

DIVISION 4. PLANNING & ZONING ADMINISTRATOR/PLANNING COMMISSION

SECTION 14-19. ENFORCEMENT

- (a) The provisions of this Ordinance shall be administered and enforced by the Office of the Planning & Zoning Administrator. The Zoning Administrator and assistants, in the discharge their duties and upon exhibition of proper credentials, shall have the right to enter at any reasonable hour, upon any premises or in any building under construction or alteration. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
- (b) When any work has been stopped by the Zoning Administrator for any reason whatsoever, it shall not be resumed until the reason for the work stoppage has been completely removed.
- (c) It shall be the duty of the County Attorney and the County Sheriff, when called upon by the County Board, to perform such duties as may be necessary to enforce the provisions of this Ordinance.

SECTION 14-20. DUTIES AND POWERS OF THE OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR.

- (a) Determine if applications comply with the terms of this Ordinance.
- (b) Maintain permanent and current records of this Ordinance, including but not limited to: maps, amendments, conditional uses, variances, appeals and applications.
- (c) Receive, file, and forward all applications for appeals, variances, conditional uses and amendments to the designated official bodies.
- (d) Institute in the name of the county any appropriate actions or proceedings against a violator as provided for.
- (e) Issue zoning permits and maintain records thereof. A record shall be maintained of finished first floor elevations (including basements) and flood-proofing measures for all new structures in flood districts.
- (f) Provide and maintain a public information bureau relative to matters arising out of this Ordinance.

SECTION 14-21. PLANNING COMMISSION

- (a) The Mower County Board hereby establishes the Mower County Planning Commission. The Planning Commission shall consist of (5) to (7) members, and every attempt shall be made to obtain a cross Section of the county in appointing members to the commission.
- (b) The members of the Planning Commission shall serve for terms of three (3) years each. Each member may be eligible at the discretion of the County Board for re-appointment, but not for more than three (3) consecutive terms.
- (c) The members of the Commission may be compensated in an amount determined by the County Board and may be paid their necessary expenses in attending meetings of the Commission and in the conduct of the business of the Commission.
- (d) The Planning Commission shall elect a Vice-Chair from among its members. The Zoning Administrator shall act as secretary of the Commission. The Planning Commission shall cooperate with the Planning and Zoning Administrator and other employees of the county in preparing and recommending to the Board for adoption, Comprehensive Plans and recommendations for plan execution in the form of official controls and other measures and amendments thereto. In all instances in which the Planning Commission is not the final authority, the Commission shall review all applications for conditional use permits and plans for subdivisions of land and report thereon to the Board.
- (e) The Board may, by ordinance, assign additional duties and responsibilities to the Planning Commission including but not restricted to the conduct of public hearings, the authority to order the issuance of some or all categories of conditional use permits, the authority to approve some or all categories of subdivisions of land. The Planning Commission may be required by the Board to review any Comprehensive Plans and Official Controls and any plans for public land acquisition and development sent to the county for that purpose by any local units of government or any state or federal agency and shall report thereon in writing to the Board.

By-Laws of Mower County Planning Commission

Section I Establishment

The operation of the Mower County Planning Commission is governed by the Mower County Zoning Ordinance and by Roberts Rules of Order except as otherwise provided below. Membership and terms of office will be covered by Section 14-21 of the Mower County Zoning Ordinance.

Section II Purpose

It shall be the function and duty of the Mower County Planning Commission:

- ✓ To assist the local elected officials in developing, reviewing, and analyzing development proposals;
- ✓ To educate the local officials on planning and development matters;
- ✓ To assist in collecting various background data about the County such as populations, employment, housing, land use, and natural features;
- ✓ To assist the local elected officials in developing goals, policies, and programs for future development in the County;
- ✓ To review and/or propose change in local land use ordinances.

