

ARTICLE XIX

ADMINISTRATION AND ENFORCEMENT

Section 19.00 ORGANIZATION

The administration of this Ordinance is vested in the following four (4) offices of the government of the City of New Hampton: Mayor and City Council; Board of Adjustment; Planning and Zoning Commission; and Zoning Administrator.

Section 19.01 BASIS OF REGULATIONS

Regulations are made in accordance with the City's Comprehensive Plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water sewerage, schools, parks, and other public requirements.

Section 19.02 MAYOR AND CITY COUNCIL

1. Jurisdiction: The Mayor and City Council of the City of New Hampton, Iowa, shall discharge the following duties under this Ordinance. Appointments shall be made by the Mayor, subject to approval by the City Council.
 - a. Appoint a Zoning Administrator whose responsibilities it will be to enforce the provisions of this Ordinance.
 - b. Appoint members of the Board of Adjustment as provided for in this Ordinance.
 - c. Appoint members to the Planning and Zoning Commission as provided for in this Ordinance.
 - d. Receive and decide upon all recommendations concerning amendments, supplements, and changes presented by the Planning and Zoning Commission.
 - e. Receive from the Planning and Zoning Commission all recommendations on the effectiveness of this Ordinance.
 - f. To decide all matters upon which it is required to pass under this Ordinance.

Section 19.03 BOARD OF ADJUSTMENT

1. The membership, administration, powers and duties of the Board of Adjustment are set forth in Chapter 25 of the City Code.

Section 19.04 VARIANCES

1. Purpose and Findings of Fact: The Board of Adjustment, after a public hearing, may determine and vary the regulations of this Ordinance in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Adjustment makes written findings of fact in accordance with the standards hereinafter prescribed and further, finds that there are no practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Ordinance.
2. Application for Variance: An application for a variance shall be filed in writing with the Zoning Administrator. Said application shall contain such information, and appropriate non-refundable fee, as the Board of Adjustment may, by rules, require. Before an application is filed with the Board of Adjustment, the applicant shall pay a non-refundable fee to the City of New Hampton to cover the publishing and administration costs of said request, per the adopted fee schedule.
3. Application Notices: Upon receipt in proper form of the application, property owners within two hundred (200) feet of the property for which the change is being requested shall be notified as a courtesy.
4. Standards for Variance: The Board of Adjustment shall not vary the regulations of this Ordinance, as authorized in this Section unless there is evidence presented to it in each specific case that:
 - a. Special conditions and circumstances exist which are unique to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district. Special conditions shall include but not be limited to a property owner who can show that their property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographic conditions or other exceptional or extraordinary situations the strict application of the terms of this Ordinance actually prohibits the use of the property in manner reasonably similar to that of other property in the district.
 - b. Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance. In other words, an unnecessary hardship would result from literal enforcement of this Ordinance.
 - c. Special conditions and circumstances do not result from the actions of the applicant.
 - d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, parcels, structures, or buildings in the same district that are owned by the same applicant.
5. Further Requirements:
 - a. The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

- b. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and the New Hampton Comprehensive Plan, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- c. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with 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 title and punishable under Article XXI.
- d. Under no circumstances shall the Board of Adjustment grant a variance to allow for a use not permissible under the terms of this Ordinance in the District involved, or any use expressly or by implication prohibited by the terms of this Ordinance in the District.
- e. On any occasion when a variance is granted with regard to the location provisions of the terms of this ordinance, work in furtherance of the project shall not commence until the property in question has been surveyed by a registered land surveyor licensed in the State of Iowa, unless property lines can be established to the satisfaction of the public works director with three (3) survey points.

6. Denial and Revocation of Variance:

- a. Denial: No application for a variance that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of change of conditions that may be found to be valid by the Board of Adjustment.
- b. Revocation: In any case where variance has not been completed within one (1) year after the date of granting thereof, the Board shall provide notice to the applicant that the approved variance may be revoked. Said notice shall offer the applicant an opportunity to be heard by the Board of Adjustment. The Board may, after this process, revoke or extend the approved variance.

