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May 21, 2025

Lori Roling, Zoning Administrator
Jackson County Zoning Department
201 West Platt Street
Maquoketa, IA 52060

RE: Zoning Ordinance Update – **REVISED Draft of Chapter 3. Admin & Enforcement (05-21-25)**

Dear Lori,

Attached is information regarding the REVISED draft of Chapter 3. Administration and Enforcement (05-21-25) as approved by the Zoning Commission at their May 19, 2025 meeting and for review and approval the Board of Adjustment at their May 27, 2025 meeting.

Discussion

Chapter 3 becomes Administration and Enforcement. Changes are minor, primarily for renumbering sections. The attached REDLINE version outlines the proposed changes, and the CLEAN version shows the resulting restructure. Major updates are:

- *NEW: Section 3.3 General Procedures* establish the methods for preapplication conference, application and fee, and approval and referral of zoning applications.
- *NEW: Section 3.10 Administrative Waiver* gives the Zoning Administrator the power to modify setback requirements that meet certain criteria, thus reducing the case load for the Board of Adjustment and fostering property improvements.
- *NEW: Section 3.11 Temporary Use Permits* gives the Zoning Administrator the power to approve these temporary uses, thus reducing the case load for the Board of Adjustment.

Recommendation

The Board of Adjustment is asked to review the REVISED draft of Chapter 3. Administration and Enforcement (05-21-25), and then to provide direction to staff by consensus.

Please let me know if you have any questions. Thank you.

Sincerely,

A handwritten signature in cursive script, reading "Laura Carstens".

Laura Carstens
Senior Planner

Attachments

CHAPTER ~~23~~. ADMINISTRATION ~~AND ENFORCEMENT~~

32.1 Administration and Enforcement. In accordance with Iowa Code 335.9, a Zoning Administrator ~~shall be~~ designated by the Board of Supervisors ~~shall to~~ administer and enforce this Ordinance. The Zoning Administrator may be provided with the assistance of such other persons as the Board of Supervisors may direct.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

32.2 Appeals from Decision of Administrator. Appeals from any decision of the Zoning Administrator may be taken to the Board of Adjustment as provided in Section ~~2.13~~ 4.6.

23.3 Interpretation of Provisions. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion and protection of the public health, safety, morals and general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive, or that imposing the higher standards, shall govern. **General Procedures.** The General Procedures provisions in this Subsection establish the methods for review and approval of required applications in this Ordinance. Except where this Ordinance, Iowa Code, or Federal law provides otherwise, the following procedures are required:

A. Preapplication Conference. Potential applicants are required to contact the Zoning Administrator prior to submittal of an application to discuss the proposal. The Zoning Administrator shall inform the applicant of the details of the application process.

B. Application and Fee. An application and fee shall be submitted on a form provided by the Zoning Administrator. Application forms shall include the specific information that is required to process each type of application, except where this Section describes otherwise. The Zoning Administrator may establish submittal requirements to tailor the requirements to the information necessary to review a particular application.

The signature of the applicant on the Zoning Permit application shall certify that the ~~now~~ proposal ~~construction and use will~~ comply with all provisions of this Ordinance and other County development ordinances as stated in Section ~~1-8-8~~ 2.9 of this Ordinance, and no subsequent modifications shall be made to the occupancy, use, method or operation that would be in violation of this Ordinance or other applicable development ordinances of Jackson County.

Commented [LC1]: Duplicate. This section is already covered in Section 1.6 Minimum Requirements Interpretation.

C. Zoning Administrator Approval and Referral.

1. The Zoning Administrator may review and approve any zoning application in this Ordinance that does not require review and approval by the Zoning Commission, Board of Adjustment, Board of Supervisors, other County Department(s), or other agencies.
2. When a zoning application in this Ordinance requires review and approval by other County Department(s) or other agency, the Zoning Administrator shall refer the application for action to the other County Department(s) or other agencies. The Zoning Administrator shall not approve the zoning application until review and approval by other County Department(s) or other agencies is completed.
3. The Zoning Administrator may refer any zoning application in this Ordinance for review and approval of the Zoning Commission, Board of Adjustment, or Board of Supervisors, subject to the General Procedures in this Section and any other procedures in this Ordinance, when an application presents such scale, intensity or interpretation that warrants additional public review, professional input, or Board of Supervisors authority. The Zoning Administrator shall not approve the zoning application until review and approval by the Zoning Commission, Board of Adjustment, or Board of Supervisors is completed.
4. When a zoning application in this Ordinance requires review and approval by the Zoning Commission, Board of Adjustment, or Board of Supervisors, the Zoning Administrator shall refer the application for action at their next scheduled meeting provided the application is submitted by the application deadline for their next scheduled meeting, unless the applicant shall agree to some other time. The Zoning Administrator shall not approve the zoning application until review and approval by the Zoning Commission, Board of Adjustment, or Board of Supervisors is completed.

32.4 Violation and Penalties. In accordance with Iowa Code Chapter 331.307, "County Infractions," any person, firm or corporation who shall violate or fail to comply with the provisions of this Ordinance shall be guilty of a civil infraction and upon conviction shall be fined not more than seven hundred and fifty (\$750.00) dollars on the first offense. On repeated offenses, upon conviction, the fine shall not be more than one-thousand (\$1,000.00) dollars. Each day such violations continue shall constitute a separate offense.

23.5 Separate Offenses May Be Charged. The owners or tenant of any building, structure, land or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.

32.6 Injunction, Mandamus. Nothing herein contained shall prevent the County from taking other lawful action as is necessary to prevent or remedy any violation.

32.7 Zoning Permit Required. A Zoning Permit shall be obtained from the Zoning Administrator before any building or structure shall be erected, reconstructed or structurally altered to increase the exterior dimensions, height floor area, number of dwellings units or to accommodate a change in use of the building and/or premises or part thereof.

A. ~~1-~~**Construction Compliance Certificate.** Subsequent to the adoption of this Ordinance, a Construction Compliance Certificate shall be obtained from the Zoning Administrator before any building or structure shall be erected, reconstructed or structurally altered to increase the exterior dimensions, height, floor area, number of dwellings units or to accommodate a change in use of the building and/or premises or part thereof. The Construction Compliance Certificate shall state that the proposed construction complies with all provisions of this Ordinance and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this Ordinance.

B. ~~2-~~**Occupancy Compliance Certificate.** Subsequent to the effective date of this Ordinance, no change in the use or occupancy of land nor any change in use or occupancy of an existing building, other than for single family dwelling purposes shall be made, nor shall any new building be occupied for any purpose other than single-family dwelling until an Occupancy Compliance Certificate has been issued by the Zoning Administrator. Every Occupancy Compliance Certificate shall state that the new occupancy complies with all provisions of this Ordinance and no subsequent modifications shall be made to the occupancy, use or method of operation that would be in violation of this Ordinance.

32.8 Zoning Permit Not Required. A Zoning Permit shall not be required for any maintenance item such as a new roof, windows, siding, doors, and other repair items which do not enlarge the structure or change the use. A Zoning Permit shall not be required for the construction, reconstruction, alteration, remodeling or expansion of buildings and uses customarily associated with the pursuit of agricultural enterprises in the County, including farm buildings, farm dwellings, farm fences, farm ponds, soil conservation or similar buildings and uses when so used in accordance with farm exemption per Section ~~1-6~~ 1.20 of this Ordinance.

32.9 Application For Zoning Permit. Applications for a Zoning Permit shall be made prior to beginning construction or assuming occupancy on a fully completed application form obtained from the Zoning Administrator, accompanied by the requisite fee and by such plans and information necessary to determine that the proposed construction or occupancy complies with all applicable provisions of this Ordinance. ~~The signature of the applicant on the Zoning Permit application shall certify that the new construction and use will comply with all provisions of this Ordinance and other County development ordinances as stated in Section 1-8.8 of this Ordinance, and no subsequent modifications shall be made to the occupancy, use, method of operation that would be in violation of this Ordinance or other applicable development ordinances of Jackson County.~~

The Zoning Administrator shall approve or deny said application. If denied, the Zoning Administrator shall submit the reasons thereof in writing to the applicant, said notice to be posted on the premises. This permit notice must be displayed near the front of the premises during construction.

The Zoning Permit approval shall be valid for construction begun one (1) year from the date of issuance and diligently continued. A zoning permit approval may be renewed for a period not exceeding one (1) year by the Zoning Administrator upon a showing of good cause, but may not be renewed more than one (1) time.

23.10 Administrative Waiver. The Zoning Administrator ~~Additionally, the Board of Adjustment~~ shall have the power to modify by Administrative Waiver ~~special exception~~ any quantitative setback requirements under the ~~same~~ conditions and using the ~~same~~ procedures as set out in this section for ~~listed special exception~~ allowed uses and structures, providing the modification is ~~less no more~~ than fifty (50%) percent of the requirement, or, providing in situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.

A. Application. An application for an Administrative Waiver shall be accompanied by the requisite fee and a site plan depicting the location of the requested setback waiver on the property and its distance to the front, side and rear property lines.

B. Criteria for Approval. The Zoning Administrator shall issue an Administrative Waiver only for such setback adjustments that meet the following criteria. No public hearing by the Board of Adjustment shall be required if the following criteria can be met. If these criteria are not met, then the applicant shall have the opportunity to apply to the Board of Adjustment for a Dimensional Variance, in which case the criteria for the Dimensional Variance, not the Administrative Waiver, shall apply.

1. The requested waiver is no more than fifty (50) percent of the required setbacks. For example, if the required setback is thirty (30) feet, the administrative waiver cannot exceed fifteen (15) feet. The Zoning Administrator may average the front and rear setbacks in accordance with Section ~~2.XX~~ of this Ordinance to determine the required setbacks.
2. The requested waiver does not contradict a required condition established by this Ordinance or the Board of Adjustment for a conditional use permit.
3. The requested waiver complies with Section **2.11 Nonconformities** of this Ordinance.
4. The requested waiver for an allowed principal or accessory structure is the same or greater than the setback(s) of the existing principal structure.

Commented [LC2]: This language was moved from Ch. 4 Board of Adjustment to create a new process for Administrative Waivers to be granted by the Zoning Administrator with reduced property owner notification for up to 50% of the quantitative requirements. The intent is to reduce the number of such special exception requests that now come to the BOA.

5. The requested waiver for reconstruction of an allowed addition or an accessory structure is no larger than the footprint of a previously existing addition or accessory structure that has been removed.
6. All abutting property owner(s) including property owner(s) directly across the road, agree to the requested waiver by signing and returning a waiver form supplied by the Zoning Administrator.

C. Contact with Abutting Property Owners.

1. The Zoning Administrator shall contact the list of abutting property owner(s) of record by mail correspondence and/or by electronic correspondence, including a transmittal letter, copies of the application form and site plan provided by the applicant, and the waiver form. If contacted via mail correspondence, a self- stamped, addressed envelope for return of the signed waiver form to the Zoning Administrator shall be included. Whether contacted by mail or electronic correspondence, the property owner(s) shall have the option to sign and return the waiver form electronically. Signed waiver forms shall be mailed or sent electronically within fifteen (15) days of receipt to the Zoning Administrator.
2. The applicant may contact the abutting owners and/or hold a meeting to explain their proposal.
3. Abutting property owners are not obligated to sign and return the waiver form or to agree with the applicant's proposal.
4. The Zoning Administrator shall deny an application for Administrative Waiver upon receipt of a report from any abutting property owner of the applicant's attempts to influence an abutting property owner's decision through such means as bribery, threats, or intimidation.

3.11 Temporary Use Permits. Within any zoning district, temporary uses shall be allowed only as listed as a temporary use within the zoning district in which the proposed temporary use is located. The Zoning Administrator shall issue a temporary use permit, provided that:

- A. The use is of a limited and temporary duration, and in no case, shall exceed six (6) months per calendar year unless the Zoning Administrator grants an extension upon showing of good cause. The Zoning Administrator may grant a maximum of two (2) ninety (90)-day extensions.
- B. The use will serve a public need or contribute to the public convenience and welfare.
- C. The use will not be likely to interfere with the appropriate use and enjoyment of nearby properties that may be affected by its operation.

