

**ORDINANCE NO. ~~178~~ THIRD SERIES**

**CITY OF ORONO  
HENNEPIN COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING THE CITY ORDINANCE  
PERTAINING TO FILING OF  
ADMINISTRATIVE, ZONING, AND SUBDIVISION APPEALS**

**THE CITY COUNCIL OF ORONO ORDAINS:**

**SECTION 1.** Section 2-41 Right to administrative appeal is hereby amended to read as follows:

Except as otherwise provided, if any person shall be aggrieved by any administrative decision of the city administrator or any other city official, or any board or commission not having within its structure an established review schedule or an appellate procedure, such aggrieved person is entitled to a full hearing before the council upon serving a written request upon the mayor and city clerk ~~at least seven days prior to any regular council meeting~~. Such request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. An appeal under this section shall be filed no later than 10 days following the decision. Failure to file an appeal within 10 days of the decision shall constitute a waiver of the person's right to a hearing. A hearing on the appeal shall occur at the next regularly scheduled council meeting that is at least seven days after the appeal is served. At such hearing, the appellant may present any evidence he deems pertinent to the appeal; but the city shall not be required to keep a verbatim record of the proceedings. The mayor, or other officer presiding at the hearing, may, in the interest of justice or to comply with time requirements and on the mayor's own motion or the motion of the appellant, the city clerk, or a member of the council, adjourn the hearing to a more convenient time or place; but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening. An employee of the city who is aggrieved by an action or decision of another city employee that relates to their employment shall exhaust the grievance procedures set forth in the administrative and personnel policy before requesting a hearing before the city council. The city council's decision on appeal may only be appealed to the Minnesota Court of Appeals. This Section shall not apply to hearing officer decisions under Section 50-32; decisions of an administrative officer under Chapter 78; decisions of an administrative officer under Chapter 82; or decisions of the planning director under Section 78-1604.

**SECTION 2.** Section 18-111 Revocation Subsection (e) is hereby amended to read as follows:

- (e) ~~[Purposely left blank] Any person whose permit is revoked may appeal that revocation to the city council by filing notice of such appeal with the city clerk within ten days of the date the revocation was mailed or delivered.~~

**SECTION 3.** Section 42-168 User fee sub paragraph (b) is hereby amended to read as follows:

- (b) Any alarm user required by the city to pay a user fee as the result of a false alarm may make a written appeal of the false alarm charge to the chief of police within ten days of notice from the city of the false alarm charge. Following review and determination by the

~~chief of police, such decision may be appealed to the city administrator, who will have the authority to make a final determination as to whether the appellant is to be charged with a fee for a false alarm.~~

**SECTION 4.** Section 50-32 Violations Subsection (b) is hereby amended to read as follows:

- (a) Hearings. If a person accused of violating this article so requests within 10 days of receipt of a citation, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator. Failure to file an appeal within 10 days of the citation shall constitute a waiver of the person's right to a hearing.

**SECTION 5.** Section 66-225 Denial of permit Subsection (b) is hereby amended to read as follows:

- ~~(b) The city administrator or designee shall act promptly upon a timely filed application for a parade or special event permit, but in no event shall grant or deny a permit less than 48 hours prior to the parade or special event and shall include reasons for denial. Any applicant shall have the right to appeal the denial of a parade or special event permit to the city council. The appeal shall be filed within five days after receipt of the denial to the city clerk. The city council shall act upon the appeal at the next scheduled meeting following receipt of the notice of appeal.~~

**SECTION 6.** Section 70-5 Abatement procedure Subsection (b) is hereby amended to read as follows:

- (b) Summary abatement. The city administrator or designee may provide for abating a public nuisance without following the procedure required in paragraph (a) above when:
- (1) There is an immediate threat to the public health or safety;
  - (2) There is an immediate threat of serious property damage; or
  - (3) A public nuisance has been caused by private parties on public property.

If the city administrator or designee abates the nuisance under this section, he must reasonably attempt to notify the owner, occupant, or other responsible party of the intended action and the right to appeal the abatement and any cost recovery ~~at the next regularly scheduled city council meeting.~~

**SECTION 7.** Section 70-129 Approval is hereby amended to read as follows:

All permits are subject to the approval of the city administrator upon recommendation of the chief of police. ~~Appeals of denials of permits are subject to council review.~~

**SECTION 8.** Section 70-131 Notice to owners of surrounding property is hereby amended to read as follows:

An annual permit shall require notice to be given to surrounding property owners and an opportunity for them to object prior to issuance of a permit under this subdivision, but such objections shall not require the permit to be withheld. ~~Any person may appeal the denial of a permit to the council.~~

**SECTION 9.** Section 78-96 Board established Subsection (a) is hereby amended to read as follows:

- (a) A zoning board of appeals and adjustments is established. The planning commission is constituted as the board of appeals and adjustments. ~~The decisions of the board are advisory to the council.~~ The board shall have the following powers:
- (1) To hear and decide appeals from any affected person where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this chapter.
  - (2) To hear requests for variances in accordance with this chapter.
  - (3) To exercise other functions as provided in this chapter.

