

CHAPTER 3. ADMINISTRATION

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Section 300 - Zoning Officer

300.01 Appointment, Duties. The City Council shall appoint a Zoning Officer whose duty it shall be to administer and enforce the provisions of this code. The Zoning Officer shall:

300.01.1. Issue zoning certificates;

300.01.2. Maintain a permanent file of all zoning certificates and applications as public records;

300.01.3. Administer and enforce the provisions of this code in accordance with its literal terms;

300.01.4. Maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures in Floodplain Districts and a record to which structures or additions to structures are flood proofed; and

300.01.5. Upon issuance of such zoning certificate forthwith provide a copy of such certificate to the Building Official of the City of Hermantown.

300.02 Powers and Authorities, Limitations. The Zoning Officer shall have all powers and authorities conferred by laws, statutes and ordinances to enforce the provisions of the title but shall not have the power to permit any construction or any use or change of use which does not conform with the provisions of this code.

300.03 Authority to Enter Premises. The Zoning Officer shall have the authority to enter upon any premises for purposes of enforcing this code with the permission of the owner or with the authorization of a warrant.

Section 305 - Zoning Certificates

305.01 Zoning Certificate Required. A zoning certificate shall be obtained before any person may:

305.01.1. Occupy or use any vacant land;

305.01.2. Occupy or use any structure hereafter constructed, reconstructed, moved, altered or enlarged;

305.01.3. Change the use of a structure or land to a different use;

305.01.4. Change a non-conforming use; or

305.01.5. Place any fill or excavate in any area designated as a shoreland, wetland or which is identified on the Official Flood Hazard Overlay Map.

305.02 Applications. Applications for a zoning certificate shall be accompanied by a plot plan showing clearly and completely the location, dimensions and nature of any structure involved and such other information as the Zoning Officer may require for the administration of this code, together with a filing fee in accordance with a schedule annually fixed by resolution of the City Council.

Section 310 - Issuance of Zoning Certificate

310.01 Issuance of Zoning Certificate. Prior to issuing a zoning certificate the Zoning Officer shall determine that the applicant has obtained all necessary state and federal permits and all permits required under this code and by other regulations of the City of Hermantown.

📖 **Section 315 - Building Permit**

315.01 Building Permit. The Building Official of the City of Hermantown shall not issue a building permit for any construction activity unless a zoning certificate has been issued for such activity by the Zoning Officer.

📖 **Section 320 - Certificate of Occupancy**

320.01 Certificate of Occupancy. Except for farm buildings, no building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the Building Official of the City of Hermantown, stating that the building or structure complies with all of the provisions of this code, other applicable regulations and that all conditions or safeguards established in connection with the grant of any variance or issuance of any permit under this code have been complied with.

320.02 Application. Application for such certificate of occupancy shall be made at the same time as application is made for a building permit and accompanied by a fee established from time to time by resolution of the City Council.

📖 **Section 325 - Construction and Use to Be as Provided in Applications, Zoning Certificates and Permits**

325.01 Construction and Use to Be as Provided in Applications, Zoning Certificates and Permits. Zoning certificates or other permits issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this code. The applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this code. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

📖 **Section 330 - Enforcement, Penalty**

330.01 Enforcement, Penalty. Any violation of this code may be enjoined by the City Council through proper legal channels, and any person who violates this code shall be guilty of a misdemeanor. A separate offense shall be deemed committed for each day a violation is permitted to exist.

330.01.1. It shall be a violation of this code to fail to comply with any conditions or safeguards established in connection with the grants of a variance or the issuance of any permit under this code.

330.01.2. It shall be a violation of this code to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a Zoning Certificate shall have been issued by the Zoning Officer.

📖 **Section 335 - Enforcement, Remedies**

335.01 Enforcement, Remedies. In case any building, structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this code, the City Council, in addition to other remedies, may institute in the name of the City any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or use constituting a violation.

