ORDINANCE 2019– 3

AN ORDINANCE AMENDING SECTIONS 152.295 – 152.335

WHEREAS, the City of Morristown City Council has given proper public notice regarding changes to the Ordinance; and

WHEREAS, the City of Morristown City Council held a public hearing on the matter; and

NOW THEREFORE, the City of Morristown City Council feels that changes are necessary to the Ordinance to assure a better enforcement policy for zoning issues and zoning permits.

THE CITY COUNCIL OF THE CITY OF MORRISTOWN DOES ORDAIN THE ATTACHED ORDINANCE IS HEREBY ADOPTED.

This Ordinance shall be effective upon passage and a summary of this Ordinance will be published in the City’s Official Newspaper.

Passed and adopted this 3rd day of June, 2019, with the following vote:

Yes: 4  No: 0  Abstain: 0

Tony Lindahl, Mayor

ATTEST:

Sheri Gregor
Sheri Gregor, City Clerk
§ 152.295 GENERALLY.

The City Administrator shall be the acting Zoning Administrator unless the city council appoints a different individual to fill that role.

The Zoning Administrator, shall administer and enforce this chapter. If the Zoning Administrator finds that any of the provisions of this chapter are being violated, the Zoning Administrator shall, in writing, the person responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. This notification could include an order to discontinue illegal use of land, buildings, or structures; remove illegal buildings or structures or additions, alterations, or structural changes thereto; discontinue any illegal work being done; or any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. In carrying out his duties, the Zoning Administrator may consult with and utilize the services of the Zoning Committee to collect information or conduct investigations.

(Ord. 170, § 15.01, passed 5-6-2004)

§ 152.296 ZONING PERMITS REQUIRED.

No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the exterior dimensions, height, or floor area; or remodeled to increase the number of dwellings or accommodate a change in use of the building and/or premises or part thereof without first securing a zoning permit to be issued by the City Clerk/Treasurer or Zoning Administrator, depending upon the type of permit needed. In addition, a zoning permit shall be required for replacement of roofs, siding, or windows. No zoning permit is required for the construction and/or placement of gazebos, trellises, playhouses, kennels, hot tubs, swing sets, arbors, and inflatable swimming pools. No zoning permit shall be issued by an administrative official except in conformity with the provisions of this chapter unless he or she receives a written order from the Board of Adjustment, Zoning Committee, or City Council, dependent on the form of administrative review, variance, conditional use, or amendment, as provided by this chapter.

(Ord. 170, § 15.02, passed 5-6-2002; Am. Ord. passed 2-7-2005; Am. Ord. 2010-5, passed 7-6-2010)
Penalty, see § 10.99
§ 152.297 ZONING PERMIT APPLICATION.

All applications for a zoning permit shall be accompanied by the appropriate site plans and shall be made in duplicate on forms furnished by the City Clerk/Treasurer or Zoning Administrator and shall include the following where applicable:

(A) Names and addresses of the:

(1) Applicant;

(2) Owner of the site;

(3) Architect; and

(4) Professional engineer or contractor.

(B) Description of the site by lot, block, and record subdivision or by metes and bounds and the address of the proposed site;

(C) Type of structure, existing and/or proposed operation or use of the structure or site and the zoning district in which the site is located;

(D) Where applicable, the number of housekeeping units, families, rental units, or employees the proposed building is designed to accommodate; and

(E) Additional information, as may be requested by the Zoning Committee, City Clerk/Treasurer, Zoning Administrator, or other city official.
(Ord. 170, § 15.03, passed 5-6-2002)

§ 152.298 APPROVAL OR DENIAL OF ZONING PERMIT.

