

## ARTICLE 15 PROCEDURES

### Sec. 29.1500. GENERAL.

(1) **General.** The requirements of this Section shall apply to all applications.

(a) **Application Forms and Fees.** All applications required by this Article shall be submitted on forms provided by the Department responsible for accepting the application and in such number as required. Applications shall be accompanied by a non-refundable fee as shall be determined from time to time to defray the costs of processing applications. Any application that does not include required information or that is not accompanied by the required fee shall be returned to the applicant as incomplete and no further processing of the application shall occur until the deficiencies are corrected.

(b) A copy of all staff reports regarding any application review must be forwarded to the applicant no fewer than 2 working days prior to a hearing date.

(2) **Notices and Hearings.** The requirements and limitations of this Section shall apply to all hearings and public notices required under this Article.

(a) **Compliance with Notice Requirements.**

(i) Notice under this Ordinance shall be deemed to be complete when there is substantial compliance with the applicable notice requirements.

(ii) Minor technical deviations from the requirements shall not be deemed to impair the notice where there is actual notice.

(iii) When required written notices have been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action.

(iv) Requirements for the timing of the notice and for specifying the time, date and place of a hearing and the general location of the subject property shall be strictly construed.

(v) In the event that questions arise at the hearing regarding the adequacy of notice, the body hearing the matter shall make a formal finding regarding whether there was substantial compliance with the notice requirements of this Article.

(b) **Limitations on Action.** The body holding the hearing may take any action on the application that is consistent with the notice given, including approving the application, approving the application with conditions or denying the application. The reviewing body may impose conditions on the application or allow amendments to the application if the effect of the conditions or the amendments is to allow a less intensive use or Zone than proposed on the application or to reduce the impact of the development or to reduce the amount of land area included in the application. The reviewing body may not approve a greater amount of development, a more intensive use or a more intensive Zone than was indicated in the notice.

(c) **Continuance.** A hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Article, provided that the hearing is set for a date and time certain.

(d) **Notices.** The provisions of this Section describe the various types of notices that are required for different types of applications. The actual type of notice required for a given application is specified under the relevant review procedure of this Article.

(i) **Mailed Notice.** Notice required pursuant to this Section shall be mailed in such a manner as objectively to prove such a mailing to surrounding property owners based on ownership information generated by the Department, as derived from information available in the office of the County Recorder and Auditor of Story County, Iowa. The notice shall indicate the time and place of the public hearing and provide a general description of the application. The minimum required radius of notification shall be 200 feet from the subject property. Notice shall be given not more than 20 days nor less than 4 days prior to the meeting or hearing, except as otherwise prescribed by statute.

(ii) **Published Notice.** Notice required pursuant to this Section shall be published in a newspaper of general circulation, as defined in Section 362.3(1) and Section 414.4 of the Iowa Code. The notice shall indicate the time and place of the public hearing and provide a general description of the application. If the application affects specific property, that property shall be designated by legal description or by a general description sufficient to identify it. If a general description is used, the notice shall include a statement indicating where the complete legal description may be found. Notice shall be given not more than 20 days nor less than 4 days prior to the meeting or

hearing, except pursuant to the requirements in Section 29.1506(4) of this Ordinance or as otherwise prescribed by statute.

(iii) Posted Notice. Notice required pursuant to this Section shall be posted by the City on signs posted on the subject property. One sign shall be posted for each property. The required sign shall be posted along the perimeter of the subject property in a location that is highly visible from adjacent public streets in a reasonable time prior to the meeting or hearing, unless conditions prevent such posting, or unless otherwise prescribed by statute.  
(*Ord. No. 3591, 10-10-00*)

**Sec. 29.1501. BUILDING/ZONING PERMIT.**

**(1) Permit Required.**

(a) No Building/Zoning Permit shall be issued by the Building Official for any building, building addition, structure or structural alteration, and no building or structure shall be erected, added to, or structurally altered, and no change of use shall be permitted or established unless and until the Zoning Enforcement Officer certifies that such building structure or use is in conformity with this Ordinance or is a valid nonconforming use.

(b) No Building/Zoning Permit shall be issued for any building, structure or use that requires Site Development Plan review or Special Use Permit approval under this Ordinance without the prior approval of said Site Development Plan or issuance of said Special Use Permit.

(c) A Building/Zoning Permit shall be revoked if there are any substantial changes or alterations to the plot plan, building plans and/or other supporting application documents after the issuance of the permit.

**(2) Submission Requirements.**

(a) Exhibits. An application for Building/Zoning Permit approval, filed in accordance with Section 29.1500(1)(b), shall be accompanied by such information and exhibits as are required herein and such additional information as may be requested by the Zoning Enforcement Officer in order that the proposal may be interpreted adequately and evaluated as to its conformity with the intent and provisions of the Ordinance.

(b) Plot Plan. The applicant shall provide 2 copies of a plot plan drawn to scale on a sheet not to exceed 24" x 36" showing:

- (i) Legal description and street address of the property;
- (ii) Dimensions of the present lot and lot area;
- (iii) Size and location of all existing and proposed buildings, additions, structures and

uses; and

(iv) Dimensions relating the existing and proposed buildings, additions and structures to the lot boundaries.

(c) Building Plan. The applicant shall provide 2 copies of architectural drawings of all new buildings or structures, or alterations, at a scale not to exceed 1" = 8 feet, showing:

- (i) Name of applicant and name of the owner of record;
- (ii) Legal description and street address of property;
- (iii) Numerical scale and date;
- (iv) All exterior wall elevations, indicating floor heights, overall building height and

fenestration; and

(v) Building floor plans indicating existing and proposed usage, interior floor area and/or patron floor area.

