

CHAPTER 166
ZONING REGULATIONS
ADMINISTRATION AND ENFORCEMENT

166.01 Administrative Official	166.11 Planning and Zoning Commission
166.02 Duties of Administrative Official and Agencies	166.12 Right of Appeal; Fee
166.03 Building Permit Required	166.13 Hearings; Notice
166.04 Application for Building Permit	166.14 Administrative Review
166.05 Certificates of Zoning Compliance for New, Altered, or Nonconforming Uses	166.15 Special Exceptions
166.06 Expiration of Building Permit	166.16 Variances
166.07 Compliance with Authorized Construction and Use	166.17 Decisions of Board
166.08 Complaints Regarding Violations	166.18 City Council Remand
166.09 Enforcement	166.19 Appeals From Decision of Board
166.10 Board of Adjustment Created	166.20 Rezoning and Text Amendments

166.01 ADMINISTRATIVE OFFICIAL. An administrative official designated by the City Council shall administer and enforce these zoning regulations. The administrative official may be provided with the assistance of such other persons as the City Council may direct. If the administrative official shall find that any of the provisions of these zoning regulations are being violated, the official shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The administrative official shall order discontinuance of any illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by these zoning regulations to ensure compliance with or to prevent violation of its provisions.

166.02 DUTIES OF ADMINISTRATIVE OFFICIAL AND AGENCIES.

1. Administrative Official and Board of Adjustment. It is the intent of these zoning regulations that all questions of interpretation and enforcement shall be first presented to the administrative official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by statute.

2. City Council. It is further the intent of these zoning regulations that the duties of the City Council in connection with these zoning regulations shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and these zoning regulations. Under these zoning regulations, the City Council shall have only the duties of: (i) considering and adopting or rejecting proposed amendments or the repeal of these zoning regulations, as provided by law; and (ii) considering applications for special permits for exceptions to prohibited uses as specified in Section 165.19 of these zoning regulations.

166.03 BUILDING PERMIT REQUIRED. No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the administrative official. No work on such building or structure shall be done until a permit shall have been issued. No building permit shall be issued except in conformity with the provisions of these zoning regulations, except after written order from the Board of Adjustment. Fees shall be established by resolution of the City Council.

166.04 APPLICATION FOR BUILDING PERMIT. All applications for building permits shall be accompanied by plans in duplicate or by electronic copy, drawn to scale, showing the actual dimensions

and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for, the enforcement of these zoning regulations. The administrative official shall have ~~12-14~~ days, excluding ~~Sundays and~~ legal holidays, in which to accept or reject an application for building permits after the same has been submitted in proper form.

166.05 CERTIFICATES OF ZONING COMPLIANCE FOR NEW, ALTERED OR NONCONFORMING USES.

1. It is unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, or converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the administrative official stating that the proposed use of the building or land conforms to the requirements of these zoning regulations.
2. No nonconforming structure or use shall be maintained, renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the administrative official. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of these zoning regulations; provided, upon enactment or amendment of these zoning regulations, owners or occupants of nonconforming uses or structures shall have one year to apply for certificates of zoning compliance. Failure to make such application within one year shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of these zoning regulations.
3. Certificates of zoning compliance shall be applied for coincidentally with the application for a building permit, and shall be issued within 10 days after the lawful erection or alteration of the building is completed in conformity with the provisions of these zoning regulations.
4. A temporary certificate of zoning compliance may be issued by the administrative official for a period not exceeding six months during alterations or partial occupancy of a building pending its completion; provided, such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.
5. The administrative official shall maintain a record of all certificates of zoning compliance, and copies shall be furnished upon request to any person.
6. Failure to obtain a certificate of zoning compliance shall be a violation of these zoning regulations.
7. Fees for certificates shall be established by resolution of the City Council.

166.06 EXPIRATION OF BUILDING PERMIT. If the work described in any building permit has not begun within ~~90-180~~ days after the date of issuance thereof, said permit shall expire; it shall be canceled by the administrative official, and written notice thereof shall be given to the persons affected. If the work described in any building permit has not been substantially completed within two years after the date of issuance thereof, said permit shall expire and be canceled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

166.07 COMPLIANCE WITH AUTHORIZED CONSTRUCTION AND USE. Building permits or certificates of zoning compliance issued on the basis of plans and applications, approved by the

administrative official, authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of these zoning regulations.

166.08 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of these zoning regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrative official, who shall record properly such complaint, immediately investigate, and take action thereon as provided by these zoning regulations.

166.09 ENFORCEMENT.

1. All departments, officials, and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure, or purpose if the same would not conform to the provisions of these zoning regulations.
2. Violation of the provisions of these zoning regulations, or failure to comply with any of its requirements, shall constitute a simple misdemeanor. Any person who violates these zoning regulations or fails to comply with any of its requirements shall, upon conviction thereof, be subject to penalty as provided in this Code of Ordinances; and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
3. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
4. Nothing herein contained shall prevent the City from taking such other lawful action as necessary to prevent or remedy any violation.

