Review Process

Pursuant to Minnesota State Statutes Section 15.99, local government agencies are required to approve or deny land use requests within 60 days. Within the 60-day period, an automatic extension of no more than 60 days can be obtained by providing the applicant written notice containing the reason for the extension and specifying how much additional time is needed. The City sent the applicant written notification of an extension on January 16, 2020. For the purpose of Minnesota Statutes Section 15.99, "Day 1" for the Conditional Use Permit was determined to be November 27, 2019. The City's deadline for action is on was extended to April 26, 2020.

Public Hearing

City Code Section 154.029 requires a public hearing for review of the Conditional Use Permit be held by the Planning and Zoning Commission. The public hearing notice for the Conditional Use Permit was published in the Dodge County Independent on January 2, 2020 and posted on the City website on January 2, 2020. The public hearing notice was mailed to all affected property owners located within 350 feet of the subject properties on January 2, 2020.

The Planning and Zoning Commission held the public hearing on January 13, 2020. Five members of the public and the applicant spoke during the public hearing. All speakers were in favor of the applicant's proposal. A full description of public comments may be found in the minutes attached.

After closing the public hearing and discussing the application, the Planning and Zoning Commission made a motion to table the item to give an opportunity for the applicant to work with City Staff on submitting needed materials to demonstrate the conditional use.

UPDATED MATERIALS

After the Planning and Zoning Commission meeting on January 13, 2020, the planning consultant contacted the applicant on behalf of the City to walk through the materials still needed for the Commission to make an informed decision on the Conditional Use Permit. These materials included:

- A development plan that is to-scale (drawn over the survey or an overhead aerial with lot lines shown and a scale) with:
 - Existing Conditions (location and size) of:
 - Buildings

- Driveways and other impervious surfaces
 - Outdoor storage areas
 - Parking spaces
 - Signs
 - Fences, berms or walls used for screening
- Proposed Conditions – location and size of any of the above if different from existing conditions
- A landscaping and screening plan showing:
 - Existing location of trees/plants used for buffers or screening and description of plant type
 - Proposed location of additional trees/plants to be used for buffers or screening and description of plant type
 - Total count of existing and proposed plantings, by type, to be used for buffers or screening
 - Location and description (height, material, etc.) of any existing or proposed fences, hedges, walls or berms intended to be used for screening
- A lighting plan and a sign plan

Correspondence with the applicant included a description of these items as well as a deadline for submittal.

The applicant submitted a development plan on February 4th. The planning consultant found the submittal to be missing requested items, so followed up with clarification on additional materials needed with a new deadline to be considered at the March Commission meeting. The applicant's representative responded with additions of building dimensions to the development plan, but no other changes, and requested that the application be considered by the Commission as is, as they felt it met the requirements of the code. Full copies of this correspondence are attached to the packet.

CONDITIONAL USE PERMIT REVIEW

A Conditional Use Permit (CUP) allowing the site to be used for a nursery in the R-1 zoning district is being requested. The site is guided Medium Density Residential by the Comprehensive Plan and is zoned R-1 Single Family Residential District. The site is surrounded by residential properties to the south and east, and the areas to the west and north are vacant and guided for residential development.

Considerations for CUP

CUPs may be allowed with appropriate restrictions in accordance with the findings listed in Sec. 154.029(A):

1. Certain conditions as detailed in this chapter exist;
2. The use or development conforms to the comprehensive plan; and,
3. Is compatible with the existing area

Additional considerations from Sec. 154.029(B)(2) include:

1. The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area.

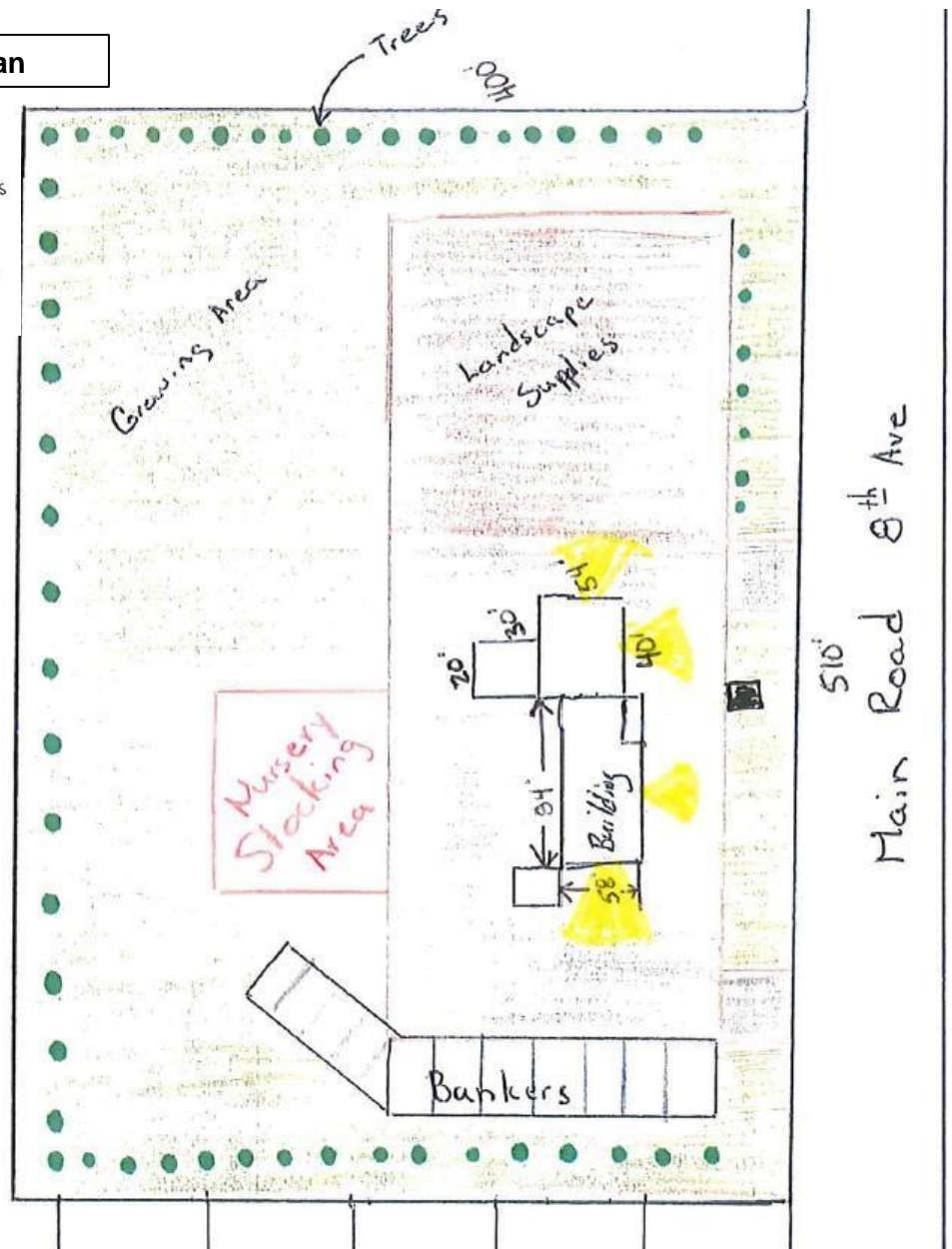
2. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
4. The use, in the opinion of the city, is reasonably related to the overall needs of the city and to the existing land use.
5. The use is consistent with the purpose of this chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.
6. The use is not in conflict with the comprehensive plan of the city.
7. The use will not cause traffic hazards or congestion.
8. The traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the city in order to handle the additional traffic generated by the use.
9. Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.
10. Adequate utilities, parking, drainage and other necessary facilities will be provided.
11. The proposed use will not impede the normal and orderly development or improvements of the surrounding property.
12. The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of the property.
13. The use will not disrupt the character of the neighborhood.

The City Code does not provide specific conditions for nurseries in addition to considerations taken for all CUPs. Sec. 154.029(C) enables the City to impose “additional conditions which the city considers necessary to protect the best interest of the surrounding area or the community as a whole. In preparation for mediation in the pending litigation, the City Council has discussed some specific conditions for nurseries within residential zones. These conditions are included on page 12 of this report. Any conditions for approval should set standards so that the use meets those considerations listed above.

SITE REVIEW

The applicant has provided a development plan, including some dimensions of the existing and proposed buildings (see Figure 2). In addition to the buildings, the development plan shows a landscape supplies/landscape stock area at the northeast corner of the site, a nursery stock[ing] area west of the main buildings, rock and mulch bunkers at the southeastern edge of the property, a growing area all along the west side of the property, exterior lighting locations off of the building, and perimeter trees along the north, west, and south property lines, as well as between the landscape supplies/landscape stock area and 8th Avenue.

Figure 2: Development Plan



Provided by Applicant 02.26.2020 – elements within are not drawn to scale

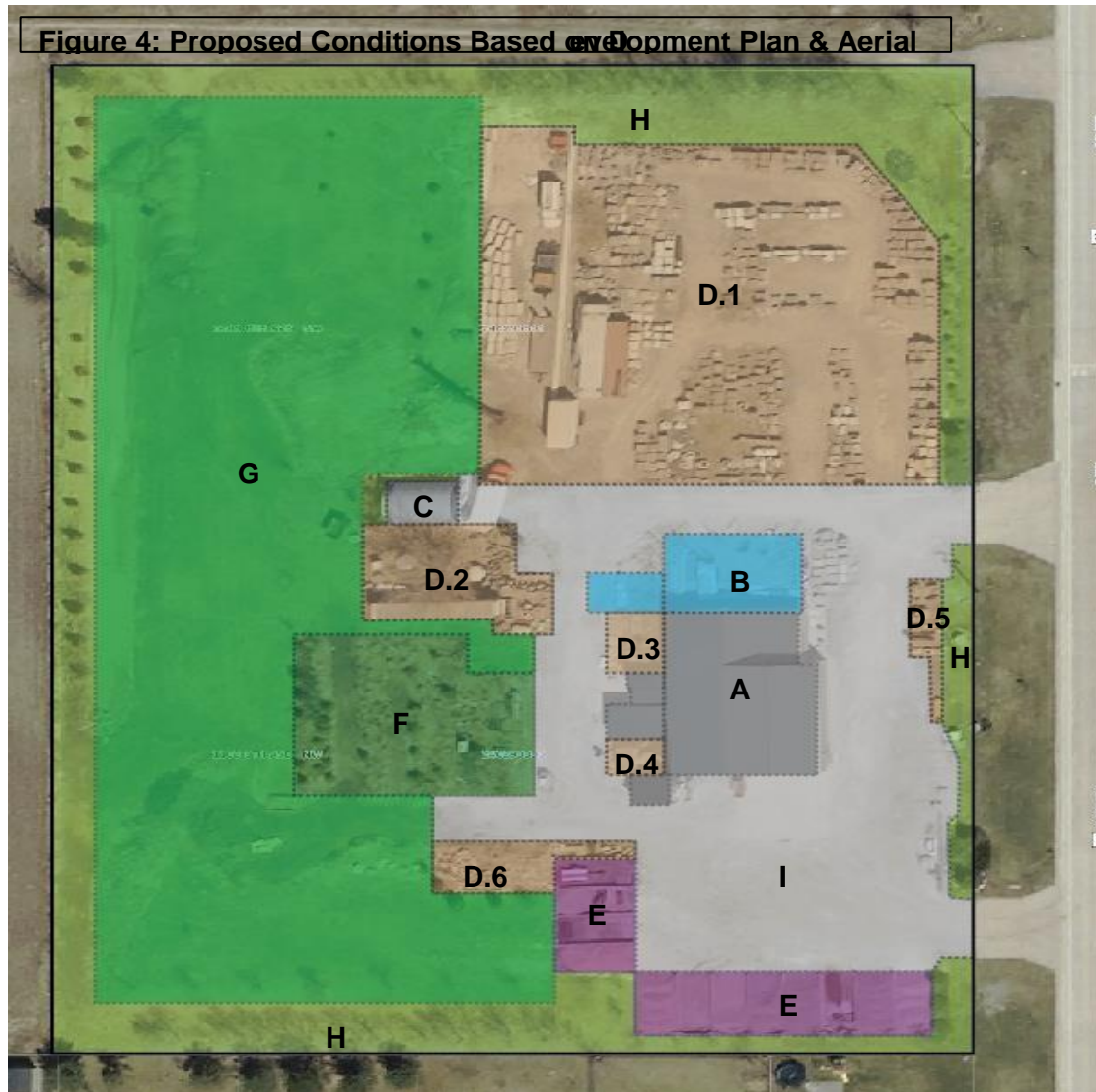
When comparing the development plan provided by the applicant with an aerial (2019) from the Dodge County parcel viewing website (see Figure 3), it became clear that the development plan shows only general locations for elements, and is not to-scale (for instance, staff do not believe it is the intention of the applicant to move the south bunkers 30' north and 20' west). For purposes of needed calculations (setbacks, hardcover, etc.) within the Site Plan Review, staff used estimated measurements based off of the Dodge County aerial, as they are the most accurate available to staff at this time.



Figure 3: 2019 Aerial – Dodge County Property Viewer

Proposal The property is approximately 360' wide and 507' long, resulting in an area of 182,520 sf or 4.2 acres.

There is an existing main building with additions proposed, as well as an accessory hoop-roof building. There is one major area of outdoor storage of landscaping materials, as well as four smaller areas of outdoor storage. Additionally, there are two sets of bunkers at the south end of the property that store more materials. There is also a nursery stock storage area, west of the main building. The applicant has shown the western portion of the site intended as a nursery growing area. Based on the aerial, it is clear that there are trees along the perimeter of the property, but exact count and type remain unknown



The approximate square footage of these areas, are listed below:

	Location	Approximate Area	Cover Type
A	Existing Main Building(s)	5,658 sf	Impervious
B	Proposed Addition	2,760 sf	Impervious
C	Accessory Building	609 sf	Impervious

D.1	Outdoor Storage 1	30,843 sf	Impervious
D.2	Outdoor Storage 2	3,460 sf	Impervious
D.3	Outdoor Storage 3	698 sf	Impervious
D.4	Outdoor Storage 4	416 sf	Impervious
D.5	Outdoor Storage 5	660 sf	Impervious
D.6	Outdoor Storage 6	1,544 sf	Impervious
E	Bunkers	5,610 sf	Impervious
F	Nursery Stock Area	7,245 sf	Pervious
G	Nursery Growing Area	61,949 sf	Pervious
H	Bufferyards/Open Space	31,322 sf	Pervious
I	Drive/Parking	29,746 sf	Impervious
	Total	182,520 sf	

R-1 Standards

	R-1 Standard	Proposed (measurements approximate)	Meets Standard?
Min Lot Size	16,000 sf	182,520 sf	Yes
Min Lot Width at Street Line	100 ft	507 ft	Yes
Min Lot Width at Building Line	100 ft	507 ft	Yes
Front Yard	25 ft	From building: 60'	Yes
Side Yard (North)	12 ft	From building: 281'	Yes
Side Yard (South)	12 ft	From building: 143'	Yes
Rear Yard	45 ft	From building: 240'	Yes
Max Lot Coverage	40% (73,008 sf)	44.93% (82,004 sf)	No – a reduction in hardcover of ~8,996 sf is required
Max Building Height	35 ft or 2.5 stories	1 to 1.5 stories	Yes

Accessory Buildings

There is one accessory building on site. It is unclear via the applicant's submittal if this accessory building meets the requirements of Sec. 154.058. The structure appears to meet accessory structure setbacks and size requirements. As the accessory structure appears to be approximately 609 sf in area, it must meet the following:

- Obtain a zoning certificate from the City
- Building must be placed on a slab
- Building may not be pole/post type construction
- Maximum building height is 16 ft or 1 story, whichever is less

If the building does not meet all of the above, the applicant must either bring the building into compliance or remove the building.

Screening, Bufferyards and Landscaping

Screening

Within residential districts, outdoor storage areas must be fully screened from adjoining properties and public streets (Sec. 154.062). This screening may be accomplished through a combination of landscaping, fences, walls and berms. The edges of outdoor storage that require full screening from adjacent properties are highlighted below:

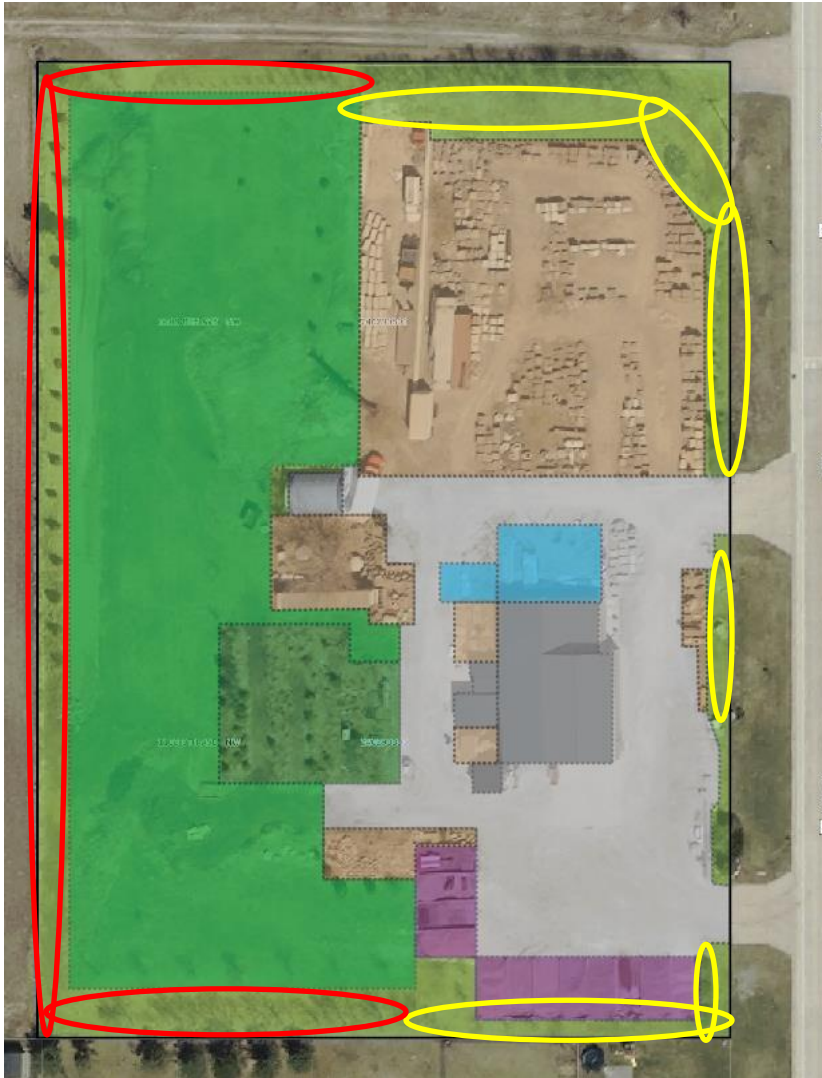


The applicant has indicated the location of “permit trees” within some of these areas on the Development Plan; the submittal did not contain information on type of plants, exact count, height, opacity, or whether or not such plants already existed or are proposed to be planted. A landscaping and screening plan with these details of the required screening should be submitted to the City. As a number of the screened areas are within the front yard, the applicant should work with the City to ensure that visual triangles and other considerations are met.

Bufferyards

Bufferyards are needed on site to buffer the more intensive uses of the property from surrounding residential properties. Bufferyards require plantings of coniferous trees or other evergreens at least three feet in height and at least one every eight feet (Sec. 154.060). Alternative plantings may be submitted to the City for consideration. Bufferyard plantings may not be made up of nursery plantings or plantings intended for sale as part of the use on the site.