Section 19.05 SPECIAL EXCEPTIONS

1. Special Exception Requirements-Board of Adjustment

- a. Purpose: The development and administration of this Ordinance is based upon the division of the City into Zoning Districts, within said Districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized that there are certain uses, because of their unique characteristics, that cannot be properly classified in any particular District or Districts, without special consideration in each case, of the impact of those uses upon neighboring land and of the public need for the particular use of that location. Such special exceptions fall into two categories:
 - (1) Uses publicly operated or traditionally affected with a public interest, and
 - (2) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

- b. Initiation of Special Exceptions: Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of an exclusive possessory interest, either of which is specifically enforceable, may file an application to use such land for one (1) or more of the special exceptions provided for in this Ordinance in the zoning district in which the land is located.
- c. Application for Special Exception: An application for a special exception shall be filed with the Zoning Administrator on a form as the Zoning Administrator shall prescribe. The application shall be accompanied by an appropriate non-refundable fee and such plans and/or date prescribed by the Board of Adjustment and shall include a statement indicating the Section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested. Before an application is filed with the Board of Adjustment, the applicant shall pay a non-refundable fee to the City of New Hampton to cover the publishing and administration costs of said request, per the adopted fee schedule.
- d. Hearing on Application: Upon receipt in proper form of the application and statement referred to in Section 19.05.1(c), the Board of Adjustment shall hold at least one (1) public hearing on the proposed special exception. Notice of time and place of such hearing shall be published not less than seven (7) days nor more than twenty (20) days in advance of the public hearing in a newspaper of general circulation in the City of New Hampton. As a courtesy, and to the best of the ability of the City, property owners within two hundred (200) feet of the property for which the exception is being requested shall be notified by regular mail about the proposed action. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration process.
- e. Authorization: For each application for a special exception the Zoning Administrator shall prepare and file with the Board of Adjustment findings and recommendations, including the recommended stipulations of additional conditions and guarantees that are deemed necessary for the protection of the public interest.
- f. Standards: No special exception shall be granted by the Board of Adjustment unless such Board shall find:
 - (1) That the establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
 - (2) That the special exception will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish and impair property values within the neighborhood;
 - (3) That the establishment of special exceptions will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
 - (4) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided and that the request not impair an adequate supply of air or light to adjacent properties;

- (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
 - (6) That the special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment;
 - (7) That the special exception shall be consistent with the New Hampton Comprehensive Plan and the Code of Ordinances.
- g. Conditions and Guarantees: Prior to the granting of any special use, the Board of Adjustment shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the Standards and requirements specified in Subsection (f) above. In all cases in which special exceptions are granted, the Board of Adjustment shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be met.
- h. Denial and Revocation of Special Exception:
- (1) Denial: No application for a special exception that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Adjustment.
 - (2) Revocation: In any case where special exception has not been established within one (1) year after the date of granting thereof, the Board shall provide notice to the applicant that the approved exception may be revoked. Said notice shall offer the applicant an opportunity to be heard by the Board of Adjustment. The Board may, after this process, revoke or extend the approved exception.

Section 19.06 APPEALS OF THE STAFF AND OTHER POWERS OF THE BOARD OF ADJUSTMENT

1. Appeals of Staff Interpretations and Decisions

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by a decision of the Zoning Administrator or official in enforcement of this Ordinance. Such appeal, by application, shall be taken to the Board within a reasonable time, but not longer than thirty (30) days, as prescribed by the Board's Rules of Procedure. The Zoning Administrator shall forthwith transmit to the Board all the application and all documentation constituting the record upon which the action appealed from is taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after notice of appeal shall have been filed, that by reason of the facts stated in the certificate a stay would, in the Administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order that may be granted by the Board or by a court of record on application of notice to the Zoning Administrator and due cause shown.

In exercising the above-mentioned powers, the Board may, in conformity with the provisions of the law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as it believes proper and to that end will have the powers of the Zoning Administrator. The concurring vote of four (4) 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 which it is required to pass under this Ordinance, provided that the action of the Board shall not become effective until after the written decision or resolution of the Board, setting forth the full reason for its decision and the vote of each participating member has been recorded in the minutes. Said written decision or resolution shall be filed in the office of the Zoning Administrator and shall be open to public inspection.