166.10 BOARD OF ADJUSTMENT CREATED.

1. A Board of Adjustment is hereby established, which shall consist of five (5) members. The term of office of the members of the Board shall be five years, with all terms to expire on January 31 of the appropriate year. The terms of not more than one-third of the members will expire in any one year.
2. If any vacancy exists on the Board, a successor for the remainder of the term shall be appointed in the same manner as the original appointee. The position of any Board member shall be vacant if the member resigns, moves permanently from the City, or if said member is absent without due explanation from six consecutive regular meetings of the Board, except in the case of sickness, or is removed for cause by the Mayor with the approval of the Council.

166.11 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of seven members appointed by the Mayor with the approval of the Council. The Commission members shall be residents of the City and shall not hold any elective office in the City government.

(Code of Iowa, Sec. 392.1)

1. Term of Office. The term of office of the members of the Commission shall be five years, expiring on January 31 of the appropriate year. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

2. Vacancies. If any vacancy exists on the Commission, a successor for the remainder of the term shall be appointed in the same manner as the original appointee. The position of any Commission member shall be vacant if the member resigns, moves permanently from the City, or if said member is absent without due explanation from six consecutive regular meetings of the Commission, except in the case of sickness, or is removed for cause by the Mayor with the approval of the Council.

(Code of Iowa, Sec. 392.1)

3. Quorum and Voting. A quorum shall consist of four members. All action by the Commission shall require a majority vote of the whole number of members.

4. Compensation. All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the Council.

(Code of Iowa, Sec. 392.1)

5. Attendance. The ~~Development Services Director~~ **Administrative Official or designee** shall attend all regular and special meetings of the Commission and shall record and preserve a correct record of the proceedings of such meetings.

6. Powers and Duties. The Commission shall have and exercise the following powers and duties:

A. Selection of Officers. The Commission shall choose annually at its first regular meeting ~~after January 31st~~ one of its members to act as Chairperson and another as Vice Chairperson, who shall perform all the duties of the Chairperson during the Chairperson's absence or disability.

(Code of Iowa, Sec. 392.1)

B. Adopt Rules and Regulations. The Commission shall adopt such rules and regulations governing its organization and procedure as it may deem necessary.

(Code of Iowa, Sec. 392.1)

C. Zoning. The Commission shall have and exercise all the powers and duties and privileges in establishing the City zoning regulations and other related matters and may from time to time recommend to the Council amendments, supplements, changes or modifications, all as provided by Chapter 414 of the *Code of Iowa*.

(Code of Iowa, Sec. 414.6)

D. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

E. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or re-subdivisions of land embraced in the City or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the City, shall first be submitted to the Commission and its recommendations obtained before approval by the Council.

(Code of Iowa, Sec. 392.1)

F. Fiscal Responsibilities. The Commission shall have full, complete, and exclusive authority to expend, for and on behalf of the City, all sums of money appropriated to it and to use and expend all gifts, donations, or payments that are received by the City for City planning and zoning purposes.

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(Code of Iowa, Sec. 392.1)

G. Limitation on Entering Contracts. The Commission shall have no power to contract debts beyond the amount of its original or amended appropriation as approved by the Council for the present year.

(Code of Iowa, Sec. 392.1)

~~H. — Annual Report. The Commission shall each year make a report to the Mayor and Council of its proceedings, with a full statement of its receipts, disbursements and the progress of its work during the preceding fiscal year.~~

(Code of Iowa, Sec. 392.1)

166.12 RIGHT OF APPEAL; FEE. Appeals to the Board may be taken by any person aggrieved, or by any official, department, board or bureau of the City affected by any decision of the administrative official. Such appeal shall be taken within 10 days by filing with the administrative official and with the Board a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official certifies to the Board, after notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would, in the official's 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 or by a court of record on application and notice to the administrative official, and on due cause shown. Fees for appeal shall be as established by resolution of the City Council.

166.13 HEARINGS, NOTICE.

1. Notice To Surrounding Property Owners. After the administrative official has set the Board of Adjustment meeting date, surrounding property owners within ~~200-310~~ feet, ~~not including intervening streets and alleys~~, shall be notified along with the appellant. Notice shall be sent not less than 7 days and not more than 20 days before the Board of Adjustment meeting. The notice shall follow the format established by the administrative official and be sent by first class mail. Notice shall contain the date, time, location and subject of the Board of Adjustment meeting.

2. Posting of Notice. The administrative official shall cause to be posted at least one notification sign at least 7 days and not more than 20 days prior to the Board of Adjustment meeting. At least one sign must be placed so that it may be seen from a public street, and in cases of through lots and/or corner lots, a sign may be posted at both frontages.

