

7. Buildings that are to be used for storage purposes only may exceed the maximum number of stories permitted in the district in which they are located but such buildings shall not exceed the number of feet of building height permitted in such districts.
8. Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period the work is under way, but such temporary buildings shall be removed upon the completion of the construction work, as determined by the Zoning Administrator.
9. More than one (1) industrial, commercial, multiple dwelling or institutional building may be erected upon a single lot or tract in a district permitting these uses, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such buildings nor shall there be any change in the intensity of use regulations.
10. A summer cottage may be located in the "A" Agricultural District or "F" Flood Plain District, provided that the yards and building height comply with the regulations for the "R-2" Residence District.
11. A lot or tract having less area or width than herein required, and of record, may be occupied by only one main building and accessory buildings of the use or uses permitted for that district in which such lot or tract is located. The side and rear yards may be reduced, provided a variation is obtained from the Board of Adjustment.
12. Unenclosed terraces, uncovered porches, platforms and ornamental features which do not extend more than three (3) feet above the floor level of the ground story may project into a required yard, provided these projections are distant at least two (2) feet from the adjacent side lot line.
13. In instances where buildings are erected containing two (2) or more uses housed vertically, the required side yards for the first floor use shall control.

ARTICLE XXI

ZONING ADMINISTRATION

A. POSITION CREATED:

There is hereby established the position of Zoning Administrator who shall be appointed by the Board of Supervisors. The Zoning Administrator shall administer and enforce the provisions of this Ordinance and shall have the following powers and duties in connection therewith:

1. He/she shall issue all permits and certificates required by this Ordinance.
2. If he/she shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance and the Board of Supervisors to insure compliance with or to prevent violation of its provisions.

B. ADHERE TO REGULATIONS:

All departments, officials and public employees of Mitchell County who are vested with the duty or authority to issue permits shall insure conformance to the provisions of this Ordinance and shall issue no permit for any use, building or purpose if the same would be in conflict with the provisions of this Ordinance.

C. DELEGATION OF DUTIES:

The Board of Supervisors may, by resolution, delegate the powers and duties of the office of Zoning Administrator to any other officer or employee of the County, or of any city, town or governmental subdivision within the County or may combine the powers and duties of this office with any other office or position.

ARTICLE XXII

ZONING AND OCCUPANCY CERTIFICATES

A. ZONING CERTIFICATE REQUIRED:

A Zoning Certificate shall be obtained from the Zoning Administrator before starting or proceeding with the erection, construction, moving in or the structural alteration of a building or structure, including billboards; except those exempted in Article III of this Ordinance.

B. OCCUPANCY OF CERTIFICATE REQUIRED:

An Occupancy Certificate shall be obtained from the Zoning Administrator before the use or occupancy of any building structure, mobile home or land, including billboards, may commence for any use; except those exempted by Article III of this Ordinance.

C. PROCEDURE FOR CERTIFICATES:

To secure a Zoning Certificate and an Occupancy Certificate, the applicant shall file with the Zoning Administrator a written application on forms approved by the Board of Adjustment and shall state the legal description of the property as of public record and the names of the owner and applicant. The applicant shall describe the uses to be established or expanded, the proposed cost of the erection, construction or structural alteration of the building or structure and any other alteration of the building or structure and any other information the Zoning Administrator deems essential for the enforcement of this Ordinance. Each application shall be accompanied by a dimensioned drawing in duplicate of the lot showing the location of buildings, dimensions of the lot and size of the lot to be built upon, shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started. Where public sanitary sewers are not available, the application shall include the approval of the Iowa State Department of Health as to plans and specifications of proposed private sanitary sewage disposal system when said facilities are of magnitude as to be subject to the State Department of Health requirements.

D. CONSTRUCTION NOTICE:

The applicant or his agent shall give the Zoning Administrator forty-eight (48) hours notice of beginning date of construction and the Zoning Administrator or his duly authorized representative shall have access to such premises from that time on, during construction, for any inspection he deems necessary.

