

CHAPTER 167

ZONING REGULATIONS – ENFORCEMENT AND ADMINISTRATION

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167.01 ZONING/BUILDING ADMINISTRATOR. A Zoning/Building Administrator designated by the City Council shall administer and enforce these zoning regulations. The Administrator may be provided with the assistance of such other persons as the City Council may direct. If the Zoning/Building Administrator finds that any of the provisions of these regulations are being violated, said official shall notify in writing the person responsible for such violations, indicating the nature of the violation and noting the action necessary to correct it. The Administrator shall also notify the City Attorney, who shall take any action necessary to correct the violation.

167.02 BUILDING/ZONING PERMITS REQUIRED. No building or other structure shall be erected, moved, or added to without a permit therefor issued by the Zoning/Building Administrator. No building/zoning permit shall be issued except in conformity with the provisions of the zoning ordinance, except after written order from the Board of Adjustment. Fees for building/zoning permits shall be as provided by Council resolution. Building/zoning permits shall be applied for with the City Clerk and shall expire two years after the date of issuance if work is begun within 180 days of issuance or after 180 days if no substantial beginning of construction has occurred. Extensions of time may be granted in writing by the Zoning/Building Administrator for good cause.

167.03 RESIDENTIAL DWELLING STANDARDS. All single-family dwelling units shall meet the following minimum standards.

1. The minimum horizontal dimension of a single-family detached dwelling shall be 22 feet for at least 65 percent of the longer horizontal dimension of the original structure, said dimensions to be exclusive of attached garages, porches or other accessory structures.
2. All dwelling units shall be placed on a permanent frost-free foundation.
3. All dwelling units shall provide for a minimum of 900 square feet of floor space.
4. Dwelling units shall have a minimum roof pitch of 3:12. This requirement shall not apply to manufactured housing if the housing otherwise complies with 42 USC Sec. 5403.

167.04 BOARD OF ADJUSTMENT – ESTABLISHMENT AND PROCEDURE.

1. Board Created. A Board of Adjustment is hereby established which shall consist of seven (7) members. The terms of office of the members of the Board and the manner of their appointment shall be as provided by statute. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Two members shall be residents of the area outside the City limits, which is subject to these regulations. Said members shall be appointed by the County Board of Supervisors. A majority of the members of the Board of Adjustment shall be persons

representing the public at large and shall not be involved in the business of purchasing or selling of real estate.

2. Proceedings of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of these zoning regulations. Meetings shall be held at the call of the Chairperson and at such other time as the Board may determine. The Chairperson or, in the Chairperson's absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall, through its Secretary, keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All actions of the Board concerning special exceptions or variances shall also be recorded in the office of the County Recorder. It shall be the responsibility of the appellant to record said action and all corresponding stipulations and further said action shall take effect upon the Board's receiving sufficient conformation of the same. A copy of said action shall also be filed in the office of the Zoning/Building Administrator.

167.05 BOARD OF ADJUSTMENT – POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties.

1. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning/Building Administrator in the enforcement of these zoning regulations.

A. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within 60 days by filing with the Zoning/Building Administrator, and with the Board a notice of appeal specifying the grounds thereof. The Zoning/Building Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.

B. The Board shall fix a reasonable time for the hearing of the appeal, and give not less than seven (7) days or more than twenty (20) days' public notice in a paper of general circulation in the City, and decide the same within thirty (30) days. At said hearing, any party may appear in person, by agent or by attorney.

C. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning/Building Administrator from whom the appeal is taken certifies to the Board of Adjustment after the Notice of Appeal is filed with the Administrator, that by reason of facts stated in the certificate, a stay would, in the Administrator's opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning/Building Administrator from whom the appeal is taken and on due cause shown.

2. The Board shall hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of these regulations; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under these regulations, or to deny special exceptions when not in harmony with the purpose and intent of these regulations. A special exception shall not be granted by the Board of Adjustment unless and until:

- A. A written application for a special exception is submitted indicating the section of these zoning regulations under which the special exception is sought and stating the grounds on which it is requested.
 - B. The Board shall fix a reasonable time for the hearing of the special exception, and give not less than seven (7) days or more than twenty (20) days' public notice in a paper of general circulation in the City, and decide the same within thirty (30) days. At said hearing, any party may appear in person, by agent or by attorney.
 - C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
 - D. The Board of Adjustment shall make a finding that it is empowered under the section of these zoning regulations described in the application to grant the special exception, that the granting of the special exception will not adversely affect the public interest.
3. The Board shall authorize upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of these regulations would result in unnecessary hardship. A variance from these regulations shall not be granted by the Board of Adjustment unless and until:
- A. A written application for a variance is submitted demonstrating:
 - (1) Special conditions and circumstances exist which are peculiar to land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - (2) Literal interpretation of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.
 - (3) The special conditions and circumstances do not result from the actions of the applicant.
 - (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, structures, or buildings in the same district.

No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of land, structures, or buildings in other districts may be considered ground for the issuance of a variance.

- B. The Board shall fix a reasonable time for the hearing of the variance, and give not less than seven (7) or more than twenty (20) days' public notice in a paper of general circulation in the City, and decide the same within thirty (30) days. At said hearing, any party may appear in person, by agent, or by attorney.
- C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.
- D. The Board of Adjustment shall make findings that requirements of this section have been met by the applicant for a variance.
- E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable as provided herein. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved or any use expressly or by implication prohibited by such district regulations.

4. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning/Building Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations, or to effect any variation in the application of these regulations.

5. The Council may provide for its review of variances granted by the Board of Adjustment before their effective date. The Council may remand a decision to grant a variance to the Board of Adjustment for further study. The effective date of the variance is, in such case, delayed for 30 days from the date of the remand.

167.06 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or any board, taxpayer, department, board or bureau of the City, or other areas subject to these regulations aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 414, *Code of Iowa*.

167.07 DUTIES OF ZONING/BUILDING OFFICIAL, BOARD OF ADJUSTMENT, PLANNING AND ZONING COMMISSION, AND COURTS ON MATTERS OF APPEAL. All questions of interpretation and enforcement shall be first presented to the Zoning/Building Administrator, and such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning/Building Administrator, and recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Chapter 414, *Code of Iowa*.

167.08 AMENDMENTS. The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed, provided that at least seven (7) days' notice of the time and place of such hearing shall be published in a paper of general circulation in the City. In no case shall the notice be published more than twenty (20) days prior to the hearing. The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. Notwithstanding Section 414.2, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, a Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the City Clerk and signed by the owners of 20 percent or more of the area of the lots included in the proposed change or repeal, or by the owners of 20 percent or more of the property which is located within 200 feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths (3/4) of all the members of the Council. The protest, if filed, must be filed before or at the public hearing. Proposed amendments not recommended by the Planning and Zoning Commission shall become effective only upon a favorable vote of three-fourths (3/4) of the members of

the City Council. All zoning amendment application forms shall be approved by resolution of the City Council.

167.09 VIOLATIONS. Violation of the provisions of these regulations or with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) is a violation of this chapter. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other legal action as is necessary to prevent any violation.

167.10 SCHEDULE OF FEES, CHARGES, AND EXPENSES. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning district changes, zoning permits, appeals, and other matters pertaining to these zoning regulations. The schedule of fees shall be posted in the office of the Zoning/Building Administrator and the City Clerk, and may be altered or amended only by the City Council, as recommended by the Planning and Zoning Commission. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

167.11 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning/Building Administrator. The Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided herein.