

## 1) ARTICLE 1 - ADMINISTRATION

### 1.1 ZONING COMMISSION

1.1.1 Creation and Membership - The Jasper County Board of Supervisors shall appoint a five (5) member Zoning Commission, whose only responsibility and authority is to make, after due diligence and public hearings, recommendations to the Jasper County Board of Supervisors concerning the Jasper County Zoning Ordinance as it relates to district boundaries, and appropriate regulations and restrictions therein, and from time to time amendments, supplements, changes or modifications thereto, as provided in 335.8 Code of Iowa. Each member will serve a four (4) year term but may be removed by the Board of Supervisors at any time as provided in 331.321(3) Code of Iowa. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

1.1.2 District Changes and Amendments - Whenever the public necessity, general welfare, or good zoning practice requires, the Board of Supervisors may, after recommendation by the Zoning Commission and after public hearings as provided herein, amend, supplement, or change the regulations, district boundaries, or classifications of property now or hereafter established by this ordinance or amendments thereof.

1.1.2.1 Procedure for Change - Applications for any change of district boundaries, classification of property, amendments of the text, or requirements of this ordinance shall be submitted to the Zoning Administrator. The Zoning Commission shall hold at least one (1) public hearing as soon as practicable after the application is received and public notice, as required by the Code of Iowa, is given to adjoining property owners and published in the newspaper(s) designated for such notice. When the Zoning Commission has completed its recommendations, it shall certify the same to the Board of Supervisors. After receiving the Zoning Commission recommendation on the proposed change/amendment, the Board of Supervisors shall set a time and date and publish notice, as required by the Code of Iowa, to hold a public hearing and take action on the recommended change or amendment.

### 1.2 ZONING ADMINISTRATOR

1.2.1 Appointment - The Zoning Administrator shall be appointed by the Jasper County Board of Supervisors and may be removed by the Board of Supervisors at any time as provided in 331.321(3) Code of Iowa.

1.2.2 Powers and Duties - The Zoning Administrator, or his/her designee, shall be responsible for the interpretation and enforcement of the provisions of the Jasper County Zoning Ordinance. No other departments, officials, or public employees of Jasper County shall issue any permit for any use, building, or purpose that would conflict with the provisions of the Jasper County Zoning Ordinance. Any permit or certificate issued in conflict with the provisions of the regulation shall be null and void.

### 1.2.3 Other Duties

1.2.3.1 Maintain permanent and current records of the regulations; including, but not limited to, all maps, applications, appeals, amendments, use permits, and variances.

1.2.3.2 Provide and maintain a public information service relative to all matters arising out of the regulations.

1.2.3.3 Forward to the Zoning Commission all applications for amendments to the regulations.

1.2.3.4 Transmit to the Board of Adjustment applications for appeals, variances, or other matters on which the Board of Adjustment is required to pass under the ordinance.

1.2.3.5 Issue, deny, or revoke conditional and temporary use permits as required.

1.2.3.6 Review and approve/deny site plans.

1.2.3.7 Initiate, direct, and review from time to time a study of the provisions of the regulations and report the recommendations to the Jasper County Zoning Commission and the Jasper County Board of Supervisors.

### 1.3 BOARD OF ADJUSTMENT (BOA)

1.3.1 Creation and Membership - The Jasper County Board of Supervisors shall appoint a five (5) member Board of Adjustment as provided in 335.11 Code of Iowa. All the members shall reside within the county and the majority of the members must live outside the corporate limits of any city. Each member shall be appointed for a term of five (5) years, excepting that when the BOA shall first be created one (1) member shall be appointed for a term of five (5) years, one (1) for a term of four (4) years, one (1) for a term of three (3) years, one (1) for a term of two (2) years, and one (1) for a term of one (1) year. Members may be removed by the Board of Supervisors at any time as provided in 331.321(3) Code of Iowa. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

1.3.2 Rules - The BOA shall adopt rules in accordance with the provisions of any regulation or ordinance adopted pursuant to this chapter. The BOA chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the BOA shall be open to the public. The BOA shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Zoning Administrator's office and shall be a public record. Three (3) members of the BOA shall constitute a quorum. The BOA may call on other county departments for assistance in the performance of its duties, and it shall be the duty of such departments to render such assistance to the BOA as may reasonably be required.

1.3.3 Powers - The BOA shall only have the following powers:

1.3.3.1 Interpretation of Maps - Where the street or lot layout actually on the ground or as recorded, differs from the street and lot lines indicated on the zoning maps, the Board, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purposes of the regulations for the particular section or district in question.

1.3.3.2 Appeals of Zoning Administrator Orders - The BOA shall hear and decide appeals from any person, officer, department, board, or bureau of the county where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter or of any ordinance adopted pursuant thereto except for notices of violations or county infraction citations.

1.3.3.3 Applications for Special Exceptions/Variances - The BOA shall hear and decide appeals from any person, officer, department, board, or bureau of the county for special exceptions to the terms of the ordinance and authorize, in specific cases, such variance from the terms of the ordinance 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 the ordinance shall be observed and substantial justice done.

1.3.3.3.1 Non-conforming Uses - The substitution of a non-conforming use for another non-conforming use, if no structural alterations except those required by law or regulations are made; provided, however, that any use so substituted shall be of the same or a more restricted classification.