166.14 ADMINISTRATIVE REVIEW. The Board shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of these zoning regulations.

166.15 SPECIAL EXCEPTIONS. The Board shall have the power to permit the following exceptions to the district regulations set forth in these zoning regulations, subject to the requirements of this section:

1. Public Service Corporation. To permit erection and use of a building or the use of premises or vary the height and the regulations in any location for a public service corporation for public utility purposes or purposes of public communication, which the Board determines is reasonable and necessary for the public convenience or welfare.

2. Extension of Use, Lot in More Than One District. To permit the extension of a use into a district where it would be otherwise prohibited in a case where a district boundary line is so located that a lot or plot is in more than one district.

3. Conditions For Granting Special Exceptions. To hear and decide only such other special exceptions as the Board is specifically authorized to pass on by the terms of these zoning regulations; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions when in harmony with the purpose and intent of these zoning regulations. A special exception shall not be granted by the Board unless and until:

A. A written application for a special exception is submitted indicating the section of these zoning regulations under which the special exception is sought and stating the grounds on which it is requested.

B. Notice of public hearing shall be given consistent with the provisions of Section 166.13 of this chapter.

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

D. The Board shall make a finding that it is empowered under the section of these zoning regulations described in the application to grant the special exception and it will not adversely affect the public interest.

4. In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with these zoning regulations. Violations 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 these zoning regulations. The Board may 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.

166.16 VARIANCES. The Board shall have the power to authorize, upon appeal in specific cases, such variance from the terms of these zoning regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these zoning regulations would result in unnecessary hardship. A variance from the terms of these zoning regulations shall not be granted by the Board unless and until:

1. Submission of Application. A written application for a variance is submitted demonstrating that:

A. 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. Literal interpretation of the provisions of these zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these zoning regulations.

C. The special conditions and circumstances do not result from the actions of the applicant.

D. Granting the variance requested will not confer on the applicant any special privilege that is denied by these zoning regulations to other lands, structures, or buildings in the same district.

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

3. Notice of Hearing. Notice of public hearing shall be given consistent with the provisions of Section 166.13 of this chapter.

4. Hearing. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.
5. Findings. The Board shall make findings that the requirements of this section have been met by the applicant for a variance.
6. Justification For Granting Variance. The Board 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.
7. Conditions For Granting Variance.
 - A. The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - B. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with these zoning regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these zoning regulations.
 - C. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

166.17 DECISIONS OF BOARD.

1. In exercising the powers mentioned in this chapter, the Board may, so long as such action is in conformity with the terms of these zoning regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative official from whom the appeal is taken.
2. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these zoning regulations, or to effect any variation in these zoning regulations.

166.18 CITY COUNCIL REMAND. The City Council may, at its discretion, review any affirmative decision of the Board of Adjustment at any time before the effective date of the decision. After such review, but prior to the effective date of the decision, the Council may remand any such decision to the Board of Adjustment for further review. Upon remand, the Board of Adjustment may reconsider its decision and issue its final decision on the request within 30 days after the date of such remand.

166.19 APPEALS FROM DECISION OF BOARD. Any taxpayer, or any officer, department, Board or bureau of the City, or any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

166.20 REZONING AND TEXT AMENDMENTS. The amendment procedure established in this section is intended to provide a means for making changes to the text of these zoning regulations and/or the official zoning map.

1. Authority. The City Council may, from time to time, on its own action or on petition, amend, supplement, or change the boundaries or regulations herein or subsequently established. However, no such amendment, supplement, or change of boundaries or regulations shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Such amendment, supplement, or change shall not become effective except by favorable vote of a majority of all of the members of the City Council.

2. Initiation of Amendments. An amendment of text may be initiated by a motion of the City Council. An amendment may be initiated by a motion of the City Council, or any person, firm or corporation, by the filing of a petition requesting such amendment and clearly describing the property and its boundaries as to which the amendment is desired. The petition shall meet all requirements of these zoning regulations. The petition shall be duly signed by the owners of 50 percent of the area of all real estate included within the boundaries of said tract as described in said petition. The petitioner shall obtain a signed consent to the zoning amendment from the owners of 50 percent or more of all area located within ~~200-310~~ feet of the property proposed to be amended (~~intervening streets and alleys shall not be included in computing such 200 feet~~). Public property such as parks, public buildings, public utilities, etc., shall not be included within the 50 percent consent area.

3. Filing of Petition for Rezoning Amendment. A petition for an amendment to the zoning district classification shall be filed with the administrative official. Each rezoning request shall be reviewed by the administrative official to ensure that it contains all the information required in these zoning regulations.