Commented [LC3]: Mail correspondence refers to the exchange of messages between individuals or organizations through physical mail (letters, postcards, etc.)

Commented [LC4]: Electronic correspondence refers to the exchange of messages, information, and documents through electronic means, typically via email or other digital platforms.

3.12 Fees. The Zoning Administrator ~~is~~ directed to issue a Zoning Permit with a Construction Compliance Certificate and/or Occupancy Compliance Certificate as required by this Ordinance for proposed construction, reconstruction or alteration which complies with all provisions contained herein and to charge a fee as established by rule of the Jackson County Board of Supervisors for each Construction Compliance Certificate or Occupancy Compliance Certificate issued separately. Only one (1) fee shall be charged for a Construction Compliance Certificate and Occupancy Compliance Certificate issued jointly.

There shall be no fees charged to the United States Government, the State of Iowa or any political subdivision thereof.

All fees are required and shall be paid to the Zoning Administrator, who shall keep a complete and accurate record of fees received and shall forthwith deposit them to the credit of the general revenue fund of the county.

CHAPTER 3. ADMINISTRATION AND ENFORCEMENT

3.1 Administration and Enforcement. In accordance with Iowa Code 335.9, a Zoning Administrator shall be designated by the Board of Supervisors to administer and enforce this Ordinance. The Zoning Administrator may be provided with the assistance of such other persons as the Board of Supervisors may direct.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

3.2 Appeals from Decision of Administrator. Appeals from any decision of the Zoning Administrator may be taken to the Board of Adjustment as provided in Section 4.6.

3.3 General Procedures. The General Procedures provisions in this Subsection establish the methods for review and approval of required applications in this Ordinance. Except where this Ordinance, Iowa Code, or Federal law provides otherwise, the following procedures are required:

- A. Preapplication Conference.** Potential applicants are required to contact the Zoning Administrator prior to submittal of an application to discuss the proposal. The Zoning Administrator shall inform the applicant of the details of the application process.
- B. Application and Fee.** An application and fee shall be submitted on a form provided by the Zoning Administrator. Application forms shall include the specific information that is required to process each type of application, except where this Section describes otherwise. The Zoning Administrator may establish submittal requirements to tailor the requirements to the information necessary to review a particular application.

The signature of the applicant on the Zoning Permit application shall certify that the proposal will comply with all provisions of this Ordinance and other County development ordinances as stated in Section 2.9 of this Ordinance, and no subsequent modifications shall be made to the occupancy, use, method or operation that would be in violation of this Ordinance or other applicable development ordinances of Jackson County.

C. Zoning Administrator Approval and Referral.

1. The Zoning Administrator may review and approve any zoning application in this Ordinance that does not require review and approval by the Zoning Commission, Board of Adjustment, Board of Supervisors, other County Department(s), or other agencies.

2. When a zoning application in this Ordinance requires review and approval by other County Department(s) or other agency, the Zoning Administrator shall refer the application for action to the other County Department(s) or other agencies. The Zoning Administrator shall not approve the zoning application until review and approval by other County Department(s) or other agencies is completed.
3. The Zoning Administrator may refer any zoning application in this Ordinance for review and approval of the Zoning Commission, Board of Adjustment, or Board of Supervisors, subject to the General Procedures in this Section and any other procedures in this Ordinance, when an application presents such scale, intensity or interpretation that warrants additional public review, professional input, or Board of Supervisors authority. The Zoning Administrator shall not approve the zoning application until review and approval by the Zoning Commission, Board of Adjustment, or Board of Supervisors is completed.
4. When a zoning application in this Ordinance requires review and approval by the Zoning Commission, Board of Adjustment, or Board of Supervisors, the Zoning Administrator shall refer the application for action at their next scheduled meeting provided the application is submitted by the application deadline for their next scheduled meeting, unless the applicant shall agree to some other time. The Zoning Administrator shall not approve the zoning application until review and approval by the Zoning Commission, Board of Adjustment, or Board of Supervisors is completed.

3.4 Violation and Penalties. In accordance with Iowa Code Chapter 331.307, “County Infractions,” any person, firm or corporation who shall violate or fail to comply with the provisions of this Ordinance shall be guilty of a civil infraction and upon conviction shall be fined not more than seven hundred and fifty (\$750.00) dollars on the first offense. On repeated offenses, upon conviction, the fine shall not be more than one-thousand (\$1,000.00) dollars. Each day such violations continue shall constitute a separate offense.

3.5 Separate Offenses May Be Charged. The owners or tenant of any building, structure, land or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.

3.6 Injunction, Mandamus. Nothing herein contained shall prevent the County from taking other lawful action as is necessary to prevent or remedy any violation.

3.7 Zoning Permit Required. A Zoning Permit shall be obtained from the Zoning Administrator before any building or structure shall be erected, reconstructed or structurally altered to increase the exterior dimensions, height floor area, number of dwellings units or to accommodate a change in use of the building and/or premises or part thereof.

- A. Construction Compliance Certificate.** Subsequent to the adoption of this Ordinance, a Construction Compliance Certificate shall be obtained from the Zoning Administrator before any building or structure shall be erected, reconstructed or structurally altered to increase the exterior dimensions, height, floor area, number of dwellings units or to accommodate a change in use of the building and/or premises or part thereof. The Construction Compliance Certificate shall state that the proposed construction complies with all provisions of this Ordinance and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this Ordinance.
- B. Occupancy Compliance Certificate.** Subsequent to the effective date of this Ordinance, no change in the use or occupancy of land nor any change in use or occupancy of an existing building, other than for single family dwelling purposes shall be made, nor shall any new building be occupied for any purpose other than single-family dwelling until an Occupancy Compliance Certificate has been issued by the Zoning Administrator. Every Occupancy Compliance Certificate shall state that the new occupancy complies with all provisions of this Ordinance and no subsequent modifications shall be made to the occupancy, use or method of operation that would be in violation of this Ordinance.

3.8 Zoning Permit Not Required. A Zoning Permit shall not be required for any maintenance item such as a new roof, windows, siding, doors, and other repair items which do not enlarge the structure or change the use. A Zoning Permit shall not be required for the construction, reconstruction, alteration, remodeling or expansion of buildings and uses customarily associated with the pursuit of agricultural enterprises in the County, including farm buildings, farm dwellings, farm fences, farm ponds, soil conservation or similar buildings and uses when so used in accordance with farm exemption per Section 1.20 of this Ordinance.

3.9 Application For Zoning Permit. Applications for a Zoning Permit shall be made prior to beginning construction or assuming occupancy on a fully completed application form obtained from the Zoning Administrator, accompanied by the requisite fee and by such plans and information necessary to determine that the proposed construction or occupancy complies with all applicable provisions of this Ordinance.

The Zoning Administrator shall approve or deny said application. If denied, the Zoning Administrator shall submit the reasons thereof in writing to the applicant, said notice to be posted on the premises. This permit notice must be displayed near the front of the premises during construction.

The Zoning Permit approval shall be valid for construction begun one (1) year from the date of issuance and diligently continued. A zoning permit approval may be renewed for a period not exceeding one (1) year by the Zoning Administrator upon a showing of good cause, but may not be renewed more than one (1) time.

3.10 Administrative Waiver. The Zoning Administrator shall have the power to modify by Administrative Waiver any setback requirements under the conditions and using the

procedures as set out in this section for allowed uses and structures, providing the modification is no more than fifty (50%) percent of the requirement, or, providing in situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.

A. Application. An application for an Administrative Waiver shall be accompanied by the requisite fee and a site plan depicting the location of the requested setback waiver on the property and its distance to the front, side and rear property lines.

B. Criteria for Approval. The Zoning Administrator shall issue an Administrative Waiver only for such setback adjustments that meet the following criteria. No public hearing by the Board of Adjustment shall be required if the following criteria can be met. If these criteria are not met, then the applicant shall have the opportunity to apply to the Board of Adjustment for a Dimensional Variance, in which case the criteria for the Dimensional Variance, not the Administrative Waiver, shall apply.

1. The requested waiver is no more than fifty (50) percent of the required setbacks. For example, if the required setback is thirty (30) feet, the administrative waiver cannot exceed fifteen (15) feet. The Zoning Administrator may average the front and rear setbacks in accordance with Section 2.XX of this Ordinance to determine the required setbacks.
2. The requested waiver does not contradict a required condition established by this Ordinance or the Board of Adjustment for a conditional use permit.
3. The requested waiver complies with Section 2.11 Nonconformities of this Ordinance.
4. The requested waiver for an allowed principal or accessory structure is the same or greater than the setback(s) of the existing principal structure.
5. The requested waiver for reconstruction of an allowed addition or an accessory structure is no larger than the footprint of a previously existing addition or accessory structure that has been removed.
6. All abutting property owner(s) including property owner(s) directly across the road, agree to the requested waiver by signing and returning a waiver form supplied by the Zoning Administrator.

C. Contact with Abutting Property Owners.

1. The Zoning Administrator shall contact the list of abutting property owner(s) of record by mail correspondence and/or by electronic correspondence, including a transmittal letter, copies of the application form and site plan provided by the applicant, and the waiver form. If contacted via mail correspondence, a self- stamped, addressed envelope

for return of the signed waiver form to the Zoning Administrator shall be included. Whether contacted by mail or electronic correspondence, the property owner(s) shall have the option to sign and return the waiver form electronically. Signed waiver forms shall be mailed or sent electronically within fifteen (15) days of receipt to the Zoning Administrator.

2. The applicant may contact the abutting owners and/or hold a meeting to explain their proposal.
3. Abutting property owners are not obligated to sign and return the waiver form or to agree with the applicant's proposal.
4. The Zoning Administrator shall deny an application for Administrative Waiver upon receipt of a report from any abutting property owner of the applicant's attempts to influence an abutting property owner's decision through such means as bribery, threats, or intimidation.

3.11 Temporary Use Permits. Within any zoning district, temporary uses shall be allowed only as listed as a temporary use within the zoning district in which the proposed temporary use is located. The Zoning Administrator shall issue a temporary use permit, provided that:

- A. The use is of a limited and temporary duration, and in no case, shall exceed six (6) months per calendar year unless the Zoning Administrator grants an extension upon showing of good cause. The Zoning Administrator may grant a maximum of two (2) ninety (90)-day extensions.
- B. The use will serve a public need or contribute to the public convenience and welfare.
- C. The use will not be likely to interfere with the appropriate use and enjoyment of nearby properties that may be affected by its operation.

3.12 Fees. The Zoning Administrator is directed to issue a Zoning Permit with a Construction Compliance Certificate and/or Occupancy Compliance Certificate as required by this Ordinance for proposed construction, reconstruction or alteration which complies with all provisions contained herein and to charge a fee as established by rule of the Jackson County Board of Supervisors for each Construction Compliance Certificate or Occupancy Compliance Certificate issued separately. Only one (1) fee shall be charged for a Construction Compliance Certificate and Occupancy Compliance Certificate issued jointly.

There shall be no fees charged to the United States Government, the State of Iowa or any political subdivision thereof.

All fees are required and shall be paid to the Zoning Administrator, who shall keep a complete and accurate record of fees received and shall forthwith deposit them to the credit of the general revenue fund of the county.



May 12, 2025

Lori Roling, Zoning Administrator
Jackson County Zoning Department
201 West Platt Street
Maquoketa, IA 52060

RE: Zoning Ordinance Update – **REVISED Draft of Chapter 4. Board of Adjustment (05-12-25)**

Dear Lori,

Attached is information regarding the REVISED draft of Chapter 4. Board of Adjustment (05-12-25) for review and approval by the Zoning Commission at their May 19, 2025 meeting and the Board of Adjustment at their May 27, 2025 meeting.