Required bufferyards are shown in red below:



These areas have the general lengths listed in the table below:

	Approximate Length (linear feet)	Minimum Required Plantings	Proposed (as shown in Applicant's Development Plan)	Meets Standard?
North Buffer Yard	167'	21	10	No
West Buffer Yard	507'	64	16	No
South Buffer Yard	196'	25	10	No

A more accurate landscaping and screening plan showing the location of existing plantings to be used for bufferyards, with planting type described, and location of additional plantings, with planting type described, to be used for bufferyards is needed.

Landscaping

No additional landscaping is required for the site beyond the screening and bufferyards described above.

Parking & Loading

Sec. 154.080 (F) does not specifically note the amount of parking required for “gardens and nurseries,” however, the last row on the parking standards table allows for “uses not specifically noted” that the City use “requirements for similar uses as determined by the city.” As landscaping contractors are a use allowed in the M-1 district, staff suggest using the “Industrial and manufacturing establishments” standard of “one space for each employee on maximum shift or one space for each 2,000 square feet of gross floor area, whichever is more.”

The applicant’s narrative from their November 27th submittal indicates a total of 17 employees on the site, however it is not clear if these are all on the same shift. The area of the main building(s) plus additions is approximately 8,418 sf, which would require at least five spaces. The applicant has not indicated specific areas on the development plan for parking; further information from the applicant is needed to determine the required amount of parking and where those parking locations will be on site. If retail sales of nursery stock are proposed on site, then spaces reserved for customer parking should also be indicated on the development plan. The development plan should also indicate loading space location(s) and those areas cannot count towards the parking requirement.

The current driveway/parking areas currently meet the required eight-foot setback from adjoining residential uses.

Other General Regulations

Glare

All lights on the site are required to be arranged so as to deflect light away from any adjoining residential district and/or from the public streets (Sec. 154.064). The applicant’s Site Plan provides the general location of four exterior lights. As these are setback significantly from adjoining properties and the public street, further information, such as a photometric plan (footcandles) is not required at this time.

Refuse

All waste material, debris, refuse or garbage must be stored indoors or within a closed container made for such a purpose. The applicant has not provided the location of waste storage on site, so it is assumed to be indoors.

Signs

The applicant has indicated the location of a sign on the property within the front yard. The standards of Sec. 154.082 apply to the existing sign and are processed through a sign permit, separate from this process.

CONDITIONS OF APPROVAL

If the Planning and Zoning Commission is considering recommendation of approval of the Conditional Use Permit, staff would suggest the following conditions in order for the CUP to be compliant with the Comprehensive Plan and Zoning Ordinance:

1. The applicant shall submit to the City an updated Development Plan, which is to-scale, showing the following:
 - a. Existing location and dimensions of:
 - i. Buildings
 - ii. Driveways and other impervious surfaces
 - iii. Outdoor storage areas
 - iv. Parking spaces
 - v. Signs
 - vi. Fences, berms or walls used for screening
 - b. Proposed location and dimensions of:
 - i. Buildings
 - ii. Driveways and other impervious surfaces
 - iii. Outdoor storage areas
 - iv. Parking spaces
 - v. Signs
 - vi. Fences, berms or walls used for screening
 - vii. Hardcover calculations
2. The applicant shall submit to the City an updated Landscaping and Screening Plan showing the following:
 - a. Existing location of trees/plants used for buffers or screening and description of plant type
 - b. Proposed location of additional trees/plants to be used for buffers or screening and description of plant type
 - c. Total count of existing and proposed plantings, by type, to be used for buffers or screening
 - d. Location and description (height, material, etc.) of any existing or proposed fences, hedges, walls or berms intended to be used for screening
3. The applicant shall at all times maintain a valid nursery stock dealer certificate from the State of Minnesota.
4. The applicant shall plant and maintain a nursery stock of not less than three hundred (300) new trees (not counting existing trees, bufferyard plantings, or seasonal nursery stock) on the property at all times, subject to the following:
 - a. The 300 new trees shall be of a diameter of at least 1".
 - b. The 300 new trees shall be certified nursery stock obtained from a certified nursery stock grower or dealer. The applicant shall maintain documentation from the grower or dealer from whom the new trees were acquired, and shall provide such documentation to the City within seven (7) days of a written request for same by the City.
 - c. The 300 new trees may be planted in phases of 100 new trees per year. The first 100 new trees shall be planted by July 1, 2020; the second 100 new trees shall be planted by July 1, 2021, and the final 100 new trees shall be planted by July 1, 2022.
 - d. The applicant shall, within thirty (30) days, replace any of the 300 new trees that die, that are destroyed, or that are sold.

- e. Commencing July 2, 2020, the City may schedule nursery stock reviews to ensure that the applicant has planted on the property the required number of new trees to comply with these requirements.
 - f. The City shall schedule such nursery stock reviews giving the applicant at least seven (7) days written and emailed notice. The applicant shall allow the City's staff and agents upon his property for duly scheduled nursery stock reviews and shall fully cooperate with all such reviews.
5. Within the updated Development Plan described in Condition 1, above, the applicant shall provide hardcover calculations for the proposed use; the hardcover on site is not permitted to exceed 40%; if the existing hardcover on the property exceeds 40%, the amount of hardcover onsite must be reduced to be at or below 40% before the conditional use is allowed to commence
 6. The applicant shall provide information to the City showing the existing accessory building on the property complies with the provisions of Sec. 154.058 of the City Code of Ordinances; if the existing accessory building is found to not be in compliance, the applicant shall bring the building into compliance or remove the building
 7. All outdoor storage areas, including storage bunkers, shall be fully screened from view of adjacent properties and the public street; details of the screening (materials, height, installation, etc.) shall be included within the Landscape and Screening Plan mentioned within Condition 2, above.
 8. All portions of the north, west, and south yards that are not already fully screened as described in Condition 7, above, shall have buffer plantings of coniferous trees or other evergreens at least three feet in height and at least one every eight feet;
 - a. Alternative plantings, as described in Sec. 154.060, may also be proposed;
 - b. Details of the buffer plantings shall be included within the Landscape and Screening Plan described within Condition 2, above
 9. The site shall include 17 parking spaces and one loading space; the location of these spaces shall be included on the updated Development Plan as described within Condition 1, above
 10. Exterior lighting on the property shall comply with the provisions established in Sec. 154.064 of the City Code of Ordinances
 11. Refuse shall be contained fully within buildings or within containers specifically intended for such use
 12. Signs on the property shall comply with Sec. 154.082 of the City Code of Ordinances and shall be processed through the City Sign permitting process
 13. Any deviation on-site from what is submitted within the Development Plan described in Condition 1, above, resulting in the change or expansion to the location or footprint of the following shall require an amendment to the Conditional Use Permit:
 - a. Buildings (principal or accessory)
 - b. Outdoor Storage Areas
 - c. Hardcover
 - d. Parking Areas
 - e. Screening/Bufferyards
 14. Hours of operation shall be between 7:00 a.m. and 9:00 p.m., except snow plowing operations which may occur outside these hours of operation

PLANNING AND ZONING COMMISSION ACTIONS

After the discussion, the Planning and Zoning Commission could take one of the following actions:

Conditional Use Permit

1. Recommend approval with conditions, as noted above
2. Recommend denial – findings of fact for denial should be discussed, and reflect the considerations for CUP listed on page 3.
3. Table the request to the next Planning and Zoning Commission meeting and provide direction to Staff and the applicant as to the additional information needed (would require applicant to agree to extension of 60-day deadline).

ATTACHMENTS

- A. Applicant Original Submittal, November 27, 2020
- B. Staff Report – Planning & Zoning Commission Meeting, January 13, 2020
- C. Public Hearing minutes, January 13, 2020
- D. Correspondence between planning consultant and applicant
 1. Email from planning consultant to applicant, January 16, 2020, with attachment
 2. Email from planning consultant to applicant, January 27, 2020
 3. Email from applicant attorney to planning consultant, January 29, 2020
 4. Email from applicant attorney to City Attorney, February 3, 2020, with attachment (forwarded to Zoning Administrator and planning consultant February 4, 2020)
 5. Email from planning consultant to applicant, February 4, 2020
 6. Email from planning consultant to applicant, February 17, 2020
 7. Email from applicant's attorney to City Attorney, February 26, 2020, with attachments [in E, below] (forwarded to Zoning Administrator and planning consultant February 27, 2020)
- E. Applicant Supplemental Submittal, February 26, 2020



CITY OF
KASSON

401 FIFTH STREET SE
KASSON, MINNESOTA 55944-2204
PHONE: (507) 634-7071
FAX: (507) 634-4737

DATE: April 11, 2020
TO: Planning Commission
FROM: Timothy Ibisch, Zoning Administrator
RE: Application for CUP at 1103 Eighth Avenue NW, Kasson

The City's consultant from Hoisington Koegler Group has reviewed this application with the Planning Commission at length and has made suggestions regarding approval/denial. After reviewing the report Mr. Wilker and Ron Unger completed, if the will of the Planning Commission is to forward a positive recommendation of the application to the City Council, I endorse the following conditions be obligatory with the CUP:

Buildings/Structures: Construction of additional separate buildings or structures shall be reviewed with staff before being allowed on the property. Any addition to an existing building or structure shall be allowed on the property only after a staff review and following the regular permit process. This does not prohibit temporary buildings/greenhouse so long as a proper building permit is issued by the City.

Open spaces. At a minimum sixty percent of the entire property should be planted and maintained in trees, shrubs, and other plants. Annually trees and shrubs removed from or destroyed on the property shall be replaced.

Nursery Stock: The property owner shall plant and maintain a nursery stock of at least an average of 10-15 trees or shrubs of each type listed as the base inventory on the property at all times, subject to the following:

- The new trees shall be nursery stock obtained from a certified nursery stock grower or dealer. The property owner shall maintain documentation from the grower or dealer from whom the new trees were acquired, and shall provide documentation to the City after a written request by City staff.
- The new trees may be planted in phases each year as needed. The first set of new trees shall be planted during 2020; the second set of new trees shall be planted on or before October 1, 2021, and the final set of new trees shall be planted on or before October 1, 2022.

- Commencing in 2020, the City will schedule “nursery stock reviews” to occur as needed, to ensure that there are the requisite number of trees on the property, and that the trees comply with these requirements.
- The City will schedule the nursery stock reviews giving the property owner at least ten (10) days’ notice.
- The property owner shall replace any of the new trees that die, that are destroyed, or that are sold.

Buffers: The property owner shall maintain the proper buffers along all sides of the property, most particularly the west and east sides including but not limited to regular mowing, tree trimming, and weed control/removal. The bunkers located along the south side may be maintained at their current location or be moved to facilitate the use of the property, but they shall not be increased in size. Existing vegetative screening shall be maintained.

Lighting/signage: The property owner acknowledges that any additional lighting installed on the property, including on the addition or bump out, shall require a separate application pursuant to City Ordinance. The same applies for any additional signage. Current Outdoor lighting shall be permitted to alleviate safety concerns.

Equipment Storage: All equipment shall be stored within a building or fully screened as to not be visible from adjoining properties and public streets.

Operation: Hours of operation shall be between 7:00 a.m. and 9:00 p.m., except snow plowing operations which may occur outside these hours of operation.

Landscaping Material Storage: Outside storage and/or display of landscaping materials shall only be allowed within the existing storage bunkers located on the south side of the existing structure. The existing storage bunkers shall not be increased in size or number, and the property owner shall reasonably maintain such bunkers. Other outside storage or display of landscaping materials shall be allowed only with an approved buffer yard and screening.

License: The property owner shall at all times maintain a valid nursery stock dealer certificate from the State of Minnesota. If the State of Minnesota undertakes enforcement action against the operator, the operator must notify the City of the same.

Misc: The property owner shall comply with applicable laws and City Ordinances.

Included in the packets for your review is the staff property review which is quite complete and provides updated counts of current shrubs and trees. After looking it over myself, it seems clear that the screening is probably the biggest issue we need resolved. If we can get a commitment regarding border screening and right-sizing the tree number/nursery aspect of the business, I believe this issue can be resolved. If that is not possible, then declining to forward this application on to the Council seems the likely recourse.



MEMORANDUM

TO: Planning and Zoning Commission
FROM: Laura Chamberlain, Consulting Planner, HKGi
DATE: April 20, 2020
SUBJECT: Commission Training

Although many of you have served on the Planning and Zoning Commission for several years, it is important to review the roles and responsibilities of commissioners every once in a while. Attached are a set of presentation slides that I have used with other municipal clients to walk through the roles and responsibilities of the planning commission. There is of course a lot of discussion that goes along with this information. The slides provide, at a minimum, some key topical areas that would be good to walk through. Please take a spin through these slides and make note of areas you are particularly interested in expanding on or learning more about.

At our meeting, we will carve out 30 minutes to walk through these slides and talk about future training or learning needs commissioners might benefit by.

Planning & Zoning Commission Training

APRIL 20, 2020

Planning & Zoning Commission Overview

- Advisory body to the City Council
- Comprised of residents of the city – people who are your neighbors, who work in the community, who own businesses in the community
- Charged with
 - Reviewing proposed projects
 - Soliciting input from the community that is passed on to the City Council
 - Making a recommendation to the City Council
- Decisions are made by the City Council

Role of Planning & Zoning Commission

- Preparation, Review and Adoption of Comprehensive Plan
- Review of Land Acquisitions and Capital Improvements
- Review of Land Use Controls – zoning/subdivision ordinance
- Public hearings for land use, development, and subdivision requests
- Coordination and Review with Other Local Units of Government

Member Expectations

- Attend meetings – inform staff of absences as quorum (majority of members) is required for public hearings to be held
- Become informed on cases and issues, including conducting site visits in coordination with staff and applicant as needed
- Ensure all members have the same information
 - Information received from sources outside of the public decision-making process (i.e. meeting) should be shared with all other members
 - Questions or concerns raised by public should be shared with City Staff
- Listen respectfully to different perspectives
- Provide feedback and direction
- Make hard decisions in the best interest of the community in the midst of controversy

Conflict of Interest

- Excuse oneself from case if you have direct
 - Personal interest
 - Financial interest
- Member who has excused oneself has the same right to comment as member of the public
- Removing oneself from consideration of an application should occur when request first introduced and member should move to sit in the audience

Open Meeting Law

- Purpose
- Prohibit actions from being taken at a secret meeting where the interested public cannot be fully informed of the decisions of public bodies or detect improper influences.
- Ensure the public's right to be informed.
- Give the public an opportunity to present its views.
- Rule - All meetings of the Council/Commission must be open to the public, subject to a few exceptions. Minnesota Statutes, Chapter 13D.
- Minnesota Statutes Chapter 13D

What is a Meeting?

(Synopsis)

- A meeting exists when a quorum of the Council/Commission is together and 1) Makes a decision concerning city business; 2) Discusses city business; or 3) Obtains information on city business.
- A quorum or more of a Council/Commission should not attend neighborhood meetings in which development, zoning, local improvement or assessment procedures or other matters affecting the city are the subject of discussion.
- Attendance by a quorum or greater of training-type sessions is permissible, however, council members/commissioners should refrain from discussing specific local issues.

Communications

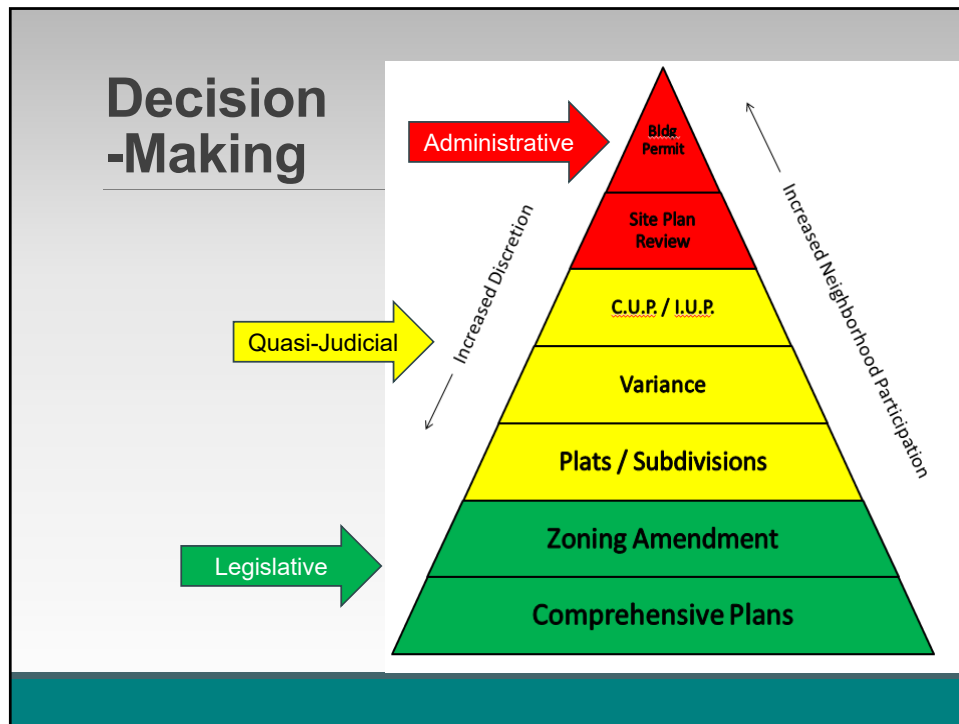
- Packets emailed to members and available on city web site on Thursdays prior to the meeting
- Discussions outside of meetings should be limited to points of clarification
- Email correspondence limited
 - Staff group email of information one-way only
 - Individual correspondence limited to between Staff and member

Serial Meetings

- Serial communications (“round robin”) of a quorum of council members/commissioners in any format will constitute a meeting and is prohibited. This includes communication via email, phone call, or letter.
- If a council member/commissioner wishes to share information with other council member/commissioners, s/he should do so through the staff. The council member/commissioner may request staff distribute materials to others. The communication should not invite response to or discussion between any council member/commissioners, including replies to the person making the distribution request.

Types of Decision Making Authority

Type	Definition	Example	Court Deference
Legislative	Used to form public policy	Comprehensive Plan Zoning Ordinance	More
Quasi-Judicial	Applying specific standards from ordinance to a request from an applicant	CUP Variance Plat	Less



Review Timeframes

- State Statute Requires City action by specified timeframes or it is deemed automatically approved
- Section 15.99 provides for 60-days to respond to a written land use application once it has been deemed complete
- Deadline for action can be extended by the local unit of government for an additional 60 days
- The applicant must grant any extensions beyond 120 days

Review Timeframes

- Timeframe for the 60-day review period starts when the City receives the written application
- The 60-day clock can be restarted if within 15 business days the City issues a written statement identifying missing components of the application
- If incomplete letter is issued the 60 day clock stops until missing information is submitted and application deemed complete

Meeting Preparations

- Staff prepares reports to summarize request, relevant ordinance sections and make a recommendation
- Site visits are encouraged prior to the meeting. Please be respectful and stay on public property.