Section III Organization

- A. Membership - The membership of the Mower County Planning Commission will be determined by the Mower County Board of Commissioners.
- B. Term of Office - The term of office will be determined by the Mower County Board of Commissioners.
- C. Officers - The officers of the Mower County Planning Commission shall consist of the Chair, Vice-Chair, and a Secretary. The Vice-Chair shall be elected annually at the regular January meeting.
 - 1. Chair: It shall be the duty of the Chair to preside over all meetings of the Mower County Planning. He/She shall have the power to call special meetings at reasonable times with reasonable notice when it is deemed such a meeting is necessary to the conduct of the business of the Planning Commission. The Chair will be the member of the Board of Commissioners and will not vote on matters.
 - 2. Vice-Chair: It shall be the duty of the Vice-Chair to preside over the meeting of the Mower County Planning Commission in the absence of the Chair.
 - 3. Secretary: It shall be the duty of the Secretary to keep a record of all proceedings of the Mower County Planning Commission, and to perform all other duties normally assigned to the secretary of a deliberative body. The Secretary will be the Mower County Zoning Administrator.

- D. Voting - Each member of the Mower County Planning Commission will have one (1) vote.

Section IV Meetings

- A. The Mower County Planning Commission shall meet in regular session on the last Tuesday of the month at 7:00 p.m. in the Commissioners Conference Room of the Mower County Courthouse.
- B. Investigation Committee shall meet the Wednesday before the Planning Commission meeting in the afternoon.
- C. Special meetings may be held under circumstances outlined in Section III, C.
- D. A quorum shall consist of any three (3) members.
- E. The Planning Commission shall have an attendance policy that members, on a yearly basis, shall attend at least 65% of the regular meetings and at least two (2) investigation committee meetings if assigned. If a Planning Commission member fails to achieve this, they will be dropped as a member of the Planning Commission.

Section V Reimbursement

The Planning Commission shall receive a per diem and mileage as established by the Mower County Board of Commissioners.

Section VI Effective Date

The By-Laws shall take effect and be in force after the date of its passage by the Mower County Planning Commission.

DIVISION 5. BOARD OF ADJUSTMENT

SECTION 14-22. CREATION AND MEMBERSHIP

- (a) A Board of Adjustment is hereby established and vested with such authority as is hereinafter provided and as by Minnesota Statutes 394.21 through 394.37
- (b) Initial creation of the Board of Adjustment shall be by appointment of its members by the County Board for terms of three (3), two (2) and one (1) years and thereafter for terms of three (3) years each. Each member may be eligible, at the discretion of the County Board, for re-appointment, but for not more than three (3) consecutive three (3) year terms.
- (c) The Board of Adjustment shall consist of five (5) members. At least one (1) member of such Board of Adjustment shall be from the unincorporated area of the county and at least one (1) member shall also be a member of the County Planning Commission. No elected official of the County, no employee of the County Board shall serve as a member of the Board of Adjustment. The members of the Board of Adjustment shall be eligible to receive a per diem and mileage expenses as determined by the County Board
- (d) The Board of Adjustment shall elect a Chair and a Vice-Chair from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of its proceedings, findings and determinations. The Zoning Administrator shall act as secretary for the Board.
- (e) The meetings of the Board of Adjustment shall be held at the call of its Chair and at such other times as the Board, in its rules of procedures may specify.

SECTION 14-23. POWERS

- (a) The Board of Adjustment shall have the authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statute Sections 394.21 through 394.37, order the issuance of permits for buildings in areas designated for future use on an official map and perform such other duties as required by the official controls. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state. In exercising its powers under this subdivision, the Board of Adjustment shall take into consideration the town board's recommendation when the Board of Adjustment's decision directly affects land within the town.
- (b) The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control, including restrictions placed on nonconformities. Variances shall only be permitted when they are in

harmony with the general purposes and intent of the official control and when variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner or previous landowner(s), and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in Section 216C.06, subdivision 14, when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

SECTION 14-24. APPLICATION

Appeal

An appeal from any order, requirement, decision or determination of an administrative official shall be filed with the Board of Adjustment through the Office of the Zoning Administrator together with the required fee. Any Notice of Appeal shall specify the grounds thereof. The Zoning Administrator shall refer the appeal and grounds thereof to the Board of Adjustment.