Discussion

The Board of Adjustment is given a separate Chapter 4 with its current regulations in black text and additional regulations taken from Iowa Code. The attached REDLINE version outlines the proposed changes in red text with commentary. The green text is existing language that has been moved. The CLEAN version shows the resulting restructure. Recommended reorganization is discussed below. Major updates proposed are as follows:

- *UPDATED: Section 4.3* includes a new power for dimensional variances under Iowa Code.
- *UPDATED: Section 4.4 Appeals* has several sections moved to here and expanded procedures.
- *NEW: Section 4.5 Conditional Use Permits.* Special Exception Uses and Structures are proposed to be renamed to Conditional Use Permit to reflect that they are allowed only after meeting required conditions in the Ordinance and any additional conditions set by the BOA. This new terminology is found in many updated city and county zoning ordinances in Iowa.
- *NEW: Section 4.6 Dimensional Variances.* With adoption of House File 652 on April 25, 2025, Iowa Code establishes new powers for the Board related to dimensional variances from the area, dimensional, and other numerical limitations based on a test of “practical difficulty”.
- *UPDATED: Section 4-7 Variances* is intended to cover any variance from non-quantitative requirements, which are not covered by the new Dimensional Variances, and therefore is subject to the test for “unnecessary hardship.” Staff is not sure what these requirements may be, but we want to have everything covered in this update.

Under Iowa Code Section 335.15, the Board can grant a variance from the Ordinance that:

Dubuque Metropolitan Area Transportation Study	Eastern Iowa Development Corporation	
Eastern Iowa Regional Utility Services System	Eastern Iowa Regional Housing Authority	ECIA Business Growth, Inc.
Region 1 Employment and Training	ECIA Regional Planning Affiliation	Region 8 Regional Transit Authority

| 7600 Commerce Park, Dubuque, IA 52002 | www.ecia.org | ecia@ecia.org |
| 563.556.4166 | Iowa only: 800.942.4648 | Relay Iowa 800.735.2943 | f: 563.556.0348 |

- will not be contrary to the public interest,
- where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and
- so that the spirit of the ordinance shall be observed and substantial justice done.

The test in the Iowa Courts for “unnecessary hardship” has three parts that all must be met:

1. The land in question cannot yield a reasonable return if used only for a purpose allowed in the zoning district,
2. The plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood, and
3. Will not alter the essential character of the locality.

A key problem: Very few cases can meet the first part of the test -- inability to make any reasonable use of the land or failure of the land as zoned to produce a reasonable return. The dimensional variance will make approval of these types of variances easier.

- *NEW: Administrative Waiver.* Staff recommends that the current Ordinance language below is moved to Chapter 3. Administration and Enforcement. Our intent is to create a new process for Administrative Waivers for setbacks up to 50% to be granted by the Zoning Administrator with reduced property owner notification. This waiver will reduce the number of setback requests that now come to the Board of Adjustment.

“Additionally, the Board of Adjustment shall have the power to modify by special exception any quantitative requirements under the same conditions and using the same procedures as set out in this section for listed special exception uses, providing the modification is less than fifty percent of the requirement...”

Recommendation

The Zoning Commission and the Board of Adjustment are asked to review the REVISED draft of Chapter 4. Board of Adjustment (05-12-25), and then to provide direction to staff for moving forward with the proposal. Please let me know if you have any questions. Thank you.

Sincerely,



Laura Carstens
Senior Planner

Attachments

CHAPTER 4. BOARD OF ADJUSTMENT

2-114.1 Board of Adjustment Created. ~~In accordance with Iowa Code Section 335.10, a~~ Board of Adjustment is hereby established ~~by the Jackson County Board of Supervisors.~~ The Board shall consist of five (5) members to be appointed by the Board of Supervisors for a term of five (5) years, except that when the Board ~~of Adjustment~~ shall first be created one (1) member shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three ~~93(3)~~ years, one for a term of two (2) years and one for a term of one (1) year. Members of the Board of Adjustment may be removed from office by the Board of Supervisors for cause upon written charges and after public hearing. Vacancies shall be filled by the Board of Supervisors for the unexpired term of the member.

Commented [LC1]: Text in black is current ordinance.
Text in red is proposed language.

2-124.2 Proceedings ~~o~~Of ~~t~~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 ~~O~~rdinance. Meetings shall be held at the call of the chair~~person~~ and at such other times as the Board may determine. The chair~~person~~, or in the absence of the chair~~person~~, the acting chair~~person~~, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall 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 a public record and be immediately filed in the office of the Board.

~~**2-13 Hearings, Appeals, Notice.** Appeals to the Board of Adjustment concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the County affected by any decision of the Administrator. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days or such lesser period as may be provided by the rules of the Board, by filing with the Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.~~

Commented [LC2]: Text in green is current language that has been moved.

~~The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or attorney.~~

~~A fee as established by rule of the Jackson County Board of Supervisors shall be paid to the Administrator at the time the notice of appeal is filed which the Administrator shall forthwith pay over to the credit of the general fund of the County.~~

~~**2-14 Stay Of Proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the 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 and notice to the Administrator from whom the appeal is taken and on due cause shown.~~

2-154.3 The Board of Adjustment: Powers and Duties: The Board of Adjustment shall have the following powers and duties:

A. In accordance with Iowa Code Section 335.15:

1. ~~Administrative Review Appeals.~~ To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or an administrative official in the enforcement of this Ordinance or of any ordinance adopted pursuant thereto.
2. ~~Special Exception Conditional Use Permits: Conditions Governing Applications: Procedures.~~ To hear and decide ~~only such~~ special exceptions to the terms of the Ordinance upon which the Board of Adjustment is required to pass under this Ordinance by granting conditional use permits. ~~as to~~ The Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional use permits special exceptions should be granted; and to grant conditional use permits special exceptions with such conditions and safeguards as are appropriate under this Ordinance and to deny conditional use permits special exceptions when not in harmony with the purpose and intent of this Ordinance.
3. Dimensional Variances. ~~To authorize on appeal, in specific cases, such variance from the terms of the Ordinance with respect to the quantitative requirements for area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the Zoning Ordinance, and so that the spirit of the Ordinance shall be observed and substantial justice done. Such variance from quantitative requirements of this Ordinance shall require a dimensional variance to be granted by the Board of Adjustment. Additionally, the Board of Adjustment shall have the power to modify by special exception any quantitative requirements under the same conditions and using the same procedures as set out in this section for listed special exception uses, providing the modification is less than fifty percent of the requirement, or, providing~~ in situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.

Commented [LC3]: Additional language is from Iowa Code 335.15 Powers of Board.

Commented [LC4]: Proposed to be renamed to Conditional Use Permit to reflect that these uses are allowed only after meeting required conditions in the Zoning Ordinance and any additional conditions set by the BOA. This new terminology is found in many updated city and county zoning ordinances in Iowa.

Commented [LC5]: Additional language is from Iowa Code 335.15 Powers of Board.

Commented [LC6]: These new regulations are intended to comply with House File 652 adopted on 4-25-25 that establish new powers for the Board of Adjustment for Dimensional Variances.

Commented [LC7]: This language is proposed to be moved to Chapter 3. Administration and Enforcement to create a new process for Administrative Waivers to be granted by the Zoning Administrator with reduced property owner notification for up to 50% of the quantitative requirements. The intent is to reduce the number of requests that now come to the BOA.

~~4.3. —~~Variances: Conditions Governing Applications: Procedures. To authorize upon appeal in specific cases such variance from non-quantitative requirements under the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

B. In accordance with the Jackson County Code of Ordinances:

1. Title III Business and Occupations, Chapter 3. Alcohol Licenses Regulations, Section 3-3-2 Restrictions.
2. Title IV Property and Land Use, Chapter 2. Flood Plain Management, Section 6-2-9 Appointment and Duties of Board of Adjustment.
3. Title IV Property and Land Use, Chapter 3. Airport Tall Structure Zoning Ordinance, Section 6-3-5 Variances.

~~2.134.4~~ Hearings: Appeals: Notice. Appeals to the Board of Adjustment of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the County affected by any decision of the Administrator.

~~2.14—~~A. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the 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 and notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

B. Procedures. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) sixty (60) days or such lesser period as may be provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or appear virtually, or represented by agent or attorney.

1. A written application indicating the administrative decision or the section of this Ordinance being appealed.

2. A fee as ~~(established by rule of the Jackson County Board of Supervisors)~~ shall be paid to the Zoning Administrator at the time the notice of appeal is filed which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.

4.3. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney. A complete record of the hearing shall contain the following:

- a. The original application.
- b. The records of any action on the appeal by an administrative official.
- c. Proof of notice sent at least ten (10) and no more than twenty (20) days prior to the hearing date to the applicant by mail for the purpose of a courtesy notice of the hearing.
- d. All relevant information, including but not limited to, maps, drawings, and/or photographs.
- e. Minutes of the public hearing.

C. Final Decision. The final decision shall include the findings of fact and the conclusions reached by the Board of Adjustment. The decision must be in writing and include all conditions that may be associated with the decision. The decision should not be a mere conclusion or statement. Each decision shall be accompanied by specific findings of fact related to the specific appeal.

4.5 Conditional Use Permits. Any person may submit to the Board of Adjustment an application requesting a conditional use permit in accordance with the regulations of this Ordinance.

~~a. In granting any special exception, 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 special exception is granted, shall be deemed a violation of this ordinance and punishable under Section 2.4 of this ordinance. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.~~

A. Procedures.—~~b. A conditional use permit special exception~~ shall not be granted by the Board of Adjustment unless and until:

1. A written application for a conditional use permit ~~special exception~~ is submitted indicating the section of this Ordinance under which the conditional use permit ~~special exception~~ is sought and stating the grounds on which it is requested.

~~1-2.~~ A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.

3. Notice shall be given at least ten (10) but no more than twenty (20) days in advance of the public hearing by publication in a newspaper of general circulation in the ~~country~~county and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the conditional use permit is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.

~~2-4.~~ The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney.

- B. ~~_____c.~~**Standards for Review.** In reviewing an application for a conditional use permit~~a special exception~~, the Board of Adjustment shall consider the following:

1. The Jackson County Land Use Policy Statement and the Comprehensive Plan~~;~~
2. Other policy statements adopted by the Board of Supervisors including Resolution #184-12-07-99 addressing the preservation of ancient burial mounds~~;~~
3. The purpose and intent of the Ordinance and of its specific districts~~;~~
4. The most appropriate use of the land~~;~~
5. The conservation and stabilization of property values~~;~~
6. Adequate open spaces for light and air~~;~~
7. Concentration of population~~;~~
8. Congestion of public streets~~;~~
9. The promotion of the public safety, health, convenience and comfort~~;~~
10. The general welfare of the persons residing or working in the general area.

- C. ~~_____d.~~**Findings.** Before any conditional use permit~~special exception~~ is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The Board of Adjustment is empowered under the section of this Ordinance described in the application to grant the conditional use permit special exception.
2. It complies with any specific regulations governing individual conditional use permit special exceptions.
3. Satisfactory provision has been made concerning the following, where applicable:
 - a. Vehicular access to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - b. Off-street parking, loading and service areas where required.
 - c. Economic, noise, dust, heat, glare or odor effects of the conditional use permit special exception on surrounding properties.
 - d. Utilities, with reference to locations, availability, adequacy and compatibility.
 - e. Screens and buffers with reference to type, dimensions, character and adequacy.
 - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with surrounding properties.
 - g. Required yards setbacks and other open spaces.
 - h. General compatibility with surrounding properties.
4. It is in harmony with the Land Use Policy Statement and the Comprehensive Plan.
5. It will not adversely affect the public interest.

C. ~~a.~~ Conditions.

- a. In granting any conditional use permit special exception, the Board of Adjustment of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
- b. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use permit special exception is granted, shall be deemed a violation of this Ordinance and punishable under Section 2-43.4 of this Ordinance.
- c. The Board of Adjustment shall may prescribe a time limit within which the action for which the conditional use permit special exception is required shall to be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the conditional use permit special exception.

~~3. Variances: Conditions Governing Applications: 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 the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.~~

4.6 Dimensional Variances. Any person may submit to the Board of Adjustment an application requesting a dimensional variance in accordance with the regulations of this Ordinance.

