

ORDINANCE NO. 1373

TEXT AMENDMENT 19-04, AN ORDINANCE AMENDING CHAPTERS 6, AND 128 OF FRIDLEY CITY CODE, AND SECTION 205.05 OF THE FRIDLEY ZONING CODE PERTAINING TO THE DISSOLUTION OF THE APPEALS COMMISSION AND TRANSFER OF RESPONSIBILITIES TO THE PLANNING COMMISSION

The City Council of the City of Fridley hereby finds, after review, examination and recommendation of the Planning Commission and staff, that the Fridley City Code be hereby amended as follows:

Section 1: That Fridley City Code Sections 6.01, 6.03 and 6.06 be hereby amended as follows:

Chapter 6. COMMISSIONS

6.01 COMMISSION TITLES

There is hereby created the following commissions for the City of Fridley. These commissions shall be known as:

1. Planning Commission.
2. Parks and Recreation Commission.
3. Environmental Quality and Energy Commission.
4. ~~Appeals Commission~~

6.03 PLANNING COMMISSION

1. Title.
 - A. There is hereby created a Planning Commission for the City of Fridley, Minnesota.
 - B. The Council hereby establishes the Planning Commission to serve as the Board of Appeals and Adjustments and exercise all authority and perform all functions of said Board pursuant to Minnesota Statutes Sections 462.351 to 462.364 and operate according to the Fridley City Code. (1980).
2. Purpose.
 - A. ~~The Planning Commission is established to promote the systematic and continuing application of organized knowledge and foresight in the pursuit of clearly defined and properly related goals and objectives in order to create an increasingly better, healthy, convenient, efficient and attractive environment.~~ provide comprehensive planning and zoning advice to the City Council with the aim of improving the city.
 - B. The Planning Commission is established to provide a process by which the public may appeal staff's interpretation of code, or request a variance to performance standards in the Fridley Zoning Code.

3. Scope.

- A. The Planning Commission shall serve in an advisory capacity to the City Council. Problems shall be referred to the Planning Commission by the City Council, City Administration or chairperson of the member commissions, and may be assigned to the member commissions for detailed study and recommendations as required. All recommendations by the Planning Commission shall be made to the City Council.
- B. The Planning Commission is charged with responsibility for continuous community planning and development of comprehensive goals and policies, including but not limited to, land use, housing, environment, parks and recreation, public services, human resources, and other related community activities.
- C. The Planning Commission shall advise the City Council in the development of programs to give increased effectiveness and direction in implementing established City goals and policies and recommend actions needed to carry out planning responsibility.
- D. The Planning Commission shall serve as the Board of Appeals and Adjustment and shall exercise all the authority and perform all functions of said Board pursuant to Minnesota Statute Sections 462.351 to 462.36 4 and operate according to the Fridley City Code.

4. Appeals and Requests

- A. The Planning Commission shall hear and recommend to the City Council appeals or requests in the following cases according to the procedures established in Chapter 128 of Fridley City Code and Chapter 205.6 of the Fridley Zoning Code:
 - (1) Appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by a City Compliance Official in the enforcement of the City Code, Zoning Code, Sign Code, Residential Rental Licensing Code, or State Building Code.
 - (2) Requests for variances from the literal provisions of the Zoning Code or Sign Code in instances where strict enforcement would cause practical difficulties due to circumstances unique to the individual property under consideration.

5. Membership of Planning Commission

- A. The Planning Commission shall consist of the Planning Commission chairperson, the chairperson of the Parks and Recreation Commission, ~~the chairperson of the Appeals Commission~~, the chairperson of the Environmental Quality and Energy Commission, and ~~three~~ four (3 4) members-at-large.
- B. The chairperson of the Planning Commission and ~~three~~ four (3 4) members-at-large shall be appointed by the City Council to serve for three-year terms as voting members of the commission. The City Council shall stagger the appointments so that no more than two (2) of these appointments shall expire in any one (1) year. Nothing herein shall prohibit any of these four Planning Commission members from serving on other commissions; however, none of these ~~four~~ five shall be elected as chairperson or vice-chairperson of the member commissions.

- C. The Planning Commission members serve as chairperson of the member commissions and are appointed according to provisions outlined in the ordinance establishing each member commission.
- D. The Planning Commission shall each year, from their members (~~except the Appeals Commission Representative~~), choose a vice-chairperson. At any meeting of the Planning Commission, if the regular chairperson is unable to attend, the vice-chairperson shall act as chairperson.
- E. At any meeting of the Planning Commission, if any commission member is unable to attend, the vice-chairperson of his/her member commission(s) may serve in his/her stead.