Upon approval or denial, the City Clerk/Treasurer or Zoning Administrator shall attest to the same by his or her signature on the zoning permit. If the zoning permit is approved, 1 copy shall be returned to the applicant and the City Clerk/Treasurer shall retain 1 copy. If the zoning permit is denied, the City Clerk/Treasurer shall, in addition to the above, notify the applicant with a memorandum stating the reason for denial of the zoning permit. The zoning permit shall be issued for a length of time as determined by the city, but in no event to exceed 12 months. All construction shall be finished within the time specified in the zoning permit. If construction is not completed within the time specified in the zoning permit, the permit shall become void. Failure to finish the project within the time specified in the zoning permit shall be a violation of this section and shall subject the applicant to a fine as established by the City Council, unless prior to the expiration of the permit the applicant receives an extension or reissuance of the zoning permit. An extension or reissuance of a zoning permit shall be subject to a fee as established by the City Council.
(Ord. 170, § 15.04, passed 5-6-2002; Am. Ord. 2012-1, passed 4-2-2012)
§ 152.299 CONSTRUCTION AND USE TO BE SAME AS APPLICATION AND PLANS.

Zoning permits issued on the basis of plans and applications approved by the city shall authorize only that use, arrangement, and construction set forth in the approved site plan and applications and for no other use, arrangement, or construction. Any use, arrangement, and construction that varies with that authorized shall be deemed a violation of this chapter and punishable as provided herein.
(Ord. 170, § 15.05, passed 5-6-2002)

§ 152.300 FEES.

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, appeals, amendments, conditional uses, variances, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the City Clerk/Treasurer and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.
(Ord. 170, § 15.06, passed 5-6-2002)

ADMINISTRATION; FEES, VIOLATIONS, DUTIES, AND INTERPRETATION

§ 152.315 SCHEDULE OF FEES.

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, and appeals, and applications for rezoning of land. The schedule of fees shall be posted in the office of the City Clerk/Treasurer, and may be altered or amended only by the City Council. No permit, amendment, variance, or conditional use shall be issued or allowed unless or until the costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Zoning Committee or City Council unless or until preliminary charges and fees have been paid in full.
(Ord. 170, § 16.01, passed 5-6-2002)

§ 152.316 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may submit a complaint. The complaint stating fully the causes and basis thereof shall be filed with the City Clerk/Treasurer. The City Clerk/Treasurer shall promptly record the complaint, and immediately forward the complaint to the Zoning Administrator to investigate and take action thereon as provided by this chapter.
(Ord. 170, § 16.02, passed 5-6-2002)

§ 152.317 VIOLATION OF ZONING ORDINANCE MAY BE ENJOINED.

No person shall erect, construct, alter, repair, or maintain any building or structure or use any land in violation of this chapter. In the event of any such violation or imminent threat thereof, the municipal corporation or the owner of any contiguous or neighboring property who would be especially damaged by the violation, in addition to any other remedies provided by law, may institute a suit for injunction or prevent or terminate the violations.
(Ord. 170, § 16.03, passed 5-6-2002) Penalty, see § 10.99
§ 152.318 VIOLATION A MISDEMEANOR.

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor with maximum penalties as established by the laws of the State of Minnesota. Each day the violation continues shall be considered a separate offense.

(B) The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains the violation may each be found guilty of a separate offense and suffer the penalties provided.

(C) Nothing in this chapter shall prevent the city from taking the other lawful action as is necessary to prevent or remedy any violation, including appropriate actions in District Court for the State of Minnesota. In addition to the other remedies as may be available to the city by access to the District Court, any person found in violation of this chapter shall pay all costs and expenses involved in the case, including reasonable and actual expenses generated by city officials or employees, legal expenses including attorney’s fees and any other actual and necessary expenses as the city may have generated in pursuing relief in the court.

(Ord. 170, § 16.04, passed 5-6-2002) Penalty, see § 10.99

(D) Procedure for Administering Fines for Zoning Violations. The Zoning Administrator shall be responsible for providing written notice of violations to property owners. In the event that a violation is not timely cured following written notice, the Zoning Administrator may recommend to the city council that a fine be administered in accordance with the following procedure:

1. The City Council may take action to administer a fine. Following approval of a fine, the Zoning Administrator shall provide written notice of the fine to the property owner.
2. The Property Owner shall have no more than ten (10) business days from the date of the written notice to appeal the imposition of the fine by delivering a written request for a hearing to the City Clerk. If the property owner does not timely appeal the fine, the fine shall go into effect and shall be collected as with all other fines administered by the City.
3. All appeals shall be determined by the city council. The city council may, in its discretion, refer the matter to the Zoning Committee to conduct a public hearing, take testimony, and otherwise conduct an investigation and collect information.