A. Procedures. A dimensional variance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a dimensional variance is submitted indicating the quantitative requirements of this Ordinance for which the dimensional variance is sought and stating the grounds on which it is requested.
2. A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.
3. Notice shall be given at least ten (10) but no more than twenty (20) days in advance of the public hearing by publication in a newspaper of general circulation in the county and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the dimensional variance is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.
4. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney.

B. Burden of Proof for Property Owner.

1. The Board of Adjustment has the power to authorize on appeal, in specific cases, such variance from the terms of the Ordinance with respect to the quantitative requirements for area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the Zoning Ordinance, and so that the spirit of the Ordinance shall be observed and substantial justice done.
2. Such variance from quantitative requirements of this Ordinance shall require a dimensional variance to be granted by the Board of Adjustment, providing in situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.

Commented [LC8]: Notification of property owners within 500 feet is not in the current ordinance but is current practice

Commented [LC9]: This new subsection reflects new Iowa Code (HF 652).

3. Area, dimensional, or other numerical limitations subject to a dimensional variance include but are not limited to requirements for minimum lot size, setbacks, yard widths, height, bulk, sidewalks, fencing, signage, and off-street parking.
4. To receive the requested dimensional variance from the terms of the Ordinance with respect to the quantitative requirements for area, dimensional, or other numerical limitations, the property owner must prove to the Board of Adjustment that the “practical difficulties” faced are unique to the property at issue and not self-created and must also demonstrate that granting the dimensional variance will not significantly alter the essential character of the surrounding neighborhood.

C. Standards for Review. In reviewing an application for a dimensional variance, the Board of Adjustment shall consider the following standards for review. No dimensional variance shall be granted unless the property owner shall show and the Board of Adjustment shall consider the following:

1. The Jackson County Land Use Policy Statement and the Comprehensive Plan.
2. Other policy statements adopted by the Board of Supervisors including Resolution #184-12-07-99 addressing the preservation of ancient burial mounds.
3. The purpose and intent of the Ordinance and of its specific districts.
4. The most appropriate use of the land.
5. The conservation and stabilization of property values.
6. Adequate open spaces for light and air.
7. Concentration of population.
8. Congestion of public streets.
9. The promotion of the public safety, health, convenience and comfort.
10. The general welfare of the persons residing or working in the general area.
11. In situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.

D. Findings. Before any dimensional variance is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The Board of Adjustment is empowered under this Ordinance to grant the dimensional variance.
2. It complies with any specific regulations governing an individual dimensional variance .
3. Satisfactory provision has been made concerning the following, where applicable:
 - a. Vehicular access to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - b. Off-street parking, loading and service areas where required.
 - c. Economic, noise, dust, heat, glare or odor effects of the dimensional variance on surrounding properties.
 - d. Utilities, with reference to locations, availability, adequacy and compatibility.
 - e. Screens and buffers with reference to type, dimensions, character and adequacy.
 - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with surrounding properties.
 - g. Required setbacks and other open spaces.
 - h. General compatibility with surrounding properties.
4. It is in harmony with the Land Use Policy Statement and the Comprehensive Plan.
5. It will not adversely affect the public interest.

D. Conditions.

1. In granting any dimensional variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
2. Violation of such conditions and safeguards, when made a part of the terms under which the dimensional variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 3.4 of this Ordinance.
3. Under no circumstances shall the Board of Adjustment grant a dimensional variance to allow a use or structure not allowed in the district involved or any use or structure expressly or by implication prohibited by the terms of this Ordinance in said district.
4. The effective date that a dimensional variance is granted shall be twenty-one (21) days from the date of granting, except that when a dimensional variance has been reaffirmed, with or without modification, after being remanded by the Board of Supervisors under the provisions of this Ordinance, the dimensional variance shall be effective immediately or as specified in the motion to reaffirm.

Commented [LC10]: The new Iowa Code refers to this BOA action as a variance, which by Iowa Code may be remanded to the Board of Supervisors.

4.7 Variances. Any person may submit to the Board of Adjustment an application requesting a variance from non-quantitative requirements in accordance with the regulations of this Ordinance.

A. Procedures. A variance the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted demonstrating:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - b. That literal interpretation of the provisions of this Ordinance would deprive the ~~applicant property owner~~ of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 - c. That the special conditions and circumstances do not result from the actions of the ~~applicant property owner~~.
 - d. That granting the variance requested will not confer on the ~~applicant property owner~~ 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, structure or buildings in other districts shall be considered grounds for the issuance of a variance.

2. A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.

3. Notice shall be given at least ten (10) but no more than twenty (20) days in advance of the public hearing by publication in a newspaper of general circulation in the county and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the variance is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.

~~2. Notice of public hearing shall be given as in Section 2.15.2(b) above.~~

~~3.4.~~ The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or by attorney.

B. Burden of Proof for Property Owner. To receive the requested variance from the terms of the Ordinance, the property owner must prove to the Board of Adjustment that the strict enforcement of the terms of this Ordinance will inflict an “unnecessary hardship” on the

Commented [LC11]: This revised variance section is intended to cover any variance from non-quantitative requirements, which are not covered by the new Iowa Code. Staff is not sure what these may be, but we want to have everything covered in this update.

Commented [LC12]: Notification of property owners within 500 feet is not in the current ordinance but is current practice

Commented [LC13]: This new subsection is comparable to new subsection 4.6.B above for dimensional variance s.

property owner and are not self-created and must also demonstrate that granting the variance will not significantly alter the essential character of the surrounding neighborhood.

C. Standards for Review. In reviewing an application for a variance, the Board of Adjustment shall consider the following standards for review. No variance shall be granted unless the property owner shall show and the Board of Adjustment shall find the following:

1. The Iowa courts have set out specific criteria that must be satisfied before the Board of Adjustment may find that an “unnecessary hardship” exists, sufficient to grant a property owner a variance. The property owner must satisfy all three (3) criteria listed below to be granted a variance:

- a. The land in question cannot yield reasonable return if used only for a purpose allowed in that zoning district,
- b. The plight of the property owner is due to unique circumstances and not to general conditions in neighborhood, and
- a-c. The use or structure to be authorized by a variance will not alter essential character of the locality.

1-2. The Iowa courts have established the following guidelines for assessing whether the above-listed criteria have been met:

- a. Failure to yield a “reasonable return” may be shown by proof that the property owner has been deprived of all beneficial use of the land. All beneficial use is said to have been lost where the land is not suitable for any use allowed by this Ordinance. It is not sufficient to show that the value of land merely has been depreciated by the zoning regulations, or that a variance would permit a property owner to maintain a more profitable use. It is not sufficient to show mere inconvenience to the applicant.
- b. Problems common to several properties do not constitute “unique circumstances.” The condition or situation is not of so general or recurring a nature as to make reasonably practical a general regulation to be adopted as an amendment of this Ordinance.
- c. This disadvantage of “unique circumstances” does not exist as a result of conditions created by the current owner or previous owners of the property.
- a-d. A variance that alters the “essential character of the area” is beyond the authority of the Board of Adjustment to grant. The Board of Adjustment cannot grant a variance for a change in use that, in effect, constitutes a rezoning or Ordinance amendment. Factors to consider in determining whether a variance will alter the “essential character of the neighborhood” include the degree of variation from district regulations, the size of the parcel, and the parcel’s size and character in relation to the size of the district.

3. In granting a variance, the Board of Adjustment shall not consider prospective financial loss or gain to the applicant.
4. Under no circumstances shall the Board of Adjustment grant a variance to allow a use or structure not allowed under the terms of the Ordinance regulations in the district involved, or any use or structure expressly or by implication prohibited by the terms of the regulations in said district.
4. No non-conforming use of neighboring lands, structures, or buildings in the same district and no allowed or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance.

D. Findings. Before any variance is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The Board of Adjustment is empowered under the section of this Ordinance described in the application to grant the variance.
- 1-2. The Board shall make findings that the requirements of Section 2-15.3(a) this Ordinance have been met by the applicant property owner for a variance.
- 2-3. 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.
- 3-4. 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 this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. Conditions.

1. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
2. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 2-43.4 of this Ordinance.
3. Under no circumstances shall the Board of Adjustment grant a variance to allow a use or structure not permitted-allowed in the district involved or any use or structure expressly or by implication prohibited by the terms of this Ordinance in said district.
- 1-4. The effective date of that a variance granted shall be twenty-one (21) days from the date of granting, except that when a variance has been reaffirmed, with or without

modification, after being remanded by the Board of Supervisors under the provisions of ~~Section 2.17 below~~this Ordinance, the variance shall be effective immediately or as specified in the motion to reaffirm.

~~2.164.8~~ **Decisions of the Board of Adjustment.** In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The concurring vote of a quorum of three (3) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the 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 application of this Ordinance.

~~2.174.9~~ **Remanding of Variances by the Board of Supervisors.** Under the authority of Iowa Code Section 335.10, the Board of Supervisors shall have the power to remand any dimensional variance or variance granted by the Board of Adjustment. Accordingly, the following provisions shall apply:

- A. ~~1.~~—A written report of all actions taken by the Board of Adjustment shall be provided promptly by its secretary to the applicant, the property owner, and to the Board of Supervisors, to include also the effective date of any variances granted.
- B. ~~2.~~—Upon considering the report of actions and any other information available, the Board of Supervisors may choose to remand any decision to grant a variance, so long as it acts by official motion and before the effective date of the variance. The remanding of a variance will automatically delay its effective date for thirty (30) days from the date of the remand, or until the Board of Adjustment has taken an official action on the remand, as required by subsection four (4) belowthis Ordinance, whichever comes first.
- C. ~~3.~~—Upon notice of such remand, the Board of Adjustment shall schedule a special public hearing, to occur before the new effective date of the variance, to hear any new testimony available on the matter. Notice of this hearing shall be provided in the customary manner and to the applicant, the property owner, and to all persons who commented on the request, either at the original hearing or in writing to the Board of Adjustment.
- D. ~~4.~~—Upon holding such special hearing, the Board of Adjustment shall make findings and take action to affirm its original decision, or to modify it by the placement of conditions on the variance, or by denying the variance.
- E. ~~5.~~—If the Board of Adjustment fails to act before the effective date of a variance, the variance stands and any further redress of grievances shall come from a court of record as noted below.

2-184.10 **Appeals from the Board of Adjustment:** Any person or persons or any board, taxpayer, department, board or bureau of the county 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 Iowa Code Chapter 358A, ~~Code of Iowa~~.

CHAPTER 4. BOARD OF ADJUSTMENT

4.1 Board of Adjustment Created. In accordance with Iowa Code Section 335.10, a Board of Adjustment is hereby established by the Jackson County Board of Supervisors. The Board shall consist of five (5) members to be appointed by the Board of Supervisors for a term of five (5) years, except that when the Board of Adjustment shall first be created one (1) member shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three (3) years, one for a term of two (2) years and one for a term of one (1) year. Members of the Board of Adjustment may be removed from office by the Board of Supervisors for cause upon written charges and after public hearing. Vacancies shall be filled by the Board of Supervisors for the unexpired term of the member.

4.2 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 chair and at such other times as the Board may determine. The chair, or in the absence of the chair, the acting chair, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall 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 a public record and be immediately filed in the office of the Board.

4.3 The Board of Adjustment: Powers and Duties: The Board of Adjustment shall have the following powers and duties:

A. In accordance with Iowa Code Section 335.15:

- 1. Appeals.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or an administrative official in the enforcement of this Ordinance or of any ordinance adopted pursuant thereto.
- 2. Conditional Use Permits.** To hear and decide special exceptions to the terms of the Ordinance upon which the Board of Adjustment is required to pass under this Ordinance by granting conditional use permits. The Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional use permits should be granted; and to grant conditional use permits with such conditions and safeguards as are appropriate under this Ordinance and to deny conditional use permits when not in harmony with the purpose and intent of this Ordinance.