(d) Deletion or Modification of Submission Requirements. The Zoning Enforcement Officer may delete or modify any requirements for a Building/Zoning Permit specified in Section 29.1501(2) of this Ordinance, provided the Zoning Enforcement Officer documents in writing that any such requirement is inappropriate to the particular application and that the deletion or modification of such requirement will not impair or prejudice the Zoning Enforcement Officer's determination as to the application's conformity to the Ordinance.

(3) **Procedures.**

(a) Expiration, Extension of Building/Zoning Permits.

(i) Any Building/Zoning Permit under which no construction work or use has been commenced within one year after the date of issue or under which the proposed construction, reconstruction or alteration has not been completed within 2 years of the date of issue, shall expire by limitation; and no work or operation shall take place under such permit after such expiration.

(ii) A Building/Zoning Permit may be renewed for one additional year, provided the renewal is obtained before the expiration of the first permit and a substantial amount of work on the project has been done. Substantial work shall be deemed to mean at least the subsurface utility facilities, drainage structures and a complete building foundation with a certified "as-built" plot plan, where applicable.

(iii) An expired Building/Zoning Permit shall be considered null and void. Any further renewal will require a new application or a new Building/Zoning Permit and other necessary approvals as applicable.

(b) Issuance of Building/Zoning Permit. If after a review of the Plot Plan, the Zoning Enforcement Officer finds that the Plot Plan complies with all provisions of the Zoning Ordinance and all other applicable codes, the Zoning Enforcement Officer shall, upon payment of the required fee, issue a Building/Zoning Permit therefore.

(c) Refusal of Building/Zoning Permit. If after a review of the Plot Plan the Zoning Enforcement Officer finds that the Plot Plan does not comply with all provisions of the Zoning Ordinance and all other applicable codes, the Zoning Enforcement Officer shall furnish the applicant with a signed statement refusing to issue such permit and setting forth reasons for such refusal. The refusal by the Zoning Enforcement Officer may be appealed by the applicant to the Zoning Board of Adjustment.

(4) **Record-Keeping.** The Zoning Enforcement Officer shall keep a record of all zoning applications filed, Building/Zoning Permits issued or refused and, if refused and appealed, the final action thereon. The Zoning Enforcement Officer shall keep a record of all permit fees collected and shall remit the amount of such fees to the office of the Director of Finance at such intervals as the Director shall require.

**Sec. 29.1502. SITE DEVELOPMENT PLAN REVIEW.**

(1) **Purpose.** This Section is intended to:

- (a) Plan for and review proposed development or redevelopment of property;
- (b) Provide approval procedures for all types of Site Development Plans;
- (c) Insure the orderly and harmonious development of property;
- (d) Promote the most beneficial relationship between uses of land;
- (e) Provide for orderly and efficient circulation of traffic within the development and throughout the City;
- (f) Insure that the proposed development or redevelopment is within the capacity limitations of public facilities and services;
- (g) Insure adequate provision for surface and subsurface drainage; and
- (h) Provide for suitable screening of parking, truck loading, refuse disposal, and outdoor storage from adjacent property.

(2) **General Requirements for Site Plan Review.**

(a) Issuance of Permits. All Site Development Plans shall be submitted, reviewed and approved prior to the issuance of a Building/Zoning Permit for the development or redevelopment of any lot, tract or parcel of land in any of the Zones.

(b) Exceptions. No Site Development Plan shall be required for the development or redevelopment of a single-family dwelling or a two-family dwelling in any Zone, or for a project that meets the following conditions:

- (i) The development or redevelopment does not require the provision of any additional parking spaces;
- (ii) The development or redevelopment does not increase the rate of storm water runoff as determined by the City Public Works Department; and

(iii) The development or redevelopment does not exceed 150 square feet of area, as calculated from the exterior dimension of the structure.

The exceptions stated above shall meet the submittal requirements in Section 29.1501(2).

(c) Number of Copies. An application for Site Development Plan approval, filed in accordance with Section 29.1502, shall be accompanied by the following:

(i) 7 copies of Minor Site Development Plans; or

(ii) 7 copies of Major Site Development Plans and one (1) reduced copy of the Major Site Development Plan no larger than 11" x 17".

(d) Submission Requirements.

(i) Site Plan. It is the intent of the City to insure that site plans be prepared with a high degree of accuracy and insure proper coordination of the site plan development and review responsibilities, which serve to facilitate compliance with the requirements of the city. To accomplish this intent, the applicant shall provide copies of a site plan, drawn to scale on a sheet not to exceed 24" X 36", prepared by a Civil Engineer, a Land Surveyor, a Landscape Architect, or an Architect. The site plan must be certified as "substantially correct" by a Professional Engineer, Land Surveyor, Landscape Architect, or Architect, licensed by the State of Iowa, showing the following information as of the date of application:

