

TITLE V- PROPERTY AND LAND USE

CHAPTER 43

ZONING-ENFORCEMENT AND ADMINISTRATION

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43.01 APPLICATIONS FOR ZONING CERTIFICATES; BUILDING PERMITS. It shall be unlawful to do any excavating, erecting, construction, reconstruction, enlarging, altering, or moving of any building or structure until a Zoning Certificate or Building Permit shall have been issued by the Zoning Administrator. It shall also be unlawful to change the use or occupancy of any building, structure, or land from one classification to another, or to change a nonconforming use without the issuance of a Zoning Certificate or Building Permit.

1. **Applications.** Written applications on approved forms shall be filed with the Zoning Administrator and shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part, the exact location, size, and height of any building or structure to be erected or altered, the existing and intended use of each building or structure or part thereof, the number of families or housekeeping units the building is designed to accommodate and when no buildings are involved, the location of the present use and proposed use to be made of the lot, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of the Zoning Ordinance. One (1) copy of such plans shall be returned to the owner when such plans shall have been approved by the Zoning Administrator together with such Zoning Certificate or Building Permit as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on actual survey. The lot and the location for the building thereon shall be staked out on the ground before construction is started. Evidence shall be submitted that any new proposed dwelling unit has met the minimum requirements of the Warren County Board of Health with regard to sewage disposal systems and approval for the sewage disposal permit has been granted. This shall include any existing dwellings for which any additions to the number of bedrooms are proposed.
2. **Fees.** A permit fee of five hundred dollars (\$500.00) shall be charged for the issuance of a zoning certificate or building permit for a principal use or structure. A fee of five hundred dollars (\$500.00) shall be charged for an accessory use or an addition to an existing primary or accessory structure. Accessory use is a

detached garage or pole building, shipping containers, signs, wind generator for private use, etc. **Exception:** Less than 200 square foot building is not considered an accessory structure for fee.

3. Time Limits. Zoning Certificates or Building Permits issued in accordance with the provisions of this section shall be null and void at the end of six (6) months from the date of issue if the construction, alteration or change of use is not commenced during the six (6) month period. Proposed construction or alteration must be completed with eighteen (18) months.

43.02 ENFORCEMENT BY ZONING ADMINISTRATOR. A Zoning Administrator appointed by the Board of Supervisors shall administer and enforce the Zoning Ordinance. Said Zoning Administrator may be provided with the assistance of such other persons as the Board may direct. The Zoning Administrator may make exceptions to setback rules up to 35% of original setback with written permission from the landowners adjacent to the setback.

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

43.04 VIOLATIONS AND PENALTIES. If prosecution becomes necessary, it shall be administered under the provisions of Chapter 331, Code of Iowa, which states in part that the violation of any regulation, restriction or boundary adopted under said chapter or the occupancy or use of any structure erected, altered, or maintained in violation of said chapter shall constitute a misdemeanor. Such occupancy or use shall be deemed a continuing violation and may be the subject of repeated prosecutions if so continued. Every person convicted of a County infraction, by the reason of violations hereinafter set forth, shall be punished by a fine of not more than seven hundred fifty dollars (\$750.00) for each violation or if the infraction is a repeat offense a civil penalty not to exceed one thousand dollars (\$1000.00) for each repeat offense.

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

43.06 BOARD OF ADJUSTMENT-APPOINTMENT AND TERMS; MEETINGS. A Board of Adjustment is hereby created. Such Board of Adjustment shall consist of five (5) members appointed by the Board of Supervisors for staggered terms of five (5) years and vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Board of Supervisors shall have power to remove any member of the Board of Adjustment for cause upon written charges and after public hearing. The Board of Adjustment shall organize and adopt rules in accordance with provisions of the Zoning Ordinance and the Code of Iowa. All meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such time and place within the County as the Board of Adjustment may determine. Such Chairperson, or in the Chairpersons' absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep complete records of its hearings and other official actions. Every rule, regulation, every amendment, or repeal thereof and every order, requirement or decision of the Board of Adjustment shall immediately be filed in the office of the Board of Adjustment and shall be a public record. The presence of three (3) members shall be necessary to constitute a quorum.