3. **Dimensional Variances.** To authorize on appeal, in specific cases, such variance from the terms of the Ordinance with respect to the quantitative requirements for area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the Zoning Ordinance, and so that the spirit of the Ordinance shall be observed and substantial justice done. Such variance from quantitative requirements of this Ordinance shall require a dimensional variance to be granted by the Board of Adjustment, providing in situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.
4. **Variances.** To authorize upon appeal in specific cases such variance from non-quantitative requirements under the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

B. In accordance with the Jackson County Code of Ordinances:

1. Title III Business and Occupations, Chapter 3. Alcohol Licenses Regulations, Section 3-3-2 Restrictions.
2. Title IV Property and Land Use, Chapter 2. Flood Plain Management, Section 6-2-9 Appointment and Duties of Board of Adjustment.
3. Title IV Property and Land Use, Chapter 3. Airport Tall Structure Zoning Ordinance, Section 6-3-5 Variances.

4.4 Appeals. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the County affected by any decision of the Administrator.

- A. **Stay of Proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the 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 and notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.
- B. **Procedures.** Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or appear virtually, or represented by agent or attorney.

1. A written application indicating the administrative decision or the section of this Ordinance being appealed.
2. A fee (established by rule of the Board of Supervisors) shall be paid to the Zoning Administrator at the time the notice of appeal is filed which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.
3. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney. A complete record of the hearing shall contain the following:
 - a. The original application.
 - b. The records of any action on the appeal by an administrative official.
 - c. Proof of notice sent at least ten (10) and no more than twenty (20) days prior to the hearing date to the applicant by mail for the purpose of a courtesy notice of the hearing.
 - d. All relevant information, including but not limited to, maps, drawings, and/or photographs.
 - e. Minutes of the public hearing.

C. Final Decision. The final decision shall include the findings of fact and the conclusions reached by the Board of Adjustment. The decision must be in writing and include all conditions that may be associated with the decision. The decision should not be a mere conclusion or statement. Each decision shall be accompanied by specific findings of fact related to the specific appeal.

4.5 Conditional Use Permits. Any person may submit to the Board of Adjustment an application requesting a conditional use permit in accordance with the regulations of this Ordinance.

A. Procedures. A conditional use permit shall not be granted by the Board of Adjustment unless and until:

1. A written application for a conditional use permit is submitted indicating the section of this Ordinance under which the conditional use permit is sought and stating the grounds on which it is requested.

2. A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.
3. Notice shall be given at least ten (10) but no more than twenty (20) days in advance of the public hearing by publication in a newspaper of general circulation in the county and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the conditional use permit is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.
4. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney.

B. Standards for Review. In reviewing an application for a conditional use permit, the Board of Adjustment shall consider the following:

1. The Jackson County Land Use Policy Statement and the Comprehensive Plan.
2. Other policy statements adopted by the Board of Supervisors including Resolution #184-12-07-99 addressing the preservation of ancient burial mounds.
3. The purpose and intent of the Ordinance and of its specific districts.
4. The most appropriate use of the land.
5. The conservation and stabilization of property values.
6. Adequate open spaces for light and air.
7. Concentration of population.
8. Congestion of public streets.
9. The promotion of the public safety, health, convenience and comfort.
10. The general welfare of the persons residing or working in the general area.

C. Findings. Before any conditional use permit is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The Board of Adjustment is empowered under this Ordinance to grant the conditional use permit.
2. It complies with any specific regulations governing individual conditional use permit .
3. Satisfactory provision has been made concerning the following, where applicable:
 - a. Vehicular access to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - b. Off-street parking, loading and service areas where required.
 - c. Economic, noise, dust, heat, glare or odor effects of the conditional use permit on surrounding properties.
 - d. Utilities, with reference to locations, availability, adequacy and compatibility.
 - e. Screens and buffers with reference to type, dimensions, character and adequacy.
 - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with surrounding properties.
 - g. Required setbacks and other open spaces.
 - h. General compatibility with surrounding properties.
4. It is in harmony with the Land Use Policy Statement and the Comprehensive Plan.
5. It will not adversely affect the public interest.

D. Conditions.

1. In granting any conditional use permit, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
2. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Ordinance and punishable under **Section 3.4** of this Ordinance.
3. The Board of Adjustment may prescribe a time limit within which the action for which the conditional use permit is required to be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the conditional use permit.

4.6 Dimensional Variances. Any person may submit to the Board of Adjustment an application requesting a dimensional variance in accordance with the regulations of this Ordinance.

A. Procedures. A dimensional variance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a dimensional variance is submitted indicating the quantitative requirements of this Ordinance for which the dimensional variance is sought and stating the grounds on which it is requested.
2. A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.
3. Notice shall be given at least ten (10) but no more than twenty (20) days in advance of the public hearing by publication in a newspaper of general circulation in the county and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the dimensional variance is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.
4. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney.

B. Burden of Proof for Property Owner.

1. The Board of Adjustment has the power to authorize on appeal, in specific cases, such variance from the terms of the Ordinance with respect to the quantitative requirements for area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the Zoning Ordinance, and so that the spirit of the Ordinance shall be observed and substantial justice done.
2. Such variance from quantitative requirements of this Ordinance shall require a dimensional variance to be granted by the Board of Adjustment, providing in situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.
3. Area, dimensional, or other numerical limitations subject to a dimensional variance include but are not limited to requirements for minimum lot size, setbacks, yard widths, height, bulk, sidewalks, fencing, signage, and off-street parking.
4. To receive the requested dimensional variance from the terms of the Ordinance with respect to the quantitative requirements for area, dimensional, or other numerical limitations, the property owner must prove to the Board of Adjustment that the “practical difficulties” faced are unique to the property at issue and not self-created and

must also demonstrate that granting the dimensional variance will not significantly alter the essential character of the surrounding neighborhood.

C. Standards for Review. In reviewing an application for a dimensional variance, the Board of Adjustment shall consider the following standards for review. No dimensional variance shall be granted unless the property owner shall show and the Board of Adjustment shall consider the following:

1. The Jackson County Land Use Policy Statement and the Comprehensive Plan.
2. Other policy statements adopted by the Board of Supervisors including Resolution #184-12-07-99 addressing the preservation of ancient burial mounds.
3. The purpose and intent of the Ordinance and of its specific districts.
4. The most appropriate use of the land.
5. The conservation and stabilization of property values.
6. Adequate open spaces for light and air.
7. Concentration of population.
8. Congestion of public streets.
9. The promotion of the public safety, health, convenience and comfort.
10. The general welfare of the persons residing or working in the general area.
11. In situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.

D. Findings. Before any dimensional variance is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The Board of Adjustment is empowered under this Ordinance to grant the dimensional variance.
2. It complies with any specific regulations governing an individual dimensional variance .
3. Satisfactory provision has been made concerning the following, where applicable:

- a. Vehicular access to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - b. Off-street parking, loading and service areas where required.
 - c. Economic, noise, dust, heat, glare or odor effects of the dimensional variance on surrounding properties.
 - d. Utilities, with reference to locations, availability, adequacy and compatibility.
 - e. Screens and buffers with reference to type, dimensions, character and adequacy.
 - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with surrounding properties.
 - g. Required setbacks and other open spaces.
 - h. General compatibility with surrounding properties.
4. It is in harmony with the Land Use Policy Statement and the Comprehensive Plan.
 5. It will not adversely affect the public interest.

E. Conditions.

1. In granting any dimensional variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
2. Violation of such conditions and safeguards, when made a part of the terms under which the dimensional variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 3.4 of this Ordinance.
3. Under no circumstances shall the Board of Adjustment grant a dimensional variance to allow a use or structure not allowed in the district involved or any use or structure expressly or by implication prohibited by the terms of this Ordinance in said district.
4. The effective date that a dimensional variance is granted shall be twenty-one (21) days from the date of granting, except that when a dimensional variance has been reaffirmed, with or without modification, after being remanded by the Board of Supervisors under the provisions of this Ordinance, the dimensional variance shall be effective immediately or as specified in the motion to reaffirm.

4.7 Variances. Any person may submit to the Board of Adjustment an application requesting a variance from non-quantitative requirements in accordance with the regulations of this Ordinance.

A. Procedures. A variance the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

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

- a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - b. That literal interpretation of the provisions of this Ordinance would deprive the property owner of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 - c. That the special conditions and circumstances do not result from the actions of the property owner.
 - d. That granting the variance requested will not confer on the property owner 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, structure or buildings in other districts shall be considered grounds for the issuance of a variance.
 2. Notice shall be given at least ten (10) but no more than twenty (20) days in advance of the public hearing by publication in a newspaper of general circulation in the county and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the variance is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.
 3. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or by attorney.
- B. Burden of Proof for Property Owner.** To receive the requested variance from the terms of the Ordinance, the property owner must prove to the Board of Adjustment that the strict enforcement of the terms of this Ordinance will inflict an “unnecessary hardship” on the property owner and are not self-created and must also demonstrate that granting the variance will not significantly alter the essential character of the surrounding neighborhood.
- C. Standards for Review.** In reviewing an application for a variance, the Board of Adjustment shall consider the following standards for review. No variance shall be granted unless the property owner shall show and the Board of Adjustment shall find the following:
1. The Iowa courts have set out specific criteria that must be satisfied before the Board of Adjustment may find that an “unnecessary hardship” exists, sufficient to grant a property owner a variance. The property owner must satisfy all three (3) criteria listed below to be granted a variance:
 - a. The land in question cannot yield reasonable return if used only for a purpose allowed in that zoning district,

- b. The plight of the property owner is due to unique circumstances and not to general conditions in neighborhood, and
 - c. The use or structure to be authorized by a variance will not alter essential character of the locality.
2. The Iowa courts have established the following guidelines for assessing whether the above-listed criteria have been met:
- a. Failure to yield a “reasonable return” may be shown by proof that the property owner has been deprived of all beneficial use of the land. All beneficial use is said to have been lost where the land is not suitable for any use allowed by this Ordinance. It is not sufficient to show that the value of land merely has been depreciated by the zoning regulations, or that a variance would permit a property owner to maintain a more profitable use. It is not sufficient to show mere inconvenience to the applicant.
 - b. Problems common to several properties do not constitute “unique circumstances.” The condition or situation is not of so general or recurring a nature as to make reasonably practical a general regulation to be adopted as an amendment of this Ordinance.
 - c. This disadvantage of “unique circumstances” does not exist as a result of conditions created by the current owner or previous owners of the property.
 - d. A variance that alters the “essential character of the area” is beyond the authority of the Board of Adjustment to grant. The Board of Adjustment cannot grant a variance for a change in use that, in effect, constitutes a rezoning or Ordinance amendment. Factors to consider in determining whether a variance will alter the “essential character of the neighborhood” include the degree of variation from district regulations, the size of the parcel, and the parcel’s size and character in relation to the size of the district.
3. In granting a variance, the Board of Adjustment shall not consider prospective financial loss or gain to the applicant.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use or structure not allowed under the terms of the Ordinance regulations in the district involved, or any use or structure expressly or by implication prohibited by the terms of the regulations in said district.

4. No non-conforming use of neighboring lands, structures, or buildings in the same district and no allowed or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance.

D. Findings. Before any variance is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The Board of Adjustment is empowered under the section of this Ordinance described in the application to grant the variance.
2. The requirements of this Ordinance have been met by the property owner for a variance.
3. 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.
4. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. Conditions.

1. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
2. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 3.4 of this Ordinance.
3. Under no circumstances shall the Board of Adjustment grant a variance to allow a use or structure not allowed in the district involved or any use or structure expressly or by implication prohibited by the terms of this Ordinance in said district.
4. The effective date that a variance granted shall be twenty-one (21) days from the date of granting, except that when a variance has been reaffirmed, with or without modification, after being remanded by the Board of Supervisors under the provisions of this Ordinance, the variance shall be effective immediately or as specified in the motion to reaffirm.

4.8 Decisions of the Board of Adjustment. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The concurring vote of a quorum of three (3) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the 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 application of this Ordinance.