2. Other Powers of the Board of Adjustment

The Board of Adjustment is hereby vested with the following additional authority and jurisdiction:

- a. Interpretation of District Map: Where the application of the rules for interpretation of district boundaries contained in Section 2.02 leaves a reasonable doubt to the boundary between two (2) Zoning Districts the Board of Adjustment 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 this Ordinance.

Section 19.07 APPEALS OF BOARD OF ADJUSTMENT DECISIONS

Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of said decision, in the manner provided by the laws of the state and particularly by the Code of Iowa.

Section 19.08 PLANNING AND ZONING COMMISSION

1. The membership, administration, and powers and duties of the Planning and Zoning Commission are set forth in Chapter 2 of the City Code.

Section 19.09 ZONING ADMINISTRATOR

1. Designation of Zoning Administrator: The Zoning Administrator shall be designated by the Mayor and the City Council.
2. Powers and Duties of the Zoning Administrator: The Zoning Administrator shall enforce this Ordinance and in addition shall:
 - a. Issue all permits and collect any fees, consistent with this Ordinance.
 - b. Process and review all applications for variances, special exceptions, and interpretation for referral to the Board of Adjustment.

- c. Respond to complaints of alleged violations to the Ordinance. If after response by the Zoning Administrator the complaint remains unresolved, the issue shall be referred by the Administrator to the Mayor and City Council for resolution.
- d. Provide applications and forms and maintain public information relative to all matters arising out of this Ordinance.
- e. Process and review all applications for rezoning prior to consideration by the Planning and Zoning Commission.
- f. Review site plans for conformance with this Ordinance.
- g. Attend meetings of the Planning and Zoning Commission and the Board of Adjustment, as well as carry out duties that may be requested by both bodies.

Section 19.10 AMENDMENTS TO THIS ORDINANCE

1. Procedure: The regulations, restrictions, and boundaries may from time to time, be amended, supplemented, changed, modified, or repealed by the City Council. No such amendments shall be made final without: (1) the applicant completing a rezoning application, unless the City is the applicant; (2) holding a public hearing before the Planning and Zoning Commission, who shall thereafter send a recommendation to the City Council; and (3) after a public hearing is held by the City Council and the proper ordinance amendment procedures, as required by the Code of Iowa, are followed by the City Council. The notice of the time and place of the hearings shall be published in a newspaper with general circulation in the City not less than seven (7) days nor more than twenty (20) days before either of the public hearings. As a courtesy, and to the best of the ability of the City, property owners within two hundred (200) feet of the property for which the exception is being requested shall be notified by regular mail about the proposed action. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration process. In no case shall the City Council hearing be held earlier than the next regularly scheduled City Council meeting after the Planning and Zoning Commission hearing.

In case the Planning and Zoning Commission does not approve the change, or in the case of a protest filed with the City Clerk against such change signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change or repeal, or by the owners of twenty (20) percent or more of the property which is located within two hundred (200) feet of the exterior boundaries of the property for which the change or repeal is proposed. Such amendments shall not be passed except by the favorable vote of three-fourths ($\frac{3}{4}$) of all members of the City Council. As part of an amendment to this Ordinance changing land from one (1) zoning district to another zoning district, or as part of approving a site development plan, the City Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this Section or any adjournment of that hearing. The conditions must be reasonable and imposed to satisfy public needs that are directly caused by the requested change.

2. Rezoning Application: An application for rezoning shall contain the following items:
 - a. The legal description and local address, if applicable, of the property to be rezoned.
 - b. The present zoning classification and the zoning classification requested for the property.

- c. The existing use and proposed use of the property.
 - d. The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.
 - e. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
 - f. A plat or sketch showing the locations, dimensions, and use of the applicant's property and all property within two hundred (200) feet thereof, including streets, alleys, railroads, and other physical features.
 - g. The property owner's signature.
3. Fees: Before any action is taken upon a rezoning or ordinance amendment application, as provided in this section, the applicant shall pay the Zoning Administrator a non-refundable fee, as established in this Ordinance. The applicant shall pay this fee to the credit of the general revenue fund of the City. Failure to approve the change, by either the Planning and Zoning Commission or City Council, will not be construed as any reason for refunding the fee to the applicant.