📖 **Section 340 - Board of Appeals and Adjustments**

340.01 Establishment, Membership, Vacancies. A Board of Appeals and Adjustments is hereby established. Such Board shall consist of five members to be appointed by resolution of the City Council. Members shall be appointed to serve for three years and thereafter until their successors are duly appointed and qualified. Any vacancy occurring in the membership of said Board shall be filled, for the unexpired term only, by resolution of the City Council.

(Am. Ord. 2013-11, passed 10-21-13)

340.02 Ex Officio City Councilor. In addition to the regular members, one City Councilor shall be an ex officio member of the Board. The City Councilor ex officio member shall act as Secretary for the Board. The City Councilor ex officio member shall not be entitled to vote on matters presented to the Board except when such Councilor's presence must be counted in order to satisfy the quorum requirements.

(Am. Ord. 83-09, passed 3-5-1984)

340.03 Residency, Compensation, Officers. The members of the Board shall reside in and be registered voters of the City of Hermantown. At its first meeting of each calendar year, the Board shall elect from its membership a Chair and a Vice-chair. The Chair position shall rotate bi-annually beginning in 2015, provided that no person shall be elected as Chair who has not completed at least one (1) year as a member of the Board and provided further that the City Council ex-officio member may not be elected as Chair. The members of the Board shall serve without pay.

(Am. Ord. 2013-11, passed 10-21-13)

340.04 Removal. The City Council may remove any member of the Board for good cause. For purposes of this code, “good cause” shall include failure to regularly attend meetings of the Board.

340.05 Legal Counsel. The City Attorney shall act as legal advisor to the Board.

(Am. Ord. 2013-11, passed 10-21-13)

340.06 Meeting Intervals. The Board shall meet at stated intervals fixed by the members or at the call of the chairperson or at the call of any two members of the Board.

340.07 Meetings Open to the Public. All meetings of the Board shall be open to the public unless involving matters for which meetings may be closed to the public under the Minnesota Open Meeting Laws.

340.08 Minutes. The Board shall make and keep minutes of its meetings and records of its hearings and other official actions.

340.09 Conduct of Business. The Board shall follow Robert’s Rules of Order in the conduct of its business subject to the provisions of this Section 340. It shall render any decisions and findings in writing as soon as possible after its decision on any matter considered by it.

(Am. Ord. 2013-11, passed 10-21-13)

340.10 Quorum. No action of the Board shall be taken without a quorum, consisting of three members, which may include the ex officio member, being present.

(Am. Ord. 83-09, passed 3-5-1984)

340.11 Majority Required. The concurring vote of a majority of the members voting on any matter shall be necessary for any action to be taken by the Board.

340.12 Jurisdiction and Duties. The Board shall have the following jurisdiction and duties:

340.12.1. To hear and decide administrative appeals under this code;

340.12.2. To hear and make determinations on requests for variances;

340.12.3. To establish applications, checklists and procedures to assist it in handling matters considered by it; and

340.12.4. To perform such other functions as may, by resolution of the City Council, be delegated to it.

340.13 Criteria for Exercise of Authority. In exercising the authority granted it under this code, the Board shall be guided by the criteria set forth in this code for the various matters considered by it and otherwise proceed in accordance with the laws of the State of Minnesota.

📖 **Section 345 - Planning and Zoning Commission**

345.01 Establishment. A Planning and Zoning Commission is hereby established.

345.02 Membership. The Commission shall consist of seven members who shall be appointed by resolution of the City Council. One City Councilor shall serve as an ex officio member of the Commission. The City Councilor ex officio member shall not be entitled to vote on matters presented to the Commission except when such Councilor's presence must be counted in order to satisfy the quorum requirements.

(Am. Ord. 83-09, passed 3-5-1984; Am. Ord. 2013-11, passed 10-21-13; Am. Ord. 2014-03, passed 3-17-2014)

345.03 Terms. The present members of the Commission shall continue as members of the Commission until the end of their current terms. All appointments shall be for a term of three years, except that any vacancy occurring in the membership of the Commission shall be filled, for the unexpired term only, by resolution of the City Council.

