

**Chapter 8
ADMINISTRATION**

SECTION:

- XX-8-1: Zoning Administrator
- XX-8-2: Amendments
- XX-8-3: Variances
- XX-8-4: Violations and Penalties

XX-8-1: ADMINISTRATION: This ordinance shall be interpreted and administered by the zoning administrator. (Ord. 910, 18 Apr 22)

XX-8-2: AMENDEMENTS: The regulations, restrictions, and standards set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed in accordance with the following criteria and procedures:

- A. Review Criteria: The planning commission and town board shall consider possible adverse effects of the proposed amendment with their judgment shall be based upon (but not limited to) the following factors:
 - 1. The proposed amendments consistency with the specific policies and provisions of the town comprehensive plan.
 - 2. The proposed amendment effect on compatibility of present and future land uses.
 - 3. The proposed amendments conformity with all performance standards contained within this ordinance and other town ordinances.
 - 4. The proposed amendment effect in relation to traffic generation and capabilities of town roads.
 - 5. The proposed amendments effects regarding the provision of public services and facilities necessary for development.
- B. Procedures: Requests for an amendment to this ordinance shall be filed with the zoning administrator on an official application form and processed in accordance with this chapter and Minnesota statutes section 15.99.
 - 1. An application shall be accompanied by a fee as provided by the town fee schedule ordinance.
 - 2. Such application shall also be accompanied by detailed written and graphic materials fully explaining the proposed change amendment.

3. The request shall be considered as being officially submitted when the zoning administrator determines that there is compliance with all the information requirements.
4. The town board, the planning commission, and the town staff shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant, and said information is to be declared necessary to establish performance standards in relation to all pertinent sections of this ordinance.
5. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
6. The applicant shall supply proof of title of the property for which the amendment is related, consisting of an abstract of title or registered property abstract currently certified, together with any unrecorded documents whereby the petitioners acquire a legal ownership or equitable ownership interest and, as applicable, supply documented authorization from the owner(s) of the property in question to proceed with the requested amendment.
7. Upon receipt of said application, the town clerk shall set a public hearing to be conducted by the planning commission following proper hearing notification of said hearing shall consisting of a description of request and be published in the official newspaper at least 10 days prior to the hearing.
8. The zoning administrator shall instruct the appropriate staff persons to prepare technical reports where applicable, and provide general assistance in preparing a recommendation on the action to the planning commission and town board.
9. The applicant or a designated representative thereof shall appear before the planning commission and town board in order to answer questions concerning the proposed request. Failure by the applicant to attend meetings at which the application is to be considered by the planning commission or town board may be grounds for denial of the request.
10. The planning commission shall make a finding of fact and recommend such actions relating to the request as they deem necessary to carry out the intent and purpose of this ordinance.
11. The town board shall not act upon an amendment until they have received a report and recommendation from the planning commission or until 60 days after the first regular planning commission meeting at which the request was considered.

12. Upon completion of the report and recommendation of the planning commission, the request shall be scheduled for consideration on the agenda of the town board. Such reports and recommendations shall be entered in and made part of the permanent written record of the town meeting.
13. Upon receiving the report and recommendation of the planning commission and the town staff, the town board shall have the option to set and hold a public hearing if deemed necessary.
14. If, upon receiving said reports and recommendations of the planning commission, the town board finds that specific inconsistencies exist in the review process and thus the final action of the town board will differ from that of the planning commission, the town board may, before taking final action, refer the matter back to the planning commission for further consideration.
15. Approval of a proposed amendment shall require a majority vote of the town board.
16. The zoning administrator shall provide the applicant and property owner with written notice of the town board's findings of fact and decision regarding the application.
17. The amendment shall not become effective until such time as the town board approves an ordinance reflecting said amendment and after said ordinance is published in the official newspaper.
18. All decisions made by the town regarding an amendment shall be final, except that any aggrieved person shall have the right to appeal within 30 days after delivery of the decision to the appellant, to the district court in Sherburne county. Any person seeking judicial review under this ordinance shall serve the town and all necessary parties, including any landowners, within the 30 day period defined above.
19. Whenever an application for an amendment has been considered and denied by the town board, a similar application and proposal for an amendment affecting the same property or ordinance change shall not be considered again by the planning commission or town board for at least one year from the date of its denial except as follows:
 - a. Applications are withdrawn prior to the town board taking action on the matter.
 - b. If the town board determines that the circumstances surrounding a previous application have changed significantly.

- c. If the town board decides to reconsider such matter by a four-fifths vote of the entire town board.
- C. **Initiation of Request:** The town board or planning commission may, upon their own motion, initiate a request to amend this ordinance. The procedural requirements of subsections 11-8-2.A and C.1, and C.2 of this chapter shall not apply to such proposed amendments, except to the extent required by Minnesota statute. Any person owning real estate or having documented interest therein within the town may initiate a request to amend this ordinance so as to affect the said real estate. (Ord. 910, 18 Apr 22)

XX-8-3: VARIANCES: The town board may approve a variance at its discretion only from the minimum standards of this ordinance in accordance with the following criteria and procedures:

- A. **Review Criteria:** The planning commission shall not recommend and the town board shall not approve any variance request unless they find failure to grant the variance will result in practical difficulties. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by this ordinance. 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. The following criteria shall also be met:
 - 1. That the variance would be consistent with the comprehensive plan.
 - 2. That the variance would be in harmony with the general purposes and intent of this ordinance.
 - 3. That the plight of the landowner is due to circumstances unique to the property not created by the landowner.
 - 4. That the purpose of the variance is not exclusively economic considerations.
 - 5. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.
 - 6. That the requested variance is the minimum action required to remedy the practical difficulty.
- B. **Procedures:** A request for a variance shall be filed with the zoning administrator on an official application form and processed in accordance with this chapter and Minnesota statutes 15.99.
 - 1. An application shall be accompanied by a fee as provided in the town fee schedule ordinance.