(E) Fines. Fines shall be administered according to the following criteria:

1. Work without Permit. If a property owner conducts construction or other improvements that requires a permit but fails to obtain a permit prior to beginning work, the property owner shall be notified, and no further work shall be performed until a permit is issued. If the property owner timely halts work and obtains a permit within five business days, the property owner shall pay double the standard permit fee. In the event that the property owner does not timely comply, the property owner shall pay triple the standard permit fee.
2. Failure to Comply with Issued Permit. If a property owner does not comply with the conditions of an issued permit, including completing work within the time specified by the permit, the property owner may be fined in an amount not to exceed five times the amount of the permit fee.
3. Zoning Violation. If a property owner is in violation of any section of this Chapter, a fine may be issued in an amount as set forth in the City’s fine schedule.
4. Repeat Violations. Repeat violations, or a failure to cure a violation after a fine has been administered, may result in an additional enhanced fine. The administration of each successive fine shall follow the procedure as set forth in Paragraph (D). In the discretion of the city council, a fine
for a repeat violation may be enhanced in an amount not to exceed five times the amount of the original fine.

(5) Remedies not Limited. Nothing herein shall be interpreted to limit the City’s powers to enforce it’s zoning ordinances. The City, in its sole discretion, may administer a fine, take action to abate a violation, seek an injunction, or any take any other action authorized by law.

§ 152.319 DUTIES OF CITY CLERK/TREASURER, ZONING ADMINISTRATOR, ZONING COMMITTEE AND CITY COUNCIL.

(A) Zoning Administrator. It is the intent of this chapter that all questions on interpretation and enforcement shall first be presented to the Zoning Administrator. The Zoning Administrator may consult with the Zoning Committee in interpreting and enforcing this chapter.

(B) Zoning Committee. A property owner who disagrees with a determination of the Zoning Administrator may request and shall be granted a review hearing. The Zoning Committee shall conduct the review hearing in order to collect evidence and to hear all parties who may be interested in the resolution of an issue. Thereafter, the Committee shall make the recommendations as it deems appropriate to the Council concerning all matters which may arise under this chapter, including, but not limited to, conditional use permits, appeals from the interpretation and enforcement of this chapter by the Zoning Administrator, and variances from the literal provisions of this chapter. The Zoning Committee shall be advisory to the City Council.

(C) City Council. It is further the intent of this chapter that the duties of the City Council shall include a careful consideration of the recommendations provided by the Zoning Committee and the making of the ultimate decision concerning the merits of the application for a conditional use permit, appeal from the interpretation of the zoning ordinance Zoning Administrator, or for the issuance of a variance. The City Council may hear comments from the applicant, or Zoning Administrator, as it deems appropriate in the consideration of its decision. However, the City Council shall not conduct public hearing unless it determines that the issue under consideration is of significant and compelling importance to the city. If such a public hearing is to be conducted by the City Council, then the notice provisions of this chapter
shall be followed. The city and not the applicant shall bear the cost of providing notice to the public hearing held by the Council pursuant to this chapter.

(D) Notice and hearing. In all cases where a public hearing is required under this chapter the City Clerk/Treasurer shall cause to have published in the official newspaper a notice of the time, place, and purpose of the hearing. When the area of land involved is 5 acres or less, a similar notice shall be sent by first-class mail to each owner of the affected property and to the owners of property situated wholly or partly within 350 feet of the affected property. Publication and mailing notices shall be made not less than 10 days nor more than 30 days prior to the date of the hearing. For the purpose of giving mailed notice, the City Clerk/Treasurer may use any appropriate record to determine the names and addresses of owners. 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/Treasurer and shall be made a part of the records of the proceedings. For purposes of computing the 10 days of notice, the day after publication or mailing, shall be counted as the first day. Saturdays, Sundays, or any other day made a legal holiday by the city, state, or federal governments shall be included in the computation unless the tenth day of the period falls on such a day, when it shall not be counted. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings. Upon evidence that adequate notice has been served, at least 1 public hearing shall be held on each application. The applicant or duly authorized representative shall be present at the public hearings. Absence of the applicant or duly authorized representative shall be sufficient cause to deny the application. All other persons wishing to be heard at a hearing shall be heard although reasonable limitations may be imposed concerning time or subject materials at the discretion of the Commission or Council conducting the hearing.

