

ARTICLE 14 ADMINISTRATION

Sec. 29.1400. INTERPRETATION OF THIS ARTICLE.

This Article describes certain administrative functions and the powers and duties of administrative bodies and officers. Some of the powers and duties described are not controlled by this Ordinance, but are established by other City ordinances or state statutes. Furthermore, the descriptions of the powers and duties provided in this Article are not meant to be exhaustive, but are meant instead to be descriptions of those primary duties that are relevant to the application, administration and enforcement of this Ordinance.

Sec. 29.1401. CITY COUNCIL.

The City Council is the elected body that is ultimately responsible for all decisions and actions that establish the overall land use policy and vision for the City. This occurs through the City Council adoption of the Land Use Policy Plan for the City. The Council is also responsible for other policy direction established through the City's long range Transportation Plan, Parks and Recreation Plan, Bicycle Route Master Plan and other functional plans like water distribution and wastewater collection plans. These plans and policies are implemented by Council through a variety of strategies, including zoning and subdivision regulations, the City's operating budget, the Capital Improvements Program, and annexation policies.

Sec. 29.1402. PLANNING AND ZONING COMMISSION.

The Planning and Zoning Commission is appointed by the Mayor with the approval of the City Council to serve as an independent advisory body to the Council. The Commission is responsible for the preparation and adoption of the official Land Use Policy Plan of the City and gives advice and recommendations on matters involving amendments to the City's Zoning Ordinance and historic preservation ordinance and guidelines. The Commission reviews and gives advice on subdivisions occurring within the City and within the extraterritorial jurisdiction of the City.

(Ord. No. 3945, 2-19-08; Ord. No. 3983, 2-10-09)

Sec. 29.1403. ZONING BOARD OF ADJUSTMENT.

(1) **Establishment and Membership.** A Zoning Board of Adjustment is hereby established, which shall consist of 5 members appointed by the Mayor, subject to confirmation by the City Council. Appointments to the Board shall be for a term of 5 years. Any vacancy shall be filled in the same manner for the unexpired portion of the term. Terms of office begin on April 1 of the year of appointment. No member may serve more than 7 years.

(2) **Compensation.** All members of the Zoning Board of Adjustment shall serve without compensation.

(3) **Meetings and Quorum.** There shall be a fixed place of meeting and all meetings shall be open to the public. The presence of 3 members shall be necessary to constitute a quorum.

(4) **Board Action.** The concurring vote of 3 members of the Board is necessary on all matters upon which the Board is required to act under the provisions of this Ordinance and state law.

(5) **Officers and Duties.**

(a) **Chair.** The Board shall annually elect this chair at its first meeting on or after April 1 of each year. Such chair or, in the chair's absence, the acting chair, may administer oaths and compel the attendance of witnesses.

(b) **Secretary.** The City Clerk or his/her designee shall serve as secretary of the Board. In the absence of the secretary, the chair may appoint one of the members of the Board to act as secretary *pro tem* for the meeting. The secretary shall keep minutes of the Board's proceedings, showing the vote for each member upon each question. If a member is absent or does not vote on any matter, the minutes shall indicate this fact. The Board shall keep records of all official actions, which shall be on file in the office of the City Clerk as a public record.

(6) **Rules of the Board.** The Board shall adopt, from time to time, subject to the approval of the City Council, such rules of procedure as it deems necessary for the conduct of its functions.

(7) **Powers.** As provided by Section 414.12 of the Iowa Code, the Board has the power to:

(a) **Appeals.** Hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance;

(b) Special Use Permits, Special Home Occupation Permits, and Exceptions. Hear and decide on applications for Special Use Permits, Home Occupation permits, and for Exceptions in accordance with Sections 29.1503 and 29.1506 of this Ordinance.

(Ord. No. 3591, 10-10-00, Ord. No. 3815, 12-21-04)

(c) Variances. Hear and decide on specific cases seeking a variance from the terms of this Ordinance in accordance with Section 29.1504. In granting any variance, the Board may prescribe appropriate conditions and safeguards to foster the policy and intent of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance shall be municipal infraction punishable by a penalty of \$500 for a person's first violation thereof, and a penalty of \$750 for each repeat violation.

(d) Requests for Reasonable Accommodations. Hear and decide on requests for Reasonable Accommodations in accordance with Sec. 29.1505 of this ordinance.

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

(8) Appeals to the Board.

(a) General. Appeals to the Board may be taken by any person aggrieved by any decision of the Zoning Enforcement Officer or by any officer, department, board, or bureau of the City affected by any decision of the Zoning Enforcement Officer. Matters that may be appealed to the Board include decisions by the Planning Director on Minor Site Plan Development Plan approval.

(Ord No. 4319, 8-8-17)

(b) Filing. A written notice of appeal must be filed with secretary to the Board within 30 days of a decision, order, or requirement by an administrative official. The written notice of appeal must specify the grounds thereof for the appeal. The secretary of the Board shall give notice of such appeal within 10 days of the filing of the appeal to the Zoning Enforcement Officer and the Planning and Housing Director, who shall forthwith transmit to the Board all papers and documents constituting the record upon which the action appealed from was taken.

(Ord No. 4319, 8-8-17)

(c) Stay of Proceedings. The filing of an appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board after notice of the appeal has been filed with the Zoning Enforcement Officer that, by reason of facts stated in the appeal, a stay would, in the Zoning Enforcement Officer's opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed otherwise than by a restraining order that may be granted by a court of competent jurisdiction on an application with notice to the Zoning Enforcement Officer and with due cause shown.

(9) **Applications to the Board.** Applications to the Board for a Special Use Permit, Special Home Occupation Permit, or Variance may be made by any person. Such application shall be made by filing with the secretary of the Board a written notice specifying the grounds therefore. The secretary shall publish notice of the application in a paper of general circulation in the City.

(Ord. No. 3591, 10-10-00)

Sec. 29.1404. DEPARTMENT OF PLANNING AND HOUSING.

The Department of Planning and Housing provides technical support to the City Council, the Planning and Zoning Commission, and the Zoning Board of Adjustment. The Department is responsible for the administration of the zoning and subdivision regulations of the City, including the technical review of site plans, plats of subdivision and other land development requests submitted to the City. Department staff is responsible for the intake, distribution, review, coordination and communication to applicants seeking a decision on a development request in the City. Department staff is authorized by the Zoning Ordinance in specific instances to review and approve site plans and Zoning Permits.

Sec. 29.1405. ZONING ENFORCEMENT OFFICER.

(1) This Ordinance shall be enforced by a Zoning Enforcement Officer who shall be appointed by the City Manager. The Zoning Enforcement Officer shall be directly responsible to the Fire Chief, but for the purpose of administering the Ordinance, shall consult with the Director of Planning and Housing. The Zoning Enforcement Officer shall carry out duties according to law and under such rules and regulations as the city council may from time to time adopt. The City Manager may designate a person or persons to act as the Interim Zoning Enforcement

Officer in the absence of the Zoning Enforcement Officer.

(2) The Zoning Enforcement Officer may cause any building, structure, place or premises to be inspected and examined and to order in writing the remedy of any condition found to exist in violation of any provision of this Ordinance. Any one or more of the owner, agent, lessee, tenant, architect, builder or contractor, as applicable in the context of the violation, of any building or premise or part thereof in which a violation has been committed or exists shall be considered the violator and shall be subject to the penalties set forth in this Ordinance.