2. Such application shall also be accompanied by detailed written and graphic materials fully explaining the proposed variance, including the information required by chapter 7 of this ordinance as may be applicable.
3. The request shall be considered as being officially submitted when the zoning administrator determines that there is compliance with all the information requirements.
4. The board, the planning commission, and the town staff shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant, and said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this ordinance.
5. The applicant shall supply proof of title and the legal description of the property for which the variance is requested, consisting of an abstract of title or registered property abstract currently certified, together with any unrecorded documents whereby the petitioners acquire a legal ownership or equitable ownership interest and, as applicable, supply documented authorization from the owner(s) of the property in question to proceed with the requested variance.
6. Upon receipt of said application for a variance, the town clerk shall set a public hearing to be conducted by the planning commission following proper hearing notification as applicable.
 - a. Notice of said hearing shall consist of a legal property description and description of request, and be published in the official newspaper at least 10 days prior to the hearing.
 - b. Written notification of said hearing shall be mailed to surrounding area property owners within 350 feet of the property in question at least 10 days prior to the hearing.
 - c. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the records of the proceeding.
 - d. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth in this chapter, provided a bona fide attempt has been made to comply with the notice requirements of this chapter.
7. The zoning administrator shall instruct the appropriate staff persons to prepare technical reports where applicable and provide general assistance in preparing a recommendation on the action to the planning commission and board.

8. The applicant or a designated representative thereof shall appear before the planning commission and board in order to answer questions concerning the proposed request. Failure by the applicant to attend meetings at which the application is to be considered by the planning commission or board may be grounds for denial of the request.
9. The planning commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this chapter.
10. The town board shall not consider or act upon a variance until they have received a report and recommendation from the planning commission or until 60 days after the first regular planning commission meeting at which the request was considered.
11. Upon completion of the report and recommendation of the planning commission, the request shall be scheduled for consideration on the agenda of the town board. Such reports and recommendations shall be entered in and made part of the permanent written record of the town board meeting.
12. Upon receiving the report and recommendation of the planning commission and town staff, the town board shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact and may impose any condition it considers necessary to protect the public health, safety, and welfare.
13. If, upon receiving said reports and recommendations of the planning commission and town staff, the town board finds that specific inconsistencies exist in the review process and thus the final action of the town board will differ from the recommendation of the planning commission, the town board may, before taking final action, refer the matter back to the planning commission for further consideration.
14. Approval of a request shall require passage by a majority vote of the town board.
15. The zoning administrator shall provide the applicant and property owner with written notice of the town board's findings of fact and decision regarding the application.
16. If a request for variance receives approval of the board, the town clerk, at the applicant's expense, shall record such with the appropriate Sherburne county office. No building permits for the property in question will be granted until recording of the action has been completed.

17. All decisions made by the town board regarding a variance shall be final, except that any aggrieved person shall have the right to appeal within 30 days after delivery of the decision to the appellant, to the district court in Sherburne county. Any person seeking judicial review under this ordinance shall serve the town and all necessary parties, including any landowners, within the 30 day period defined above.
 18. Whenever an application for variance has been considered and denied by the board, a similar application for the variance affecting substantially the same property shall not be considered again by the planning commission or town board for at least one year from the date of its denial, except as follows:
 - a. If the applicant or property owner can clearly demonstrate that the circumstances surrounding the previous variance application have changed significantly.
 - b. If the town board determines that the circumstances surrounding a previous application has changed significantly.
 - c. If the town board decides to reconsider such matter by a four-fifths ($\frac{4}{5}$) vote of the entire town board.
- C. Agreement: The approval of a variance and the stipulations, limitations, and conditions therein shall be applied to the property in question. All written and graphic materials officially submitted to the town shall be treated as a formal agreement between the applicant and the town. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard, or specifications without prior submission of a plan modification request to the zoning administrator for review and approval. (Ord. 910, 18 Apr 22)

XX-8-4: VIOLATIONS AND PENALTIES

- A. Violations:
1. Sale of Lots from Unrecorded Plats: It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat, or replat of any subdivision or area located within the jurisdiction of this ordinance unless said plan, plat, or replat shall have first been recorded with the county recorder.

2. Receiving or Recording Unapproved Plats: It shall be unlawful for a private individual to receive or record in any public office any plans, plats of land laid out in blocks, lots, outlots, public rights-of-way or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this ordinance, unless the same shall bear thereon, by endorsement or otherwise, the approval of the town board.
3. Misrepresentations: It shall be unlawful for any person owning an addition or subdivision of land within the town to represent that any improvement upon any of the public rights-of-way of said addition or subdivision in said addition or subdivision has been constructed according to the plans and specifications approved by the town board, or has been supervised or inspected by the town, when such improvements have not been so constructed, supervised, or inspected.

B. Penalties:

1. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor.
2. Each day during which compliance is delayed or such violation continues or occurs shall constitute a separate offense and may be prosecuted as such.
3. The town reserves its rights to all administrative, civil, and/or criminal actions available to relieve the violation(s). (Ord. 910, 18 Apr 22)