Public Hearings

- Solicit public input
- Not intended as a dialogue to address or change public sentiment
- Due Process – constitutional protection
- Required for most zoning and subdivision requests
- Need to not “pre-judge” an application
- Impartiality
- Public input **one** factor in decision-making

Public Hearing Format

- Each individual should introduce themselves (name/address)
- Only one person can speak at a time
- Comments should be directed to Planning & Zoning Commission
- Commenters should be asked to respect everyone's time by not repeating information and focusing on new information
- Commenters should be limited to 3 to 5 minutes a piece
- Repeat commenters should wait until everyone has had a chance to speak



Options for Action

1. Recommend approval
Include conditions if needed and any findings.
2. Recommend denial
Findings should be identified.
3. Table the request to a future meeting if additional information is needed or public testimony needed to be taken – clarify what is needed in order to proceed

Note: Applicant may choose to withdraw an application at any time – this may be chosen if denial anticipated as many land use actions can not be resubmitted for one year after a denial

Making a Motion

I move that the Planning & Zoning Commission recommend approval/denial of insert type of application as requested by the applicant, subject to the conditions recommended by Staff and including the findings of fact as identified

- If changes are needed to the conditions one can add to the above “with the following modifications...”
- Each motion needs to be made and seconded before it is considered (discussed & voted on)

Parliamentary Procedures

- Withdrawing a motion
 - Motion maker can withdraw a motion as long as it is before the Chair repeats it
 - Once the Chairperson repeats a motion then it can only be withdrawn by maker if no one objects
- Friendly Amendments
 - Suggestion by someone other than motion maker of a revision to the motion
 - Can only be done before the Chair repeats the motion
 - Motion maker can chose to accept or reject suggestion

Parliamentary Procedures

- Amending a motion
 - Occurs once motion has been made and Chair repeats it
 - “I move to amend the motion by...”
 - The motion needs to be seconded
 - The proposed amendment is debatable
 - A majority vote on the amendment is needed to move it forward
 - After the amendment is voted on then voting can occur on the original motion

Findings of Fact

- Findings of fact are what a court evaluates to determine whether the decision was legal and rational or arbitrary and capricious
- Decisions should be made on facts presented at the meeting, including at a public hearing
- In approving or denying a request the Planning & Zoning Commission should identify how it complies or fails to comply with ordinance standards
- Staff will commonly suggest findings or reference parts of the ordinance which should be evaluated



MEMORANDUM

TO: Planning and Zoning Commission
FROM: Laura Chamberlain, Consulting Planner, HKGi
DATE: April 20, 2020
SUBJECT: Ordinance Update – Ch. 154: Zoning, Article 01: General Provisions;
Article 02: Administration and Enforcement

Overview

The Planning and Zoning Commission has been assisting with the update of the Zoning and Subdivision ordinance since early 2019. Since our last workshop in August, I have prepared text changes for all sections of Chapters 150 through 154. This meeting kicks off the P&Z's review of these changes. The intention of the review meeting is not to get lost in the details of exact wording, but rather to discuss notable changes and additions to the ordinance language. Individual commissioners are encouraged to send their specific redlines and comments of the sections to laura@hkgi.com.

New Organization

The ordinance update comes with a reorganization of the current code sections to make them work together better and to be easier for code users to navigate.

Ordinance Numbering and Hierarchy

The approach to ordinance numbering has been updated to make it easier to put new sections/topics within the code without impacting the numbers in other sections.

Existing Hierarchy:

Chapter	<u>154</u> .024
Article	154. <u>024</u>
Section	154.02 <u>4</u>

Updated Hierarchy:

Chapter	<u>154</u> .02.14
Article	154. <u>02</u> .14
Part	154.02. <u>14</u>
Section	154.02.1 <u>4</u>

Ordinance Outline Changes

Attached is a table tracking all of the movement of sections throughout the Title. For now, this is just a reference tool to see how sections have generally been organized. The Commission will review the updated language for each of these sections over the next few months.

Text Review

Included in your packet are a redlined version and a clean version of the first two articles of the zoning chapter.

Ch. 154 Article 01: General Provisions

In general, not many changes were made to this Article. More specific language regarding abrogation and severability were added under Part 1: Title and Authority. The Nonconformities section was also moved to Part 2: Interpretation.

Ch. 154 Article 02: Administration and Enforcement

This article has some significant changes that will have an impact on how the P&Z and the City at large will administer the zoning ordinance.

- In general, each procedure has been updated to include the same structure; this will make it easier to compare procedures and should make it easier for applicants to understand.
- Criteria for a complete application and criteria for review have been separated out for each application type
 - Criteria for a complete application are the application materials needed.
 - Criteria for review include the considerations and the findings of fact that should direct the P&Z on their recommendation and the City Council on their decision.
- Two new procedures have been added
 - Minor Site Review – this is for anything other than a building permit that may need zoning review for one-unit and two-unit residential uses; such as fence placement, impervious surface/driveway expansion, etc. It is reviewed and approved by the Zoning Administrator.
 - Major Site Review – this procedure is for any site alteration, construction, or change in use for properties that have three or more residential units or are non-residential. This is the process that will be used for uses labeled as “permitted with standards.” It is reviewed and approved by the Zoning Administrator.
- Procedures for PUD have been added here
 - PUDs are changing from a Conditional Use Permit (quasi-judicial) to a Rezoning (legislative action) – more details on that when we review Special Zoning Districts.
- Procedures for Comprehensive Plan Amendment have been added here
 - Need City Attorney review to determine if this addition is necessary.
- Enforcement Sections have been added and expanded in order to protect the City in the administration of the ordinance..

Attachment 1

Changes to Kasson Ordinance Organization

Existing Code Organization	Change	New Code Organization
Ch. 150: Building Regulations; Construction	Separated out Definitions as its own chapter – that way it can apply to all of the chapters within the Title	Ch. 150: Definitions
Art. 01: General Provisions (includes Definitions)		Ch. 151: Building Regulations; Construction
		Art. 01: General Provisions
Ch. 151: Mobile Homes	Update terminology from “mobile” to “manufactured”	Ch. 152: Manufactured homes
Ch. 152: Subdivisions		Ch. 153: Subdivisions
Art. 01: General Provisions		Art. 01: General Provisions
		Pt. 1: Introductory Provisions
		Pt. 2: Common Procedures and Requirements
		Pt. 3: Subdivision Approval Required
Art. 02: Required Improvements	These three articles were combined and rearranged into parts to follow a more standardized format	Art. 02: Review Process
Art. 03: Variances		Pt. 1: Minor Subdivisions
		Pt. 2: Concept Plan
Art. 04: Plats		Pt. 3: Preliminary Plat
		Pt. 4: Final Plat
	Pt. 5: Variances	
Art. 05: Design Standards		Art. 03: Subdivision Design Standards
		Pt. 1: General Standards
		Pt. 2: Blocks and Lots
		Pt. 3: Easements and Utilities
		Pt. 4: Street Design
		Pt. 5: Stormwater, Surface Water, Drainage, and Erosion Control
	Moved land dedication items from “Required Improvements” and made into its own Article	Art. 04: Land Dedication
Pt. 1: General Standards		
App. A: Residential Developments	Removed from Ordinance – this is more appropriate as an office handout	
App. B: Commercial / Industrial Developments		

Existing Code Organization	Change	New Code Organization
Ch. 153: Floodplain Management	This entire chapter was moved to be contained within Chapter 154: Zoning, Art. 05: Special Districts, Part 1 Floodplain Management Districts	
Art. 01: General Provisions		
Art. 02: Establishment of Zoning Districts		
Art. 03: Floodway (FW)		
Art. 04: Flood Fringe (FF)		
Art. 05: Subdivisions		
Art. 06: Public Utilities, Railroads, Roads, and Bridges		
Art. 07: Nonconforming Uses		
Art. 08: Administration		
Ch. 154: Zoning		Ch. 154: Zoning
Art. 01: General Provisions		Art. 01: General Provisions
		Pt. 1: Title and Authority
		Pt. 2: Interpretation
Art. 02: Administration and Enforcement		Art. 02: Administration and Enforcement
		Pt. 1: Administration
		Pt. 2: Procedures
		Pt. 3: Enforcement
Art. 03: General Regulations	This large collection of sections was split up into various Articles, including Development Standards and Use Specific Standards	
Art. 04: District Regulations Generally		Art. 03: Zoning Established
		Pt. 1: Establishment of Zoning Districts
		Pt. 2: Official Map
Art. 05: AG – Agricultural District	New approach to zoning districts using use tables and lot and site dimension tables rather than repeating lists of uses for each district (reduces errors/mistakes)	Art. 04: Base Zoning Districts
Art. 06: R-1 Single-Family Residential District		
Art. 07: R-2 Single-Family-Older Core-Residential District		Pt. 1: General Provisions
Art. 08: R-3 Multi-Family Residential Districts		
Art. 09: R-C Residential-Commercial Mixed Use District		Pt. 2: Uses
Art. 10: C-1 Central Business District		
Art. 11: C-2 General Commercial District		Pt. 3: Lot and Site Dimension Standards

Existing Code Organization	Change	New Code Organization
Art. 12: C-3 Highway Commercial District		
Art. 13: “C-M” Commercial and Light Industrial / Manufacturing District		
Art. 14: M-1 Manufacturing / Industrial District		
	New Article	Art. 05: Special Zoning Districts
	Moved from Ch. 153	Pt. 1: Floodplain Management Districts
Art. 15: Planned Unit Developments	Now a special zoning district	Pt. 2: Planned Unit Developments
Art. 16: Manufactured Home Parks	Moved into Use Specific Standards	
Art. 17: Wireless Communications Facilities		
	Mostly made up of different sections from Art. 03: General Regulations, organized to be easier to find and to group standards that apply to all uses (development standards) versus standards that apply only to uses (use-specific standards)	Art. 06: Use Specific Standards
		Pt. 1: Generally
		Pt. 2: Specific Residential Uses
		Pt. 3: Specific Public, Social, or Healthcare Uses
		Pt. 4: Specific Commercial Uses
		Pt. 5: Specific Industrial and Manufacturing Uses
		Pt. 6: Specific Agricultural and Natural Resources Uses
		Pt. 7: Specific Accessory Uses
		Art. 07: Development Standards
		Pt. 1: Performance Standards
		Pt. 2: Parking, Loading, Access, and Circulation
		Pt. 3: Landscaping, Screening, Walls, and Fences
		Pt. 4: Natural Resource Protection
		Art. 08: Sign Regulations

Kasson, MN Code of Ordinances

CHAPTER 154 ZONING

ARTICLE 01 GENERAL PROVISIONS

PART 1 TITLE AND AUTHORITY

154.01.11 Title

This Chapter shall be known as the "Kasson Zoning Ordinance" except as referred to herein, where it shall be known as "this Chapter".

154.01.12 Authority

Pursuant to the authority conferred by M.S. § 462.357, Laws of 1965, as may be amended from time to time, this Chapter is enacted.

154.01.13 Intent and Purpose

The intent of this Chapter is to:

- (A) Protect the public health, safety and general welfare of the community and people in the city;
- (B) Promote orderly development and redevelopment;
- (C) Promote, protect and conserve the character and preserve and enhance the stability of properties and areas within the city;
- (D) Prevent overcrowding of land and undue concentrations of structures by regulating land, buildings, yards and density of population;
- (E) Provide adequate light, air and convenience of access to property;
- (F) Prevent congestion in the public right-of-way;
- (G) Provide for compatibility of different land uses;
- (H) Protect against fire, explosion, noxious fumes and pollution of the environment;
- (I) Promote a visually pleasing environment throughout the community;
- (J) Provide for administration of this Chapter;
- (K) Provide for amendments; and
- (L) Prescribe penalties for violation of regulations.

154.01.14 Jurisdiction and Compliance

(A) Jurisdiction

The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the City of Kasson.

(B) Compliance

No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a proper zoning and full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.

154.01.15 Abrogation and Greater Restrictions

It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

154.01.16 Severability and Non Liability

- (A) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (B) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- (C) The City does not guarantee, warrant or represent that only those areas designated as flood lands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the City of Kasson, its agencies or employees for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

154.01.17 Relief from Personal Responsibility

- (A) Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this Chapter and any claim based upon the performance or the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are enumerated as exceptions to M.S. § 466.02, as may be amended from time to time, and the section does not apply.
- (B) The city shall defend, save harmless and indemnify any of its officers or employees whether elective or appointed, against any tort claim or demand whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of this Chapter, except as provided in M.S. § 466.07, as may be amended from time to time.

154.01.18 Payment of Taxes and Fees Prior to Application

Applications for licenses, permits, and other approvals under this Chapter shall not be accepted by the City until the Financial Services Director/Treasurer certifies that all real estate taxes, personal property taxes, special assessments and other fees or charges then due and owing to the City of Kasson by the applicant or which relate to the property for which the license, permit, approval, or application is requested, have been paid in full

PART 2 INTERPRETATION

154.01.21 General Application

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of Kasson.

154.01.22 Relationship to the Comprehensive Plan

The regulations established herein are derived from and established in accordance with the City of Kasson Comprehensive Plan. This Title provides regulations to implement the goals, objectives, policies and recommendations of the City of Kasson Comprehensive Plan. References to the contents of the City of Kasson Comprehensive Plan are contained herein.

154.01.23 Repeal, Effective Date, and Transition Standards

(A) All other Ordinances or parts of Ordinances of the City inconsistent or conflicting with this Chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

(B) Permits

The provisions of this Chapter shall apply to all permits filed on or after [MONTH DAY, 2020]. Permit applications on file before [MONTH DAY, 2020] shall be reviewed for compliance with the Title effective at the time of filing.

154.01.24 Conflicting Regulations or Provisions

(A) In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements. Wherever the Chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of the Chapter shall govern except as otherwise provided in State Statutes or Rules.

(B) Where the provisions of state law or other city regulation or ordinance set higher standards than those of this Chapter, the provisions of the laws, regulations or ordinances shall apply.

154.01.25 Use of Graphics, Illustrations, Figures, Photos, and Cross-References

(A) Graphics, illustrations, figures, and photos are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, figure, or photo, the text shall control.

(B) In some instances, cross-references between chapters, articles, sections, and subsections are provided that include the chapter, division, section or subsection number along with the name of the reference. Where a conflict may occur between the given cross-reference number and name, the name shall control.

154.01.26 Nonconformities

(A) Purpose

(1) The purpose of this section is to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances conditions under which nonconforming buildings, structures and uses will be operated and maintained.

- (2) This Chapter establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be permitted to continue without restriction.
- (3) Furthermore, it is the intent of this Chapter that all nonconforming uses shall be eventually brought into conformity.

(B) Continuation

Any structure or use lawfully existing upon the effective date of this Chapter shall not be enlarged, but may be continued at the size and in the manner of operation existing upon the date, except as hereinafter specified, or subsequently amended.

(C) Extension

A nonconforming structure or use may be improved; provided, no structural alterations or changes are made therein, except those required by law or ordinance or such as may be required for safety or such as may be necessary to secure or ensure the continued advantageous use of the building during its natural life.

(D) Maintenance of building or structure

Normal maintenance of a building or structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not physically extend or intensify the nonconforming use.

(E) Damage to

- (1) Any nonconforming building or structure damaged more than 50% of its then appraised value, exclusive of foundations at the time of damage by fire, collapse, explosion or acts of God or public enemy, shall not be restored or reconstructed and used as before the happening;
- (2) If less than 50% damaged above the foundation, it may be restored, reconstructed or used as before; provided that:
 - (a) it is done within 12 months of the happening; and
 - (b) it be built of like or similar materials, or the architectural design and building materials are approved by the Planning and Zoning Commission.
- (3) The extent of damage or destruction shall be the mean of a value of damage determined by the Building Official and the insurance agent. Each shall submit a statement of the value of damage to the city.

(F) Change in use

- (1) A nonconforming use cannot be changed to a comparable nonconforming use.
- (2) Whenever a nonconforming use has been changed to a conforming use, it shall not thereafter be changed to a nonconforming use.

- (3) If the nonconforming use of a structure, building or land, existing at the time this Chapter became effective, is thereafter changed, then the future use of the same shall be in conformity with the provisions of this Chapter.

(G) Discontinuance

In the event that a nonconforming use of any building, structure or land is discontinued for a period of one year, any future use of the building, structure or land shall be made to conform with the provisions of this Chapter.

(H) Zone changes

The foregoing provisions relative to nonconforming uses shall apply to structures, buildings, land and uses which hereafter become nonconforming due to classification or reclassification of districts under this Chapter.

ARTICLE 02 ADMINISTRATION AND ENFORCEMENT

PART 1 ADMINISTRATION

154.02.11 General Administration System

The provisions of this Chapter shall be administered by the City Zoning Administrator, who shall be appointed by the City Council, or by an authorized representative of the Zoning Administrator.

154.02.12 Zoning Administrator

The Zoning Administrator shall enforce this Chapter and shall perform the following duties:

- (A) Issue permits related to Land Use and Zoning and maintain record thereof;
- (B) Conduct inspections of land uses and site features such as structures, impervious surfaces, and fences to determine compliance with the terms of this Chapter;
- (C) Maintain permanent and current records of this chapter, including, but not limited to: all maps, amendments, conditional uses, variances, appeals and applications therefor;
- (D) Examine all applications to amend this Chapter and/or the Official Zoning Map, applications for conditional use permits and variance requests;
- (E) Examine all site plans required for land use or zoning applications, including any proposed construction, alteration, repair, and enlargement of structures, and examine proposed uses for compliance with the provisions of this Chapter and endorse thereon the date of approval;
- (F) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334, as amended; and
- (G) Provide notification to applicants the approval or denial of their land use or zoning request.

154.02.13 Roles of Specific City Bodies in Zoning Administration

- (A) Planning and Zoning Commission

- (1) The Planning and Zoning Commission shall provide assistance to the City Council and Zoning Administrator in the administration of this Chapter and the recommendation of the Planning and Zoning Commission shall be advisory in nature. Specifically, the Planning and Zoning Commission shall review, hold public hearings and make recommendations to the Council on all applications for zoning amendments, variances and conditional use permits using the criteria in this chapter.
 - (2) The Planning and Zoning Commission shall periodically prepare and file with the City Council a report on the operations of this Chapter, as amended, including, when necessary, recommendations as to the enactment of amendments or supplements thereto.
- (B) City Council
- The City Council, the governing body of the City, subject to recommendations by the Planning and Zoning Commission, has ultimate authority to:
- (1) Make changes and amendments in zoning districts, the zoning map and supplementary floodplain zoning map, and to amend the text of this Chapter.
 - (2) Make decisions on the approval of Conditional Use Permits
 - (3) Serve as the Board of Adjustment and Appeals to make decisions on the approval of Variances
- (C) Board of Adjustments and Appeals
- (1) A Board of Adjustments and Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter.
 - (2) The City Council shall serve as a Board of Adjustment and Appeals. The Board shall have the powers and duties as set forth in M.S. §§ 462.357, Subd. 6, and 462.359, Subd. 4, as may be amended from time to time.
 - (3) The Board of Adjustments and Appeals shall have the power to vary or adapt the strict application of any of the requirements of this chapter in exceptional cases where strict application would result in practical difficulty depriving the owner of the reasonable use of his or her land or building involved, but in no other uses except as specifically described.

PART 2 PROCEDURES

154.02.21 General Provisions

- (A) Applicability
- The requirements of this Chapter shall apply to all land use and zoning applications and procedures subject to review under this Chapter unless otherwise stated.
- (B) Permits Required

Property owners or their agents shall obtain all required local, state, and federal permits prior to initiating any activities on their site.

(C) Authority to File Applications

- (1) Land use and zoning applications for an individual property may be initiated by:
 - (a) The owner of the property that is the subject of the application; or
 - (b) An agent authorized by the owner of the property that is the subject of the application, which may include a lessee of the property. Evidence of such authorization shall be the signature of the property owner.
 - (c) If the property subject to an application is under more than one ownership, all owners or their authorized agents shall join in filing the application.
- (2) The Planning and Zoning Commission and City Council may initiate text and map amendments to this Chapter. If the subject of the amendment is a specific site or project, the Planning and Zoning Commission or City Council may initiate amendments with or without application from the owner.