- a. Name of applicant and name or owner of record;
- b. Legal description and street address of property;
- c. North point, graphic scale and date with the graphic scale. The scale shall be not less than 1" to 10' and no greater than 1" to 60' unless an alternate scale is approved by the Director of the Department of Planning & Housing;
- d. Dimensions of the present lot and lot area;
- e. Specific types of uses, size and location of all existing and proposed buildings, additions, structures, and uses of land;
- f. Dimensions of all setbacks to the property lines observed by buildings and structures;
- g. Location and dimensions of parking areas, individual parking spaces and drive aisles, driveways, curb cuts, easements and rights-of-way;
- h. Location and size of sanitary sewer mains and service lines or septic tank, and leaching field;
- i. Location and size of water mains, service lines and hydrants and/or water well;
- j. Location and size of the proposed electrical service (electrical riser diagram) and location of high pressure gas lines and high tension transmission lines;
- k. Location of waterbodies, watercourses, swamps and flood-prone areas with delineated channel encroachment lines, wetland boundary lines, 100-year flood plain boundary line, and floodway boundary line;
- l. Location of all storm drainage facilities on the property and adjacent to the property;
- m. When an application pertains to any new permanent detached building or structure (principal or accessory), include existing and proposed contours at 2 foot intervals based on City datum;
- n. When an application is located in a flood-prone area include existing and proposed site grades, contours or elevations, base flood elevation data, top-of-foundation elevations, finished floor elevations, and any proposed watercourse relocation;
- o. When an application for development involves .5 acres or more of cumulative disturbed area(s), a Sediment and Erosion Control Plan shall be submitted. However, such a Plan may be required for applications with disturbed land of less than .5 acres, if deemed necessary by the Planning Director;
- p. Storm water management plan;
- q. A landscape plan, showing location of plants, and a plant list to include: plant species, number of each plant, and plant size; and
- r. Soils tests, traffic impact studies, utility capacity analysis, and other

similar information if deemed necessary by the Department of Planning and Housing to determine the feasibility of the proposed development.

s. For Village Residential projects, Suburban Residential projects, or Planned Residence District projects that are to develop in phases, the applicant shall provide a phasing plan indicating areas to be developed in each phase and the time frame for the development of each phase.

*(Ord. No. 3571, 6-27-00)*

(ii) Building Plan. The applicant shall provide 2 copies of architectural drawings of all new building or structures, or alterations, at a scale not to exceed 1" = 8 feet, showing the following information:

- a. Name of applicant and name of the owner of record;
- b. Legal description and street address of property;
- c. Numerical scale and date;
- d. All exterior wall elevations, indicating floor heights, overall building height

an fenestration; and

- e. Building floor plans indicating existing and proposed usage, interior floor

area and/or patron floor area.

*(Ord. No. 3606, 1-23-01)*

(3) **Procedures for Approval of a Minor Site Development Plan.** For all uses listed in Article 6 through Article 10 that require a minor site plan approval by staff, the Planning Director or designee shall review applications for development and issue a Certificate of Compliance certifying that the Minor Site Development Plan conforms with this Ordinance. Upon receipt of such a Certificate, the Zoning Enforcement Office shall issue a Building/Zoning Permit.

(a) Applications for a Certificate of Compliance shall be submitted to the Planning Director;

(b) The Planning Director shall prescribe the forms on which applications are made. Applications shall include the name and address of the applicant, the name and address of the owner of each lot involved, and the relationship of the applicant and property owner in connection with the application. If the applicant or property owner listed on an application for a Certificate of Compliance is an entity other than a natural person, the application shall also include detailed information regarding the principals of the entity. The Planning Director shall prescribe any other material that may reasonably be required to determine compliance with this Ordinance, with sufficient copies for necessary referrals and records.

(c) No application shall be accepted by the Planning Director unless it complies with the submittal requirement as set forth in Section 29.1502(2). Applications that are not complete shall be returned to the applicant, with a notation of the deficiencies in the application.

(d) Where an Engineering Construction Permit, Building/Zoning Permit, or Sign Permit is required, applications for such permits may be made concurrently with the application for a Certificate of Compliance.

(e) Upon receipt of a complete application, the Planning Director shall forward copies to the Development Review Committee for a determination of compliance with applicable provisions of this chapter.

(f) Design Standards. When acting upon an application for minor site plan approval, the Planning Director shall rely upon generally accepted site planning criteria and design standards. These criteria and standards are necessary for fulfill the intent of the Zoning Ordinance, the Land Use Policy Plan, and are the minimum necessary to safeguard the public health, safety, aesthetics, and general welfare. These criteria and standards include:

(i) The design of the proposed development shall make adequate provisions for surface and subsurface drainage to limit the rate of increased runoff of surface water to adjacent and down stream property;

(ii) The design of the proposed development shall make adequate provision for connection to water, sanitary sewer, electrical and other utility lines within the capacity limits of those utility lines;

(iii) The design of the proposed development shall make adequate provision for fire protection through building placement, acceptable location of flammable materials, and other measures to ensure fire safety;

(iv) The design of the proposed development shall not increase the danger of erosion, flooding, landslide, or other endangerment to adjoining and surrounding property;

(v) Natural topographic and landscape features of the site shall be incorporated into the development design;

(vi) The design of interior vehicle and pedestrian circulation shall provide for convenient flow of vehicles and movement of pedestrians and shall prevent hazards to adjacent streets or property;

(vii) The design of outdoor parking areas, storage yards, trash and dumpster areas, and

other exterior features shall be adequately landscaped or screened to minimize potential nuisance and impairment to the use of adjoining property;

(viii) The proposed development shall limit entrances and exits upon adjacent streets in order to prevent congestion on adjacent and surrounding streets and in order to provide for safe and orderly vehicle movement;

(ix) Exterior lighting shall relate to the scale and location of the development in order to maintain adequate security, while preventing a nuisance or hardship to adjacent property or streets;

(x) The proposed development shall ensure that dust and other forms of air pollution, noise disturbances, odor, glare, and other nuisances will be limited to acceptable levels as prescribed in other applicable State and City regulations; and

(xi) Site coverage, building scale, setbacks, and open spaces shall be in proportion with the development property and with existing and planned development and structures, in adjacent and surrounding property.