43.07 APPLICATION, APPEALS AND HEARINGS.

1. Applications, When and By Whom Taken. An application, in cases in which the Board of Adjustment has original jurisdiction under the provisions of the Zoning Ordinance, may be taken by any property owner, including a tenant, or by a governmental officer, department, board or bureau. Such application shall be filed with the Zoning Administrator who shall transmit same to the Board of Adjustment.
2. Appeals, When and By Whom Taken. An appeal to the Board of Adjustment may be taken by any person aggrieved or by an officer of the County affected by any decision of the Zoning Administrator. Such appeal shall be taken within twenty (20) days after the decision 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 the papers constituting the record upon which the action appealed from was taken.
3. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment after the notice of appeal shall have been filed with the Administrator that by reason of facts stated in the certificate, a stay would, in the opinion of the Administrator, 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 and on due cause shown.
4. Hearings. The Board of Adjustment shall fix a reasonable time for the hearing on the appeal, give ten (10) days notice by letter to all owners of property located within five hundred (500) feet (two hundred (200) feet for property zoned R-2 or R-3) in all directions from the property for which the variation is being sought, and decide the same within a reasonable time after it is submitted. If the applicant is the only adjacent

landowner within five hundred (500) feet or two hundred (200) feet of the property for which the variance is being sought, notice must be sent to the next adjacent landowner(s). Each application shall be accompanied by a check, payable to the Treasurer of Warren County, or a cash payment, of five hundred dollars (\$500.00) to cover the cost of publishing and/or posting and mailing the notices of the hearing or hearings. At the hearing, owner, and applicant must appear in person; agent or attorney may speak for owner or applicant.

43.08 POWERS AND DUTIES OF BOARD.

1. The Board of Adjustment shall have the following powers and it shall be its duty:
 - A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of the Zoning Ordinance or of any supplement or amendment.
 - B. To hear and permit special exceptions to the terms of the Zoning Ordinance upon which the Board of Adjustment is required to pass under the Zoning Ordinance.
 - C. To authorize, upon appeal, in specific cases, such variance from the terms of the Zoning Ordinance as will not be contrary to the public interest where owing to special conditions a literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship, and so that the spirit of the Zoning Ordinance shall be observed, and substantial justice done.
2. No variation in the application of the provisions of the Zoning Ordinance shall be made unless and until the Board of Adjustment shall be satisfied that granting the variation will not:
 - A. Merely serve as a convenience to the applicant and is not necessary to alleviate demonstrable hardship or difficulty so great as to warrant the variation.
 - B. Impair the general purpose and intent of the regulations and provisions contained in the Zoning Ordinance.
 - C. Impair an adequate supply of light and air to adjacent properties.
 - D. Increase the hazard from fire and other danger to said property.
 - E. Diminish the value of land and buildings in the County.
 - F. Increase congestion and traffic hazards on public roads.
 - G. Otherwise impair the public health, safety, and general welfare of the inhabitants of the County.

3. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with the Zoning 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 the Zoning Ordinance and punishable under Sections 43.02 through 43.05 of the Zoning Ordinance.
4. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse any requirement, decision, order, or determination of the Zoning Administrator or to decide in favor of the applicant in regard to any matter upon which the Board is authorized by the Zoning Ordinance to render a decision.
5. It is not the intention to grant to the Board of Adjustment the power or authority to alter or change the Zoning Ordinance or the District Maps. Such power and authority rests solely with the Board of Supervisors, in the manner hereafter provided in Section 43.10.

43.09 DECISIONS OF THE BOARD OF ADJUSTMENT.

1. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determinations as it believes proper, and to that end shall have all the powers of the Zoning Administrator. The concurring vote of three of the 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 under the Zoning Ordinance, provided, however, that the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein, has been filed. Such resolution, immediately following the Board's final decision, shall be filed in the office of the Board, and shall be open to public inspection.
2. Every variation and exception granted or denied by the Board shall be supported by a written testimony or evidence submitted in connection therewith.
3. Any taxpayer, or any officer, department, board or bureau of Warren County, or any person or persons jointly or severally aggrieved by any decision of the Board 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 thirty (30) days after the filing of the decision in the office of the Board.
4. Whenever any application for a special use permit, variance, or appeal of any order, requirement, decision, or determination made by the Zoning Administrator shall have been denied by the Board of Adjustment, then no new application

covering the same matter shall be filed with or considered by the Board of Adjustment unless new evidence has been introduced until one (1) year shall have elapsed from the date of filing of the first application.