E. ISSUANCE OF CERTIFICATES:

The Zoning Administrator shall issue, within seven (7) days of the completed application, a written Zoning Certificate or Occupancy Certificate or denial thereof with reasons in writing. Except where an extension of time has been obtained in writing from the Zoning Administrator, certificates hereafter issued shall expire if a substantial beginning has not been established within one (1) year. Nothing herein contained shall require any change in plans or construction of which is started before the effective date of this Ordinance and which is completed within one (1) year of the effective date of this Ordinance.

F. RECORDS:

All applications for Certificates, Permits and copies of those issued shall be systematically kept for ready public reference by the Zoning Administrator.

**ARTICLE XXIII
BOARD OF ADJUSTMENT**

A. CREATION AND MEMBERSHIP:

A Board of Adjustment is hereby established and shall consist of five (5) members appointed by the Mitchell County Board of Supervisors. The five (5) members first appointed shall serve terms of one (1), two (2), three (3), four (4), and five (5) years respectively. Thereafter, terms shall be five (5) years and vacancies shall be filled by the Board of Supervisors for the unexpired term of any member whose term becomes vacant. The Mitchell County Board of Supervisors shall have the power to remove any member of the Board of Adjustment for cause, upon written charges and after public hearing.

B. CHAIRPERSON AND MEETINGS:

The Board shall elect its own Chairman and one alternate, who shall serve one (1) year. All meetings of the Board shall be held at the call of the Chairperson and at such time and place within the County as the Board may determine. Such chairperson, or in his/her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

C. PROCEDURES:

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member on every question, or if absent or failing to vote, indicating such fact, and shall keep complete records of its examinations and other official actions. Every rule, regulation, every amendment, or appeal thereof, and every order, requirement, decision or determination of the Board of Adjustment shall be immediately filed in the office of the Zoning Administrator and shall be public record. The Board of Adjustment shall adopt its own rules of procedure not in conflict with this Ordinance, or with the Iowa Statutes. The Board of Adjustment shall not be compensated, except for necessary expenses.

D. APPEALS:

The Board of Adjustment shall hear and decide appeals from and review any order, requirements, decision, or determination made by the Zoning Administrator

of the enforcement of this Ordinance. Such appeal shall be taken within a period of not more than thirty (30) days, and in the manner prescribed by the Rules of the Board of Adjustment by filing with the Administrator and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. When notice of the appeal is filed, the Administrator shall transmit all of the records regarding the appeal to the chairperson of the Board of Adjustment, including a copy of the letter to an applicant who has been refused a zoning permit. The Board of Adjustment shall take action upon this appeal within thirty (30) days. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after notice of appeal shall have been filed, that by reason of the facts stated in the certificate, a stay would in the Zoning Administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by the Board or by a court of record on application, on notice to the Zoning Administrator and on due cause shown.

E. POWERS AND DUTIES:

The Board of Adjustment shall have the following powers and it shall be its duty:

1. To hear and decide appeals where it is alleged that there is error of law in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance.
2. To hear and decide upon applications for variations and, subject to such standards, principles and procedures provided in this Regulation, to vary the strict application of the height, area, parking or density requirements to the extent necessary to permit the applicant a reasonable use of the property in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances do not generally exist within the locality or neighborhood concerned. Special conditions shall include but not be limited to a property owner who can show that his/her property was acquired in good faith and where by reason of exceptional topographical conditions or other extraordinary or exceptional situations the strict application of the terms of this Ordinance actually prohibits the use of the property in the district. The special conditions and circumstances shall not result from the actions of the applicant. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication, prohibited by the terms of this Ordinance in said District.

3. Upon petition by a property owner to permit exceptions to the terms of this Ordinance as follows:
 - a. To permit the extension of a zoning district where the boundary lines of a district divides a lot in single ownership as shown of record or by existing contract or purchase at the time of the passage of this Ordinance, but in no case shall such extension of the district boundary line exceed fifty (50) feet in any direction.
 - b. To interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the plan as shown upon the zoning maps fixing the several districts accompanying and made a part of this Ordinance where the road layout actually on the ground varies from the road layout as shown on the zoning maps aforesaid.