(g) Planning Director Decision. Final action by the Planning Director or designee on an application shall be based solely on findings as to compliance with all applicable provisions of this Ordinance and shall be one of the following:

- (i) Approval;
- (ii) Approval subject to conditions; or
- (iii) Denial.

The Planning Director may impose such reasonable conditions on an approval as are necessary to ensure compliance with applicable regulations.

Final action by the Planning Director shall be taken within 30 days of the filing of an application or within such further time consented to by written notice from the applicant.

(h) Applicant's Appeal of Conditions. An applicant may appeal any conditional approval to City Council upon written notice to the Planning Director.

(i) Other Approvals. In conjunction with Minor Site Development Plan approvals, the applicant shall obtain and submit all other approvals, in writing, required by any other local, state or federal agency. Such prior approvals include:

- (i) Variance from Zoning Board of Adjustment;
- (ii) Curb cut;
- (iii) Flood Plain Development Permit;
- (iv) Historic Preservation Commission Approval;
- (v) Iowa Department of Transportation Permit(s); and
- (vi) Sediment & Erosion Control Plan Approvals.

All such approvals shall be duly noted on a copy of the site plan and/or building plan, as applicable. Any such plan shall include the date of approval and signature of the approval official, as applicable.

**(4) Major Site Development Plan Review**

(a) When Applicable. Major Site Development Plans are required for all development or redevelopment of any lot, track, or parcel of land not otherwise qualifying for Minor Site Development Plan Review.

(b) Submission Requirements.

(i) Site Plan. The applicant shall provide copies of a site plan, in such number as required by Section 29.1502(2).

(c) Procedures for Approval of a Major Site Development Plan. The City Council shall review applications for development and issue a Certificate of Approval certifying that the Major Site Development Plan conforms with this Ordinance. Upon receipt of such a Certificate, the Zoning Enforcement Officer shall issue a Building/Zoning Permit.

(i) Applications for Major Site Development Plan approvals shall be submitted to the Planning Director.

(ii) The Planning Director shall prescribe the forms on which applications are made. Applications shall include the name and address of the applicant, the name and address of the owner of each lot involved, and the relationship of the applicant and property owner in connection with the application. If the applicant or property owner listed on the application is an entity other than a natural person, the application shall also include detailed information regarding the principals of the entity. The Planning Director shall prescribe any other material that may reasonably be required to determine compliance with this Ordinance, with sufficient copies for necessary referrals and records.

(iii) No application shall be accepted by the Planning Director unless it complies with the submittal requirements set forth in Section 29.1502(4)(b). Applications that are not complete shall be returned to the applicant, with a notation of the deficiencies in the application.

(iv) Where an Engineering Construction Permit, Building/Zoning Permit, or Sign Permit is required, applications for such permits may be made concurrently with the application for a Major Site Development Plan approval.

(v) Development Review Committee. Upon receipt of a complete application the Planning Director shall forward copies to the Development Review Committee for a determination of compliance with applicable provisions of this Chapter. Upon its review the Development Review Committee shall forward the application and its recommendations to the Planning and Zoning Commission.

(vi) Planning and Zoning Commission. Commission review shall not be concluded until consideration is given to comments at a public hearing, which may be scheduled as part of the regularly scheduled meeting. Notification of the public hearing shall be made by mail and posting in accordance with Sections 29.1500(2)(d)(i) and (iii) above. Within 30 days of the hearing the Planning and Zoning Commission shall submit the written recommendation to the City Council setting forth the reasons for its recommendation of acceptance, denial or modification of the application.

(vii) City Council Decision. After the transmittal of the recommendation from the Planning and Zoning Commission, the City Council shall consider the application at a public hearing conducted as part of a regularly scheduled meeting. Notification of the public hearing shall be made by mail and posting, in accordance with Sections 29.1500(2)(d)(i) and (iii) above. The City Council must approve, deny or modify the Major Site Development Plan approval application within 60 days of the public hearing.

(d) Design Standards. When acting upon an application for a major site plan approval, the City Council shall rely upon generally accepted site planning criteria and design standards. These criteria and standards are necessary to fulfill the intent of the Zoning Ordinance, the Land Use Policy Plan, and are the minimum necessary to safeguard the public health, safety, aesthetics, and general welfare. These criteria and standards include:

(i) The design of the proposed development shall make adequate provisions for surface and subsurface drainage to limit the rate of increased runoff of surface water to adjacent and down stream property;

(ii) The design of the proposed development shall make adequate provision for connection to water, sanitary sewer, electrical and other utility lines within the capacity limits of those utility lines;

(iii) The design of the proposed development shall make adequate provision for fire protection through building placement, acceptable location of flammable materials, and other measures to ensure fire safety;

(iv) The design of the proposed development shall not increase the danger of erosion, flooding, landslide, or other endangerment to adjoining and surrounding property;

(v) Natural topographic and landscape features of the site shall be incorporated into the development design;

(vi) The design of interior vehicle and pedestrian circulation shall provide for convenient flow of vehicles and movement of pedestrians and shall prevent hazards to adjacent streets or property;

(vii) The design of outdoor parking areas, storage yards, trash and dumpster areas, and other exterior features shall be adequately landscaped or screened to minimize potential nuisance and impairment to the use of adjoining property;

(viii) The proposed development shall limit entrances and exits upon adjacent streets in order to prevent congestion on adjacent and surrounding streets and in order to provide for safe and orderly vehicle movement;

(ix) Exterior lighting shall relate to the scale and location of the development in order to maintain adequate security, while preventing a nuisance or hardship to adjacent property or streets;

(x) The proposed development shall ensure that dust and other forms of air pollution, noise disturbances, odor, glare, and other nuisances will be limited to acceptable levels as prescribed in other applicable State and City regulations; and

(xi) Site coverage, building scale, setbacks, and open spaces shall be in proportion with the development property and with existing and planned development and structures, in adjacent and surrounding property.