(D) Pre-application Meetings

A pre-application meeting is an informal discussion between a potential applicant and City staff regarding a possible project subject to this Title. The Zoning Administrator shall determine which City staff shall attend the pre-application meeting.

- (1) The purpose of the pre-application meeting is to assist the applicant in identifying the type of approvals needed, the potential review criteria, and the information to be contained in the application(s).
- (2) Discussions that occur during pre-application meetings are not binding on the City and do not constitute official assurances or representations on the City.
- (3) Pre-application meetings are required or recommended based on application type.

(E) Application Materials and Fees

- (1) Each application for a permit or approval, or for an amendment of a permit or approval, shall include all those application materials listed in the "Criteria for Complete Submittal" subsection of each land use and zoning application described in Sections 154.02.22-27.
- (2) The City may reject an application not meeting the requirements of this Code or where the required fee or escrow has not been paid.
- (3) Fees
 - (a) To defray administrative costs of processing of requests for variances, conditional uses and amendments to the official zoning map and text of this Chapter a base fee shall be paid by all applicants. The fee shall be set by ordinance of the City Council, as it may be amended from time to time.
 - (b) In order to defray the additional cost of processing applications (amendment, conditional use, variance, appeal) for development, all applicants shall pay the total cost of staff and/or consulting time spent

exclusively in producing materials for the applicant's request, and all materials for the request.

- (i) Materials shall include, but not be limited to maps, graphs, charts, drawings and the like and all printing or reproduction of such materials.
- (ii) Staff and/or consulting time shall include any time spent in either researching for or actual production of materials.
- (iii) The hourly rate for staff and/or consulting time shall be established and made available to the applicant by the Zoning Administrator prior to production of any materials.

(c) Fees shall be payable at the time applications are filed with the Zoning Administrator.

- (i) No application shall be processed until the established fee has been paid.
- (ii) A deposit to cover staff or consulting time and special materials will be established and required by the Zoning Administrator at the time the base fee is paid, if necessary.

(F) Coordination of Applications

- (1) Depending on the requirements of this Title, multiple applications may be required.
- (2) The Zoning Administrator shall determine the order of application review based on the City Code, including this Title, and state requirements. Where possible, applications will be reviewed in tandem.

(G) Technical Assistance

In making its decision, the City may determine that technical assistance is needed. The City may request assistance from any source that is qualified to provide it. The applicant shall be responsible for the cost of such technical assistance.

(H) Withdrawal of any Applications

- (1) Any request for withdrawal of an application shall be submitted in writing to the Zoning Administrator.
- (2) In all cases where the applicant has requested withdrawal of an application, the associated fee paid and any costs incurred by the City in the processing of an application shall not be refunded.

(I) 60-Day Rule

- (1) In compliance with MS XXX.XX the City shall take action to approve or deny applications for conditional use permit, variances, and zoning amendments within 60 days of receiving a completed application.
- (2) If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may extend the timeline for taking

action before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing.

(J) Public Hearing

For all land use and zoning procedures which require a public hearing, the following shall apply:

- (1) Notice of the public hearing shall be published in the official newspaper of the municipality at least ten (10) days prior to the date of the hearing.
- (2) The notice shall also be mailed not less than ten (10) days to all property owners of record according to the county assessment records within 350 feet of the property.
- (3) A copy of the notice and list of the individuals and/or property owners and addresses to which the notices were sent shall be attested to by the Zoning Administrator and made part of official record. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this chapter has been made.
- (4) Each required notice shall include the following information:
 - (a) The name of the applicant
 - (b) The address, property identification number, or other method of clearly identifying the property
 - (c) The type of approval being sought
 - (d) Contact information where additional information can be obtained
 - (e) Date, time, and location of the public hearing
 - (f) Right and procedure to receive notice of any appeal
- (5) In the case of an appeal, mailed notice shall also be provided to any interested parties who have notified the City in writing that they would like to receive notice of the appeal.
- (6) If the application pertains to land within the Floodplain Management Overlay District under local management control, a copy of the application and notice of hearing shall be provided to the Minnesota Department of Natural Resources (DNR). The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(K) Notification of Decision

The Zoning Administrator shall provide notification to applicants the approval or denial of their land use or zoning request; if the request is denied, the Zoning Administrator shall notify the applicant in writing stating the reason for denial.

(L) Resubmittal of Denied Application

No land use or zoning application which has been denied wholly or in part may be resubmitted for at least one (1) year from the date of its denial, unless substantial changes

have been made which warrant reconsideration, as determined by the Zoning Administrator.

(M) Appeals

- (1) Appeals shall be taken within such time as shall be prescribed by the Board of Adjustments and Appeals by general rule, by filing with the Board a notice of appeal specifying the grounds thereon.
- (2) The Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and to the Planning and Zoning Commission and shall decide the same within a reasonable time.
- (3) The Board of Adjustments and Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination, as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer, commission or Council, from whom the appeal was taken and may issue or correct the issuance of a permit or take such other action as may be called for by the procedure in question.
- (4) The reason for the Board's decision shall be stated in writing.
- (5) Any person having an interest affected by the decision shall have the right to appeal to the District Court for the county.

154.02.22 Minor Site Review

(A) Applicability

- (1) Minor Site Review approval shall be required for all site alterations, construction, and change of uses for residential properties with one or two units.
- (2) This review may be included as part of a building permit approval process, or may be for land use and zoning activities not requiring a building permit, such as installation of fences and impervious surfaces on a property.

(B) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council.
- (2) The Zoning Administrator shall review the application and within ten (10) business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (3) Criteria for Complete Submittal
No submittal to the City shall be considered complete without receipt of the following:
 - (a) A completed application form
 - (b) Filing fee

- (c) Evidence of ownership or enforceable option on the property
- (d) A site plan of the property, which may be drawn over an aerial photograph or other to-scale drawing, with the following:
 - (i) Property boundaries
 - (ii) Setback lines from property boundaries, if applicable
 - (iii) Existing/proposed buildings with dimensions
 - (iv) Existing/proposed impervious surfaces with dimensions
 - (v) Existing/proposed fences and retaining walls, proposed to include height and material

(C) Review Process

(1) Review and Decision

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall review the application for compliance with the applicable zoning standards of this Chapter and shall have the authority to approve or deny the application.

(2) Criteria for Review

In reviewing the application and materials for approval, the Zoning Administrator shall consider the proposal's compliance with the standards of the property's zoning district including, but not limited to:

- (a) Setbacks
- (b) Height
- (c) Impervious surface maximums

(D) Issuance of Decision

(1) Notification

Upon decision of approval of the minor site review application, the Zoning Administrator shall notify the applicant of approval and that the proposed activity may commence.

- (a) If the minor site review be part of a building permit application process, commencement of proposed activity shall not be permitted until both the minor site review and building permit are fully approved
- (b) Should the decision of the Zoning Administrator be denial of the application, the Zoning Administrator shall provide the applicant reason for denial in writing

(2) Recording

The City shall maintain a record of all approved minor site review applications including a copy of the application, materials, review dates and such other

information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes

(3) Effect of Approval

Approval of a minor site review application shall expire in twelve (12) months unless substantial work has commenced or in twenty-four (24) months after approval if the structure for which the minor site review has been approved is not substantially completed. In the event of expiration, the applicant shall reapply for a minor site review before commencing work on the structure.

154.02.23 Major Site Review

(A) Applicability

- (1) Major Site Review approval shall be required for all site alterations, construction, and change of uses for residential properties with three or more units and any non-residential properties.
- (2) This review may be part of a building permit approval process, or may be for land use and zoning activities not requiring a building permit, such as installation of fences and impervious surfaces on a property.

(B) Pre-Application Meeting

A pre-application meeting pursuant to 154.02.04.D is recommended prior to submitting a Major Site Review application.

(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the conditional use procedures.
- (2) The Zoning Administrator shall review the application and within ten (10) business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (3) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of the following:

- (a) A completed application form;
- (b) Evidence of ownership or enforceable option on the property;
- (c) A survey/site plan, to-scale, of the property, with the following:
 - (i) Property boundary
 - (ii) Locations and dimensions of existing features, such as structures, impervious surfaces, fences/retaining walls, waterbodies and wetlands

- (iii) Locations and dimensions of proposed features, such as structures, impervious surfaces, fences/retaining walls, refuse storage areas,
- (d) Additional elements, as may be required depending on the site and proposed use. These may be included within the site plan or as separate plan documents:
 - (i) Grading and drainage plan showing existing and proposed topography at two-foot contours
 - (ii) Parking, Loading, and Circulation Plan
 - (iii) Screening and Bufferyard Landscaping Plan

(D) Review Process

(1) Review and Decision

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall review the application for compliance with the applicable zoning standards of this Chapter and shall have the authority to approve or deny the application.
- (b) Before granting any site approval, the Zoning Administrator may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Director of Public Works or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities.

(2) Criteria for Review

In reviewing the application and materials for approval, the Zoning Administrator shall consider the following:

- (a) Compliance with the zoning standards of the underlying zoning district and any overlay zoning district, including but not limited to: lot size, setbacks, building height, and impervious surface coverage.
- (b) Compliance with applicable use-specific standards, as detailed in Sec. 154.04.41-46.
- (c) Compliance with development standards, as detailed in Article 04 of this Chapter, which include, but are not limited to: general performance standards, parking, loading, and circulation standards, and screening and bufferyard landscaping standards.

(E) Issuance of Decision

(1) Notification

Upon decision of approval of the minor site review application, the Zoning Administrator shall notify the applicant of approval and that the proposed activity may commence.

- (a) If the minor site review be part of a building permit application process, commencement of proposed activity shall not be permitted until both the minor site review and building permit are fully approved
 - (b) Should the decision of the Zoning Administrator be denial of the application, the Zoning Administrator shall provide the applicant reason for denial in writing
- (2) Recording

The city shall maintain a record of all approved major site review applications including a copy of the application, materials, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.

 - (a) If the major site review is for a use with use-specific standards, as listed within Sec. 154.03.41-46, those standards and the application's compliance with those standards shall be included within the record maintained by the City.
- (3) Effect of Approval
 - (a) Approval of a Major Site Review application shall expire in twelve (12) months unless substantial work has commenced or in twenty-four (24) months after approval if the structure for which the major site review has been approved is not substantially completed. In the event of expiration, the applicant shall reapply for a major site review before commencing work on the structure.
 - (b) Any major site review approved in conflict with the provisions of this Chapter shall be null and void.
 - (c) Should the use of the property change or circumstances of the site differ from the approved Major Site Review, including compliance with the use-specific standards listed in Sec. 154.03.41-46, the approval shall no longer be considered upheld and the Zoning Administrator shall proceed through enforcement actions as described in Sec. 154.03.31-35.

154.02.24 Conditional Use Permits

(A) Applicability

The purpose of a Conditional Use Permit is to permit a use that would not be appropriate generally, but may be allowed with appropriate restrictions upon finding that:

- (1) Certain conditions as detailed in this chapter exist;
- (2) The use or development conforms to the comprehensive plan; and
- (3) Is compatible with the existing area.

(B) Pre-Application Meeting

A pre-application meeting pursuant to 154.02.04.D is required prior to submitting a Conditional Use Permit application.

(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the conditional use procedures.
- (2) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

(3) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of the following:

- (a) A completed application form;
- (b) An accurate boundary description of the property;
- (c) Evidence of ownership or enforceable option on the property;
- (d) A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs;
- (e) Landscaping and screening plans; and
- (f) Any elements pertaining to a Major Site Review, as listed in Sec. 154.02.07, as may be required at the discretion of the Zoning Administrator.
- (g) Any additional information deemed necessary by the Zoning Administrator to determine the suitability of the particular site for the proposed use.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with Sec. 154.02.01 (H).
- (b) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed conditional use and determine what additional requirements may be necessary to reduce any adverse effects.

(3) Review and Decision

- (a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council either approval of the Conditional Use Permit, approval of the Conditional Use Permit subject to amended or additional conditions, or denial of the Conditional Use Permit
- (b) The Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.

(4) Criteria for Review

- (a) In making the determination, whether or not the conditional use is to be allowed, the City Council shall consider:
 - (i) The effects of the proposed use on the comprehensive plan; and
 - (ii) The effects of the proposed use upon the health, safety and general welfare of occupants of surrounding lands.
- (b) Among other things, the City Council shall make the following findings where applicable:
 - (i) The proposed conditional use meets all of the use-specific standards listed within Sec. 154.04.41-46.
 - (ii) The use is not in conflict with the comprehensive plan of the city.
 - (iii) The use is consistent with the purpose of this chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - (iv) The use will not cause traffic hazards and the traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the city in order to handle the additional traffic generated by the use.
 - (v) Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.
 - (vi) Adequate utilities, parking, drainage and other necessary facilities will be provided.
 - (vii) The proposed use will not impede the normal and orderly development or improvements of the surrounding property.
 - (viii) The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of the property.
 - (ix) The use will not disrupt the character of the neighborhood.

- (x) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

(c) Additional conditions.

In permitting a new conditional use or in the amendment of an existing conditional use, the city may impose, in addition to the standards and requirements expressly specified by this Chapter, additional conditions which the city considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

- (i) Increasing the required lot size or yard dimension;
- (ii) Limiting the height, size or location of the buildings;
- (iii) Controlling the location and number of vehicle access points;
- (iv) Increasing the street width;
- (v) Increasing the number of required off-street parking spaces;
- (vi) Limiting the number, size, location or lighting of signs;
- (vii) Requiring diking, fencing, screening, berming, landscaping or other facilities to protect adjacent or nearby property;
- (viii) Designating sites for open space; and
- (ix) Limiting the hours of operation.

(E) Issuance of Approval

(1) Recording

- (a) The city shall maintain a record of all conditional use permits issued including information on the use, location and conditions imposed by the city; time limits, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.
- (b) All CUPs shall be issued pursuant to Minnesota Statutes, Section 462.3595 as may be amended and a certified copy of any conditional use permit shall be recorded with the county recorder along with a legal description of the property subject to the CUP.

(2) Effect of Approval

- (a) If a conditional use permit is approved or approved with additional conditions, all future use of the land and structures erected on the land pursuant to the permit shall comply with its terms and conditions.
- (b) Revocation

- (i) The city may call for the revocation a conditional use permit when it finds that at least one of the following circumstances exists:
 - a. Where a conditional use permit has been issued and no work thereon has commenced within 12 months of the date of granting the conditional use permit
 - b. In the event that the applicant violates any of the conditions set forth in the conditional use permit
- (ii) Should revocation of a conditional use permit be called for, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with Sec. 154.02.01 (H).
- (iii) The public hearing shall be held by the Planning and Zoning Commission. If the Planning and Zoning Commission finds that the continuation of the conditional use is in violation of this chapter, the Planning and Zoning Commission shall recommend the City Council revoke the conditional use permit.
- (iv) The City Council shall act upon the recommendation of the Planning and Zoning Commission within 30 days of receiving the recommendation. The Zoning Administrator shall, in writing, inform the individual or party in question of the action of the Council and shall enforce the action taken.

154.02.25 Variances

(A) Applicability

The City Council, in its capacity as the Board of Adjustments and Appeals and consistent with the authority granted by law, may grant a property owner a variance from compliance with the literal provisions of the zoning code in an instance where strict enforcement would cause practical difficulties to the individual property owner, and when it can be demonstrated that such action will be in keeping with the spirit and intent of the code.

(B) Pre-Application Meeting

A pre-application meeting pursuant to Sec. 154.02.04.D is required prior to submitting a Variance application.

(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the conditional use procedures.
- (2) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (3) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of the following:

- (a) A completed application form;
- (b) An accurate boundary description;
- (c) Evidence of ownership or enforceable option on the property; and
- (d) An accurate drawing, at scale, showing property lines, location of existing buildings and proposed project.
- (e) A narrative by the applicant explaining why the situation of the subject property creates a practical difficulty and requires a variance from the provisions of this Chapter.
- (f) Any elements pertaining to a Major Site Review, as listed in Sec. 154.02.07, as may be required at the discretion of the Zoning Administrator.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with Sec. 154.02.01 (H).
- (b) The Planning and Zoning Commission shall hold the public hearing, and may table the application for further investigation if necessary.

(3) Review and Decision

- (a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council, in its role as the Board of Adjustments and Appeals, either approval of the Variance, approval of the Variance subject to amended or additional conditions, or denial of the Variance.
- (b) The City Council, in its role as the Board of Adjustment and Appeals, shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.
- (c) In granting the variance, the City Council, in its role as the Board of Adjustment and Appeals, may impose additional conditions to ensure compliance with its decision and to protect adjacent properties. Such conditions must be directly related to and bear a rough proportionality to the impact created by the variance.

(4) Criteria for Review

- (a) In its consideration of a variance request, the Planning and Zoning Commission shall consider the following questions when making their recommendation to the City Council:
 - (i) Whether or not exceptional, unique or extraordinary circumstances apply to the physical surrounding, shape or topographic conditions of the parcel of land that result in practical difficulties for the owner?
 - (ii) Whether or not the variance requested will alter the essential character of the locality?
 - (iii) Whether or not granting the variance requested will:
 - a. Impair an adequate supply of light and air to adjacent property?
 - b. Substantially increase congestion in adjacent public streets?
 - c. Endanger the public safety?
 - d. Substantially diminish or impair property values within the vicinity?
 - (iv) Whether the variance requested is the minimum variance that would alleviate the practical difficulties?
 - (v) Whether or not the variance requested is consistent with the intent of this chapter and the city's comprehensive plan?
 - (vi) Whether or not the variance requested provides for a reasonable and practical solution that eliminates the practical difficulties?
- (b) In its consideration of a variance request, the City Council shall make the following findings:
 - (i) The proposed use is not prohibited in the zoning district in which the subject property is located
 - (ii) The variance must be in harmony with the general purposes and intent of this ordinance
 - (iii) The terms of the variance must be consistent with the Comprehensive Plan
 - (iv) The landowner must show that the variance is necessary to alleviate the practical difficulties in complying with the official control
 - a. "Practical Difficulty" as used in connection with the granting of a variance shall include all the following:
 - i. The property owner proposes to use the property in a reasonable manner that is not otherwise not permitted by an official control;

- ii. The plight of the property owner is due to circumstances unique to the property, not created by the property owner;
- iii. The variance, if granted, will not alter the essential character of the locality;
- iv. The need for the variance involves more than economic considerations.

- b. "Practical Difficulties" also means and includes, but is not limited to, inadequate access to direct sunlight for solar energy systems

(E) Issuance of Decision

(1) Recording

The city shall maintain a record of all variances issued including information on the use, location and conditions imposed by the city; time limits, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.

(2) Effect of Approval

- (a) Approval of the variance shall expire if no work thereon has commenced within 12 months of the date of approving the variance
- (b) Should the property violate any conditions of approval for the variance, the Zoning Administrator shall proceed through enforcement actions as described in Sec. 154.03.31-35

154.02.26 Zoning Amendments

(A) Applicability

- (1) The Council may adopt amendments to this chapter and the zoning map in relation both to land uses within a particular district or to the location of a district line. The amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the comprehensive plan or changes in conditions in the city

(2) Types of amendments.

- (a) A change in a district's boundary (rezoning);
- (b) A change in a district's regulations; and
- (c) A change in any other provision of this chapter.

(3) Initiation of proceedings.

Proceedings for amending this chapter shall be initiated by at least one of the following three methods:

- (a) By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed;
- (b) By recommendation of the Planning and Zoning Commission; and/or
- (c) By action of the Council.

(B) Pre-Application Meeting

A pre-application meeting pursuant to Sec. 154.02.04.D is required for property owners initiating proceedings prior to submitting a Zoning Amendment application.