345.04 Residency, Compensation, Officers. The members of the Commission shall reside in and be registered voters of the City of Hermantown. At its first meeting of each calendar year, the Commission shall elect from its membership a Chair and a Vice-chair. The Chair position shall rotate bi-annually beginning in 2015, provided that no person shall be elected as Chair who has not completed at least one (1) year as a member of the Commission and provided further that the City Council ex-officio member may not be elected as Chair. The members of the Commission shall serve without pay.

(Am. Ord. 2013-11, passed 10-21-13)

345.05 Removal. The City Council may remove any member of the Commission for good cause. For purposes of this chapter, "good cause" shall include failure to regularly attend meetings of the Commission.

345.06 Legal Advisor. The City Attorney shall act as the legal advisor to the Commission.

345.07 Meeting Intervals. The Commission shall meet at stated intervals fixed by resolution of the Commission or at the call of the chairperson or at the call of any three members of the Commission.

345.08 Public Meetings. All meetings of the Commission shall be open to the public unless involving matters for which meetings may be closed to the public under the Minnesota Open Meeting Laws.

345.09 Minutes. The Commission shall make and keep minutes of its meetings and records of its hearings and other official actions.

345.10 Conduct of Business. The Commission shall follow Robert's Rules of Order in the conduct of its business subject to the provisions of this Section 345. It shall render any decisions and findings in writing as soon as possible after its decision on any matter considered by it.

(Am. Ord. 2013-11, passed 10-21-13)

345.11 Quorum. No action of the Commission shall be taken without a quorum consisting of four appointed members or three appointed members and the City Councilor ex officio member being present.

(Am. Ord. 83-09, passed 3-5-1984; Am. Ord. 2014-03, passed 3-17-14)

345.12 Majority Required. The concurring vote of a majority of the members voting on any matter shall be necessary for any action to be taken by the Commission.

345.13 Jurisdiction and Duties. The Commission shall have the following jurisdiction and duties:

345.13.1. To recommend to the City Council changes to the Hermantown Comprehensive Plan;

345.13.2. To hear and review original applications and renewal applications and submit reports and offer recommendations thereon to the City Council for special use permits, grading and filling permits, subdivision plat approval, planned unit developments, mobile home subdivisions, commercial-industrial development permits, and/or other matters to be considered by it under the Hermantown Zoning Ordinance;

345.13.3. To initiate procedures for changes and amendments to the Hermantown Zoning Ordinance in accordance with the provisions of the Hermantown Zoning Ordinance;

345.13.4. To hear, review and make recommendations to the City Council on amendments to the Hermantown Zoning Ordinance proposed by the City Council;

345.13.5. To hear, review and take action of commercial-industrial development permits.

345.13.6. To exercise all powers and perform all duties granted to a Planning Commission by M.S. Sections 462.351 to 462.364, as may be amended from time to time;

345.13.7. To establish applications, checklists and procedures to assist it in handling matters considered by it;

345.13.8. To review environmental assessment worksheets, wetland replacement plans and other environmental matters required to be conducted by it and submit reports and offer recommendations to the City Council thereon; and

345.13.9. To perform such other functions as may by resolution of the City Council be delegated to it.

345.14 Criteria for Exercise of Authority. In exercising the authority granted it under this code, the Commission shall be guided by the criteria set forth in this code for the various matters considered by it and otherwise proceed in accordance with the laws of the State of Minnesota and applicable codes, rules and ordinances.

(Am. Ord. 2013-11, passed 10-21-13)

📖 **Section 350 - Administrative Appeals**

350.01 Filing of Appeal. Appeals to the Board concerning the interpretation or administration of this code by the Zoning Officer or Building Official or any other agent of the City may be taken by any person aggrieved by any decision, or any taxpayer, officer, department, board or bureau of the City of Hermantown. Such appeal shall be taken within ten days after the decision from which an appeal is taken by filing a notice of such appeal on forms provided by the Zoning Officer. Such notice of appeal shall be filed with the City Clerk along with such fee as shall from time to time be prescribed by resolution of the City Council. No action shall be taken on such appeal until the required fee shall be paid.