(Ord. 170, § 16.05, passed 5-6-2002)

ADMINISTRATION; ZONING COMMITTEE

§ 152.330 ESTABLISHMENT OF THE ZONING COMMITTEE.

The Morristown Zoning Committee shall have the power and duty to hear matters within its jurisdiction and to make recommendations to the Council concerning the same. Each member of the Zoning Committee must be a property owner or resident of the city for at least 3 years or have a vested interest in the welfare of the city. The Zoning Committee will consist of a 5-member board with each member serving a 5-year term. Reappointment at the end of the 5-year term may be allowed. Appointments to this Committee shall be made by the City Council, based upon recommendations of the Zoning Committee. The Committee shall meet monthly or through special meetings that may be called by the Committee Chairperson or City Clerk/Treasurer.

(Ord. 170, § 17.01, passed 5-6-2002; Am. Ord. 2009-2, passed 12-7-2009)
§ 152.331 PROCEEDINGS OF THE ZONING COMMITTEE.

(A) The Zoning Committee shall adopt rules necessary to the conduct of its affairs. Meetings shall be held at the call of the chairperson and at such other times as the Committee may determine, may administer oaths, and compel the attendance of witnesses. All meetings shall be open to the public.

(B) The Committee shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating the fact, and shall keep records of its examinations and other official actions, all of which shall be of public record and be filed in the City Clerk/Treasurer's office. Every decision of the Committee shall be based upon a finding of fact, which shall be reduced to writing and preserved among its records.
(Ord. 170, § 17.02, passed 5-6-2002)

§ 152.332 POWERS.

The Zoning Committee has the following powers with respect to this chapter:

(A) Review all applications for appeals and variances to this chapter and report the findings and recommendations to the Board of Adjustments as provided in this chapter;

(B) Review or initiate applications for amendments and changes to this chapter and report the findings and recommendations to the City Council as provided in this chapter; and

(C) Review all applications for conditional use permits, hear and make disposition of applications as provided in this chapter.
(Ord. 170, § 17.03, passed 5-6-2002)

§ 152.333 PUBLIC HEARING AND NOTICE.

The Zoning Committee shall follow the procedures concerning the holding of public hearings and the giving of notice, which are compelled by this chapter.
(Ord. 170, § 17.04, passed 5-6-2002)

§ 152.334 AUTHORITY TO IMPOSE CONDITIONS.

(A) In recommending action under any of the powers conferred upon the Committee, the Committee may recommend the manner in which an approved action shall be carried out, or may suggest other required improvements, safeguards and conditions for the protection of the health, safety, and welfare of owners and occupants of surrounding lots for the public.

(B) Specifically, the Zoning Committee on its own initiative may recommend conditions dealing with the following:

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(1) Paving, shrubbery, screening, fences, or walls;

(2) Control or elimination of smoke, dust, vibration, gas, noise, or odor;

(3) Hours of operation;

(4) Location of exits;

(5) Cleaning and painting;

(6) Elimination of nonconforming uses of land or nonconforming signs, as allowed by law;

(6) Direction and intensity of outdoor illumination; and

(7) Off-street parking and loading. (Ord. 170, § 17.05, passed 5-6-2002)

§ 152.335 VIOLATIONS.

Violations of conditions imposed by the Committee in conjunction with approval of an action shall be deemed a violation of this chapter and punishable as specified in this chapter.
(Ord. 170, § 17.06, passed 5-6-2002) Penalty, see §10.99

ATTESTED:

Sheri Gregor, City Clerk

Tony Lundahl, Mayor

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