4.9 Remanding of Variances by the Board of Supervisors. Under the authority of Iowa Code Section 335.10, the Board of Supervisors shall have the power to remand any dimensional variance or variance granted by the Board of Adjustment. Accordingly, the following provisions shall apply:

- A. A written report of all actions taken by the Board of Adjustment shall be provided promptly by its secretary to the applicant, the property owner, and to the Board of Supervisors, to include also the effective date of any variances granted.
- B. Upon considering the report of actions and any other information available, the Board of Supervisors may choose to remand any decision to grant a variance, so long as it acts by official motion and before the effective date of the variance. The remanding of a variance will automatically delay its effective date for thirty (30) days from the date of the remand, or until the Board of Adjustment has taken an official action on the remand, as required by this Ordinance, whichever comes first.
- C. Upon notice of such remand, the Board of Adjustment shall schedule a special public hearing, to occur before the new effective date of the variance, to hear any new testimony available on the matter. Notice of this hearing shall be provided in the customary manner and to the applicant, the property owner, and to all persons who commented on the request, either at the original hearing or in writing to the Board of Adjustment.
- D. Upon holding such special hearing, the Board of Adjustment shall make findings and take action to affirm its original decision, or to modify it by the placement of conditions on the variance, or by denying the variance.
- E. If the Board of Adjustment fails to act before the effective date of a variance, the variance stands and any further redress of grievances shall come from a court of record as noted below.

4.10 Appeals from the Board of Adjustment: Any person or persons or any board, taxpayer, department, board or bureau of the county 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 Iowa Code Chapter 358A.



May 14, 2025

Lori Roling, Zoning Administrator
Jackson County Zoning Department
201 West Platt Street
Maquoketa, IA 52060

RE: Zoning Ordinance Update – Revised Matrix of Allowed Uses (5th draft 5-14-25)

Dear Lori,

Attached is the Revised Matrix of Allowed Uses (5th draft 5-14-25) for the Zoning Ordinance Update for consideration by the Zoning Commission at their May 19, 2025 meeting.

Discussion

The Matrix of Allowed Uses is divided into two sections: General Land Uses and Specific Land Uses. General Land Uses and Parking recommendations are discussing in the General Land Uses and Parking Recommendations Executive Summary (2-24-25). The attached REDLINE version outlines the revised changes with commentary, and the yellow highlight refers to changes since the Commission's April 21, 2025 meeting.

The major change is the addition of C=Conditional, which represents the Conditional Use Permit introduced in Chapter 4. Board of Adjustment. Special Exception Uses and Structures are proposed to be renamed to Conditional Use Permit to reflect that they are allowed only after meeting required conditions in the Ordinance and any additional conditions set by the BOA. This new terminology is found in many updated city and county zoning ordinances in Iowa.

Recommendation

The Zoning Commission and Board of Adjustment asked to review the Revised Matrix of Allowed Uses (5th draft 5-14-25), and then to provide direction to staff for moving forward with the proposal.

Please let me know if you have any questions. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Laura Carstens".

Laura Carstens
Senior Planner

Attachment

MATRIX OF ALLOWED USES: P=Principal, A=Accessory, C= Conditional (Special Exception), T=Temporary, N=Prohibit								5th Draft 05-14-25
Def.	GENERAL LAND USE CATEGORIES	A-1	R-1	C-1	M-1	M-2	Land Use Recommendations	Recommended Parking
x	Agricultural Sales, Service, and Supply	C		P	P		Combine Agricultural service businesses in A-1 with Agricultural service and supply businesses in M-1 to create new general land use	1 per 400 square feet of floor area
x	Agriculture	P	P	A	A	A		
x	Horticulture	P						None; farm exempt
x	Plant Nursery	P		P			If meet Agriculture and Farm definitions, allow as Principal use in A-1; use term "Nursery"	None; farm exempt
x	Dwelling							
x	Accessory dwelling unit	A	A				See Iowa Code 331.301	2 per dwelling unit
x	Condominium dwelling			P				2 per dwelling unit
	Conversion of existing dwelling or other structure to a two-family dwelling	C						2 per dwelling unit
	Dwelling unit in a commercial structure			A				2 per dwelling unit
	Dwelling unit for owners and persons watchmen or caretakers employed on the premises				A	A		2 per dwelling unit
x	Elder group home	P	P					0.5 per dwelling unit
x	Family home	P	P					0.5 per dwelling unit
x	Farm dwelling, principal	P						
x	Farm dwelling, secondary	A						
x	Multiple family dwellings, including residential condominiums	C	C	P			Allow as Principal Use in C-1	2 per dwelling unit
x	Seasonal dwelling	P	P				Will use current definition	2 per dwelling unit
x	Single-family dwelling	P	P					2 per dwelling unit
x	Single-family dwelling, attached			P				2 per dwelling unit
x	Single-family dwelling, detached	P	P					2 per dwelling unit
x	Townhouse dwelling			P				2 per dwelling unit
x	Two-family dwelling			P				2 per dwelling unit
x	Zero-lot-line dwelling			P				2 per dwelling unit
	Education							
x	Daycare, Adult	P	C	P				1 per 400 square feet of floor area
x	Daycare, Child	P	C	P				1 per 400 square feet of floor area
x	Elementary School	P	P				Separated school uses due to specific parking needs	1.5 per maximum shift + drop-off/pickup or bus queue area ± space per classroom or office
x	Post High School	P	P	P				1 per 400 square feet of floor area
x	Preschool	P	P					1 per 400 square feet of floor area
x	Secondary School	P	P					1.5 per maximum shift + 1 per 10 students + drop-off/pickup or bus queue area ± space per classroom or office
x	Farm						Added IA Code sections to current definition	
	Farm building	P						

MATRIX OF ALLOWED USES: P=Principal, A=Accessory, C= Conditional (Special Exception), T=Temporary, N=Prohibit								5th Draft 05-14-25
Def.	GENERAL LAND USE CATEGORIES	A-1	R-1	C-1	M-1	M-2	Land Use Recommendations	Recommended Parking
x	Farm dwelling, principal	P						None; farm exempt
x	Farm dwelling, secondary	A						
	Farming	P						
x	Farmland	P						
x	Farm home-based business- occupation	A					updated with Iowa Code	
x	Roadside Farm stands for the sale of produce- farm products produced on site	A					Rename to Farm Stand, link to farm products	minimum 4 spaces at least 20 feet from road right-of-way
x	General Office			P				1 per 400 square feet of floor area
x	General Retail			P				
	Antique shop			P			Part of new General Retail	1 per 400 square feet of floor area
	Art gallery			P				
	Art studio			P				
	Bait shop			P				
	Convenience store			P				
	Fishing and camping supply shop			P				
	Liquor stores			P				
x	General Services			P				1 per 400 square feet of floor area
x	Personal Service			P				1 per 400 square feet of floor area
x	Place of Assembly	P	P	P				
	Church	P	P	P			Part of new Place of Assembly, allow in C-1	1 per 4 seats 1 space for every 5 seats in the main auditorium
x	Community meeting building	P	P	P			Part of new Place of Assembly, allow in A-1 and C-1	1 per 4 seats 1 space for every 50 square feet of floor area
x	Recreation, Indoor Commercial							
	Bowling alley			P			Part of new Indoor Commercial Recreation	1 per 100 250 square feet of floor area Bowling: 5 spaces per lane- Community recreation building: 1 space for every 50 square feet of floor area
x	Community recreation center building		P	P				
	Dance hall			P				
	Recreation & amusement activities			P				
	Skating rink			P				
x	Theater, Indoor							
x	Recreation, Outdoor Commercial							
	Commercially operated campground on not less than 5 acres			P			Consider for Principal use in C-1	1 per RV or camp site
	Commercially operated tourist camp on not less than 5 acres			P			Consider for Principal use in C-1	1 per 4 occupants + 1 per employee on maximum shift
	Privately operated recreational lodges, campgrounds, youth or summer camps, ski slopes, gun clubs, marinas, docking facilities and recreation vehicle riding areas, race courses and similar outdoor recreation activities	C		P			Conditions: that the applicant shall submit a plan for the proposed development and show what measures will be taken to minimize adverse effects the proposed development might have on the environs. Consider for Principal use in C-1	1 per RV or camp site and 1 per 4 occupants + 1 per employee on maximum shift

MATRIX OF ALLOWED USES: P=Principal, A=Accessory, C= Conditional (Special Exception), T=Temporary, N=Prohibit								5th Draft 05-14-25
Def.	GENERAL LAND USE CATEGORIES	A-1	R-1	C-1	M-1	M-2	Land Use Recommendations	Recommended Parking
	Drive-in theater			P			Consider for SE in A-1	1 per 4 occupants + 1 per employee on maximum shift Storage lanes outside ticket booth to accommodate 10% of theater
	Driving range			P			Consider for SE in A-1	1 per 4 occupants + 1 per employee on maximum shift 1 space per 100 square feet of floor area
	Miniature golf course			P			Part of new general land use	1 per 4 occupants + 1 per employee on maximum shift 3 spaces per green
x	Recreation, Public							
	Lake, pond	P	P				Part of new Public Recreation	5 for each acre developed for active and recreation areas usage
	Public campground	P						1 per RV or camp site 5 for each acre developed for active and recreation areas usage
x	Public hunting area	P						5 for each acre developed for active and recreation areas usage
	Public park	P	P	P				
	Public playground	P	P					
	Public recreation area	P	P					
	Wildlife preserve	P						
x	Solid Waste Facilities							
	Sanitary composting facility	C				C	Combine under general land use: Solid Waste Facilities	1 per employee and 1 per company vehicle
	Sanitary landfill	C				C		
	Sanitary recycling operation	C				C		
	Sanitary transfer station	C				C		
x	Vehical Sales, Service, and Repair							
	Automobile and automotive sales, service and/or repair			P	P	P	Part of new Vehicle Sales, Service, and Repair; allow in C-1, M-1, and M-2 as Principal use	1 per 300 400 square feet of floor area space + display of vehicles for sale or rent
	Boat sales, service and/or repair			P	P	P		
	Construction equipment sales, service and/or repair			P	P	P		
	Farm implement sales, service and/or repair			P	P	P		
	Motorcycle sales, service, and repair			P	P	P		
	Recreational vehicle sales, service and/or repair			P	P	P		
	Snowmobile, golf cart, personal watercraft, similar recreational vehicles sales, service, repair			P	P	P		
	Truck sales, service and/or repair			P	P	P		

MATRIX OF ALLOWED USES: P=Principal, A=Accessory, C= Conditional (Special Exception), T=Temporary, N=Prohibit								5th draft 05-14-25
Def.	SPECIFIC LAND USES	A-1	R-1	C-1	M-1	M-2	Land Use Recommendations	Recommended Parking
x	Addition of accessory structure to principal structure devoted to legal nonconforming use	C	C	C	C	C	Allowed as a CUP in Section 1.10	As per Zoning Administrator
x	Airport and landing fields	C						0.5 per daily enplanements
x	Animal hospital/veterinary clinic			P	P		Allow in C-1 as Principal use, with veterinary clinic	1 per 400 sq ft of floor area 1 space for every 300 feet of sales, service or office floor area
x	Asphalt plants (permanently placed)					C		1 per every 2 employees and 1 per company vehicle
x	Auto wrecking on sites of 5 acres or more					C		2 per employee and 1 per company vehicle
x	Automobile paint and body shops			P	P	P	Change to: Vehicle Paint and Body	1 per 400 sq ft of floor area + storage of vehicles for sale or rent
x	Bed and breakfast home	P		P				1 per guest room
x	Bed and breakfast inn			P				1 per guest room
x	Boarding or Lodging House			P				1 per guest room
x	Building materials/Lumber yard			P	P	P	Combined Building material sales, distribution, storage with Lumber yard	1 per employee and 1 per company vehicle
x	Bulk storage for retail distribution of anhydrous ammonia fertilizer under pressure and petroleum products under pressure	C			C		Separate bulk storage as CUP in A-1, match conditions in M-1 and M-2 .	1 per employee, 1 per company vehicle, and 1 loading space per 10,000 sq ft of floor area
x	Bulk storage of oils, petroleum, flammable liquids and chemicals and the wholesale, but not retail, storage and distribution of anhydrous ammonia fertilizer and petroleum products under pressure.					C		1 per employee, 1 per company vehicle, and 1 loading space per 10,000 sq ft of floor area
x	Car Wash			P				1 per wash bay + 2 stacking per wash bay
	Car crusher or similar equipment used in the processing, removal or disposal of junk	T			T	T	Change to staff approval with temporary permit, allow in M-1 and M-2	As per Zoning Administrator
x	Cemetery	P	P					20 spaces off the right-of-way on drives or parking areas
	Chemical plant					C		1 per every 2 employees and 1 per company vehicle
x	Commercial communications stations and towers -- New and Existing	C		C	C	C	Iowa Code 8C Iowa Cell Siting Act; Discontinuation, Catastrophic Failure, and Decommissioning regulations in WECS ordinance	As per Zoning Administrator
x	Commercial feedlots	C						1 per employee and 1 per company vehicle
	Contract construction office, maintenance shop or storage yard				P	P		1 per maximum shift and 1 per company vehicle
x	Data Mining						To be determined; under review by ZC	To be determined
	Drive-in refreshment area			P			redundant; see Nightclub	n/a
x	Event Venue	C		P			ZA requested new use	1 per 400 sq ft of floor area
	Explosive manufacture or storage					C		1 per every 2 employees and 1 per company vehicle
x	Fairgrounds and Public Exposition	P		P			Allow in C-1	1 per 3 seats at the main arena