ARTICLE XXIV
AMENDMENTS

A. PETITION FOR CHANGE IN ORDINANCE:

1. The Board of Supervisors may from time to time by its own action or on petition, after public notice and hearings as provided by law, and after report by the County Planning and Zoning Commission, amend, supplement or change the boundaries or regulations herein or subsequently established, and such amendment shall not become effective except by the favorable vote of a majority of all the members of the Board of Supervisors.
2. Prior to and in addition to above requirements, whenever any person, firm or corporation desires that any amendment or change be made in this ordinance as to any property in the County, there shall be presented to the County Planning and Zoning Commission a petition requesting such change or amendment signed by the owners of at least fifty (50) percent of the area of all the real estate for which rezoning is requested, the existing zoning classification and the requested zoning classification. Within thirty (30) days after the filing of such petition, the County Planning and Zoning Commission, acting as a Commission or acting through its Chairman, Vice-Chairman or other authorized agent, shall fix a time, date and place of hearing on said petition which date shall be no more than sixty (60) days after the filing of such petition. The petitioner for such change or amendment shall thereafter cause a notice of hearing to be published once in a

newspaper of general circulation published within the County at least fifteen (15) days before the date fixed for such hearing. Such notice shall be signed by the petitioner or petitioners.

B. PETITION DISAPPROVED:

In case the proposed amendment, supplement or change be disapproved by the County Planning and Zoning Commission, or a protest be presented duly signed by the owners of twenty (20) percent or more either of the area included in such proposed change, or of the area immediately adjacent thereto and within five hundred (500) feet of the boundaries thereof, such amendment shall not become effective except by the favorable vote of at least two-thirds of all the members of the Board of Supervisors. Whenever any petition for an amendment, supplement or change of the zoning or regulations herein contained or subsequently established shall have been denied by the Board of Supervisors, then no new petition covering the same property or the same property and no additional property shall be filed with or considered by the Board of Supervisors until six (6) months shall have elapsed from the date of the filing of the first petition.

C. SURETY PERIOD:

Unless any lot, tract or parcel of land hereafter zoned to a less restrictive classification as herein provided has been used or developed for such less restrictive classification within two (2) years from such rezoning or unless there exists an unexpired building permit for the development thereof at the end of such two (2) years the County Planning and Zoning Commission may, prior to the bona fide commencement of the use or development of said land in its less restrictive classification, after seven (7) days notice, in writing, to the then record owner of said land providing a reasonable opportunity to be heard, initiate and recommend to the Board of Supervisors that said land be rezoned to its zoning classification as established at the date of the passage of this Ordinance.

ARTICLE XXV

VIOLATION AND PENALTY

1. It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building, structure or land in violation of any regulation in or any provisions of this Ordinance or of any amendment or supplement thereto, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred (100) dollars or by imprisonment of not more than thirty (30) days. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement,

change, maintenance or use continues may be deemed a separate offense.

2. In case any building or structure is, or is proposed to be, located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be, used in violation of this Ordinance or any amendment or supplement thereto, said Board of Adjustment, the County Attorney of Mitchell County, said County Zoning Administrator or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

ARTICLE XXVI

VALIDITY

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared by a court to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE XXVII

EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after December 18, 1980.

Adopted this 3rd day of November, 1980.

MITCHELL COUNTY BOARD OF SUPERVISORS

by Gene Gerlach, Chairman

ATTEST:

Dorothy Kindschuh
Mitchell County Auditor

By action of the Board of Supervisors of Mitchell County, Iowa, the following fee of \$10.00 shall be charged for Zoning and Occupancy permits.

The fees involved in petitions for rezoning, amendments to the Zoning Ordinance, and appeals to the Board of Adjustment are \$25.00. All fees are payable to the Treasurer of Mitchell County.

Revision made in minutes of October 14, 1985.