**SECTION 10.** Section 78-99 Appeals procedures is hereby amended to read as follows:

The decisions of the board on requests for variances are advisory and will automatically proceed to the council for review. The decisions of the board on appeals are binding. The applicant or other person or officers of the city affected may appeal a binding decision of the board to the council by filing a written notice stating the action appealed from and stating the specific grounds upon which the appeal is made. The notice shall be accompanied by a fee in the amount prescribed by the current city fee schedule payable to the city, which fee shall not be refundable. An appeal under this section shall be filed no later than 10 days following the decision of the board. Failure to file an appeal within 10 days of the decision shall constitute a waiver of the person's right to a hearing.

**SECTION 11.** Section 78-100 Subdivisions is hereby amended to read as follows:

~~[Purposely left blank] Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the subdivision regulations. The board has the following powers with respect to the subdivision regulations:~~

- ~~(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of chapter 82.~~
- ~~(2) To hear requests for varying the regulations as they apply to specific properties where an unusual hardship on the land exists, but variances may be granted only upon the specific grounds set forth in the subdivision regulations. Unusual hardship includes but is not limited to inadequate access to direct sunlight for solar energy systems.~~

**SECTION 12.** Section 78-143 Review process Subsection (2) is hereby amended as to read follows:

- (2) *Planning and zoning coordinator.* The planning and zoning coordinator shall make a decision on site plans reviews to change the use of a building or parcel of land; to modify the interior or exterior of a building or site or land feature in any manner that results in a different site design or intensity of use, including the requirement for additional parking or to enlarge a building by less than ten percent of its gross floor area. The planning and zoning coordinator shall have the authority to refer an administrative site plan review to the city council for decision. ~~The owner may appeal the decision of the planning and zoning coordinator to the city council.~~

**SECTION 13.** Section 78-1134 Subdivisions Subsection (b) is hereby amended to read as follows:

(b) Administrative review. The city council shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this article. An appeal must be filed within 10 days of the administrative official's order, requirement, decision, or determination. Failure to file an appeal within 10 days of the decision shall constitute a waiver of the person's right to a hearing.

**SECTION 14.** Section 78-1285 Vegetation alterations Subsection (a) is hereby amended to read as follows:

(b) No live tree within 75 feet of the shoreline or within the bluff impact zone with a diameter of six inches or more (or 19 inches in circumference or greater) measured three feet above the ground may be removed without first obtaining a permit from the city staff, provided that at least the equivalent number of replacement trees of a size and nature found acceptable to the staff are planted at the same setback from the shoreline as those removed. Appeals of staff determinations as to type, size and quality of the trees to be replaced will be to the council. Removal of trees that are dead shall not require a permit, but such trees must be inspected by city staff prior to their removal.

**SECTION 15.** Chapter 82 Article II is hereby amended by the addition of the following Section 82-51:

**Sec 82-51. – Appeals.**

The zoning board of appeals and adjustments established in Section 78-96 shall also serve as the subdivision board of appeals and adjustments. The board has the following powers with respect to the subdivision regulations:

- (1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of chapter 82. An appeal under this section shall be filed no later than 10 days following the order, requirement, decision or determination. Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the subdivision regulations. Failure to file an appeal within 10 days of the decision shall constitute a waiver of the person's right to a hearing.
- (2) To hear requests for varying the regulations as they apply to specific properties where an unusual hardship on the land exists, but variances may be granted only upon the specific grounds set forth in the subdivision regulations. Unusual hardship includes but is not limited to inadequate access to direct sunlight for solar energy systems.

The procedures set forth in Sections 78-97 through 78-99 apply to determinations of the subdivision board of appeals and adjustments.


**SECTION 16.** Section 82-85 Appeal to the council Subsection (d)(3) is hereby amended to read as follows:

~~recommendation of the planning commission to the council, the subdivider shall, within ten days of the action by the planning commission, file a written appeal with the zoning administrator and pay an appeal fee. Upon filing of an appeal, the zoning administrator shall have ten days to prepare a report and place the appeal on the agenda of the next regularly scheduled council meeting. The council shall review the report and appeal and may concur with the planning commission or may instruct the planning commission to reconsider the application.~~

**SECTION 17. EFFECTIVE DATE:** This ordinance shall take effect immediately upon its passage and publication.

ADOPTED this 10<sup>th</sup> day of Oct 2016 on a vote of 5 ayes and 0 nays by the City Council of Orono, Minnesota.

ATTEST:

  
\_\_\_\_\_  
Diane Tiegs, City Clerk

  
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Lili Tod McMillan, Mayor

*Ordinance published in The Laker and The Pioneer newspapers the week of \_\_\_\_\_, 2016.*