(e) Other Approvals. In conjunction with Major Site Development Plan approvals, the applicant shall obtain and submit all other approvals, in writing, required by any other local, state or federal agency. Such prior approvals include:

- (i) Variance from Zoning Board of Adjustment;
- (ii) Curb cut permit;
- (iii) Flood plain development permit;
- (iv) Historic Preservation Commission Approval;
- (v) Iowa Department of Transportation Permits; and
- (vi) Sediment and Erosion Control Plan Approvals.

All such approvals shall be duly noted on a copy of the site plan and/or building plan, as applicable. Any such plan shall include the date of approval and signature of the approving official, as applicable.

(5) Master Plan. Any time an applicant is proposing to develop a tract or parcel of land with an "F-S" zoning designation he shall submit to the City a Master Plan in compliance with the applicable requirements in Section 29.1200, Section 29.1202 and this Section. The Master Plan shall be submitted at the same time that the Preliminary Plat and the Rezoning petition are submitted to the City.

(a) Submittal Requirements. The Master Plan shall contain the following information:

- (i) Name of the applicant and the name of the owner of record.
- (ii) Legal description of the property.
- (iii) North arrow, graphic scale, and date. The scale shall be not less than 1" = 10' and not greater than 1" = 60' unless an alternate scale is approved by the Director of Planning and Housing.
- (iv) The proposed arrangement and size of the lots to be developed.
- (v) The proposed zoning boundary lines for FS-RL and FS-RM uses.
- (vi) The dwelling unit type proposed for each lot.
- (vii) The number of units per net acre for low density dwelling units and the number of units per net acre for medium density dwelling units.

(b) Number of copies. The applicant shall submit seven (7) copies of the Master Plan on a sheet not to exceed 24" x 36", and one (1) reduced copy of the Master Plan no larger than 11" x 17".

(c) Procedures for Approval of the Master Plan. The City Council shall review the Master Plan for development under the "F-S" designation at the same time that it reviews the preliminary Plat and the Rezoning Petition for this property. The procedure for approval of the Master Plan shall be the same procedure used for approval of the Major Site Development Plan as per Section 29.1502(4)(c), as applicable.

*(Ord. No. 3579, 8-22-00; Ord. No. 3591, 10-10-00)*

### **Sec. 29.1503. SPECIAL USE PERMIT.**

(1) **Purpose.** This Section is intended to provide a set of procedures and standards for specified uses of land or structures that will allow practical latitude for the investor or developer, but that will, at the same time, maintain sound provisions for the protection of the health, safety, convenience and general welfare. This Section permits detailed review

of certain types of land use activities that, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structural uses possessing these characteristics may be authorized within designated Zones by the issuance of a Special Use Permit. This Section also provides for the use of Single Family Dwellings, Two Family Dwellings, and Single Family Attached Dwellings by a Functional Family.

(2) **Submission Requirements.** An application for a Special Use Permit, filed in accordance with Section 29.1503, shall be accompanied by:

(a) A statement of supporting evidence that the general and specific standards as delineated in this Article will be fulfilled;

(b) A Site Plan meeting all the submittal requirements stated in Section 29.1502(2); and

(c) Preliminary plans and specifications for all construction, as applicable.

(3) **Procedure for Special Use Permits.**

(a) **Zoning Board of Adjustment.** The Zoning Board of Adjustment shall consider the application at a public hearing conducted as part of a regularly scheduled meeting. Notification of the public hearing shall be made by mail, posting, and publication, in accordance with Sections 29.1500(2)(d)(i), (ii) and (iii) above. The Zoning Board of Adjustment must approve, deny, or modify the Special Use Permit application within 60 days of the public hearing.

*(Ord. No. 3815, 12-21-04; Ord. No. 3983, 2-10-09)*

(4) **Review Criteria.** Before a Special Use Permit application can be approved, the Zoning Board of Adjustment shall establish that the following general standards, as well as the specific standards outlined in subsections (b), (c), and (d) below, where applicable, have been or shall be satisfied. The Board's action shall be based on stated findings of fact. The conditions imposed shall be construed as limitations on the power of the Board to act. A mere finding that a use conforms to those conditions or a recitation of those conditions, unaccompanied by specific findings of fact, shall not be considered findings of fact for the purpose of complying with this Ordinance.

(a) **General Standards.** The Zoning Board of Adjustment shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use in its proposed location will:

(i) Be harmonious with and in accordance with the general principles and proposals of the Land Use Policy Plan of the City;

(ii) Be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;

(iii) Not be hazardous or disturbing to existing or future uses in the same general vicinity;

(iv) Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structure, refuse disposal, water and sewage facilities, and/or schools;

(v) Not create excessive additional requirements at public cost for public facilities and services;

(vi) Not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors; and

(vii) Be consistent with the intent and purpose of the Zone in which it is proposed to locate such use.