(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council.
- (2) The Zoning Administrator shall review the application and, within 15 business days after receiving the application, shall notify the applicant in writing if the application is not complete and what additional information is required.

(3) Criteria for Complete Submittal

No submittal for rezoning or district regulations initiated by property owners shall be considered complete without receipt of the following:

- (a) A completed application form;
- (b) Evidence of ownership or enforceable option on the property;
- (c) A narrative by the application describing the proposed future use of the site and how the requested rezoning/amendment complies with the guidance of the Comprehensive Plan
- (d) If the amendment is related to a development, a preliminary building and site development plan is required; and
- (e) Any additional information deemed necessary by the Zoning Administrator to determine the suitability of the particular site for the proposed use.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with Sec. 154.02.01 (H).

- (b) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed zoning amendment and determine what additional requirements may be necessary to reduce any adverse effects.

(3) Review and Decision

- (a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council either approval of the Zoning Amendment, approval of the Zoning Amendment subject to amended or additional conditions, or denial of the Zoning Amendment
- (b) The Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.
 - (i) A copy of the proposed ordinance shall be available for public view at the City Hall and posted online for public view at least ten (10) days prior to the City Council meeting.
 - (ii) Amendments to this Chapter shall be by passage upon a simple majority vote of the City Council
- (c) The city shall take action to approve or deny the application within 60 days of receiving a completed application, as detailed within Sec. 154.02.21.I.
- (d) No resubmittal of an application for a zoning amendment shall be considered by the city within a one-year period following a denial of the request, except as provided within Sec. 154.02.21.K

(4) Criteria for Review

- (a) In making the determination, whether or not the zoning ordinance is to be amended, the City Council shall consider:
 - (i) The compliance of the zoning amendment with the overall guidance of the Comprehensive Plan
 - (ii) The effect the zoning district as a whole would have on the site and adjacent sites
- (b) In making its determination, the City Council shall not utilize the preliminary building and site plan as reasoning to approve or deny the zoning amendment; furthermore, the approval or denial of a zoning amendment shall not be considered action taken nor approval given of a preliminary building and site plan.

(E) Issuance of Decision

(1) Publishing and Recording

- (a) A copy of the amended ordinance, or a summary publication as may be approved, shall be published in the local newspaper in compliance with Sec. 154.XX.XX.
 - (b) The City Clerk shall maintain a record of all ordinances and amended ordinances related to this Title
 - (i) The ordinances shall be reflected in online codification, which may be updated periodically
 - (ii) Copies of ordinances which have been adopted but not yet reflected in online codification shall be listed on the City's website and available at City Hall for public viewing
 - (c) The Zoning Administrator shall record any changes to the Official Zoning Map, which may be updated online periodically
 - (i) A list of properties approved for rezoning but not yet reflected in the online copy of the Official Zoning Map shall be maintained by the Zoning Administrator and available at City Hall for public viewing
 - (ii) The city shall maintain a record of all amendments to the zoning map for specific properties within a file for that specific property. A record of applications which were not approved shall also be maintained for record keeping purposes.
- (2) Effect of Approval
- The approved zoning amendment shall be in effect on the publication date of the ordinance in the local newspaper, unless otherwise noted within the ordinance language.

154.02.27 Establishment of a Planned Unit Development (PUD)

(A) Applicability

- (1) The establishment of a Planned Unit Development (PUD) provides design flexibility to promote creative and efficient use of land. Planned Unit Development provisions are also intended to create public and private benefit by allowing improved site design; allowing developments on multiple lots to function as one coordinated site; facilitating protection of natural features; allowing flexibility from this chapter for unique developments; and ensuring coordination of phased development.
- (2) An approved Preliminary PUD Plan shall be on file with the City prior to applying for a Final PUD Plan that substantially conforms to the Preliminary PUD Plan. Substantial conformance means:
 - (a) The buildings, parking areas and roads are in essentially the same location as previously approved;
 - (b) Open space has not been decreased or altered significantly from its original design or use;

- (c) The number of dwelling units, if any, has not increased or decreased by more than 5%;
 - (d) The floor area of nonresidential areas has not been increased or decreased by more than 5%;
 - (e) No building has been increased in the number of floors; and
 - (f) Lot coverage of any individual building has not been increased or decreased by more than 10%.
 - (3) The Final PUD Plan may, if permitted by the City Council, constitute only that portion of the approved Preliminary PUD Plan which the applicant proposes to record at the time.
- (B) Pre-Application Meeting
- (1) A pre-application meeting pursuant to Sec. 154.XX.XX is required prior to submitting a Preliminary PUD Plan application.
 - (2) During the pre-application meeting, the Zoning Administrator will determine if the proposed project is eligible for concurrent review of the Preliminary and Final PUD plans.
 - (3) Applicants may choose to use the Concept Plan process identified in Sec. 153.XX.XX to solicit input from the Planning Commission and City Council prior to submitting a Preliminary PUD plan
- (C) Submittal
- (1) The application for a Preliminary or Final PUD Plan shall be filed pursuant to Sec. 153.XX.XX.
 - (2) If the Zoning Administrator has determined a PUD to be eligible, applicants may apply for concurrent Preliminary and Final PUD Plan approval by submitting all information required for both applications simultaneously.
 - (3) The application for a Final PUD Plan shall be submitted no later than one (1) year after the date of approval of the Preliminary PUD Plan; otherwise the Preliminary PUD Plan and Final PUD Plan will be considered void unless an extension is requested in writing by the applicant and granted by the City.
- (D) Review Process
- (1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.
 - (2) Hearing on Application

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with Sec. 154.02.01 (H).
 - (b) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed conditional use and determine what additional requirements may be necessary to reduce any adverse effects.
- (3) Review and Decision
 - (a) Preliminary PUD Plan
 - (i) Following the public hearing, the Planning Commission shall recommend approval, conditional approval, or denial of the Preliminary PUD Plan and shall transmit the Plan and application along with its recommendations to the City Council.
 - (ii) The Planning Commission may hold the matter in abeyance if there is incomplete or inadequate information.
 - (iii) Upon receiving a recommendation from the Planning Commission, the City Council shall review and approve, approve conditionally, or deny the Preliminary PUD Plan application.
 - (iv) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.
 - (v) Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.
 - (b) Final PUD Plan
 - (i) The City Council shall review and approve, approve conditionally, or deny the Final Plan application.
 - (ii) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.
 - (iii) Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.
- (4) Criteria for Review

The City Council shall base its actions regarding a Preliminary PUD Plan upon the following criteria:

 - (a) Compatibility of the PUD with the standards, purposes and intent of this Chapter;
 - (b) Consistency of the PUD with the Comprehensive Plan's vision, mission, values, and policies;

- (c) The impact of the Plan on the neighborhood in which it is to be located;
- (d) The adequacy of internal site organization, uses, densities, circulation, parking facilities, public facilities, recreational areas, open spaces, sidewalks, trails, buffering and landscaping; and
- (e) Other factors as the City deems relevant.

(E) Issuance of Decision

(1) Effect of Preliminary PUD Plan Decision

- (a) Approval of the Preliminary PUD Plan by the Council shall constitute rezoning of the property to PUD and conceptual approval of the elements of the plan. While approval of the Preliminary PUD Plan shall establish the basic right of use for the area in conformity with the plan as approved, such plan shall be conditioned upon approval of a Final PUD Plan and shall not make permissible any of the uses as proposed until a Final PUD Plan is submitted and approved for all or a portion of the Preliminary PUD Plan.
- (b) The applicant shall submit the Final PUD Plan to the City Council within one (1) year after the approval of the Preliminary PUD Plan or approval of the Preliminary PUD Plan shall be considered void.

(2) Recording of Final PUD Plan

- (a) All approved PUD Districts shall be designated on the City's zoning map as it is revised from time to time.
- (b) No building permit shall be issued or development shall occur on land for which a PUD district has been approved which does not conform to the approved final plan.
- (c) After the Final PUD Plan has been approved by the City Council, all conditions of approval have been met, and required improvements are either installed or a contract and sureties insuring their installation is filed, the City shall file the Final Plan with the County Recorder. Recording of the Final Plan and all associated conditions of approval must be completed within one (1) year of final approval.
- (d) Failure to do so shall result in the requiring of a new Development Plan which must be reviewed in accordance with the procedure set out in this Part to ensure compliance with any new requirements.
- (e) If, within one (1) year following City Council approval of the Final Plan, no building permits have been obtained or, if within one (1) year after the issuance of building permits, no construction has commenced on the subject property approved for the PUD District, the zoning for the parcel(s) shall revert back to the original zoning and the PUD designation shall be declared null and void.

- (f) Prior to the expiration of the initial one (1) year period, the City Council may upon request of the property owner and by resolution and findings of fact, extend the above noted time frame for a period not to exceed an additional one (1) year.

(F) Amendment

Proposed development of land for which a PUD has been approved or modifications to existing project which do not conform to the approved Final PUD Plan shall be processed as either an Administrative Amendment or a Major Amendment.

- (1) Any major amendment to the Development Plan may be approved by the City Council following the same notice and hearing procedures specified in Sec. 154.XX.XX. An amendment shall be considered major if it involves any change greater than permitted by Sec. 154.XX.XX
- (2) Minor amendments meeting the requirements of Sec. 154.XX.XX may be reviewed and approved administratively.

154.02.28 Comprehensive Plan Amendment

(A) Applicability

- (1) The Council may adopt amendments to the Comprehensive Plan and the Future Land Use map in relation both to land uses within a particular designation or to the location of a designation boundary. The amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the Vision and Guiding Principles of the Comprehensive Plan or changes in conditions in the city
- (2) Kinds of amendments.
 - (a) A change in a land use designation's boundary (map amendment);
 - (b) A change in a land use designation's guidance; and
 - (c) A change in any other provision of the Comprehensive Plan.
- (3) Initiation of proceedings.

Proceedings for amending the Comprehensive Plan shall be initiated by at least one of the following three methods:

 - (a) By petition of an owner or owners of property which is proposed to have a change in future land use designation, or for which land use designation guidance changes are proposed;
 - (b) By recommendation of the Planning and Zoning Commission; and/or
 - (c) By action of the Council.

(B) Pre-Application Meeting

A pre-application meeting pursuant to 154.02.04.D is required for property owners initiating proceedings prior to submitting a Comprehensive Plan Amendment application

(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council.
- (2) The Zoning Administrator shall review the application and, within 15 business days after receiving the application, shall notify the applicant in writing if the application is not complete and what additional information is required.

(3) Criteria for Complete Submittal

No submittal for a Comprehensive Plan Amendment initiated by property owners shall be considered complete without receipt of the following:

- (a) A completed application form;
- (b) Evidence of ownership or enforceable option on the property;
- (c) A narrative by the application describing the proposed future use of the site and how the requested amendment complies with the Vision and Guiding Principles of the Comprehensive Plan
- (d) If the amendment is related to a development, an additional narrative explaining proposed future zoning requests and preliminary building and site development plan; and
- (e) Any additional information deemed necessary by the Zoning Administrator to determine the suitability of the particular site for the proposed use.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with Sec. 154.02.01 (H).
- (b) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed Comprehensive Plan amendment and determine what additional requirements may be necessary to reduce any adverse effects.

(3) Review and Decision

- (a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council either approval of the

Comprehensive Plan Amendment, approval of the Comprehensive Plan Amendment subject to additional amendments, or denial of the Comprehensive Plan Amendment

- (b) The Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.
 - (i) Amendments to the Comprehensive Plan shall be by passage upon a four-fifths majority vote of the City Council
- (c) No resubmittal of an application for a Comprehensive Plan Amendment shall be considered by the city within a one-year period following a denial of the request, except as provided within Sec. 154.02.21.K

(4) Criteria for Review

In making the determination, whether or not the Comprehensive Plan is to be amended, the City Council shall consider:

- (a) The compliance of the amendment with the overall guidance of the Vision and Guiding Principles of the Comprehensive Plan
- (b) The effect that a change in land use as a whole would have on the site and adjacent sites

(E) Issuance of Decision

(1) Recording

- (a) The Zoning Administrator shall maintain a record of any changes to the Comprehensive Plan and/or Future Land Use map, which may be updated online periodically
 - (i) A list of properties approved for change in future land use designation but not yet reflected in the online copy of the Future Land Use Map shall be maintained by the Zoning Administrator and available at City Hall for public viewing
 - (ii) The city shall maintain a record of all amendments to the Future Land Use Map for specific properties within a file for that specific property. A record of applications which were not approved shall also be maintained for record keeping purposes.

(2) Effect of Approval

The approved Comprehensive Plan Amendment shall be in effect on the date the City Council takes action, unless otherwise noted within the approving resolution language.

PART 3 ENFORCEMENT

154.02.31 Authority and Action

- (A) This Chapter shall be administered and enforced by the Zoning Administrator or other authorized representative. The Zoning Administrator may institute in the name of the City of Kasson any appropriate actions or proceedings against a violator.
- (B) Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint with the City.
 - (1) Such complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator.
 - (2) The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this Chapter.

154.02.32 Enforcement Procedures

- (A) For the enforcement of the provisions of this Chapter, zoning violation notices shall be sent by either first class or certified mail to the owner of the property on which the violation is taking place.
 - (1) A copy of the zoning violation notice shall be sent to the City Administrator, City Clerk, Police Chief, and City Attorney.
- (B) The zoning violation notice shall contain the following information:
 - (1) A description of the violation which is taking place.
 - (2) A picture (if possible) of the violation which is taking place.
 - (3) Location and/or address of the property at which the violation is taking place.
 - (4) Identification of the section of this Chapter which is being violated.
 - (5) Date the violation was discovered.
 - (6) Steps necessary to correct the violation.
 - (7) Deadline by which the violation must be corrected, which is at the discretion of the Zoning Administrator.

154.02.33 Correction of the Zoning Violation

- (A) Correction of the violation in the manner stipulated by the zoning notice violation, at any point during this enforcement process, shall deem the zoning violation notice null and void, and enforcement activity shall cease.

154.02.34 Failure to Correct the Zoning Violation – Enforcement Remedies

Failure to correct the zoning violation shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out the following enforcement remedies or combination of remedies:

- (A) Withhold Permits
The City shall have the authority to withhold any permits or City approvals which are necessary until the violation is corrected to the City's satisfaction.
- (B) Stop Work Order

The City shall have the authority to issue a stop work order on the subject violation.

(C) Abatement

The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice.

(D) Injunctive Relief

The City shall have the authority to seek an injunction in court to stop any violation of this Ordinance.

(E) Civil Remedies

The City shall have the authority to institute appropriate civil action to enforce the provisions of this Ordinance, and shall recover reasonable court costs and attorney's fees which are incurred due to the enforcement of the subject violation, at the discretion of the court.

(F) Assessment

The City shall have the authority to use the provisions of Minnesota State Statutes 429, assess any charge against the property benefited, and any such assessment shall, at the time at which taxes are certified to the Dodge County Auditor, be certified for collection in the manner that other special assessments are so certified.

(G) Criminal Remedies

The City shall have the authority to institute appropriate misdemeanor criminal action for a violation of this Ordinance.

(H) Cumulative Remedies

The powers and remedies of this section shall not be individually limited and are not exclusive. The powers and remedies of this section are cumulative and all power and remedies may apply, as well as any other remedies allowed under State law.

(I) Administrative Penalties

The City shall have the authority to utilize Section XXX of the City Code for enforcement of the Zoning Ordinance.

154.02.35 Revocation

Instead of, or in addition to any of the remedies in Sec. 154.02.34, failure to comply with the conditions of a conditional use permit or the ordinances of the City shall result in the conditional use permit being revoked by the City Council. Revocation proceedings shall require a public hearing with notice and due process according to Sec. 154.02.21.K, except that the City Council may waive Planning Commission review and comment.

Kasson, MN Code of Ordinances

CHAPTER 154 ZONING

ARTICLE 01 GENERAL PROVISIONS

PART 1 TITLE AND AUTHORITY

154.01.11 Title

This ~~chapter~~Chapter shall be known as the "Kasson Zoning Ordinance" except as referred to herein, where it shall be known as "this ~~chapter~~Chapter".

154.01.12 Authority

Pursuant to the authority conferred by M.S. § 462.357, Laws of 1965, as may be amended from time to time, this ~~chapter~~Chapter is enacted.

154.01.13 Intent and Purpose

The intent of this ~~chapter~~Chapter is to:

- (A) ~~—(A)—~~Protect the public health, safety and general welfare of the community and people in the city;
- (B) ~~—(B)—~~Promote orderly development and redevelopment;
- (C) ~~—(C)—~~Promote, protect and conserve the character and preserve and enhance the stability of properties and areas within the city;
- (D) ~~—(D)—~~Prevent overcrowding of land and undue concentrations of structures by regulating land, buildings, yards and density of population;
- (E) ~~—(E)—~~Provide adequate light, air and convenience of access to property;
- (F) ~~—(F)—~~Prevent congestion in the public right-of-way;
- (G) ~~—(G)—~~Provide for compatibility of different land uses;
- (H) ~~—(H)—~~Protect against fire, explosion, noxious fumes and pollution of the environment;
- (I) ~~—(I)—~~Promote a visually pleasing environment throughout the community;
- (J) ~~—(J)—~~Provide for administration of this ~~chapter~~Chapter;
- (K) ~~—(K)—~~Provide for amendments; and
- (L) ~~—(L)—~~Prescribe penalties for violation of regulations.

~~(M) —(Prior Code, § 24-3) (Ord. 728, passed —)~~

~~(N) —~~

~~§ 154.004 SCOPE AND APPLICATION.~~

~~(O) —The ordinance codified in this chapter is an ordinance setting minimum and maximum standards for the height and size of buildings, the size of yards, courts and other open~~

~~spaces, the density of population, the location and use of buildings and land for trade, commerce, industry, residence and other purposes; creating districts for the purposes and establishing the boundaries of the districts; defining certain terms used herein; providing for enforcement and administration and imposing penalties for the violation of this chapter.~~

~~(P) — (Prior Code, § 24-4) (Ord. 728, passed —)~~

~~(Q) —~~

~~§ 154.023 COMPLIANCE REQUIRED.~~

~~(R) — It is the duty of all architects, contractors, subcontractors, builders and other persons having charge of the erecting, altering, changing or remodeling of any building or structure, including tents and trailer coaches, before beginning or undertaking any such work to see that the work does not conflict with and is not in violation of the terms of this chapter; and any such architect, builder, contractor or other person doing or performing any such work of erecting, repairing, altering, changing or remodeling in violation of, or in conflict with, the terms of this chapter shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the person or persons for whom the buildings are erected, repaired, altered, changed or remodeled in violation hereof, and shall be held accountable for the violation.~~

~~(S) — (Prior Code, § 24-10) (Ord. 728, passed —)~~

~~(T) —~~

~~§ 154.025 RELIEF FROM PERSONAL RESPONSIBILITY.~~

154.01.14 — Jurisdiction and Compliance

(A) Jurisdiction

The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the City of Kasson.

(B) Compliance

No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a proper zoning and full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.

154.01.15 Abrogation and Greater Restrictions

It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

154.01.16 Severability and Non Liability

- (A) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (B) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- (C) The City does not guarantee, warrant or represent that only those areas designated as flood lands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the City of Kasson, its agencies or employees for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

154.01.17 Relief from Personal Responsibility

- ~~(U)~~(A) Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this ~~chapter~~Chapter and any claim based upon the performance or the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are enumerated as exceptions to M.S. § 466.02, as may be amended from time to time, and the section does not apply.
- ~~(V)~~(B) The city shall defend, save harmless and indemnify any of its officers or employees whether elective or appointed, against any tort claim or demand whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of this ~~chapter~~Chapter, except as provided in M.S. § 466.07, as may be amended from time to time.