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Def.	SPECIFIC LAND USES	A-1	R-1	C-1	M-1	M-2	Land Use Recommendations	Recommended Parking
	Fertilizer manufacturing					C		1 per every 2 employees and 1 per company vehicle
x	Financial Institution Drive-in bank			P			rename to a broader use, add stacking	1 per 400 sq ft of floor area + 2 stacking spaces per drive-through 3 spaces plus storage for 3 vehicles outside each teller lane
	Gas manufacture					C		1 per every 2 employees and 1 per company vehicle
	Garbage, offal, or dead animal reduction or dumping					C		1 per every 2 employees and 1 per company vehicle
x	Garden	A	A				Allow as Accessory Use in R-1	None
x	Garden center			P				1 per 400 sq ft of floor area
	Garden center in conjunction with plant -nursery	C		P			Allow as Principal Use in C-1, shorten term to "Nursery"	1 per 400 sq ft of floor area
x	Gas station Retail automotive fuel sales			P			Rename to Gas station	1 per 4 pumps + 1 per 400 sq ft of floor area retail + 2 stacking per wash bay 4 spaces plus storage for 4 other vehicles in each service lane
x	Golf course and clubhouse	C						3 per green or 1 per 100 sq ft of clubhouse floor area, whichever is greater
	Golf course and clubhouse but not including miniature golf course operated for a profit		P					
x	Grain storage bin	P			P	P	Allow in M-1 and M-2?	None
x	Greenhouse	A	A	P			Allow as Principal Use in C-1	None unless Commercial, then 1 per 400 sq ft of floor area
*	Home Industry	C						
x	Home-based business occupation	A	A				updated with Iowa Code	None
x	Hotel/Motel			P				1 per guest room-unit
x	Information booth			P				1 per 500 sq ft of floor area
*	Intermittent or temporary commercial activity	P					remove from definitions and A-1	50 spaces
x	Junkyard on site of 5 acres or more					C		1 per employee and 1 per company vehicle
x	Kennel	P		P	P		Allow as Principal Use in C-1	1 per 400 sq ft of floor area 1 space for every 300 feet of sales, service or office floor area
x	Livestock auction sales	C		P			Allow as Principal Use in C-1	1 per employee, 1 per company vehicle, and 1 per every 2 seats in the sales arena
x	Logging, storage only	P			P		ZA requested new use	1 space per employee at the site plus 1 space per company vehicle
x	Logging, production and storage					P	ZA requested new use	
x	Manufacturing and processing, except that certain uses shall be permitted only as special exceptions					P		1 per every 2 employees on maximum shift, 1 per company vehicle, and 1 loading space per 10,000 sq ft of floor area

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Def.	SPECIFIC LAND USES	A-1	R-1	C-1	M-1	M-2	Land Use Recommendations	Recommended Parking
	Manufacturing and processing uses that are contained within a building, have no publicly visible external storage and create no offensive noise, dust, odor, vibration, electrical interference or other environmental nuisance. The area devoted company vehicle to external storage shall not exceed the area of roofed structures on the parcel.				P	P	Allow as Principal use in M-2	1 per every 2 employees on maximum shift, 1 per company vehicle, and 1 loading space per 10,000 sq ft of floor area
	Mining and extraction of minerals or raw materials	C				C		1 per employee and 1 per company vehicle
x	Mobile home park		C					2 per mobile home
x	Mobile home/Manufactured home sales, service or repair			P				1 per 400 sq ft of floor area
	Mobile home subdivision contract of 10 acres or more		C					2 per mobile home
x	Nightclub/Bar/Tavern			P				1 per 250 sq ft of floor area + 2 stacking spaces per drive-through 5 spaces for every 100 square foot of floor area
	Plumbing, heating, air conditioning, and sheet metal shops			P	P		Allow as Principal Use in C-1	1 per employee and 1 per company vehicle
x	Private garage	A	A					None
	Private tennis court	A	A					None
	Private swimming pool	A	A					None
	Public maintenance garage, and equipment and materials storage yard, but not including administrative or sales office	P	C	P	P	P	Allow in C-1, M-1 and M-2	2 per substation or 1 per employee at the site plus 1 per company vehicle
x	Public utility but not including equipment storage or maintenance yard and building or administrative and sales office		C	C, P	P	P	Allow in C-1, M-1 and M-2	
x	Public utility including storage and maintenance yards				P	P		
x	Public utility, but not including administrative or sales office	P	C					
	Railroad, but not including administrative or sales office	P	C, P	C, P	P	P	Allow as principal use in all zones	
	Railroad including storage and maintenance yards				P	P		combine into one use
x	Ready mix concrete plant Ready mix plant	C				P		
	Ready mix concrete plant, permanently placed on quarry site	C						1 per employee and 1 per company vehicle
	Refining of petroleum and natural gas and their products					C		1 per every 2 employees and 1 per company vehicle

MATRIX OF ALLOWED USES: P=Principal, A=Accessory, C= Conditional (Special Exception), T=Temporary, N=Prohibit								5th draft 05-14-25
Def.	SPECIFIC LAND USES	A-1	R-1	C-1	M-1	M-2	Land Use Recommendations	Recommended Parking
x	Mini-Warehouse/Rental storage unit			P	P			1 per 5,000 sq ft of floor area 1 space for every 300 square feet of floor space
x	Restaurant			P				1 per 250 sq ft of floor area
x	Restaurant, Drive-in			P				1 per 250 sq ft of floor area + 2 stacking spaces per drive-through
x	Riding stable	P						1 per 400 sq ft of floor area
x	Seasonal resort which include three (3) or more seasonal dwellings	C						2 per dwelling unit
x	Solar Energy System: consumer-scale building-mounted	A	A	A	A	A	draft Section 2.XX Solar Energy Systems	
x	Solar Energy System: consumer-scale freestanding	C	N	C	C	C	draft Section 2.XX Solar Energy Systems	
x	Solar Energy System: utility-scale freestanding						To be determined	To be determined
x	Stockyard or slaughterhouse of animals					C	reword to Slaughterhouse	1 per every 2 employees and 1 per company vehicle
	Storage warehouse			A			Remove; Storage and Warehouse mean different types of services based on capacity, duration, etc.	
	Temporary buildings used in conjunction with construction work	A	A	A	A	A		As per Zoning Administrator
	Temporary concrete plant	T						1 per employee and 1 per company vehicle
x	Tourism welcome center			P				1 per 500 sq ft of floor area
x	Welding, machine and repair shops				P			1 per employee and 1 per company vehicle
x	Wind Energy Conversion System		N				As per Ordinance #314 approved by BOS	To be determined
x	Wind Energy Conversion System: Non-Commercial	A	N	A	A	A		
x	Wind Energy Conversion System: Commercial	C	N	C	C	C		
x	Wholesaling and warehousing, but not including the bulk storage of anhydrous ammonia fertilizer under pressure, petroleum products under pressure, or highly volatile chemicals or materials				P	P	Added definitions for Wholesaling and Warehousing. Recommend using the longer second definition in M-1, which includes highly volatile chemicals or materials.	1 per 2 employees on maximum shift, 1 per company vehicle, and 1 loading space per 10,000 sq ft of floor area
	Uses and structures clearly incidental to the permitted principal uses and structures	A	A	A	A	A		As per Zoning Administrator



May 12, 2025

Lori Roling, Zoning Administrator
Jackson County Zoning Department
201 West Platt Street
Maquoketa, IA 52060

RE: Rules of Procedure Update – Board of Adjustment (05-12-25)

Dear Lori,

Attached is information regarding the Rules of Procedure Update -- Board of Adjustment draft (05-12-25) for review and approval by the Board of Adjustment at their May 27, 2025 meeting.

Discussion

The Rules of Procedure for the Board of Adjustment have been updated to

- clarify and simplify the scheduling of meetings to reflect current practice
- clarify when a quorum is present
- conflict of interest
- excused and unexcused absences
- replacing strict timeframes with more flexible options to reflect current practice

Recommendation

The Board of Adjustment is asked to review the Rules of Procedure Update -- Board of Adjustment draft (05-12-25), and then to provide direction to staff for moving forward with the proposal. Please let me know if you have any questions. Thank you.

Sincerely,

Laura Carstens
Senior Planner

Attachments

RULES OF PROCEDURE

JACKSON COUNTY ZONING BOARD OF ADJUSTMENT

REDLINE Draft 5-12-25

Article 1. General Governing Rules.

The ~~County Zoning~~ Board of Adjustment, hereinafter referred to as the Board, shall be governed by the provisions of Iowa Code Chapter 335, ~~Code of Iowa~~, as amended, and the Zoning Ordinance of Jackson County, Iowa, establishing the ~~Zoning~~ Board of Adjustment and enacted by the Board of Supervisors. No rule herein shall be changed or waived without the affirmative vote of three (3) members of the Board of Adjustment and concurrence of the Board of Supervisors~~Commission~~.

Article 2. Officers and Committees.

———Section A. The Board shall elect a chair~~person~~ and vice-chair~~person~~, who shall be acting chair~~person~~ in the absence of the chair~~person~~, annually at the first meeting of the year.

Section B. The chair~~person~~, or in ~~his-their~~ absence the vice-chair~~person~~, shall preside at all meetings and hearings of the Board and decide all points of order and procedure. The chair~~person~~ shall appoint any committees which may be found necessary to perform the duties of the Board.

Section C. ~~A-The~~ secretary ~~(who need not be a member of the Board) shall be designated by~~for the Board ~~of Adjustment shall be the Zoning Administrator~~. The secretary shall conduct all correspondence of the ~~B~~board, keep a minute book recording attendance, the vote of each member upon each question, or if absent or failing to vote indicating such fact. The secretary shall also keep records of appeals, examinations and hearings and other official action and shall carry out such other official duties as may be assigned by the Board.

Article 3. Meetings.

Section A. The regular meeting of the Board of Adjustment shall be held ~~the Fourth Monday of~~ each month unless there is no cause for holding such meetings. Meetings shall be scheduled annually for the upcoming calendar year, and notice provided in accordance with this Ordinance and Iowa Code Chapter 21 Open Meetings. If ~~there is to be a~~ regular meeting is cancelled, the secretary shall inform the members of the Board and the public as soon as possible and at least twenty-four (24) hours in advance.