(b) **Residential Zone Standards.** The Zoning Board of Adjustment shall review each application for the purpose of determining that each proposed use in a residential zone meets the following standards, as well as those set forth in Section 29.1503(4)(a) above and, in addition, shall find adequate evidence that each use in its proposed location will:

(i) Not create excessively higher levels of traffic than the predominant pattern in the area and not create additional traffic from the proposed use that would change the street classification and such traffic shall not lower the level of service at area intersections;

(ii) Not create a noticeably different travel pattern than the predominant pattern in the area. Special attention must be shown to deliveries or service trips in a residential zone that are different than the normal to and from work travel pattern in the residential area;

(iii) Not generate truck trips by trucks over 26,000 g.v.w. (gross vehicle weight) to and from the site except for waste collection vehicles and moving vans;

(iv) Not have noticeably different and disruptive hours of operation;

(v) Be sufficiently desirable for the entire community that the loss of residential land is justifiable in relation to the benefit;

(vi) Be compatible in terms of structure placement, height, orientation or scale with the predominate building pattern in the area;

(vii) Be located on the lot with a greater setback or with landscape buffering to minimize the impact of the use on adjacent property; and

(viii) Be consistent with all other applicable standards in the zone.

(c) Commercial Standards. The Zoning Board of Adjustment shall review each application for the purpose of determining that each proposed use located in a commercial zone meets the following standards as well as those set forth in Section 29.1503(4)(a) above and, in addition, shall find adequate evidence that each use in its proposed location will:

(i) Be compatible with the potential commercial development and use of property planned to occur in area;

(ii) Represent the sufficiently desirable need for the entire community that the loss of commercial land is justifiable in relation to the benefit; and

(iii) Be consistent with all other applicable standards in the zone.

(d) Special Use Permits for Functional Families.

(i) Purpose. This Section is to provide for the regulation of Functional Families that may request to reside in a Single Family Dwelling, Two Family Dwelling or Single Family Attached Dwelling. The regulations are also intended to prohibit larger groups of unrelated persons from residing in Single Family Dwellings, Two Family Dwellings, or Single Family Attached Dwellings. Larger groups of unrelated persons have frequently shown to have a detrimental affect on Single Family neighborhoods since larger groups of unrelated persons do not live as a family unit and do not have significant economic or emotional ties to a neighborhood.

(ii) Standards of Functional Families. The Zoning Board of Adjustment shall review each application for a Special Use Permit for a functional family as provided for in this section after having determined that the application meets the following standards:

a. The functional family shares a strong bond or commitment to a single purpose (e.g. religious orders);

b. Members of the functional family are not legally dependent on others not part of the functional family;

c. Can establish legal domicile as defined by Iowa law;

d. Share a single household budget;

e. Prepare food and eat together regularly;

f. Share in the work to maintain the premises; and

g. Legally share in the ownership or possession of the premises.”

(e) Conditions. The Board may impose such additional conditions as it deems necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed.

*(Ord. No. 3591, 10-10-00; Ord. No. 3983, 2-10-09)*

(5) **Lapse of Approval.** All Special Use Permits shall lapse 12 months after the date of issuance unless the use is undertaken or a building permit has been issued and actual construction started. Where unusual circumstances may prevent compliance with this time requirement, the Zoning Board of Adjustment may, upon written request by the affected permittee, extend the time for required start of construction an additional 60 days. Excavation shall not be considered construction for the purpose of enforcing this Section.

(6) **Successive Applications.** In the event that the Board denies an application for a Special Use Permit, a similar application shall not be refiled for 12 months from the advertised public hearing date. The Board, on petition by the applicant, may permit a refiling of this application after 6 months from the original hearing date when it determines that significant physical, economic or land use changes have taken place within the immediate vicinity, or a significant zoning ordinance text change has been adopted, or when the reapplication is for a different use than the original request. The applicant shall submit a detailed statement setting out those changes that he or she deems significant or upon which he or she relies for refiling the original application.

**Sec. 29.1504. VARIANCE.**

(1) **Purpose.** This Section is intended to allow for variances from the terms of this Ordinance pursuant to Section 414.12 of the Iowa Code 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 unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done.

(2) **Submittal Requirements.** An application for a variance, filed in accordance with Section 29.1500(1)(b), shall include the following:

(a) The specific provision of this Ordinance from which the variance is sought;

(b) The justification for the variance in light of the standards set forth in this Section; and

(c) How the granting of the requested variance relates to the intent and purposes of this Ordinance and the Land Use Policy Plan.

(d) Any pending Site Development Plan to which the proposed variance is related .

(3) **Procedure.** Review of an application for variance shall be conducted by the Zoning Board of Adjustment and shall be in accordance with the following:

(a) **Application Review.** The Zoning Board of Adjustment shall review applications so submitted at its next regularly scheduled meeting following submittal. Applications must be submitted at least 14 days prior to the regularly scheduled meeting of the Board in order to be received at said meeting. Upon review of the application, the Board shall either accept the same as complete or return an incomplete application to the applicant with an explanation of the submittal requirements not met.

(b) **Public Hearing Required.** Prior to disposition of an application for a variance, the Zoning Board of Adjustment shall hold a public hearing. Notice of the public hearing shall be by mail, in accordance with Section 29.1500(2)(d)(i) above. Posted notice shall also be provided in accordance with Section 29.1500(2)(d)(iii) above.