5. Failure of both the applicant and owner to attend the public hearing will result in dismissal of the application and no new application can be submitted for one (1) year from the date of dismissal.

43.10 DISTRICT CHANGES AND AMENDMENTS. Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the Board of Supervisors may by resolution on its own action or by petition, after recommendation by the Zoning Commission after public hearing as specified herein, amend, supplement, or change the regulations, district boundaries, or classification of property, now or hereafter established by the Zoning Ordinance or amendments hereof. The procedure for such amendment, supplement or changes is as follows:

1. Applications for any change of district boundaries or classification of property as shown on the Official Zoning Map shall be submitted to the County Zoning Commission at their public office upon such forms and shall be accompanied by such data and information as may be prescribed for that purpose by the Zoning Commission so as to assure the fullest practicable presentation of facts for the permanent record. Each such application shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the application. Applications for amendments of the text or requirements of the Zoning Ordinance shall likewise be submitted to the County Zoning Commission on forms prescribed by it and shall be verified by the person or persons preparing said amendment.
2. Before submitting its recommendations on a proposed amendment to the Board of Supervisors, the Zoning Commission shall hold at least one (1) public hearing thereon, notice of which shall be given to all property owners within five hundred (500) feet of the property concerned, or two hundred (200) feet if zoned R-2 or R-3, by placing said notice in the United States Mail at least ten (10) days before date of such hearing. If the applicant is the only adjacent land owner within five hundred (500) feet or two hundred (200) feet, as applicable, of the property for which the amendment is being sought, notice must be sent to the next adjacent land owner(s). The notice shall state the place and time at which the proposed amendment to the Zoning Ordinance, including text and maps, may be examined. When the Zoning Commission has completed its recommendations on a proposed amendment, it shall certify the same to the Board of Supervisors.
3. After receiving the certification of said recommendations on the proposed amendment from the Zoning Commission and before adoption of such amendment, the Board of Supervisors shall hold a public hearing thereon, the notice of time and place of which shall be published not less than four (4) days nor more than twenty (20) days by one (1) publication in a newspaper of general

circulation in the County. In addition, notices shall be sent by the United States Mail as specified in subsection 2 above.

4. After receiving certification of the recommendations on the proposed amendment from the Zoning Commission and after holding the public hearing provided for, the Board of Supervisors shall consider such recommendations and vote upon the adoption of the proposed amendment. The proposed amendment shall become effective by a favorable vote of a majority of all the members of the Board of Supervisors.
5. Any person or persons desiring a change in the zoning classification of property shall file with the application for such change a statement giving the names and addresses of the owners of all properties lying within five hundred (500) feet or two hundred (200) feet, as applicable, of any part of the property proposed to be changed.
6. Failure to notify as provided in subsections 2 and 3 above shall not invalidate any recommendation of the Zoning Commission provided such failure was not intentional, and the omission of the name of any owner of property who may, in the opinion of the Zoning Commission be affected by such amendment or change, shall not invalidate any recommendation adopted hereunder; it being the intention of this subsection to provide, so far as may be, due notice to the persons substantially interested in the proposed change that an application is pending before the Zoning Commission proposing to make a change in the Zoning Map or the regulations set forth in the Zoning Ordinance.
7. Each application for an amendment or rezoning, except those initiated by the Zoning Director, Administrator or Commission, shall be accompanied by a check payable to the Treasurer of Warren County, or a cash payment in the amount of one thousand dollars (\$1000.00). The costs are to cover the approximate costs of this procedure and under no conditions shall said sum or any part thereof be refunded for failure of said amendment or rezoning to be enacted into law.
8. Whenever any petition for an amendment, supplement or change of the zoning districts or regulations herein contained or subsequently established shall have been voted on by the Zoning Commission or denied by the Board of Supervisors, then no new petition, covering the same property and/or additional non denied property shall be filed with the zoning office nor considered by the Zoning Commission or the Board of Supervisors until one (1) year shall have elapsed from the date of the hearing on the first petition.
9. Failure of both the applicant and owner to attend the public hearing will result in dismissal of the application and no new application can be submitted for one (1) year from the date of dismissal.