———Section B. Special meetings may be called by the chair~~person~~ and at such other time as the Board may determine, provided that ~~at least twenty-four hours'~~ notice of such meeting is given to each member and the public in accordance with this Ordinance and Iowa Code Chapter 21 Open Meetings. ~~If a special meeting is cancelled, the secretary shall inform the members of the Board of Adjustment and the public as soon as possible and at least twenty-four (24) hours in advance. If for any reason an announced meeting of this Board fails to occur on the date announced, a special meeting is hereby called, to be held seven days after the time and date of the original announced meeting time and date and at the same place, to take up the original announced meeting agenda. However, if the resulting meeting date falls on a county government holiday, the special meeting referred to above is hereby scheduled fourteen days from the original announced meeting time and date.~~

———Section C. A quorum shall consist of three (3) members of the five (5) appointed members for the transaction of all business. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the ~~Administrative Officer (also known as the~~ Zoning Administrator}, or to decide in favor of the applicant on any matter upon which it is required to pass.

If a member is required to abstain, their absence does not affect the quorum count, and the motion proceeds as usual. For example, if only three (3) of the five (5) Board members are present but one (1) member must abstain due to a conflict of interest, then the remaining two (2) Board members shall constitute a quorum for voting purposes for the transaction of all business on that item.

Section D. Representation, Personal Conflict Interest. Conflict of interest includes: familial relationship with the applicant or property owner, financial dealings with the applicant or property owner, and financial interest in the outcome. Neither the secretary nor any member of the Board shall appear for or represent any person in any matter pending before the Board of Adjustment. No member of the Board shall hear or vote upon any appeal in which ~~he has~~they have directly or indirectly any ~~personal or financial conflict~~ interest.

In case of a conflict of interest, the secretary or Board member shall: disclose the circumstance and nature of the conflict prior to the public hearing, abstain from discussing and voting on the matter, and leave the public hearing or disconnect from audio and visual connection if attending the meeting virtually until the matter is concluded or tabled.

Section E. Conduct of Meetings. All meetings shall be open to the public. The chair~~person~~, or in ~~his or her~~their absence the vice-chairperson, may administer oaths or compel the attendance of witnesses. The order of business at meetings shall be as follows:

1. Roll call
2. Action on minutes of the previous meeting
3. Reports of committees
4. Unfinished business
5. Hearing of cases, or appeals, or referrals
6. New business
7. Reading of correspondence other than that related to new or old business or hearing scheduled.

Section F. Voting. The chair~~person~~ or presiding officer shall have equal voting power with the other members of the Board and may vote on all questions before the Board unless otherwise limited herein.

Section G. Adjourned Meetings. The Board may adjourn a regular meeting if all business cannot be disposed of on the day set and no further public notice shall be necessary for such a meeting if the time and place of its resumption is stated at the time of adjournment and is not changed after adjournment.

Article 4. Vacancies. In the event vacancies occur in the Board's membership, the chair~~person~~ shall inform the Board of Supervisors as promptly as possible so that the Supervisors may appoint a replacement to fill out the unexpired term.

Failure to attend four (4) regular consecutive meetings or four (4) of any seven (7) consecutive meetings without an excused absence shall be considered automatic resignation from the Commission and upon such resignation, resignation by other means, or other vacancies occurring in the office, the chair~~person~~ shall inform the Board of Supervisors as promptly as possible so that the ~~Board of~~ Supervisors may appoint a replacement to fill out the unexpired term.

RULES OF PROCEDURE

JACKSON COUNTY ZONING BOARD OF ADJUSTMENT

REDLINE Draft 5-12-25

An "excused absence" must be deemed an approved and legitimate reason for being absent from a meeting. Examples include: illness, family emergency, pre-planned vacation, medical appointments, work schedule, and similar circumstances. They do not result in negative marks on attendance records.

Unexcused absences are not approved or recognized reasons for being absent from a meeting. They will result in negative marks on attendance records.

Article 5. Public Hearings.

—Section A. At public hearings held by the Board of Adjustment on any matter as may be required by law or as may be set by the Board upon its own motion, any person may appear on his own behalf or be represented by agent or by attorney.

—Section B. The order of the hearing shall be:

1. Statement of case by the chairperson or, ~~the vice-chairperson in their absence, or the chairperson's assignee.~~ presiding officer.
2. The following statement will be read: "Because of any ~~personal or financial~~ conflict of interest, either directly or indirectly, do any Board members wish to recuse themselves from proceedings?"
3. Supporting argument by the applicant or ~~his~~ their agent or attorney.
4. Supporting arguments by others at the hearing.
5. Opposing arguments by persons at the hearing.
6. Rebuttals by those supporting the applicant other than the applicant.
7. Rebuttals by those opposed to the application.
8. Final rebuttal by the applicant.

Article 6. Decisions. ~~Hearings on all completed applications shall be held within 60 days of receipt thereof.~~ Decisions on all cases shall be voted upon by the Board at the meeting at which the hearing is held or at their next regular meeting within thirty days after the date of hearing or if acceptable to the applicant, the continuation of such meeting or the tabling of such meeting for more information from the applicant and/or the Zoning Administrator.

If no motion either to approve or deny the action requested receives three (3) or more aye votes, then the case will be placed as old business on the agenda of each regular or special meetings of the Board until a motion either to approve or deny does receive three (3) or more aye votes.

—The decision shall be promptly transmitted in writing to the applicant by the secretary stating the Board's action, the vote thereon and the reasons therefore, and any recommendations or modifications or conditions to which the Board's decision is subject. One (1) copy of the Board's action shall be filed in the official files of the ~~Zoning~~ Board of Adjustment, ~~and one (1) copy forwarded to the Board of Supervisors, and one (1) copy sent to the applicant or their agent or attorney where such are concerned sent to the applicant or their agent or attorney where such are concerned.~~

Article 7. Adoption. These rules of procedure were adopted by the ~~Zoning~~ Board of Adjustment of Jackson County, Iowa, this _____ day of _____, 2025.

(Signed) _____
Chairperson, Jackson County ~~Zoning~~ Board of Adjustment

RULES OF PROCEDURE

JACKSON COUNTY BOARD OF ADJUSTMENT CLEAN Draft 5-12-25

Article 1. General Governing Rules.

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Article 2. Officers and Committees.

Section A. The Board shall elect a chair and vice-chair, who shall be acting chair in the absence of the chair, annually at the first meeting of the year.

Section B. The chair, or in their absence the vice-chair, shall preside at all meetings and hearings of the Board and decide all points of order and procedure. The chair shall appoint any committees which may be found necessary to perform the duties of the Board.

Section C. The secretary for the Board of Adjustment shall be the Zoning Administrator. The secretary shall conduct all correspondence of the Board, keep a minute book recording attendance, the vote of each member upon each question, or if absent or failing to vote indicating such fact. The secretary shall also keep records of appeals, examinations and hearings and other official action and shall carry out such other official duties as may be assigned by the Board.

Article 3. Meetings.

Section A. The regular meeting of the Board of Adjustment shall be held each month unless there is no cause for holding such meeting. Meetings shall be scheduled annually for the upcoming calendar year, and notice provided in accordance with this Ordinance and Iowa Code Chapter 21 Open Meetings. If a regular meeting is cancelled, the secretary shall inform the members of the Board and the public as soon as possible and at least twenty-four (24) hours in advance.

Section B. Special meetings may be called by the chair and at such other time as the Board may determine, provided that notice of such meeting is given to each member and the public in accordance with this Ordinance and Iowa Code Chapter 21 Open Meetings. If a special meeting is cancelled, the secretary shall inform the members of the Board of Adjustment and the public as soon as possible and at least twenty-four (24) hours in advance.

Section C. A quorum shall consist of three (3) members of the five (5) appointed members for the transaction of all business. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass.

If a member is required to abstain, their absence does not affect the quorum count, and the motion proceeds as usual. For example, if only three (3) of the five (5) Board members are present but one (1) member must abstain due to a conflict of interest, then the remaining two (2) Board members shall constitute a quorum for voting purposes for the transaction of all business on that item.

Section D. Conflict Interest. Conflict of interest includes: familial relationship with the applicant or property owner, financial dealings with the applicant or property owner, and financial interest in the outcome. Neither the secretary nor any member of the Board shall appear for or represent any

RULES OF PROCEDURE

JACKSON COUNTY BOARD OF ADJUSTMENT CLEAN Draft 5-12-25

person in any matter pending before the Board of Adjustment. No member of the Board shall hear or vote upon any appeal in which they have directly or indirectly any conflict interest.

In case of a conflict of interest, the secretary or Board member shall: disclose the circumstance and nature of the conflict prior to the public hearing, abstain from discussing and voting on the matter, and leave the public hearing or disconnect from audio and visual connection if attending the meeting virtually until the matter is concluded or tabled.

Section E. Conduct of Meetings. All meetings shall be open to the public. The chair, or in their absence the vice-chairperson, may administer oaths or compel the attendance of witnesses. The order of business at meetings shall be as follows:

1. Roll call
2. Action on minutes of the previous meeting
3. Reports of committees
4. Unfinished business
5. Hearing of cases, or appeals, or referrals
6. New business
7. Reading of correspondence other than that related to new or old business or hearing scheduled.

Section F. Voting. The chair or presiding officer shall have equal voting power with the other members of the Board and may vote on all questions before the Board unless otherwise limited herein.

Section G. Adjourned Meetings. The Board may adjourn a regular meeting if all business cannot be disposed of on the day set and no further public notice shall be necessary for such a meeting if the time and place of its resumption is stated at the time of adjournment and is not changed after adjournment.

Article 4. Vacancies. In the event vacancies occur in the Board's membership, the chair shall inform the Board of Supervisors as promptly as possible so that the Supervisors may appoint a replacement to fill out the unexpired term.

Failure to attend four (4) regular consecutive meetings or four (4) of any seven (7) consecutive meetings without an excused absence shall be considered automatic resignation from the Commission and upon such resignation, resignation by other means, or other vacancies occurring in the office, the chair shall inform the Board of Supervisors as promptly as possible so that the Supervisors may appoint a replacement to fill out the unexpired term.

An "excused absence" must be deemed an approved and legitimate reason for being absent from a meeting. Examples include: illness, family emergency, pre-planned vacation, medical appointments, work schedule, and similar circumstances. They do not result in negative marks on attendance records.

Unexcused absences are not approved or recognized reasons for being absent from a meeting. They will result in negative marks on attendance records.

Article 5. Public Hearings.

RULES OF PROCEDURE

JACKSON COUNTY BOARD OF ADJUSTMENT CLEAN Draft 5-12-25

Section A. At public hearings held by the Board of Adjustment on any matter as may be required by law or as may be set by the Board upon its own motion, any person may appear on his own behalf or be represented by agent or by attorney.

Section B. The order of the hearing shall be:

1. Statement of case by the chair or presiding officer.
2. The following statement will be read: "Because of any conflict of interest, either directly or indirectly, do any Board members wish to recuse themselves from proceedings?"
3. Supporting argument by the applicant or their agent or attorney.
4. Supporting arguments by others at the hearing.
5. Opposing arguments by persons at the hearing.
6. Rebuttals by those supporting the applicant other than the applicant.
7. Rebuttals by those opposed to the application.
8. Final rebuttal by the applicant.

Article 6. Decisions. Decisions on all cases shall be voted upon by the Board at the meeting at which the hearing is held or at their next regular meeting after the date of hearing or if acceptable to the applicant, the continuation of such meeting or the tabling of such meeting for more information from the applicant and/or the Zoning Administrator.

If no motion either to approve or deny the action requested receives three (3) or more aye votes, then the case will be placed as old business on the agenda of each regular or special meeting of the Board until a motion either to approve or deny does receive three (3) or more aye votes.

The decision shall be promptly transmitted in writing to the applicant by the secretary stating the Board's action, the vote thereon and the reasons therefore, and any recommendations or modifications or conditions to which the Board's decision is subject. One (1) copy of the Board's action shall be filed in the official files of the Board of Adjustment, one (1) copy forwarded to the Board of Supervisors, and one (1) copy sent to the applicant or their agent or attorney where such are concerned sent to the applicant or their agent or attorney where such are concerned.

Article 7. Adoption. These rules of procedure were adopted by the Board of Adjustment of Jackson County, Iowa, this _____ day of _____, 2025.

(Signed) _____
Chair, Jackson County Board of Adjustment