Variance

An application for a variance shall be filed with the Zoning Administrator, together with the required fee. The Zoning Administrator shall refer the application to the Board of Adjustment.

SPECIFIC REQUIREMENTS FOR SETBACK VARIANCES:

Setback Variances: Variance applications relating to ordinance setbacks shall be accompanied by a survey completed by a licensed surveyor. The survey shall depict the subject element in relation to the parcel boundary and any other relevant features which may include, but not be limited to, road right-of-way, easements, floodplain, well and/or septic system components, and when applicable feedlots. An application shall not be accepted by the department until a survey accompanies the submitted application to assure the legal notices can be properly prepared for the variance request.

Site visit requirements: Parcel boundary, required setback distances, proposed structure and other relevant features shall be clearly marked onsite for review by the Board of Adjustment during the site visit; these features shall be easily and readily

identified as well as the proposed location of the building or structure which relates to the variance request.

As built survey required for a granted variance: Within 60-days of completion, or at such time a setback can be easily determined (whichever comes first), an as-built survey, by a licensed surveyor, shall be submitted to show the variance, as granted was met or exceeded. This document shall be presented to the Board of Adjustment for review and shall be recorded along with the variance.

All costs for survey shall be bore by the applicant.

SECTION 14-25. NOTIFICATION AND PUBLIC HEARINGS

- (a) In accordance with Minnesota State Statute 394.26, the Board of Adjustment shall hold at least one (1) public hearing on any application for a variance or appeal. Notice of the public hearing shall be published in the official newspaper, designated by the County Board, at least ten (10) days prior to the hearing. Written notice of such public hearing shall be mailed to all property owners of record within five hundred (500) feet of the affected property, the affected Town Board, and any municipality within two (2) miles of the affected property.
- (b) The petitioner or his representative shall appear before the Board of Adjustment in order to answer questions concerning the proposed variance or appeal.
- (c) The Board of Adjustment must take action on the application in accordance with MN Statute 15.99. If it grants the variance, the Board of Adjustment may impose conditions it considers necessary to protect the public health, safety, and welfare, and such conditions may include a time limit for the use to exist or operate.
- (d) All decisions by the Board of Adjustment in granting variances shall be final except that any aggrieved person or persons, or any department, board of commission of the jurisdiction or of the state shall have the right to appeal within thirty (30) days after receipt of notice of the decision to the district court in the county in which the land is located on questions of law and fact.
- (e) No application for a variance which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence or proof of change on conditions found to be valid.
- (f) A violation of any condition set forth in granting a variance shall be in violation of this Ordinance and automatically terminates the variance.

SECTION 14-26. VARIANCES WITHIN SHORELAND AND FLOODPLAIN

- (a) Upon receipt of an application from the Floodplain or Shoreland regulations, the Zoning Administrator shall forward a copy of the application to the Minnesota Department of Natural Resources at least ten (10) days prior to the public hearing.
- (b) A copy of all decisions granting a variance to the provisions of the Floodplain or Shoreland regulations shall be forwarded to the Minnesota Department of Natural Resources within ten (10) days after such decision.

SECTION 14-27. RECORDING

- (a) A certified copy of any order issued by the Board of Adjustment acting upon a request for a variance shall be filed with the County Recorder of record. The order issued by the Board of Adjustment shall include the legal description of the property involved. The Zoning Administrator shall be required to meet the requirements of this Subdivision. The applicant and/or landowner requesting the variance is responsible for the cost of the Recording fee. Variance denials shall also be recorded.
- (b) The Zoning Administrator shall provide to the applicant a copy of the order issued by the Board of Adjustment stating that it has been filed with the County Recorder's Office.