

***COUNTY ZONING  
ADMINISTRATOR***

OVERMAN'S  
RECORDS

## COUNTY ZONING ADMINISTRATOR

**1.28 ADMINISTRATION AND ENFORCEMENT.** A County Zoning Administrator designated by the Board of Supervisors shall administer and enforce these regulations. The Zoning Administrator may be provided with the assistance of such other persons as the Board of Supervisors may direct.

**1.29 ZONING CERTIFICATES REQUIRED.** No building, billboard or other structure or portion thereof (except as exempted by Section 1.04), shall be erected, moved, demolished, or added to, without a Zoning Certificate therefor issued by the County Zoning Administrator. No Zoning Certificate shall be issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Adjustment. Fees for Zoning Certificates shall be as provided by Board of Supervisors' resolution. Zoning Certificates shall be applied for with the County Zoning Administrator and shall expire two (2) years after the date of issuance if work is begun within one hundred eighty (180) days of issuance or after one hundred eighty (180) days if no substantial beginning of construction has occurred. Extensions of time may be granted in writing by the County Zoning Administrator for good cause.

**1.30 ZONING COMMISSION.** In order to avail itself of the powers conferred by this Ordinance, the Board of Supervisors shall provide for a Zoning Commission. Such Commission shall, with due diligence, prepare reports and hold public hearings on issues under this Ordinance and such Board of Supervisors shall not hold or take action until it has received the report or reports of such Commission. If no report is received by the Board of Supervisors within sixty (60) days from when the Commission hears or meets on the issue, request, or change, the Board shall presume the Commission does not object to the said request or change.



**BOARD OF ADJUSTMENT**



## **BOARD OF ADJUSTMENT**

### **1.31 BOARD OF ADJUSTMENT; ESTABLISHMENT AND PROCEDURE.**

1. Board Created. A Board of Adjustment is hereby established which shall consist of five (5) members. The term of office of the members shall be five (5) years. Terms shall be staggered so that one (1) member is appointed each year. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

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 this Ordinance. Meetings shall be held at the call of the Chairperson and at such other time as the Board may determine. The Chairperson or, in that person'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. 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 receiving sufficient confirmation of the same. A copy of said action shall also be filed in the office of the County Zoning Administrator.

**1.32 BOARD OF ADJUSTMENT; POWERS AND DUTIES.** The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the County Zoning Administrator in the enforcement of these regulations.

A. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of Mitchell County affected by any decision of the administrative officer. Such appeal shall be taken within ten (10) days by filing with the County Zoning Administrator, and with the Board a notice of appeal specifying the grounds thereof. The County Zoning 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 four (4) days nor more than twenty (20) days public notice in a paper of general circulation in the County thereof, and decide the same within thirty (30) days. At said hearing, any party may appear in person, by agent or by attorney. All publication costs relative to said notice shall be paid by the person requesting the appeal.

C. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the County Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment after the Notice of Appeal is filed with the Zoning Administrator, that by reason of facts stated in the certificate, a stay would, in the Zoning 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 Administrator from whom the appeal is taken and on due cause shown.

2. Special Exceptions: Conditions Governing Applications; Procedures. To 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 this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance. 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 this Ordinance 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 four (4) days nor more than twenty (20) days public notice in a paper of general circulation in the County thereof, and decide the same within thirty (30) days. All publication costs relative to said notice shall be paid by the person requesting the special exception.

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 this Ordinance described in the application to grant the special exception, that the granting of the special exception will not adversely affect the public interest.

3. Variance, Conditions Governing Application; Procedures. To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

A. A written application for a variance is submitted demonstrating:

(1) That 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) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

(3) That the special conditions and circumstances do not result from the actions of the applicant;

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance 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 grounds 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 four (4) days nor more than twenty (20) days public notice in a paper of general circulation in the County thereof, and decide the same within thirty (30) days. All publication costs relative to said notice shall be paid by the person requesting the variance.

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 paragraph 3(A) of this section have been met by the applicant for a variance.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. 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 under this Ordinance. The variance shall become effective upon receiving in the office of the County Recorder and the copy submitted to the County Zoning Administrator. These recording costs shall be paid for by the applicant.

Under no circumstances shall the Board of Adjustment 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.

E. The concurring vote of the majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the County Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

**1.33 APPEALS FROM THE BOARD OF ADJUSTMENT.** Any person or persons, or any board, taxpayer, department, board or bureau of the County, or other areas subject to this Ordinance 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 335, Code of Iowa.



## ADMINISTRATION

**1.34 ADMINISTRATION.** All questions of interpretation and enforcement presented to the County Zoning Administrator, or that person's assistant, and presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator. Recourse from the decisions of the Board of Adjustment is provided by law and particularly by Chapter 335, Code of Iowa.

**1.35 AMENDMENTS.** The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. Notwithstanding Section 335.4, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the Board of Supervisors 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 the change which is filed with the County Zoning Administrator and signed by the owners of twenty (20) percent or more either of the area included in the proposed change, or of the area immediately adjacent to the proposed change and within five hundred (500) feet of the exterior boundaries of the property for which the change is proposed, the amendment shall not become effective except by the favorable vote of at least sixty (60) percent of all of the members of the Board of Supervisors. The protest, if filed, must be filed before or at the public hearing.

Proposed amendments not recommended by the Zoning Commission shall become effective only upon a favorable vote of sixty (60) percent of the members of the Board of Supervisors.

**1.36 PETITION FOR CHANGE IN ORDINANCE.** 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 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.

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 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 Zoning Commission, acting as a Commission or acting through its Chairperson, Vice-Chairperson 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 seven (7) days before the date fixed for such hearing. Such notice shall be signed by the petitioner or petitioners.

**1.37 PENALTIES FOR VIOLATION.** Violation of the provisions of this Ordinance with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one hundred dollars (\$100.00) or be imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the County from taking such other legal action as is necessary to prevent any violation.

**1.38 SCHEDULE OF FEES, CHARGES, AND EXPENSES.** The Board of Supervisors shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning district changes, Zoning Certificates, appeals, and other matters pertaining to this Ordinance. The schedule of fees may be altered or amended only by the Board of Supervisors, as recommended by the Zoning Commission. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

**1.39 COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this Ordinance 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 County Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.