~~6.06—APPEALS COMMISSION~~

~~1. Title:~~

~~The Council hereby creates an Appeals Commission to serve as the Board of Appeals and Adjustments and to exercise all authority and perform all functions of said Board pursuant to Minnesota Statutes Sections 462.351 to 462.364 and operate according to the Fridley City Code. (1980)~~

~~2. Substitute Members~~

~~At any meeting of the Appeals Commission, if there is less than a quorum present, the Planning Commission's designee may serve as a member of the Appeals Commission in a member's absence.~~

~~3. Purpose:~~

~~The Appeals Commission is established to provide a process by which the public may appeal staff's interpretation of code, request a variance to performance standards in code, or to provide comprehensive planning advice to the Planning Commission.~~

~~4. Scope:~~

~~A. The Appeals Commission shall act as an advisory commission to the Planning Commission for continuous community planning and development of the comprehensive City goals and policies. Any change in related community planning and comprehensive City goals and policies must be reviewed by the Planning Commission who will then make recommendations to the City Council.~~

~~B. The Commission shall hear and recommend to the City Council appeals or requests in the following cases:~~

- ~~(1) Appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by Compliance Official in the enforcement of the zoning ordinance, sign ordinance, State Building Code, or of the Residential Rental Licensing Code.~~

~~(2) Requests for variances from the literal provisions of the Zoning Code or sign ordinance in instances where strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration.~~

~~C. In recommending or approving a variance, subject to the conditions of section 6.06.B the Commission and the Council may impose conditions to ensure compliance and to protect adjacent properties.~~

~~5. Petition by Owner.~~

~~A. Request for Variance.~~

~~A property owner may request a variance when the owner establishes that there are practical difficulties in complying with the Zoning Code. An application must be filed with the City and must state the exceptional conditions and the peculiar and practical difficulties claimed as a basis for a variance.~~

~~B. Request for Appeals~~

~~Any person aggrieved by an alleged error in any order, requirement, decision or determination made by a Compliance Official in the enforcement of the City Code, may request a hearing before the Appeals Commission. The appeal must be made in writing to the Community Development Director according to the terms and procedures established in Chapters 205.05.7 and 128 of the City Code, and must clearly describe the code section under appeal, the facts of the matter, and the mailing address of the owner.~~

~~6. Recommendation by Appeals Commission.~~

~~A. Variance: The Appeals Commission shall follow the variance process established in Chapter 205.05.6.~~

~~B. Appeals: The Community Development Director shall follow the appeals process established in Chapter 205.05.7.~~

Section 2: That Fridley City Code Section 128.05.2 Procedures for Removal of Exterior Public Nuisances, Hearing, be hereby amended as follows:

2. Hearing.

Any property owner who feels aggrieved by an order of the Code Enforcement Officer or other duly authorized agent issued pursuant to this chapter may request a hearing before the ~~Appeals Commission~~ Planning Commission. Such request shall be filed in writing with the office of the Community Development Director within ten (10) days after the date of service of the notice by the Code Enforcement Officer or other duly authorized agent. The Community Development Director shall notify the ~~Appeals Commission~~ Planning Commission and the property owner of the date, time, and place of the hearing. The Community Development Director shall notify the appealing property owner of the selected public hearing date not less than 10 days prior to the date of the hearing. The hearing shall be conducted no more than sixty (60) days after the property owner's request, unless a later date is mutually agreed to by the property owner and the City. Both the property owner and representatives of the City may appear at the hearing with counsel and may call witnesses and present relevant and competent evidence. Within ten (10)

days after such hearing, the ~~Appeals Commission~~ Planning Commission shall affirm, repeal or modify the order of the Code Enforcement Officer or other duly authorized agent. The ~~Appeals Commission~~ Planning Commission order shall be accompanied by written findings of fact, and may include a finding of fact as to the absence of value of the materials deemed to constitute an exterior public nuisance. Any person aggrieved by the decision of the ~~Appeals Commission~~ Planning Commission may appeal that decision to the City Council by filing notice of such appeal with the Community Development Director within twenty (20) days of receiving notice of the ~~Appeals Commission's~~ Planning Commission's decision. At its next available regular meeting following the filing of a notice of appeal, the Council shall review the decision and findings of fact of the ~~Appeals Commission~~ Planning Commission and shall affirm, repeal or modify that decision. If the Council affirms the ~~Appeals Commission's~~ Planning Commission's decision declaring that an exterior public nuisance exists, the City shall abate the exterior public nuisance after twenty (20) days following the Council's final determination, unless the property owner petitions for a court order to the contrary within said twenty (20) days.

Section 3.: That Fridley Zoning Code Section 205.05.6 Variances be hereby amended as follows:

6. VARIANCES

A. ~~Appeals Commission.~~ Planning Commission.

The City Council ~~created an Appeals Commission~~ has established the Planning Commission to serve as the Board of Appeals and Adjustment, and to exercise all the authority and perform all functions of said Board pursuant to Minnesota Statute Sections 462.351 to 462.36 4 and operate according to the Fridley City Code.

B. Petition by Owner.

A variance may be granted when it is in harmony with the general purposes and intent of this Chapter and when the variance is consistent with the Comprehensive Plan. A property owner may request a variance when the owner establishes that there are practical difficulties in complying with this Chapter. An application must be filed with the City and must state the exceptional conditions and the peculiar and practical difficulties claimed as a basis for a variance. A practical difficulty means:

- (1) The property owner proposes performance standards for the property in a reasonable manner, but not permitted by the Zoning Code.
- (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner.
- (3) The variance, if granted, will not alter the essential character of the locality.