*(Ord. No. 3851, 09-13-05)*

(c) **Review and Disposition.**

(i) The Zoning Board of Adjustment shall act upon all applications for a variance in accordance with the requirements set forth in the Iowa Code.

(ii) In granting any variance, the Zoning Board of Adjustment may prescribe appropriate conditions and safeguards to promote the purposes and protect the integrity of this Ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

(4) **Standards.** Pursuant to Iowa law, a variance shall be granted only if all of the following standards are satisfied:

(a) That granting the variance shall not be contrary to the public interest;

(b) That without grant of the variance, and due to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship. Unnecessary hardship exists when:

(i) the land in question cannot yield a reasonable return if used only for a purpose allowed in the zone;

(ii) the plight of the owners is due to unique circumstances and not to the general conditions of the neighborhood;

(iii) the use to be authorized by the variance will not alter the essential character of the locality;

(c) The spirit of the ordinance shall be observed even when the variance is granted;

(d) Substantial justice shall be done as a result of granting the variance.

(5) **Application After Denial.** Once an application for a variance is denied by the Zoning Board of Adjustment, the Board may decline to consider an application that is substantially the same for a period of 12 months after a decision by the Board or court on the earlier application.

**Sec. 29.1505. REQUESTS FOR REASONABLE ACCOMMODATION.**

(1) **Purpose.** It is the policy of the City to provide Reasonable Accommodation for handicapped persons seeking fair access to housing in the application of its zoning laws. The purpose of this Section is to provide a process for making a Request for Reasonable Accommodation.

(2) **Request Application.**

(a) Any person who requires Reasonable Accommodation, because of a handicap, in the application of a zoning law that may be acting as a barrier to fair housing opportunities may apply to the Zoning Board of Adjustment

for an exception on a form to be provided by the Department of Planning and Housing.

(b) If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the Request for Reasonable Accommodation together with the application for such permit or approval.

(3) **Required Information.** The applicant shall provide the following:

- (a) The applicant's name, address and telephone number;
- (b) Address of the property for which the request is being made;
- (c) The present actual use of the property;
- (d) The zoning ordinance provision, regulation or policy from which accommodation is being requested;

and

(e) The factual basis for the need for the accommodation, including a description of the person's handicap and a physical description of the property.

(4) **Notice for Request for Accommodation.** Written notice that a Request for Reasonable Accommodation shall be given as follows:

(a) In the event that there is no approval sought other than the Request for Reasonable Accommodation, the notice shall be mailed to the owners of record of all properties that are immediately adjacent to the property that is the subject of the Request.

(b) In the event that the Request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(c) Notice that such a request has been made shall be made by posting, in accordance with Section 29.1500(2)(d)(iii) above.

(5) **Grounds for Accommodation.** In making a determination regarding the reasonableness of a Requested Accommodation, the following factors shall be considered by the Zoning Board of Adjustment:

- (a) Special needs created by the handicap;
- (b) Potential benefit that can be accomplished by the requested modification;
- (c) Potential impact on surrounding uses;
- (d) Physical attributes of the property and structures;
- (e) Alternative accommodations that may provide an equivalent level of benefit; and

(f) In the case of a determination involving a Single Family Dwelling, whether the household would be considered a Single Housekeeping Unit if it were not using special services that are required because of the handicaps of the residents.

#### **Sec. 29.1506. EXCEPTIONS.**

(1) **Purpose.** This section is intended to provide for exceptions, pursuant to Sec. 414.12(2) of the Iowa Code, to the terms of the zoning ordinance upon which the Board is required to pass under the ordinance, to provide a set of procedures and establish standards to be met.

(2) **Submittal Requirements.** An application for an exception, filed in accordance with Sec. 29.1500(1)(a), shall include the following:

- (a) The specific exception(s) being requested;
- (b) A statement of supporting evidence addressing each of the standards applicable to the exception being sought; and
- (c) Any pending site development plans to which the proposed exception is related, including a plat of the site and elevations of structures.

(3) **Procedure.** Review of an application for an exception shall be considered by the Zoning Board of Adjustment at a public hearing conducted as a part of a regularly scheduled meeting. Notification of the public hearing shall be made by mail and publication in accordance with Sec. 29.1500(2)(d)(i) and (ii) above. The Zoning Board of

Adjustment may approve, deny or modify the request.

(4) When Authorized. The Zoning Board of Adjustment is authorized to grant the following exceptions:

(a) Parking stall exceptions pursuant to Sec. 29.406(9)(c);

(b) DSC and CSC minimum height exceptions pursuant to Sec. 29.808(4) and 29.809(4);

*(Ord. No. 3872, 03-07-06)*

(c) Exceptions for minor area modifications. The Board is authorized to grant exceptions from the requirements of the zoning ordinance to allow minor area modifications for single family attached and detached dwellings that are existing in developed areas, but not in cases of new construction. These are authorized for the following situations:

(i) reduction of required residential side yard setbacks for principal structures by no more than two feet;

(ii) reduction of required residential front and rear yard setbacks for principal structures by no more than five feet;

(iii) reduction of minimum lot area requirements by no more than 10%;

(iv) reduction of required residential front, rear and side yard setbacks without limit as required to provide handicapped access ramps to a dwelling;

(v) reduction of front, rear, and side yard setbacks without limit to allow reconstruction of a historically accurate structure.

(5) Review Criteria. Before an exception can be granted, the Board of Adjustment shall establish that the following standards have been or shall be satisfied:

(a) Parking Stall Dimension Exceptions. The Board may grant specific limited exceptions to the minimum parking space and drive aisle dimensions in accordance with the standards set forth at Sec. 29.406(9)(c).