4. Fee for Rezoning Amendment. The Council shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for an amendment to these zoning regulations. The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by resolution by the Council. All fees for a rezoning request are nonrefundable and shall be paid at the time the rezoning petition is initially submitted.

5. Rezoning Request Requirements. Each rezoning request shall be accompanied by a written request for a change, a rezoning map, a conceptual master plan or development plan as required herein and an address list of all property owners within ~~200-250~~ feet of the property (intervening streets and alleys shall not be included in computing such ~~200-250~~ feet), all in accordance with the provisions outlined herein.

A. Plans and Plats. The administrative official may require a development plan, site plan, preliminary plat or conceptual master plan for any proposed rezoning.

B. Zoning Change and Development Agreement. The administrative official may require a zoning change and development agreement for any proposed rezoning.

C. Notification of Surrounding Property Owners. Following review of the rezoning request for completion, the administrative official shall set the Planning and Zoning Commission meeting date. Notice will be sent to the surrounding property owners within ~~200-250~~ feet of the property to be rezoned. Notice shall be sent not less than 7 days and not more than 20 days prior to the Commission meeting at which the zoning amendment is first considered. The notice shall contain the date, time and location of the Commission meeting and Council public hearing.

D. Notification Signs.

(1) For all rezoning requests of property by petition or owner's request, the petitioner or owner shall be required to post a sign stating notice of rezoning, zoning district designations proposed to be changed, date and time of Council

public hearing and telephone number and address of City Hall. Such sign shall be four feet by eight feet in size and include black letters on a white board. The letters on the sign shall not be less than six inches in height. One sign shall be placed on each public street right-of-way and shall not be erected greater than 20 feet from the street right-of-way.

(2) Such sign shall be erected no less than seven days before review of the rezoning request by the Commission and shall remain in place until after the final hearing before the Council. The property owner shall remove the sign within seven days of the date of the final action on the rezoning amendment by the Council.

6. **Conceptual Master Plans for Rezoning Amendment.** Conceptual master plans are intended to present basic development information in such a way as to empower area residents, interested parties, City staff and Council to accurately and decisively formulate opinions on the proposed development. Conceptual master plans shall be required for all proposed rezoning of land within the City to a commercial or manufacturing district. At the discretion of the administrative official, a conceptual master plan may be required for rezoning to residential districts.

A. In the case of a rezoning request to a commercial or industrial zoning district, the conceptual master plan shall show, at a minimum, proposed building footprints, utilities, access, parking, and open space. In the case of a rezoning request to a residential zoning district, the conceptual master plan shall show, at a minimum, proposed lot layout, street configuration, utilities and park/trail features. Additional information on the conceptual master plan may be required at the discretion of the administrative official.

B. The administrative official may suspend the requirement of a conceptual master plan if the Council initiates the rezoning.

7. **Zoning Changes and Development Agreements.** Zoning changes and development agreements are meant to impose additional conditions or restrictions on the property being rezoned beyond the minimum requirements of the zoning district in order to protect and satisfy the public needs of the surrounding established neighborhood and character of the City at large. The conditions must be reasonable and agreed to by the property owner prior to the final consideration of the rezoning request.

8. **Compliance With Comprehensive Plan.** If the proposed rezoning is not in accordance with the comprehensive plan, the applicant will be required to request a comprehensive plan amendment in addition to the rezoning request.

9. **Initial Action Required by City Council.** When a petition meeting the requirements of these zoning regulations is presented to the Council, or if the Council elects to initiate an amendment, the Council shall receive and file said petition and refer it to the Commission for consideration of such amendment prior to the date of the public hearing.

10. **Action by Planning and Zoning Commission.** After receiving the proposed amendment from the Council, the Commission shall review the proposed amendment and report its recommendations within 60 days to the Council for final action.

11. **Further Action by Council.** After receiving the Commission recommendations, the City Council, at a public hearing, shall then take final action on the proposed amendment, after public notice in accordance with applicable State law. The amendment shall become effective by the favorable vote of a majority of all the members of the Council.

12. **Amendment Disapproval or Protest.** In the case of a proposed rezoning of property, if: (i) the Commission disapproves of the amendment; or (ii) a written protest against such change signed by the owners of 20 percent or more either of the area of the lots included in such a proposed

change, or by the owners of 20 percent or more of the property which is located within 200-310 feet of the boundaries of the property for which the change is proposed ~~(intervening streets and alleys not to be included in computing such 200 feet)~~, such change shall not become effective except by the favorable vote of at least four-fifths of all of the members of the Council.

13. Denial of Amendment. Whenever any petition for an amendment, supplement, or change of the zoning regulations herein contained or subsequently established shall have been denied by the Council, then no new petition covering the same property, or the same property and additional property, shall be filed with or considered by the Council until one year shall have elapsed from the date of the filing of the first petition.

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