350.02 Notice of Appeal. Such notice of appeal shall contain a complete statement of the matter in controversy.

350.03 Public Hearing. Upon receipt of such notice of appeal, the Board shall fix a date for a public hearing on the appeal within 30 days after such application is received by the City Clerk. Notice of such public hearing shall be mailed at least ten days before the date of the hearing to each affected property owner and to the owners of property situated wholly or partly within 350 feet of the property which is the subject matter of the appeal. A notice of such public hearing shall also be published in the official newspaper at least ten days before the day of the hearing. For purposes of giving mailed notice, owners shall be those shown to be such on the records of the St. Louis County Auditor. 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 the notice provisions set forth herein has been made.

350.04 Appearing in Person or by Representative. At the hearing any party may appear in person, by authorized agent or by an attorney.

350.05 Decision of Board. The Board shall make its decision on any matters properly presented to it by resolution adopted by majority vote of all of the members voting thereon. Such resolution shall contain a written statement of the factual basis and reasons supporting the decision of the Board and a positive finding that the decision is consistent with the spirit and intent of the Comprehensive Plan and with the provisions of this code.

📖 **Section 355 - Appeal to City Council**

355.01 Appeal to City Council. All decisions of the Board under Section [350](#) of this code shall be subject to appeal to the City Council as follows:

355.01.1. Within ten days after the Board has made its decision, the Zoning Officer shall notify the applicant of the decision of the Board and of the applicant's right to appeal. Within ten days thereafter, the applicant, Zoning Official, or any person aggrieved by such decision may file with the City Clerk a written request that such decision be appealed to the City Council.

355.01.2. The City Clerk shall refer the matter to the City Council for its initial consideration at its next regular or special meeting.

355.01.3. The City Council may, but shall not be required to, hold a public hearing on such appeal. It may hold as many public meetings with the appellant as it may deem necessary to properly evaluate the appeal. Any public hearing held by the City Council shall be preceded by notice of the hearing as provided in Section [350](#) of this code.

355.01.4. The City Council shall make its decision on any appeal by resolution adopted by majority vote of all of the members voting thereon. Such resolution shall contain a written statement of the factual basis and reasons supporting the decision of the Council and a positive finding that the decision is consistent with the spirit and intent of the Comprehensive Plan and with the provisions of this code.

355.01.5. The City Council shall endeavor to make its decision on such appeal as soon as reasonably possible following the filing of the notice of appeal.

📖 **Section 360 - Review by City Council**

360.01 Review of Board Action. The City Council, upon its own action, may review any action of the Board under Section [350](#) of this code. Such review shall be initiated within ten days of the date of the decision by the majority vote of those Council members present and voting on the matter.

360.02 Action of Council. Upon a review of any such action of the Board, the City Council shall proceed in accordance with the procedures set forth in Section [355](#) of this code.

📖 **Section 365 - Finality of Decision**

365.01 Finality of Decision. Decisions of any agent of the City or of the Board hereunder shall not be final until any appeal period specified hereunder shall have expired. No action shall be taken by any party in reliance on any such decision of the Board or any agent of the City until it shall be final. Decisions of the Council shall be final immediately.

📖 **Section 370 - Judicial Review**

370.01 Review by District Court. Any person aggrieved by a final decision by any officer, Board or the City Council under this code, subject to all existing provisions of law, may have such final decision reviewed by an appropriate remedy in the District Court.

370.02 Timeframe for Review. Such review shall be commenced within 30 days after a decision is final on the matter sought to be reviewed.

370.03 Defense. The City may raise as a defense in any such proceeding the fact that the complaining party has not attempted to remedy his or her grievance by use of procedures available to him or her for that purpose under this code.