1.3.3.3.2 Non-listed Industries in "I" Industrial Districts - In determining whether certain uses shall be in an "I" District, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a special exception, the Board shall determine whether the proposed exception or use would be hazardous, harmful, noxious, offensive, or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic, and psychological effects. The Board may utilize and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering research organizations, and can be applied to the proposed use to assist it in reaching a fair and objective decision. Upon authorizing a special use and/or exception, the Board may impose such requirements and conditions in addition to those expressly stipulated in these regulations for the particular special use and/or exception as the Board may deem necessary for the protection of adjacent properties and public interest.

1.3.3.4 Variance - Where the literal enforcement of the provisions of the regulations would result in undue hardship upon any owner of property, unnecessary to carry out the intent and purpose of the regulations, the BOA shall have the power to authorize, upon appeal, a variance from the regulations to relieve the hardship. The BOA may attach conditions to any variance to ensure that the variance is in substantial compliance with the intent and purpose of the regulations. The BOA shall only grant the minimum variance necessary to alleviate the hardship. The BOA shall not authorize a variance for the establishment of a non-conforming use where none previously existed. A variance from the terms of this Ordinance shall not be granted by the BOA unless the applicant can clearly demonstrate by a preponderance of the evidence that all of the following conditions exist:

1.3.3.4.1 That special conditions and circumstances (size, shape, topography, or the use or development of property immediately adjoining the piece of property in question) 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;

1.3.3.4.2 That the special conditions and circumstances do not result from the actions of the applicant;

1.3.3.4.3 That there are other properties in the same zoning district which have a similar use, and that literal interpretation of the provisions of this Ordinance would deprive the applicant of those similar uses commonly enjoyed by other properties in the same district under the terms of this Ordinance;

1.3.3.4.4 That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district;

1.3.3.4.5 That no non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

1.3.3.4.6 That the authorization of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of the regulations or the public interest.

1.3.3.5 Hearing Procedures - All requests for hearing shall be made to the Zoning Administrator. The BOA shall hold a public hearing as soon as practicable after the application is received and public notice, as required by the Code of Iowa, is given to adjoining property owners and the appellant by first class mail and published in the newspaper(s) designated for such notice. Any party may appear at such a hearing in person, by agent, or by attorney. The Zoning Administrator, or his or her designee shall appear at all appeal hearings and the BOA may subpoena any other persons or information they deem pertinent to the appeal. The BOA shall decide the appeal not more than thirty (30) calendar days after the hearing.

1.3.3.6 Action of Board - In exercising its powers, the Board may, in conformity with the provisions of the state statutes and of the 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, in the Board's opinion ought to be made, and to that end has all the powers of the officer from whom the appeal is taken. All BOA actions shall require a concurring vote of three (3) members.

1.3.3.7 Fees - The Board of Adjustment has the authority to set fees for appeals. However, all fees and changes in fees must be approved by the Jasper County Board of Supervisors before being put into effect.

1.3.3.8 Judicial Review - All final administrative decisions of the Board of Adjustment shall be subject to judicial review pursuant to the provisions of the Code of Iowa.

## 1.4 VIOLATIONS

1.4.1 Violations - The equitable owner of real property, and each person in possession thereof, who allows, creates, or maintains a violation of any provision of this ordinance on such property, shall be considered guilty of a county infraction. A county infraction is a civil offense punishable by a civil penalty of not more than seven hundred fifty (750) dollars for an initial violation or, if the infraction is a repeat offense, a civil penalty of not more than one thousand (1,000) dollars for each repeat offense, plus all costs, plus all other remedies allowable under the laws of the State of Iowa. In addition to a civil penalty, the Court may impose any of the other and/or alternative remedies allowed by law. (See Iowa Code Section 331.307.)

1.4.2 Enforcement of Violations - All inspections and enforcement actions shall be conducted under the direction and supervision of the Jasper County Zoning Administrator, who may seek the assistance of other public officers or employees to perform such duties as may be necessary to enforce the provisions of this ordinance.

1.4.2.1 Enforcement Procedures - Service of notice and all other enforcement procedures involving any alleged violation of this ordinance shall be as set forth in Iowa Code Section 331.307 and applicable Rules of Court, as may be amended from time to time.

1.4.2.2 Abatement Costs - All costs of abatement including, but not limited to, the costs for equipment, personnel, and any contract or day labor portions of such abatement shall be calculated at the exact cost therefore initially borne by Jasper County, Iowa in such enforcement endeavors.

1.4.3 Abatement Fund - To better ensure ongoing enforcement of the provisions of this Ordinance, the Jasper County Board of Supervisors, through the office of the Auditor of Jasper County, Iowa, shall always keep and maintain as a part of its annual budget, a special fund *to* be known as the "Abatement Fund". The Abatement Fund shall be annually appropriated by the Board of Supervisors to a balance of fifty thousand (50,000) dollars at the beginning of each fiscal year. The Abatement Fund shall only be used for the purpose of enforcement of this Ordinance. All sums received by Jasper County, Iowa resulting from enforcement of this Ordinance shall be directed into the Abatement Fund.

1.5 CONFLICTS - Wherever the requirements of this ordinance are at variance with the requirements of any applicable and superseding law, rule, regulation, or ordinance, the most restrictive or that imposing the higher standard shall govern.

1.6 SEVERABILITY - Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions of this ordinance or the ordinance as a whole.

1.7 EFFECTIVE DATE - This ordinance shall take effect after its final passage, approval and publication as provided by law.