~~(W) — (Prior Code, § 24-14) (Ord. 728, passed —)~~

~~(X) —~~

~~§ 154.008 NET REVENUE LOSS PAYMENT FEE.~~

- ~~(Y) — For any lands annexed following the publication of this section, a fee shall be charged for each lot at platting, in addition to previously established platting fees, in an amount equal to 110% of the amount established by the Public Utilities Commission as the net revenue loss payment.~~

~~(Z) — (Ord. 835, passed 1-28-2009)~~

~~(AA) —~~

~~(BB) —~~

~~§ 154.005 RELATION TO COMPREHENSIVE MUNICIPAL PLAN.~~

- ~~154.01.12154.01.18 — It is the policy of the city that the enforcement, amendment and administration of this chapter be accomplished with consideration of the recommendations contained in the comprehensive municipal plan as developed and amended from time to time by the Planning and Zoning Commission and~~

154.01.19 Payment of Taxes and Fees Prior to Application

Applications for licenses, permits, and other approvals under this Chapter shall not be accepted by the City until the Financial Services Director/Treasurer certifies that all real estate taxes, personal property taxes, special assessments and other fees or charges then due and owing to the City of Kasson by the applicant or which relate to the property for which the license, permit, approval, or application is requested, have been paid in full

PART 2 INTERPRETATION

154.01.21 General Application

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of Kasson.

154.01.22 Relationship to the Comprehensive Plan

(A) — The regulations established herein are derived from and established in accordance with the City of Kasson Comprehensive Plan. This Title provides regulations to implement the goals, objectives, policies and recommendations of the City of Kasson Comprehensive Plan. References to ~~City Council~~. The Council recognizes the comprehensive municipal plan as the policy for responsibility to regulate land use and development in accordance with the policies and purposes herein set forth.

(B) — (Prior Code, § 24-5) (Ord. 728, passed —)

(C) —

§ 154.024 CONFLICTING PROVISIONS.

—Whenever any provision of this chapter establishes higher standards than are imposed or required by existing provisions of the lawscontents of the state or any ordinance or regulationCity of Kasson Comprehensive Plan are contained herein.

154.01.23 Repeal, Effective Date, and Transition Standards

(A) All other Ordinances or parts of Ordinances of the city, City inconsistent or conflicting with this Chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

(B) Permits

The provisions of this chapterChapter shall apply— to all permits filed on or after [MONTH DAY, 2020]. Permit applications on file before [MONTH DAY, 2020] shall be reviewed for compliance with the Title effective at the time of filing.

154.01.24 Conflicting Regulations or Provisions

(A) In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements. Wherever the Chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of the Chapter shall govern except as otherwise provided in State Statutes or Rules.

~~(D)~~(B) Where the provisions of state law or other city regulation or ordinance set higher standards than those of this ~~chapter~~Chapter, the provisions of the laws, regulations or ordinances shall apply.

~~(E)~~ ~~(Prior Code, § 24-11) (Ord. 728, passed --)~~

~~(F)~~ _____

~~§ 154.046 NONCONFORMING BUILDINGS, STRUCTURES AND USES.~~

154.01.25 _____ (A) Use of Graphics, Illustrations, Figures, Photos, and Cross-References

(A) Graphics, illustrations, figures, and photos are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, figure, or photo, the text shall control.

(B) In some instances, cross-references between chapters, articles, sections, and subsections are provided that include the chapter, division, section or subsection number along with the name of the reference. Where a conflict may occur between the given cross-reference number and name, the name shall control.

154.01.26 Nonconformities

~~(G)~~(A) Purpose

- (1) ~~–~~The purpose of this section is to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances conditions under which nonconforming buildings, structures and uses will be operated and maintained.
- (2) This ~~chapter~~Chapter establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be permitted to continue without restriction. ~~Furthermore, it is the intent of this chapter that all nonconforming uses shall be eventually brought into conformity.~~
- (3) _____ (B) Furthermore, it is the intent of this Chapter that all nonconforming uses shall be eventually brought into conformity.

~~(H)~~(B) Continuation

~~–~~Any structure or use lawfully existing upon the effective date of this ~~chapter~~Chapter shall not be enlarged, but may be continued at the size and in the manner of operation existing upon the date, except as hereinafter specified, or subsequently amended.

~~(I)~~(C) ~~–(C)~~ Extension

~~–~~A nonconforming structure or use may be improved; provided, no structural alterations or changes are made therein, except those required by law or ordinance or such as may be required for safety or such as may be necessary to secure or ensure the continued advantageous use of the building during its natural life.

~~(J)(D)~~ ~~—(D)—~~ Maintenance of building or structure

~~—~~Normal maintenance of a building or structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not physically extend or intensify the nonconforming use.

~~(K)(E)~~ ~~—(E)—~~ Damage to

(1) ~~—~~Any nonconforming building or structure damaged more than 50% of its then appraised value, exclusive of foundations at the time of damage by fire, collapse, explosion or acts of God or public enemy, shall not be restored or reconstructed and used as before the happening; ~~but if~~

(2) ~~If~~ less than 50% damaged above the foundation, it may be restored, reconstructed or used as before; provided that~~;~~:

(a) it is done within 12 months of the happening; and

(b) ~~that~~ it be built of like or similar materials, or the architectural design and building materials are approved by the Planning and Zoning Commission.

~~(2)(3)~~ The extent of damage or destruction shall be the mean of a value of damage determined by the Building Official and the insurance agent. Each shall submit a statement of the value of damage to the city.

~~(L)(F)~~ ~~—(F)—~~ Change in use

(1) ~~—~~A nonconforming use cannot be changed to a comparable nonconforming use.

(2) Whenever a nonconforming use has been changed to a conforming use, it shall not thereafter be changed to a nonconforming use.

(3) If the nonconforming use of a structure, building or land, existing at the time this ~~chapter~~Chapter became effective, is thereafter changed, then the future use of the same shall be in conformity with the provisions of this ~~chapter~~Chapter.

~~(M)(G)~~ ~~—(G)—~~ Discontinuance

~~—~~In the event that a nonconforming use of any building, structure or land is discontinued for a period of one year, any future use of the building, structure or land shall be made to conform with the provisions of this ~~chapter~~Chapter.

~~(N) —(H) Land. The nonconforming lawful use of land where a structure thereon is now so employed or existing at the time that this chapter becomes effective may be continued provided:~~

~~(O) —(1) The nonconforming use of land shall not, in any way, be expanded, extended or intensified either on the same or adjoining property; and~~

~~(P) —(2) If the nonconforming use of land, existing at the time this chapter became effective, is thereafter discontinued or changed, then the future use of the land shall be in conformity with the provisions of this chapter.~~

~~(Q)(H)~~ ~~—(I)—~~ Zone changes

~~The foregoing provisions relative to nonconforming uses shall apply to structures, buildings, land and uses which hereafter become nonconforming due to classification or reclassification of districts under this ~~chapter~~Chapter.~~

~~(R) (Prior Code, § 24-25) (Ord. 728, passed --)~~

~~(S) —~~

ARTICLE 02 ADMINISTRATION AND ENFORCEMENT

~~(A) —~~

~~§ 154.020 ENFORCING AGENT.~~

~~PART 1 —ADMINISTRATION~~

~~154.02.11 General Administration System~~

The provisions of this ~~chapter~~Chapter shall be administered by the City Zoning Administrator, who shall be appointed by the City Council, or by an authorized representative of the Zoning Administrator.

~~(B) (Prior Code, § 24-7) (Ord. 728, passed --)~~

~~(C) —~~

~~§ 154.021 ZONING ADMINISTRATOR; SPECIFIC POWERS AND DUTIES.~~

~~154.02.12 —Zoning Administrator~~

The Zoning Administrator shall enforce this ~~chapter~~Chapter and shall perform the following duties:

~~(D)(A) —(A) Issue ~~zoning certificates and other~~ permits related to Land Use and Zoning and maintain record thereof;~~

~~(E)(B) —(B) Conduct inspections of buildingsland uses and use of land site features such as structures, impervious surfaces, and fences to determine compliance with the terms of this ~~chapter~~Chapter;~~

~~(F)(C) —(C) Maintain permanent and current records of this chapter, including, but not limited to: all maps, amendments, conditional uses, variances, appeals and applications therefor;~~

~~(G)(D) —(D) Examine all applications to amend this ~~chapter~~Chapter and/or ~~official map~~the Official Zoning Map, applications for conditional use permits and variance requests;~~

~~(H)(E) —(E) Examine all site plans required for building permitland use or zoning applications ~~for, including~~ any proposed construction, alteration, repair, and enlargement of structures, and examine proposed ~~use~~uses for compliance with the provisions of this ~~chapter~~Chapter and ~~shall~~ endorse thereon the date of approval;~~

~~(I)(F) —(F) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or~~

state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334, as amended; and

(J) ~~(G) If it shall be determined for any reason, that the permit requested may not be issued, the Zoning Administrator shall notify the applicant in writing stating the reason for refusing to grant approval.~~

(K) ~~(Prior Code, § 24-8) (Ord. 728, passed --)~~

(L) ~~---~~

§ 154.022 ZONING CERTIFICATE.

(M) ~~It is unlawful to use or occupy any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a zoning certificate has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.~~

(N) ~~(Prior Code, § 24-9) (Ord. 728, passed --) Penalty, see § 154.999~~

(O) ~~---~~

§ 154.026 PLANNING AND ZONING COMMISSION.

(G) ~~—Provide notification to applicants the approval or denial of their land use or zoning request.~~

154.02.13 Roles of Specific City Bodies in Zoning Administration

(A) Planning and Zoning Commission

- (1) The Planning and Zoning Commission shall provide assistance to the City Council and Zoning Administrator in the administration of this ~~chapter~~Chapter and the recommendation of the Planning and Zoning Commission shall be advisory in nature. Specifically, the Planning and Zoning Commission shall review, hold public hearings and make recommendations to the Council on all applications for zoning amendments, variances and conditional use permits using the criteria in this chapter.

(P) ~~(Prior Code, § 24-15) (Ord. 728, passed --)~~

(Q) ~~---~~

§ 154.027 ANNUAL REVIEW.

- ~~(1)~~(2) —The Planning and Zoning Commission shall ~~at least once a year~~periodically prepare and file with the City Council a report on the operations of this ~~chapter~~Chapter, as amended, including, when necessary, recommendations as to the enactment of amendments or supplements thereto.

(R) ~~City Council~~(Prior Code, § 24-16) (Ord. 728, passed --)

(S) ~~---~~

§ 154.029 CONDITIONAL USE PERMITS.

(B) —(

The City Council, the governing body of the City, subject to recommendations by the Planning and Zoning Commission, has ultimate authority to:

- (1) Make changes and amendments in zoning districts, the zoning map and supplementary floodplain zoning map, and to amend the text of this Chapter.
- (2) Make decisions on the approval of Conditional Use Permits
- (3) Serve as the Board of Adjustment and Appeals to make decisions on the approval of Variances

(C) Board of Adjustments and Appeals

- (1) A Board of Adjustments and Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter.
- (2) The City Council shall serve as a Board of Adjustment and Appeals. The Board shall have the powers and duties as set forth in M.S. §§ 462.357, Subd. 6, and 462.359, Subd. 4, as may be amended from time to time.
- (3) The Board of Adjustments and Appeals shall have the power to vary or adapt the strict application of any of the requirements of this chapter in exceptional cases where strict application would result in practical difficulty depriving the owner of the reasonable use of his or her land or building involved, but in no other uses except as specifically described.

PART 2 **PROCEDURES)** ~~**PURPOSE.**~~

154.02.21 **General Provisions**

(A) Applicability

The requirements of this Chapter shall apply to all land use and zoning applications and procedures subject to review under this Chapter unless otherwise stated.

(B) Permits Required

Property owners or their agents shall obtain all required local, state, and federal permits prior to initiating any activities on their site.

(C) Authority to File Applications

- (1) Land use and zoning applications for an individual property may be initiated by:
 - (a) The owner of the property that is the subject of the application; or
 - (b) An agent authorized by the owner of the property that is the subject of the application, which may include a lessee of the property. Evidence of such authorization shall be the signature of the property owner.
 - (c) If the property subject to an application is under more than one ownership, all owners or their authorized agents shall join in filing the application.

- (2) The Planning and Zoning Commission and City Council may initiate text and map amendments to this Chapter. If the subject of the amendment is a specific site or project, the Planning and Zoning Commission or City Council may initiate amendments with or without application from the owner.

(D) Pre-application Meetings

A pre-application meeting is an informal discussion between a potential applicant and City staff regarding a possible project subject to this Title. The Zoning Administrator shall determine which City staff shall attend the pre-application meeting.

- (1) The purpose of a the pre-application meeting is to assist the applicant in identifying the type of approvals needed, the potential review criteria, and the information to be contained in the application(s).
- (2) Discussions that occur during pre-application meetings are not binding on the City and do not constitute official assurances or representations on the City.
- (3) Pre-application meetings are required or recommended based on application type.

(E) Application Materials and Fees

- (1) Each application for a permit or approval, or for an amendment of a permit or approval, shall include all those application materials listed in the "Criteria for Complete Submittal" subsection of each land use and zoning application described in Sections 154.02.22-27.
- (2) The City may reject an application not meeting the requirements of this Code or where the required fee or escrow has not been paid.
- (3) Fees
 - (a) To defray administrative costs of processing of requests for variances, conditional uses and amendments to the official zoning map and text of this Chapter a base fee shall be paid by all applicants. The fee shall be set by ordinance of the City Council, as it may be amended from time to time.
 - (b) In order to defray the additional cost of processing applications (amendment, conditional use, variance, appeal) for development, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the applicant's request, and all materials for the request.
 - (i) Materials shall include, but not be limited to maps, graphs, charts, drawings and the like and all printing or reproduction of such materials.
 - (ii) Staff and/or consulting time shall include any time spent in either researching for or actual production of materials.

(iii) The hourly rate for staff and/or consulting time shall be established and made available to the applicant by the Zoning Administrator prior to production of any materials.

(c) Fees shall be payable at the time applications are filed with the Zoning Administrator.

(i) No application shall be processed until the established fee has been paid.

(ii) A deposit to cover staff or consulting time and special materials will be established and required by the Zoning Administrator at the time the base fee is paid, if necessary.

(F) Coordination of Applications

(1) Depending on the requirements of this Title, multiple applications may be required.

(2) The Zoning Administrator shall determine the order of application review based on the City Code, including this Title, and state requirements. Where possible, applications will be reviewed in tandem.

(G) Technical Assistance

In making its decision, the City may determine that technical assistance is needed. The City may request assistance from any source that is qualified to provide it. The applicant shall be responsible for the cost of such technical assistance.

(H) Withdrawal of any Applications

(1) Any request for withdrawal of an application shall be submitted in writing to the Zoning Administrator.

(2) In all cases where the applicant has requested withdrawal of an application, the associated fee paid and any costs incurred by the City in the processing of an application shall not be refunded.

(I) 60-Day Rule

(1) In compliance with MS XXX.XX the City shall take action to approve or deny applications for conditional use permit, variances, and zoning amendments within 60 days of receiving a completed application.

(2) If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may extend the timeline for taking action before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing.

(J) Public Hearing

For all land use and zoning procedures which require a public hearing, the following shall apply:

- (1) Notice of the public hearing shall be published in the official newspaper of the municipality at least ten (10) days prior to the date of the hearing.
- (2) The notice shall also be mailed not less than ten (10) days to all property owners of record according to the county assessment records within 350 feet of the property.
- (3) A copy of the notice and list of the individuals and/or property owners and addresses to which the notices were sent shall be attested to by the Zoning Administrator and made part of official record. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this chapter has been made.
- (4) Each required notice shall include the following information:
 - (a) The name of the applicant
 - (b) The address, property identification number, or other method of clearly identifying the property
 - (c) The type of approval being sought
 - (d) Contact information where additional information can be obtained
 - (e) Date, time, and location of the public hearing
 - (f) Right and procedure to receive notice of any appeal
- (5) In the case of an appeal, mailed notice shall also be provided to any interested parties who have notified the City in writing that they would like to receive notice of the appeal.
- (6) If the application pertains to land within the Floodplain Management Overlay District under local management control, a copy of the application and notice of hearing shall be provided to the Minnesota Department of Natural Resources (DNR). The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(K) Notification of Decision

The Zoning Administrator shall provide notification to applicants the approval or denial of their land use or zoning request; if the request is denied, the Zoning Administrator shall notify the applicant in writing stating the reason for denial.

(L) Resubmittal of Denied Application

No land use or zoning application which has been denied wholly or in part may be resubmitted for at least one (1) year from the date of its denial, unless substantial changes have been made which warrant reconsideration, as determined by the Zoning Administrator.

(M) Appeals

- (1) Appeals shall be taken within such time as shall be prescribed by the Board of Adjustments and Appeals by general rule, by filing with the Board a notice of appeal specifying the grounds thereon.
- (2) The Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and to the Planning and Zoning Commission and shall decide the same within a reasonable time.
- (3) The Board of Adjustments and Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination, as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer, commission or Council, from whom the appeal was taken and may issue or correct the issuance of a permit or take such other action as may be called for by the procedure in question.
- (4) The reason for the Board's decision shall be stated in writing.
- (5) Any person having an interest affected by the decision shall have the right to appeal to the District Court for the county.

154.02.22 Minor Site Review

(A) Applicability

- (1) Minor Site Review approval shall be required for all site alterations, construction, and change of uses for residential properties with one or two units.
- (2) This review may be included as part of a building permit approval process, or may be for land use and zoning activities not requiring a building permit, such as installation of fences and impervious surfaces on a property.

(B) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council.
- (2) The Zoning Administrator shall review the application and within ten (10) business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (3) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of the following:

- (a) A completed application form
- (b) Filing fee
- (c) Evidence of ownership or enforceable option on the property
- (d) A site plan of the property, which may be drawn over an aerial photograph or other to-scale drawing, with the following:

- (i) Property boundaries
- (ii) Setback lines from property boundaries, if applicable
- (iii) Existing/proposed buildings with dimensions
- (iv) Existing/proposed impervious surfaces with dimensions
- (v) Existing/proposed fences and retaining walls, proposed to include height and material

(C) Review Process

(1) Review and Decision

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall review the application for compliance with the applicable zoning standards of this Chapter and shall have the authority to approve or deny the application.

(2) Criteria for Review

In reviewing the application and materials for approval, the Zoning Administrator shall consider the proposal's compliance with the standards of the property's zoning district including, but not limited to:

- (a) Setbacks
- (b) Height
- (c) Impervious surface maximums

(D) Issuance of Decision

(1) Notification

Upon decision of approval of the minor site review application, the Zoning Administrator shall notify the applicant of approval and that the proposed activity may commence.

- (a) If the minor site review be part of a building permit application process, commencement of proposed activity shall not be permitted until both the minor site review and building permit are fully approved
- (b) Should the decision of the Zoning Administrator be denial of the application, the Zoning Administrator shall provide the applicant reason for denial in writing

(2) Recording

The City shall maintain a record of all approved minor site review applications including a copy of the application, materials, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes

(3) Effect of Approval

Approval of a minor site review application shall expire in twelve (12) months unless substantial work has commenced or in twenty-four (24) months after approval if the structure for which the minor site review has been approved is not substantially completed. In the event of expiration, the applicant shall reapply for a minor site review before commencing work on the structure.