📖 Section 375 - Fees, Charges and Expenses

375.01 Schedule of Fees. The City Council shall from time to time by resolution establish a schedule of fees, charges and expenses for permits, certificates, appeals and other documents and actions required by the provisions of this chapter. No action may be taken on any matter nor may any document be issued under this code unless such fees, charges or expenses have been paid in full.

375.02 New Development Fees for Public Parks, Recreational Facilities, Playgrounds, Trails or Open Spaces. For all new developments within any Commercial or Industrial Zone District the applicant shall pay a fee for public parks, recreational facilities, playgrounds, trails or open spaces of \$1,000 per acre or fractional part thereof, or such other amount as may be set from time to time according to the fee schedule as established by ordinance of the City of Hermantown.

(Ord. 2005-13, passed 9-19-2005)

375.03 Authority and Nexus. Pursuant to M. S. Section 462.358, Subd. 26, (2004), the City is authorized to require the fees provided by Section [375.02](#) above for use for parks, recreational facilities, playgrounds, trails or open spaces. Pursuant to M. S. Section 462.358, Subd. 26, (2004), the City hereby determines that there is an essential nexus between a fee for each new parcel created by a subdivision or for each new parks, recreational facilities, playgrounds, trails, or open spaces. Each new subdivision increases the need for public parks, recreational facilities, playgrounds, trails, or open spaces as a result of the increased number of residents a subdivision adds to the City, and each new commercial or industrial development increases the density of development within the City and visitors to the City, which in turn leads to an increased need for public parks, recreational facilities, playgrounds, trails or open spaces. The City Council has determined that requiring an applicant to pay a fee for creating an increased number of residents to the City and those residents' need for public parks and recreational facilities is necessary, proper and fair. Likewise, requiring an applicant to pay a fee for the increased density and/or visitors to the City that a commercial or industrial development may add to the City to be used for public parks, recreational facilities, playgrounds, trails and open space is necessary, proper and fair.

(Ord. 2005-13, passed 9-19-2005)

📖 Section 380 - Amendments

380.01 Initiation of Amendments. An amendment to this code may be initiated by the City Council, the Planning and Zoning Commission or by petition of any owner, user or potential user of the property subject to the amendment by making application in writing to the City Clerk on such forms as are provided for that purpose.

380.02 Application Fee. An application fee, to be set by resolution of the City Council, shall accompany the applicant. Such fee shall not be refundable.

380.03 Referral to and Study by Planning and Zoning Commission. An amendment not initiated by the Planning and Zoning Commission shall be referred to it for study and report. The City Council may not act upon such amendment until it has received the recommendation of the Planning and Zoning Commission or until 60 days have elapsed from the date the amendment was referred to the Planning and Zoning Commission without a report from it.

380.04 Public Hearing. No amendment shall be adopted until a public hearing has been held thereon by the City Council or the Planning and Zoning Commission. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, owners shall be those shown to be such on the records of the St. Louis County Auditor. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the City Clerk and shall be made a part of the records of the proceedings. 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 notice requirement has been made.

380.05 Majority Vote. The City Council may approve an amendment to this code by a majority vote of all of its members. However, when a zoning district is changed, in whole or in part, from residential to commercial or industrial, the City Council must approve such amendment only by a 2/3 majority vote of its members.

380.06 Amendments to Shoreland District.

380.06.1. Public Hearing. Notice of any public hearing to consider any amendment to Section [555](#), “Shoreland District,” shall be mailed to the Commissioner of Natural Resources of the State of Minnesota at least 15 days prior to any such hearing.

380.06.2. Amendment. A copy of any amendment to Section [555](#), “Shoreland District,” shall be mailed to the Commissioner of Natural Resources of the State of Minnesota within five days of the effective date of such amendment.

380.07 Public Waters Classification. The classification of Public Waters of the City of Hermantown by [Chapter 5](#) of this code may not be changed without the prior approval of the Commissioner of Natural Resources of the State of Minnesota.

(Am. Ord. passed 4-17-2006)