

ARTICLE 19

ADMINISTRATION AND ENFORCEMENT

SECTIONS:

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19.010 COMPLIANCE

No structure, land or water hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, re-constructed, extended, enlarged, converted, or structurally altered without a Building Permit and without full compliance with the provisions of this Ordinance.

19.020 DUTY OF ZONING ADMINISTRATOR

The Zoning Administrator shall enforce the provisions of this Ordinance and shall have the following powers and duties in connection therewith:

1. To issue all permits and certificates required by this Ordinance.
2. To cause any building, structure, land, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein in violation of any provision of this Ordinance.
3. Transmit to the Board of Adjustment applications for appeal, variances or other matters which the Board of Adjustment is required to pass on.
4. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Adjustment shall be in the courts as provided by law and particularly by Statute.

19.030 VIOLATIONS

It shall be unlawful to construct any structure or buildings or to use any structure building, land, or water in violation of any of the provisions of this Ordinance. In case of any violation, the City Council, the Zoning Administrator, the Board of Adjustment, the Planning

and Zoning Commission, or any property owner who would specifically be damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Ordinance.

19.040 PENALTIES

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance, shall, upon conviction thereof, be fined not more than One Hundred Dollars (\$100) and costs of prosecution for each violation or shall be imprisoned for a period not to exceed thirty (30) days, or both.

19.050 BUILDING PERMITS AND COMPLIANCE

No structure shall hereafter be erected, reconstructed, structurally altered, enlarged, added to, nor shall an excavation for any such structure be commenced until and unless a building permit therefore shall have been issued by the Zoning Administrator.

An application for a building permit shall be filed with the Zoning Administrator and shall be accompanied by a drawing or plat, in duplicate drawn to scale and showing: The lot and the proposed building and their dimensions; the exact location of the proposed building on the lot and the use for which such building and any existing building is designed or intended; location, dimension and present use of any existing building on the same lot; and such other information as the Zoning Administrator shall require for the proper enforcement of this Ordinance.

All building permits issued under this Ordinance shall expire and be null and void on the date which shall be twelve (12) months after issuance, unless work shall have been commenced under such permit prior to such date.

19.060 BOARD OF ADJUSTMENT

1. Creation. A Board of Adjustment consisting of seven (7) members of which five (5) are appointed by the City Council and two (2) appointed by the Board of Supervisors as provided in Chapter 414.23 of the 1989 Code of Iowa is hereby created. At least one (1) such member shall be named from among the members of the Planning and Zoning Commission. The appropriate appointing authority may remove any member of the Board of Adjustment for cause after public hearing.
2. Meetings. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the Public. The Board shall keep minutes of its proceedings, showing the vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and

shall be a public record. The presence of four (4) shall be necessary to constitute a quorum.

3. Appeals. Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within twenty-one (21) days by filing with the Zoning Administrator and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.
4. Affect of Appeal. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative officer from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.- In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a Court of Record on application on notice to the Zoning Administrator from whom the appeal is taken and due cause shown.
5. Fee for Appeal. See Article 20 for schedule of fees.
6. Hearings, Notice. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof in a newspaper of general circulation in the City of Corydon, Iowa, 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 by attorney. Before an appeal is filed with the Board, the appellant shall pay a fee as provided in Article 20 to the City of Corydon to be credited to the general fund of the City.

19.070 BOARD OF ADJUSTMENT - POWERS

The Board of Adjustment shall have the following powers:

1. Special Exceptions and Interpretation of Map. The Board shall have the power to hear and decide, in accordance with the provisions of the regulation, requests or applications for special questions upon which the Board is authorized to pass.
2. Special Exceptions. In addition to permitting the special exceptions heretofore specified in this ordinance, the Board shall have the authority to permit the following:
 - A. Non-Conforming Uses - The substitution for a non-conforming use, another non-conforming use, if no structural alterations are made; provided, however, that any use so substituted shall be of the same or a more

restricted classification.

- B. Temporary Uses and Permits. The temporary use of a building or premises in any district for a purpose or use that does not conform to the standards prescribed by the regulations, provided that such use be of a true temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than 12-month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

The temporary use of a building or premises in undeveloped sections for a purpose that does not conform to the standards prescribed by the regulations, provided that such structure or use is of a true temporary nature, is promotive of or incidental to the development of such undeveloped sections, and does not involve the erection of substantial buildings.

- C. Interpretation of Map. Where the street or lot layout actually on the ground or as recorded, differs from the street and lot line indicated on the zoning map, the Board, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purposes of the regulations for the particular section or district in question.
3. Administrative Review and Variances - The Board Adjustment also shall have the following powers:
- A. Administrative Review - to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, grant or refusal made by the Zoning Administrator in the enforcement of the regulation.
- B. Variances. To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
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 applicants 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;
- d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

Non-conforming use of neighboring lands, structures, or buildings in the same district, and permitted or non-conforming use of lands, structures, or buildings in other districts shall not be considered grounds for the issuance of a variance.

- 2. The Board of Adjustment shall make findings that the requirements of this subsection have been met by the applicant for a variance;
- 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;
- 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.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 19.040 of this Ordinance.

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

- C. Decisions on Appeal. In exercising the above mentioned powers such Board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and any make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.
- D. Vote Required. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative officer, or to decide in favor of the applicant on any matter upon which it is required to pass under any such Ordinance or to affect any variance in such Ordinance; provided, however, that the action of the Board, setting forth the full reason of its decision and the vote of each member participating therein, has been spread upon the minutes and a copy of said minutes has been received by the City Council. Such resolution, immediately following the Board's final decision, shall be filed in the office of the City Clerk and shall be open to public inspection. Every violation and exception granted or denied by the Board shall be supported by a written testimony or evidence submitted therewith.

4. Conditional Uses.

- A. Permit. The Board of Adjustment may authorize the Zoning Administrator to issue a conditional use permit for conditional uses provided that such conditional uses or structures are in accordance with the purpose and intent of this Ordinance and are found not to be hazardous, harmful, offensive, or otherwise adverse to the environment, the applicant or the value of the neighborhood or community.
- B. Application. Application for Conditional Use Permits shall be made to the Zoning Administrator on forms provided by the City Clerk. Such applications shall be forwarded to the Board of Adjustment on receipt by the Zoning Administrator. Such application shall include where applicable:
 - 1. Names and Addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record. In addition, a map or plat showing the legal description as well as name and address of each opposite and abutting property owner of record, to date of application, shall also be provided by the applicant.
 - 2. Description of the Subject Site by lot, block, and

recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

3. Additional Information as may be required by the Board of Adjustment and Zoning Administrator.

4. Fee - As noted in Article 20.

C. Review and Approval. The Board of Adjustment shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.

A public hearing shall be held. Notice of time and place of such hearing shall be published not less than fifteen (15) nor more than thirty (30) days preceding said hearing and at least once in one or more newspapers of general circulation in the City. The City Clerk shall notify all abutting or opposite property owners separated by public right-of-way.

D. Standards. No conditional use shall be granted by the Board of Adjustment unless the Board shall find:

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
2. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, and will not substantially diminish and impair property values within the neighborhood;
3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
4. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
6. That the conditional use shall, in all other

respects, conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance, be modified as provided in Article 17.

7. That the proposed use shall be consistent with the comprehensive plan.

E. Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational controls, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Board of Adjustment upon finding that these are necessary to fulfill the purpose and intent of this Ordinance.