154.02.23 Major Site Review

(A) Applicability

- (1) Major Site Review approval shall be required for all site alterations, construction, and change of uses for residential properties with three or more units and any non-residential properties.
- (2) This review may be part of a building permit approval process, or may be for land use and zoning activities not requiring a building permit, such as installation of fences and impervious surfaces on a property.

(B) Pre-Application Meeting

A pre-application meeting pursuant to 154.02.04.D is recommended prior to submitting a Major Site Review application.

(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the conditional use procedures.
- (2) The Zoning Administrator shall review the application and within ten (10) business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (3) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of the following:

 - (a) A completed application form;
 - (b) Evidence of ownership or enforceable option on the property; ~~use permit~~
 - (c) A survey/site plan, to-scale, of the property, with the following:
 - (i) Property boundary
 - (ii) Locations and dimensions of existing features, such as structures, impervious surfaces, fences/retaining walls, waterbodies and wetlands
 - (iii) Locations and dimensions of proposed features, such as structures, impervious surfaces, fences/retaining walls, refuse storage areas,

(d) Additional elements, as may be required depending on the site and proposed use. These may be included within the site plan or as separate plan documents:

(i) Grading and drainage plan showing existing and proposed topography at two-foot contours

(ii) Parking, Loading, and Circulation Plan

(iii) Screening and Bufferyard Landscaping Plan

(D) Review Process

(1) Review and Decision

(a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall review the application for compliance with the applicable zoning standards of this Chapter and shall have the authority to approve or deny the application.

(b) Before granting any site approval, the Zoning Administrator may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Director of Public Works or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities.

(2) Criteria for Review

In reviewing the application and materials for approval, the Zoning Administrator shall consider the following:

(a) Compliance with the zoning standards of the underlying zoning district and any overlay zoning district, including but not limited to: lot size, setbacks, building height, and impervious surface coverage.

(b) Compliance with applicable use-specific standards, as detailed in Sec. 154.04.41-46.

(c) Compliance with development standards, as detailed in Article 04 of this Chapter, which include, but are not limited to: general performance standards, parking, loading, and circulation standards, and screening and bufferyard landscaping standards.

(E) Issuance of Decision

(1) Notification

Upon decision of approval of the minor site review application, the Zoning Administrator shall notify the applicant of approval and that the proposed activity may commence.

(a) If the minor site review be part of a building permit application process, commencement of proposed activity shall not be permitted until both the minor site review and building permit are fully approved

(b) Should the decision of the Zoning Administrator be denial of the application, the Zoning Administrator shall provide the applicant reason for denial in writing

(2) Recording

The city shall maintain a record of all approved major site review applications including a copy of the application, materials, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.

(a) If the major site review is for a use with use-specific standards, as listed within Sec. 154.03.41-46, those standards and the application's compliance with those standards shall be included within the record maintained by the City.

(3) Effect of Approval

(a) Approval of a Major Site Review application shall expire in twelve (12) months unless substantial work has commenced or in twenty-four (24) months after approval if the structure for which the major site review has been approved is not substantially completed. In the event of expiration, the applicant shall reapply for a major site review before commencing work on the structure.

(b) Any major site review approved in conflict with the provisions of this Chapter shall be null and void.

(c) Should the use of the property change or circumstances of the site differ from the approved Major Site Review, including compliance with the use-specific standards listed in Sec. 154.03.41-46, the approval shall no longer be considered upheld and the Zoning Administrator shall proceed through enforcement actions as described in Sec. 154.03.31-35.

154.02.24 Conditional Use Permits

(A) Applicability

The purpose of a Conditional Use Permit is to permit a use that would not be appropriate generally, but may be allowed with appropriate restrictions upon finding that:

~~(4)~~(1) ~~—(1)—~~ Certain conditions as detailed in this chapter exist;

~~(5)~~(2) ~~—(2)—~~ The use or development conforms to the comprehensive plan; and

~~(6)~~(3) ~~—(3)—~~ Is compatible with the existing area.

(B) Pre-Application Meeting

A pre-application meeting pursuant to 154.02.04.D is required prior to submitting a Conditional Use Permit application.

(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the conditional use procedures.
- (2) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (3) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of the following:

 - (a) A completed application form;
 - (b) An accurate boundary description of the property;
 - ~~(a)~~(c) Evidence of ownership or enforceable option on the property;
 - (d) A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs;
 - (e) Landscaping and screening plans; and
 - (f) Any elements pertaining to a Major Site Review, as listed in Sec. 154.02.07, as may be required at the discretion of the Zoning Administrator.
 - (g) Any additional information deemed necessary by the Zoning Administrator to determine the suitability of the particular site for the proposed use.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with Sec. 154.02.01 (H).
- (b) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed conditional use and determine what additional requirements may be necessary to reduce any adverse effects.

(3) Review and Decision

- (a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council either approval of the

Conditional Use Permit, approval of the Conditional Use Permit subject to amended or additional conditions, or denial of the Conditional Use Permit

(b) The Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.

~~(T) (B) Standards for granting a conditional use permit.~~

(4) (1) Criteria for Review

(a) In making the determination, whether or not the conditional use is to be allowed, the cityCity Council shall consider:

(i) ~~(a)~~ The effects of the proposed use on the comprehensive plan; and

(ii) ~~(b)~~ The effects of the proposed use upon the health, safety and general welfare of occupants of surrounding lands.

(b) ~~(2)~~ Among other things, the cityCity Council shall make the following findings where applicable:

~~(U) (a) The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area.~~

~~(V) (b) The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.~~

~~(i) (c) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.~~

(i) (d) The proposed conditional use, meets all of the use-specific standards listed within Sec. 154.04.41-46.

(ii) The use is not in the opinion conflict with the comprehensive plan of the city, is reasonably related to the overall needs of the city and to the existing land use.

(iii) ~~(e)~~ The use is consistent with the purpose of this chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.

~~(W) (f) The use is not in conflict with the comprehensive plan of the city.~~

~~(X) (g) The use will not cause traffic hazards or congestion.~~

~~(i)(iv)~~ (h) Theand the traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the city in order to handle the additional traffic generated by the use.

~~(ii)(v)~~ ~~—(i)~~ Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.

~~(iii)(vi)~~ ~~—(j)~~ Adequate utilities, parking, drainage and other necessary facilities will be provided.

~~(iv)(vii)~~ ~~—(k)~~ The proposed use will not impede the normal and orderly development or improvements of the surrounding property.

~~(v)(viii)~~ ~~—(l)~~ The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of the property.

~~(vi)(ix)~~ ~~—(m)~~ The use will not disrupt the character of the neighborhood.

(x) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

~~(b)(c)~~ ~~—(C)~~ Additional conditions.

In permitting a new conditional use or in the alternative amendment of an existing conditional use, the city may impose, in addition to the standards and requirements expressly specified by this chapterChapter, additional conditions which the city considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

(i) ~~—(1)~~ Increasing the required lot size or yard dimension;

(ii) ~~—(2)~~ Limiting the height, size or location of the buildings;

(iii) ~~—(3)~~ Controlling the location and number of vehicle access points;

(iv) ~~—(4)~~ Increasing the street width;

(v) ~~—(5)~~ Increasing the number of required off-street parking spaces;

(vi) ~~—(6)~~ Limiting the number, size, location or lighting of signs;

(vii) ~~—(7)~~ Requiring diking, fencing, screening, berming, landscaping or other facilities to protect adjacent or nearby property;

(viii) ~~—(8)~~ Designating sites for open space; and

(ix) ~~—(9)~~ Limiting the hours of operation.

~~(Y) —(D) Required exhibits for conditional use permits. The following items shall be required:~~

~~(Z) —(1) A completed application form;~~

- ~~(a) — (2) An accurate boundary description of the property;~~
- (AA) ~~(3) Evidence of ownership or enforceable option on the property;~~
- ~~(a) — (4) A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs;~~
- ~~(b)(a) — (5) Landscaping and screening plans; and~~
- (BB) ~~(6) Any additional information deemed necessary by the city to determine the suitability of the particular site for the proposed use.~~
- (CC) ~~(E) Procedure. The procedure for obtaining a conditional use permit is as follows.~~
- (DD) ~~(1) The applicant or his or her agent shall meet with the Zoning Administrator to explain the situation, learn the procedures and obtain an application form.~~
- ~~(1) — (2) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the conditional use procedures.~~
- (EE) ~~(3) The Zoning Administrator shall review the application and within ten business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.~~
- (FF) ~~(4) The city shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may extend the timeline for taking action before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing.~~
- (GG) ~~(5) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall have notice of the hearing published at least once in the legal newspaper, not less than ten days and not more than 30 days prior to the hearing.~~
- (HH) ~~(6) The Zoning Administrator shall transmit the application to the Planning and Zoning Commission and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive the notification shall not invalidate the proceedings.~~
- (II) ~~(7) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed conditional use and determine what additional requirements may be necessary to reduce any adverse effects. The Planning and Zoning Commission shall then recommend to the Council one of three actions: approval, conditional approval or denial.~~

~~(a) — (8) The Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.~~

~~(JJ) — (9) No application of a property owner for a conditional use permit shall be considered by the city within a one-year period following a denial for the request, except the Planning and Zoning Commission may permit a new application, if in the opinion of the Planning and Zoning Commission, new evidence or a change in circumstances warrant it.~~

~~(E) — (F) Record keeping- Issuance of Approval~~

(1) Recording

(a) The city shall maintain a record of all conditional use permits issued including information on the use, location and conditions imposed by the city; time limits, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.

~~(b) — (G) All CUPs shall be issued pursuant to Minnesota Statutes, Section 462.3595 as may be amended and a certified copy of any conditional use permit shall be recorded with the county recorder along with a legal description of the property subject to the CUP.~~

(2) Effect of Approval

~~(a) If a conditional use permit is approved or approved with additional conditions, all future use of the land and structures erected on the land pursuant to the permit shall comply with its terms and conditions.~~

(b) Revocation

(i) ~~of conditional use permits.~~ The Planning and Zoning Commission may call a public hearing to revoke for the revocation a conditional use permit when it finds that at least one of the following circumstances ~~exist~~exists:

- a. ~~(1) —~~Where a conditional use permit has been issued and no work thereon has commenced within ~~nine~~12 months of the date of granting the conditional use permit;
- b. ~~(2) —~~In the event that the applicant violates any of the conditions set forth in the conditional use permit; ~~and/or~~

~~(KK) — (3) Upon receipt Should revocation of three written complaints from property owners within 350 feet of the property issued a conditional use permit.~~

~~(LL) — (H) Notice; hearing; recommendation.~~

~~(i)(ii) — (1) Proper notice be called for, the Zoning Administrator shall be mailed to set the party or individual to which the conditional use permit was issued date for a public hearing and to property owners~~

~~within 350 feet of the outer boundaries of the property in question, not less than ten days and not more than 30 days prior to the hearing. Notice of the hearing shall also be published in the legal newspaper, not less than ten days and not more than 30 days prior to the hearing.~~ give all required notice in compliance with Sec. 154.02.01 (H).

~~(ii)(iii)~~ (2)—The public hearing shall be held by the Planning and Zoning Commission. If the Planning and Zoning Commission finds that the continuation of the conditional use is in violation of this chapter, the Planning and Zoning Commission shall recommend the City Council revoke the conditional use permit.

~~(iii)(iv)~~ (3)—The City Council shall act upon the recommendation of the Planning and Zoning Commission within 30 days of receiving the recommendation. The Zoning Administrator shall, in writing, inform the individual or party in question of the action of the Council and shall enforce the action taken.

~~(MM) (Prior Code, § 24-18) (Ord. 728, passed—)~~

~~(NN)—~~

§ 154.030 VARIANCES.

~~(OO) (A) Criteria for granting a variance.~~

154.02.25 (1) Variances

(A) Applicability

The City Council, in its capacity as the Board of Adjustments and Appeals and consistent with the authority granted by law, may grant a property owner a variance from compliance with the literal provisions of the zoning code in an instance where strict enforcement would cause practical difficulties to the individual property owner, and when it can be demonstrated that such action will be in keeping with the spirit and intent of the code.

(B) Pre-Application Meeting

A pre-application meeting pursuant to 154.02.04.D is required prior to submitting a Variance application.

(C) Submittal

(1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the conditional use procedures.

(2) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

(3) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of the following:

(a) A completed application form;

(b) An accurate boundary description;

~~(PP) (2) The term **PRACTICAL DIFFICULTIES** means that the:~~

~~(c) (a) Property Evidence of ownership or enforceable option on the property; and~~

(d) An accurate drawing, at scale, showing property lines, location of existing buildings and proposed project.

(e) A narrative by the applicant explaining why the situation of the subject property creates a practical difficulty and requires a variance from the provisions of this Chapter.

(f) Any elements pertaining to a Major Site Review, as listed in Sec. 154.02.07, as may be required at the discretion of the Zoning Administrator.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

(a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with Sec. 154.02.01 (H).

(b) The Planning and Zoning Commission shall hold the public hearing, and may table the application for further investigation if necessary.

(3) Review and Decision

(a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council, in its role as the Board of Adjustments and Appeals, either approval of the Variance, approval of the Variance subject to amended or additional conditions, or denial of the Variance.

(b) The City Council, in its role as the Board of Adjustment and Appeals, shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.

(c) In granting the variance, the City Council, in its role as the Board of Adjustment and Appeals, may impose additional conditions to ensure compliance with its decision and to protect adjacent properties. Such conditions must be directly related to and bear a rough proportionality to the impact created by the variance.

(4) Criteria for Review

(a) In its consideration of a variance request, the Planning and Zoning Commission shall consider the following questions when making their recommendation to the City Council:

(i) Whether or not exceptional, unique or extraordinary circumstances apply to the physical surrounding, shape or topographic conditions of the parcel of land that result in practical difficulties for the owner?

(ii) Whether or not the variance requested will alter the essential character of the locality?

(iii) Whether or not granting the variance requested will:

a. Impair an adequate supply of light and air to adjacent property?

b. Substantially increase congestion in adjacent public streets?

c. Endanger the public safety?

d. Substantially diminish or impair property values within the vicinity?

(iv) Whether the variance requested is the minimum variance that would alleviate the practical difficulties?

(v) Whether or not the variance requested is consistent with the intent of this chapter and the city's comprehensive plan?

(vi) Whether or not the variance requested provides for a reasonable and practical solution that eliminates the practical difficulties?

(b) In its consideration of a variance request, the City Council shall make the following findings:

(i) The proposed use is not prohibited in the zoning district in which the subject property is located

(ii) The variance must be in harmony with the general purposes and intent of this ordinance

(iii) The terms of the variance must be consistent with the Comprehensive Plan

(iv) The landowner must show that the variance is necessary to alleviate the practical difficulties in complying with the official control

a. "Practical Difficulty" as used in connection with the granting of a variance shall include all the following:

i. The property owner proposes to use the property in a reasonable manner that is not otherwise not permitted; ~~and by an official control;~~

ii. ~~—(b)—~~The plight of the property owner is due to circumstances unique to the property, not created by the property owner; ~~and~~

iii. ~~—(c)—~~The variance, if granted, will not alter the essential character of the locality;

iv. ~~—Economic considerations alone do not constitute PRACTICAL DIFFICULTIES. For the purposes of this section, PRACTICAL DIFFICULTIES~~The need for the variance involves more than economic considerations.

~~a.b.~~ "Practical Difficulties" also means and includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

~~(QQ) —(3) Notwithstanding a finding that practical difficulties exist, the City Council may not permit as a variance any use that is not permitted under the provisions of the code for property in the zone where the land for which the variance is sought is located.~~

~~(E) —(4) In its consideration of a~~Issuance of Decision

(1) Recording

The city shall maintain a record of all variances issued including information on the use, location and conditions imposed by the city; time limits, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.

(2) Effect of Approval

(a) Approval of the variance shall expire if no work thereon has commenced within 12 months of the date of approving the variance

~~(RR) —Should the property violate any conditions of approval for the variance request, the Planning Commission shall consider the following questions:~~

~~(SS) —(a) Whether or not exceptional, unique or extraordinary circumstances apply to the physical surrounding, shape or topographic conditions of the parcel of land that results in practical difficulties for the owner?~~

~~(i) (b) Whether or not the variance requested will alter the essential character of the locality?~~

~~(ii)(i) (c) Whether or not granting the variance requested will:~~

~~a. (1) Impair an adequate supply of light and air to adjacent property?~~

~~b.a. (2) Substantially increase congestion in adjacent public streets?~~

~~c.a. (3) Endanger the public safety?~~

~~d.a. (4) Substantially diminish or impair property values within the vicinity?~~

~~(iii)(i) (d) Whether the variance requested is the minimum variance that would alleviate the practical difficulties?~~

~~(iv)(i) (e) Whether or not the variance requested is consistent with the intent of this chapter and the city's comprehensive plan?~~

~~(v)(i) (f) Whether or not the variance requested provides for a reasonable and practical solution that eliminates the practical difficulties?~~

~~(b)(a) (5) In granting the variance, the City Council may impose additional conditions to ensure compliance with its decision and to protect adjacent properties. Such conditions must be directly related to and bear a rough proportionality to the impact created by the variance.~~

~~(TT) (B) Required exhibits for variances. The following exhibits shall be required:~~

~~(a) (1) A completed application form;~~

~~(b)(a) (2) An accurate boundary description;~~

~~(UU) (3) Evidence of ownership or enforceable option on the property; and~~

~~(a) (4) An accurate drawing, at scale, showing property lines, location of existing buildings and proposed project.~~

~~(VV) (C) Procedures. The procedure for obtaining a variance from the regulations of this chapter are as follows.~~

~~(WW) (1) The property owner or his or her agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures and obtain an application.~~

~~(a)(b) (2) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council. proceed through enforcement actions as described in Sec. 154.03.31-35~~

~~(XX) (3) The Zoning Administrator shall review the application and within ten business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.~~

~~(1) (4) The city shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may extend the timeline for taking action before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing.~~

~~(YY) (5) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall have notice of the hearing published at least once in the legal newspaper, not less than ten days, nor more than 30 days, prior to the hearing.~~

~~(ZZ) (6) The Zoning Administrator shall transmit the application to the Planning and Zoning Commission for review and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive the notification shall not invalidate the proceedings.~~

~~(AAA) (7) The Planning and Zoning Commission shall hold the public hearing, and may table the application for further investigation if necessary, or the Commission shall recommend to the Council one of the three actions: approval, conditional approval or denial.~~

~~(BBB) (8) The City Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.~~

~~(CCC) (9) No application for a variance shall be considered by the city within a one-year period following a denial of the request, except that the Zoning Administrator may permit a new application if new evidence or a change in circumstances warrant it.~~

~~(DDD) (Prior Code, § 24-19) (Ord. 728, passed ---; Am. Ord. 843, passed 8-24-2011)~~

~~(EEE)~~

§ 154.028 ZONING AMENDMENTS.

154.02.26 —(A) Generally. Zoning Amendments

(A) Applicability

(1) The Council may adopt amendments to this chapter and the zoning map in relation both to land uses within a particular district or to the location of a district line. The amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the comprehensive plan or changes in conditions in the city.

(2) ~~—(B) Kinds~~Types of amendments.

(a) ~~—(1)~~ A change in a district's boundary (rezoning);

- (b) ~~—(2)—~~ A change in a district's regulations; and
- (c) ~~—(3)—~~ A change in any other provision of this chapter.
- (3) ~~—(C)—~~ Initiation of proceedings.

Proceedings for amending this chapter shall be initiated by at least one of the following three methods:

- (a) ~~—(1)—~~ By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed;
- (b) ~~—(2)—~~ By recommendation of the Planning and Zoning Commission; and/or
- (c) ~~—(3)—~~ By action of the Council.