(b) DSC and CSC Minimum Height Exceptions. The Board may grant exceptions to the minimum height requirements for buildings in the DSC and CSC districts in accordance with the standards set forth at Sec. 29.808(4) and 29.809(4).

*(Ord. No. 3872, 03-07-06)*

(c) Exceptions for Minor Area Modifications. The Board may grant specific limited exceptions for minor area modifications authorized under Sec. 29.1506(4)(c) where the Board finds:

(i) Special circumstances or practical difficulties apply to the property such that the terms of the ordinance cannot be satisfied.

(ii) The minor area modification will not be detrimental to the public health, safety or general welfare.

(iii) The minor area modification will not have a substantial negative impact upon neighboring properties.

(iv) The minor area modification does not exceed the reduction limits established in the listing of minor area modification in Section 29.1506(4)(c)(i),(ii), or (iii) whether the limits are reached by a single exception or serial exceptions.

(v) The minor area modification does not authorize a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.

(vi) The minor area modification is in conformity with the intent and purpose of the zoning ordinance and the general plan of the community.

(vii) The minor area modification is the minimum necessary to achieve the desired result.

(viii) The minor area modification does not alter the applicant's obligation to comply with other applicable laws or regulations.

(d) Recording of Minor Area Modifications. The applicant must record an approval of a minor area modification in the office of the county recorder in order to make effective the approval.

#### **Sec. 29.1507. ZONING TEXT AND MAP AMENDMENTS.**

(1) **Authorization.** The City Council may, from time to time, on its own initiative, on petition, or on recommendation of the Planning and Zoning Commission, after public notice and hearings, and after a report by the Planning and Zoning Commission, or after 30 days written notice to said Commission, amend, supplement or change the regulations, districts, or Official Zoning Map herein or subsequently established.

(2) **Petition for Amendment.** Whenever the owners of 50% or more of the area of the lots in any district or part thereof desire amendment, supplement or change in any of the provisions of this Ordinance applicable to such area, they may file an application in the Department of Planning and Housing requesting City Council to make such

amendment, supplement or change. Such application shall be accompanied by a map or diagram showing the area affected by the proposed amendment, supplement, or change, together with the boundaries of said area, and the names and addresses of all the owners of record in the Office of the County Recorder and Auditor of Story County, Iowa, of lots therein and within a distance of 200 feet from the boundaries of said area. Such application shall be transmitted immediately to the Planning and Zoning Commission for an investigation and report. The Planning and Zoning Commission shall file its recommendations approving, disapproving or modifying the proposed amendment, supplement or change with City Council within 90 days thereafter.

(3) **Conditions.** Council may impose reasonable conditions on map amendments in accordance with Section 414.5 of the Iowa Code.

(4) **Notice.**

(a) **Map.** Notice of a map change shall be made by mail, publication and posting, in accordance with Sections 29.1500(2)(d)(i), (ii) and (iii) above, except that at least 7 days notice must be given. In no case shall the public hearing be held earlier than the next regularly-scheduled City Council meeting following the notice.

(b) **Text.** Notice of a text change shall be made by publication in accordance with Section 29.1500(2)(d)(ii) above, except that at least 7 days notice must be given. In no case shall the public hearing be held earlier than the next regularly-scheduled City Council meeting following the notice.

(5) **Vote Required When Amendment Protested.** If a written protest against any proposed amendment, supplement or change has been filed with the City Clerk, signed by the owners of 20% or more of the area of the lots included in the proposed amendment, supplement or change or by the owners of 20% or more of the property that is located within 200 feet of the exterior boundaries of the property for which the amendment, supplement or change is proposed, such amendment, supplement or change shall not become effective except by favorable vote of at least  $\frac{3}{4}$  of all members of the City Council.

(6) **Renewal of Petition After Denial.** Whenever a petition requesting an amendment, supplement, or change of any regulation prescribed by this Ordinance has been denied by the City Council, such petition cannot be renewed for one year thereafter unless it is signed by the owners of at least 50% of the property owners who previously objected to the change. This provision, however, shall not prevent City Council from acting on its own initiative in any case or at any time as provided in this Section.

(7) **Processing Time.**

(a) Rezoning proposals referred by the City Council to the Planning and Zoning Commission shall be acted upon and returned to the Council not more than 90 days thereafter unless time extensions are specifically requested by the applicant.

(b) Failure of the Planning and Zoning Commission to render a decision within the time specified will be deemed approval of the application as submitted.

*(Ord. No. 3815, 12-21-04)*

#### **Sec. 29.1508. APPEALS.**

(1) **Appeals from Decisions of the Zoning Enforcement Officer.** Appeals to the Zoning Board of Adjustment of zoning enforcement decisions may be taken in accordance with Section 414.12 of the Iowa Code. The final disposition of any appeal to the Zoning Board of Adjustment shall be in the form of a written decision by the Board signed by the chairperson or acting chairperson, either reversing, modifying, or affirming the decision or determination appealed from. A copy of such decision shall be filed with the Zoning Enforcement Officer.

(2) **Appeals from Decisions of the Zoning Board of Adjustment.** Appeals to the court may be taken by any party aggrieved by a decision of the Zoning Board of Adjustment in accordance with Section 414.15 of the Iowa Code.

(3) **Appeals from Decisions of City Council.** These appeals shall be taken in accordance with Iowa Law.

*(Ord. No. 3815, 12-21-04)*