C. Hearing.

Within thirty (30) days after filing a completed application, the ~~Appeals Commission~~ Planning Commission shall hold a hearing thereon and shall hear such persons that want to be heard. Notice of such hearing shall be mailed out at least ten (10) days before the date of the hearing to each owner of affected property situated wholly or partially within 350 feet of the requested variance location.

D. Recommendations by ~~Appeals Commission~~ Planning Commission.

The ~~Appeals Commission~~ Planning Commission must act and report its recommendations within a reasonable time so that the City Council can act on the application within sixty (60) days of receipt of completed application. The ~~Appeals Commission~~ Planning Commission may impose conditions in the granting of a variance that the Commission considers necessary to protect adjacent properties.

E. Variances in R-1 Zoning.

(1) In areas zoned R-1 (One Family Dwelling District) and S-1 (Hyde Park Neighborhood District), the ~~Appeals Commission~~ Planning Commission has the authority to grant final approval of variances when all of the following conditions are met:

- (a) There is unanimous agreement of the ~~Appeals Commission~~ Planning Commission.
- (b) The staff concurs with the recommendations of the ~~Appeals Commission~~ Planning Commission.
- (c) The general public attending the meeting or responding to the notice of public hearing have no objection.
- (d) The petitioner is in agreement with the recommendation.

(2) When the above conditions are not met, the variance request must be reviewed by the City Council.

F. Record of Action Taken.

The ~~Appeals Commission~~ Planning Commission shall provide for a written record or video recording of its proceedings which shall include the minutes of its meeting, its findings and the recommendation, approval, or denial of each matter heard by it. The finding of fact shall contain the following:

- (1) The public policy which is served by requirement; and
- (2) The unique circumstance of the property that cause practical difficulties in the strict application of the requirement; and
- (3) Any stipulations of the variance approval.

G. Action by the City Council.

The City Council must act on the recommendation of the ~~Appeals Commission~~ Planning Commission and decide on the action to be taken within sixty (60) days of the notice of variance.

H. Lapse of Variance by Non-use.

If work as permitted by a variance is not commenced within one year and completed within two years after granting-of a variance, then the variance shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the City at least twenty (20) days before the expiration of the original variance. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance. Such petition shall be presented to the City Council for review and/or decision.

Section 4: That Fridley Zoning Code Section 205.05.7 Appeals be hereby amended as follows:

7. APPEALS

A. ~~Appeals Commission.~~ Planning Commission.

The City Council ~~created an Appeals Commission~~ established the Planning Commission to serve as the Board of Appeals and Adjustment and to exercise all the authority and perform all functions of said Board pursuant to Minnesota Statute Sections 462.351 to 462.364 and operate according to the Fridley City Code.

B. Petition by Owner.

Any person aggrieved by an alleged error in any order, requirement, decision, or determination made by a code enforcement officer or any other duly authorized agent in the enforcement of this Chapter, may request a hearing before the ~~Appeals Commission~~ Planning Commission. The appeal must be made in writing to the Community Development Director according to the terms and procedures established in Chapter 128 of City Code, and must clearly describe the code section under appeal, the facts of the matter, and the mailing address of the owner.

C. Hearing.

The Community Development Director shall notify the ~~Appeals Commission~~ Planning Commission and the property owner of the hearing's date, time, and place. Within sixty (60) days after filing an appeal from the administrative order, the ~~Appeals Commission~~ Planning Commission shall hold a public hearing thereon, unless a date is agreed upon by the property owner and the City. Both the property owner and representatives of the City may appear at the hearing with Council and may call witnesses and present relevant and competent evidence.

D. Recommendations by ~~Appeals Commission.~~ Planning Commission.

Within ten (10) days after such hearing, the ~~Appeals Commission~~ Planning Commission shall reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination of the code enforcement officer or other duly authorized agent.

E. Record of Action Taken.

The ~~Appeals Commission~~ Planning Commission shall provide for a written record or video recording of its proceedings which shall include the minutes of its meeting, its findings and the recommendation, approval, or denial of each matter heard by it.

F. Appeal to Council.

Any person aggrieved by the decision of the ~~Appeals Commission~~ Planning Commission may appeal that decision to the City Council by filing notice of such appeal with the Community Development Director within twenty (20) days of receiving notice of the ~~Appeals Commission's~~ Planning Commission's decision. The appeal must be in writing and must include a statement of the alleged errors or omissions of the ~~Appeals Commission~~ Planning Commission. The City Council shall review the record and recommendation created by the ~~Appeals Commission~~ Planning Commission within twenty (20) days following an appeal request and shall reverse or affirm wholly or partly, or modify the order, requirement, decision, or determination of the ~~Appeals Commission~~ Planning Commission. If the Council fails to make a timely decision, the appeal shall be deemed to have been approved.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRIDLEY THIS 23RD DAY OF SEPTEMBER 2019.



SCOTT J. LUND, MAYOR

ATTEST:



DEBRA A. SKOGEN, CITY CLERK

Public Hearing:	August 12, 2019
First Reading:	August 26, 2019
Second Reading:	September 23, 2019
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