(B) —(Pre-Application Meeting)

~~(FFF) —A pre-application meeting pursuant to 154.02.04.D) —Required exhibits. The following exhibits shall be is required for rezoning or district regulation changes initiated by property owners-~~

~~(a) —(1) — initiating proceedings prior to submitting a A completed application form;~~

~~(GGG) —(2) — A preliminary building and site development plan; if necessary the Planning and Zoning Commission or Council may also require a boundary survey of the property;~~

~~(HHH) —(3) — Amendment Evidence of ownership or enforceable option on the property; and~~

~~(III) —(4) — Other items as may be required by the city.~~

~~(JJJ) —(E) — Procedure. The procedure for a property owner to initiate a rezoning or district regulation change applying to this property is as follows.~~

~~—(1) — The property owner or his or her agent shall meet with the Zoning Administrator to explain the situation, learn the procedures and obtain an application form.~~

(C) —(2) — Submittal

(1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council.

(2) ~~—(3)—~~ The Zoning Administrator shall review the application and, within ~~ten~~15 business days after receiving the application, shall notify the applicant in writing if the application is not complete and what additional information is required.

~~(KKK) —(4) — The city shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may extend the timeline for taking action before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification shall state the reasons for the~~

~~extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing.~~

(3) — (5) Criteria for Complete Submittal

No submittal for rezoning or district regulations initiated by property owners shall be considered complete without receipt of the following:

- (a) A completed application form;
- (b) Evidence of ownership or enforceable option on the property;
- (c) A narrative by the application describing the proposed future use of the site and how the requested rezoning/amendment complies with the guidance of the Comprehensive Plan
- (d) If the amendment is related to a development, a preliminary building and site development plan is required; and
- (e) Any additional information deemed necessary by the Zoning Administrator to determine the suitability of the particular site for the proposed use.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall have notices of the hearing published in the legal newspaper at least once, not less than ten days and not more than 30 days prior to the hearing. The Council may waive the mailed notice requirements for a city-wide amendment to this chapter initiated by the Planning and Zoning Commission or City Council, give all required notice in compliance with Sec. 154.02.01 (H).

~~(LLL) — (6) The Zoning Administrator shall transmit the application and required exhibits to the Planning and Zoning Commission and shall notify all property owners within the affected zone and within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive the notification shall not invalidate the proceedings.~~

- (b) — (7) The Planning and Zoning Commission shall hold the public hearing, and may table the application for further investigation if necessary, or the Commission to study the application to determine possible adverse effects of the proposed zoning amendment and

determine what additional requirements may be necessary to reduce any adverse effects.

(3) Review and Decision

- (a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council ~~one of the three actions: either~~ approval, ~~conditional of the Zoning Amendment~~, approval ~~of the Zoning Amendment subject to amended or additional conditions~~, or denial ~~of the Zoning Amendment~~
- (b) ~~—(8)—~~The Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.
 - (i) ~~—(9)—~~No A copy of the proposed ordinance shall be available for public view at the City Hall and posted online for public view at least ten (10) days prior to the City Council meeting.
 - (ii) Amendments to this Chapter shall be by passage upon a simple majority vote of the City Council
- (c) The city shall take action to approve or deny the application ~~of a property owner for~~ within 60 days of receiving a completed application, as detailed within Sec. 154.02.21.I.
- (d) No resubmittal of an application for a zoning amendment ~~to the text of this chapter or the zoning map~~ shall be considered by the Planning and Zoning Commission ~~city~~ within ~~the~~ one-year period following a denial of the request, except as provided within Sec. 154.02.21.K

(4) Criteria for Review

- (a) In making the determination, whether or not the zoning ordinance is to be amended, the City Council shall consider:
 - (i) The compliance of the zoning amendment with the overall guidance of the Comprehensive Plan
 - (ii) The effect the zoning district as a whole would have on the site and adjacent sites
- (b) In making its determination, the City Council shall not utilize the preliminary building and site plan as reasoning to approve or deny the zoning amendment; furthermore, the approval or denial of a zoning amendment shall not be considered action taken nor approval given of a preliminary building and site plan.

(E) Issuance of Decision

(1) Publishing and Recording

- (a) A copy of the amended ordinance, or a summary publication as may be approved, shall be published in the local newspaper in compliance with Sec. XXX.
- (b) The City Clerk shall maintain a record of all ordinances and amended ordinances related to this Title
 - (i) The ordinances shall be reflected in online codification, which may be updated periodically
 - (ii) Copies of ordinances which have been adopted but not yet reflected in online codification shall be listed on the City's website and available at City Hall for public viewing
- (c) The Zoning Administrator shall record any changes to the Official Zoning Map, which may be updated online periodically
 - (i) A list of properties approved for rezoning but not yet reflected in the online copy of the Official Zoning Map shall be maintained by the Zoning Administrator and available at City Hall for public viewing
 - (ii) The city shall maintain a record of all amendments to the zoning map for specific properties within a file for that specific property. A record of applications which were not approved shall also be maintained for record keeping purposes.

(2) Effect of Approval

The approved zoning amendment shall be in effect on the publication date of the ordinance in the local newspaper, unless otherwise noted within the ordinance language.

154.02.27 Establishment of a Planned Unit Development (PUD)

(A) Applicability

- (1) The establishment of a Planned Unit Development (PUD) provides design flexibility to promote creative and efficient use of land. Planned Unit Development provisions are also intended to create public and private benefit by allowing improved site design; allowing developments on multiple lots to function as one coordinated site; facilitating protection of natural features; allowing flexibility from this chapter for unique developments; and ensuring coordination of phased development.
- (2) An approved Preliminary PUD Plan shall be on file with the City prior to applying for a Final PUD Plan that substantially conforms to the Preliminary PUD Plan. Substantial conformance means:
 - (a) The buildings, parking areas and roads are in essentially the same location as previously approved;

- (b) Open space has not been decreased or altered significantly from its original design or use;
 - (c) The number of dwelling units, if any, has not increased or decreased by more than 5%;
 - (d) The floor area of nonresidential areas has not been increased or decreased by more than 5%;
 - (e) No building has been increased in the number of floors; and
 - (f) Lot coverage of any individual building has not been increased or decreased by more than 10%.
- (3) The Final PUD Plan may, if permitted by the City Council, constitute only that portion of the approved Preliminary PUD Plan which the applicant proposes to record at the time.

(B) Pre-Application Meeting

- (1) A pre-application meeting pursuant to Sec. 154.XX.XX is required prior to submitting a Preliminary PUD Plan application.
- (2) During the pre-application meeting, the Zoning Administrator will determine if the proposed project is eligible for concurrent review of the Preliminary and Final PUD plans.
- (3) Applicants may choose to use the Concept Plan process identified in Sec. 153.XX.XX to solicit input from the Planning Commission and City Council prior to submitting a Preliminary PUD plan

(C) Submittal

- (1) The application for a Preliminary or Final PUD Plan shall be filed pursuant to Sec. 153.XX.XX.
- (2) If the Zoning Administrator has determined a PUD to be eligible, applicants may apply for concurrent Preliminary and Final PUD Plan approval by submitting all information required for both applications simultaneously.
- (3) The application for a Final PUD Plan shall be submitted no later than one (1) year after the date of approval of the Preliminary PUD Plan; otherwise the Preliminary PUD Plan and Final PUD Plan will be considered void unless an extension is requested in writing by the applicant and granted by the City.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

(a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with Sec. 154.02.01 (H).

(b) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed conditional use and determine what additional requirements may be necessary to reduce any adverse effects.

(3) Review and Decision

(a) Preliminary PUD Plan

(i) Following the public hearing, the Planning Commission shall recommend approval, conditional approval, or denial of the Preliminary PUD Plan and shall transmit the Plan and application along with its recommendations to the City Council.

(ii) The Planning Commission may hold the matter in abeyance if there is incomplete or inadequate information.

(iii) Upon receiving a recommendation from the Planning Commission, the City Council shall review and approve, approve conditionally, or deny the Preliminary PUD Plan application.

(iv) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.

(v) Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.

(b) Final PUD Plan

(i) The City Council shall review and approve, approve conditionally, or deny the Final Plan application.

(ii) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.

(iii) Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.

(4) Criteria for Review

The City Council shall base its actions regarding a Preliminary PUD Plan upon the following criteria:

(a) Compatibility of the PUD with the standards, purposes and intent of this Chapter;

- (b) Consistency of the PUD with the Comprehensive Plan's vision, mission, values, and policies;
- (c) The impact of the Plan on the neighborhood in which it is to be located;
- (d) The adequacy of internal site organization, uses, densities, circulation, parking facilities, public facilities, recreational areas, open spaces, sidewalks, trails, buffering and landscaping; and
- (e) Other factors as the City deems relevant.

(E) Issuance of Decision

(1) Effect of Preliminary PUD Plan Decision

- (a) Approval of the Preliminary PUD Plan by the Council shall constitute rezoning of the property to PUD and conceptual approval of the elements of the plan. While approval of the Preliminary PUD Plan shall establish the basic right of use for the area in conformity with the plan as approved, such plan shall be conditioned upon approval of a Final PUD Plan and shall not make permissible any of the uses as proposed until a Final PUD Plan is submitted and approved for all or a portion of the Preliminary PUD Plan.
- (b) The applicant shall submit the Final PUD Plan to the City Council within one (1) year after the approval of the Preliminary PUD Plan or approval of the Preliminary PUD Plan shall be considered void.

(2) Recording of Final PUD Plan

- (a) All approved PUD Districts shall be designated on the City's zoning map as it is revised from time to time.
- (b) No building permit shall be issued or development shall occur on land for which a PUD district has been approved which does not conform to the approved final plan.
- (c) After the Final PUD Plan has been approved by the City Council, all conditions of approval have been met, and required improvements are either installed or a contract and sureties insuring their installation is filed, the City shall file the Final Plan with the County Recorder. Recording of the Final Plan and all associated conditions of approval must be completed within one (1) year of final approval.
- (d) Failure to do so shall result in the requiring of a new Development Plan which must be reviewed in accordance with the procedure set out in this Part to ensure compliance with any new requirements.
- (e) If, within one (1) year following City Council approval of the Final Plan, no building permits have been obtained or, if within one (1) year after the issuance of building permits, no construction has commenced on the subject property approved for the PUD District, the zoning for the parcel(s)

shall revert back to the original zoning and the PUD designation shall be declared null and void.

- (f) Prior to the expiration of the initial one (1) year period, the City Council may upon request of the property owner and by resolution and findings of fact, extend the above noted time frame for a period not to exceed an additional one (1) year.

(F) Amendment

Proposed development of land for which a PUD has been approved or modifications to existing project which do not conform to the approved Final PUD Plan shall be processed as either an Administrative Amendment or a Major Amendment.

- (1) Any major amendment to the Development Plan may be approved by the City Council following the same notice and hearing procedures specified in Sec. 154.XX.XX. An amendment shall be considered major if it involves any change greater than permitted by Sec. 154.XX.XX

- (2) Minor amendments meeting the requirements of Sec. 154.XX.XX may be reviewed and approved administratively.

- ~~(2) — the Planning and Zoning Commission may permit a new application, if, in the opinion of the Planning and Zoning Commission, new evidence or a change of circumstances warrant it.~~

~~(MMM) (Prior Code, § 24-17) (Ord. 728, passed —)~~

~~(NNN) —~~

§ 154.032 VOTE REQUIRED FOR PASSAGE.

- (3) —

154.02.28 Comprehensive Plan Amendment

(A) Applicability

- (1) The Council may adopt amendments to the Comprehensive Plan and the Future Land Use map in relation both to land uses within a particular designation or to the location of a designation boundary. The amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the Vision and Guiding Principles of the Comprehensive Plan or changes in conditions in the city

- (2) Kinds of amendments.

- (a) A change in a land use designation's boundary (map amendment);
(b) A change in a land use designation's guidance; and
(c) A change in any other provision of the Comprehensive Plan.

- (3) Initiation of proceedings.

Proceedings for amending the Comprehensive Plan shall be initiated by at least one of the following three methods:

- (a) By petition of an owner or owners of property which is proposed to have a change in future land use designation, or for which land use designation guidance changes are proposed;
- (b) By recommendation of the Planning and Zoning Commission; and/or
- (c) By action of the Council.

(B) Pre-Application Meeting

A pre-application meeting pursuant to 154.02.04.D is required for property owners initiating proceedings prior to submitting a Comprehensive Plan Amendment application

(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council.
- (2) The Zoning Administrator shall review the application and, within 15 business days after receiving the application, shall notify the applicant in writing if the application is not complete and what additional information is required.

(3) Criteria for Complete Submittal

No submittal for a Comprehensive Plan Amendment initiated by property owners shall be considered complete without receipt of the following:

- (a) A completed application form;
- (b) Evidence of ownership or enforceable option on the property;
- (c) A narrative by the application describing the proposed future use of the site and how the requested amendment complies with the Vision and Guiding Principles of the Comprehensive Plan
- (d) If the amendment is related to a development, an additional narrative explaining proposed future zoning requests and preliminary building and site development plan; and
- (e) Any additional information deemed necessary by the Zoning Administrator to determine the suitability of the particular site for the proposed use.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

(a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with Sec. 154.02.01 (H).

(b) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed Comprehensive Plan amendment and determine what additional requirements may be necessary to reduce any adverse effects.

(3) Review and Decision

(a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council either approval of the Comprehensive Plan Amendment, approval of the Comprehensive Plan Amendment subject to additional amendments, or denial of the Comprehensive Plan Amendment

(b) The Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.

(i) Amendments to ~~this chapter~~ the Comprehensive Plan shall be by passage upon a ~~simple~~ four-fifths majority vote of the City Council.

~~(OOO) (Prior Code, § 24-21) (Ord. 728, passed --)~~

~~(PPP) --~~

§ 154.031 APPEALS.

~~(c) The City Council shall serve as a Board of Adjustment and Appeals. The Board shall have the powers and duties as set forth in M.S. §§ 462.357, Subd. 6, and 462.359, Subd. 4, as may be amended from time to time. Appeals shall be taken within such time as shall be prescribed by the Board of Adjustments and Appeals by general rule, by filing with the Board a notice of appeal specifying the grounds thereon. The Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and to the Planning and Zoning Commission and shall decide the same within a reasonable time. The Board of Adjustments and Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination, as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer, commission or Council, from whom the appeal was taken and may issue or correct the issuance of a permit or take such other action as may be called for by the procedure in question. No resubmittal of an application for a Comprehensive Plan Amendment shall be considered by the city within a one-year period following a denial of the request, except as provided within Sec. 154.02.21.K~~

(4) Criteria for Review

In making the determination, whether or not the Comprehensive Plan is to be amended, the City Council shall consider:

- (a) The compliance of the amendment with the overall guidance of the Vision and Guiding Principles of the Comprehensive Plan
- (b) The effect that a change in land use as a whole would have on the site and adjacent sites

(E) Issuance of Decision

(1) Recording

- (a) The Zoning Administrator shall maintain a record of any changes to the Comprehensive Plan and/or Future Land Use map, which may be updated online periodically
 - (i) A list of properties approved for change in future land use designation but not yet reflected in the online copy of the Future Land Use Map shall be maintained by the Zoning Administrator and available at City Hall for public viewing
 - (ii) The city shall maintain a record of all amendments to the Future Land Use Map for specific properties within a file for that specific property. A record of applications which were not approved shall also be maintained for record keeping purposes.

(2) Effect of Approval

The approved Comprehensive Plan Amendment shall be in effect on the date the City Council takes action, unless otherwise noted within the approving resolution language.

PART 3 ENFORCEMENT

154.02.31 Authority and Action

- (A) This Chapter shall be administered and enforced by the Zoning Administrator or other authorized representative. The Zoning Administrator may institute in the name of the City of Kasson any appropriate actions or proceedings against a violator.
- (B) Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint with the City.
 - (1) Such complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator.
 - (2) The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this Chapter.

154.02.32 Enforcement Procedures

(A) For the enforcement of the provisions of this Chapter, zoning violation notices shall be sent by either first class or certified mail to the owner of the property on which the violation is taking place.

(1) A copy of the zoning violation notice shall be sent to the City Administrator, City Clerk, Police Chief, and City Attorney.

(B) The zoning violation notice shall contain the following information:

(1) A description of the violation which is taking place.

(2) A picture (if possible) of the violation which is taking place.

(3) Location and/or address of the property at which the violation is taking place.

(4) Identification of the section of this Chapter which is being violated.

(5) Date the violation was discovered.

(6) Steps necessary to correct the violation.

(7) Deadline by which the violation must be corrected, which is at the discretion of the Zoning Administrator.

154.02.33 Correction of the Zoning Violation

(A) Correction of the violation in the manner stipulated by the zoning notice violation, at any point during this enforcement process, shall deem the zoning violation notice null and void, and enforcement activity shall cease.

154.02.34 Failure to Correct the Zoning Violation – Enforcement Remedies

Failure to correct the zoning violation shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out the following enforcement remedies or combination of remedies:

(A) Withhold Permits

The City shall have the authority to withhold any permits or City approvals which are necessary until the violation is corrected to the City's satisfaction.

(B) Stop Work Order

The City shall have the authority to issue a stop work order on the subject violation.

(C) Abatement

The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice.

(D) Injunctive Relief

The City shall have the authority to seek an injunction in court to stop any violation of this Ordinance.

(E) Civil Remedies

The City shall have the authority to institute appropriate civil action to enforce the provisions of this Ordinance, and shall recover reasonable court costs and attorney's fees which are incurred due to the enforcement of the subject violation, at the discretion of the court.

(F) Assessment

The City shall have the authority to use the provisions of Minnesota State Statutes 429, assess any charge against the property benefited, and any such assessment shall, at the time at which taxes are certified to the Dodge County Auditor, be certified for collection in the manner that other special assessments are so certified.

(G) Criminal Remedies

The City shall have the authority to institute appropriate misdemeanor criminal action for a violation of this Ordinance.

(H) Cumulative Remedies

The powers and remedies of this section shall not be individually limited and are not exclusive. The powers and remedies of this section are cumulative and all power and remedies may apply, as well as any other remedies allowed under State law.

(I) Administrative Penalties

The City shall have the authority to utilize Section XXX of the City Code for enforcement of the Zoning Ordinance.

154.02.35 Revocation

Instead of, or in addition to any of the remedies in Sec. 154.02.34, failure to comply with the conditions of a conditional use permit or the ordinances of the City shall result in the conditional use permit being revoked by the City Council. Revocation proceedings shall require a public hearing with notice and due process according to Sec. 154.02.21.K, except that the City Council may waive Planning Commission review and comment.

~~(QQQ) The reason for the Board's decision shall be stated in writing. The decision of the Board shall not be final and any person having an interest affected by the decision shall have the right to appeal to the District Court for the county. The Board of Adjustments and Appeals shall have the power to vary or adapt the strict application of any of the requirements of this chapter in exceptional cases where strict application would result in practical difficulty or unnecessary hardship depriving the owner of the reasonable use of his or her land or building involved, but in no other uses except as specifically described.~~

~~(RRR) (Prior Code, § 24-20) (Ord. 728, passed --)~~

~~(SSS)–~~

§ 154.033 FEES.

~~(TTT) A fee shall be paid with each petition presented for a change or amendment to this chapter, or for a variance or conditional use permit. The fee shall assist in covering the~~

~~costs associated with the change, amendment or application which shall be paid to the city. The City Council shall adjust the fees from time to time.~~

~~(UUU) (Prior Code, § 24-22) (Ord. 728, passed --; Ord. 762, passed --; Ord. 789, passed --)~~

~~(VVV)(A)~~_____