

Chapter 134. Zoning

ARTICLE 8. ADMINISTRATION AND ENFORCEMENT

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134-8.1 Review and Decision-Making Bodies

8.1.1 CITY COUNCIL

The city council has the powers and duties that are expressly identified in this zoning ordinance and in [Chapter 2, Article III](#).

8.1.2 PLAN AND ZONING COMMISSION

The plan and zoning commission has the powers and duties that are expressly identified in this zoning ordinance and in [Chapter 82, Article II](#).

8.1.3 BOARD OF ADJUSTMENT

A. Composition. The board of adjustment must consist of 7 members, at least 4 of whom must be persons representing the public at large, not involved in the business of purchasing or selling real estate.

B. Appointment and Terms. Board of adjustment members must be appointed and serve terms in accordance with state statutes.

C. Officers. The board of adjustment must elect a chairperson, vice chairperson and secretary.

D. Rules of Procedure. The board of adjustment must adopt rules necessary for the conduct of its affairs.

E. Meetings. Board of adjustment meetings must be held at the call of the chairperson and at other times as the board of adjustment may determine. The chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings of the board of adjustment must be open to the public, in accordance with Chapter 21 of the Iowa Code. The board of adjustment must keep records of its proceedings and official actions. Records must indicate the vote of each member on each question (including absences and abstentions), all of which must be open public record on file in the office of the board of adjustment.

F. Powers and Duties

1. The board of adjustment has the powers and duties that are expressly identified in this zoning ordinance, including hearing and acting on applications for zoning variances, zoning use variances, zoning exceptions, conditional uses and appeals of administrative decisions.
2. Notwithstanding the foregoing, the board of adjustment is expressly prohibited from hearing appeals or considering variances or exceptions to the wireless telecommunication provisions

of this chapter that include procedural or other requirements set forth in Iowa and federal law, including but not limited to Iowa Code Chapter 8C and the Spectrum Act and similar FCC regulations. In addition, if the denial of an appeal or variance or exception will result in denial of wireless telecommunications services, or if approval of an appeal or variance or exception is necessary due to the type of technology proposed by an applicant, then the board of adjustment shall grant the relief sought, which may be subject to conditions allowed by city, state, and federal law.

G. Appeals to District Court. Any taxpayer or any officer, department, board or bureau of the city or any persons jointly or severally aggrieved by any decision of the board of adjustment may present to a court of record a petition for writ of certiorari, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition must be presented to the court within 30 days after the filing of the decision in the office of the board of adjustment.

8.1.4 HISTORIC PRESERVATION COMMISSION

The historic preservation commission has the powers and duties that are expressly identified in this zoning ordinance and in section [58-30](#).

8.1.5 COMMUNITY DEVELOPMENT DIRECTOR

The community development director has the powers and duties expressly identified in this zoning ordinance, as well as those assigned or delegated by the community development director.

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134-8.2 Enforcement¹

8.2.1 RESPONSIBILITY FOR ENFORCEMENT

The zoning enforcement officer, under the direction and supervision of the community development director, is responsible for enforcing this zoning ordinance. All departments, officials, agencies and employees vested with the authority to review, recommend or issue development approvals, permits or licenses must act in accordance with the provisions of this zoning ordinance.

8.2.2 VIOLATIONS

Unless otherwise expressly allowed by this zoning ordinance or state law, any violation of a provision of this zoning ordinance is subject to the remedies and penalties provided for in this zoning ordinance.

8.2.3 CONTINUING VIOLATIONS

Each day that a violation continues constitutes a separate violation of this zoning ordinance.

8.2.4 REMEDIES AND ENFORCEMENT POWERS

The city has all remedies and enforcement powers allowed by law, including, without limitation, all of the following:

A. Fines. Any person violating any provisions of this zoning ordinance or failing to comply with any of its requirements may be deemed guilty of a misdemeanor or municipal infraction punishable in accordance with section [1-15](#).

B. Withhold Permit

1. The community development director may deny or withhold all zoning-related permits, certificates or other forms of authorization on any land or structure or improvements upon which there is an existing violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the current owner or applicant is responsible for subject violation.
2. Instead of withholding or denying a permit or other authorization, the community development

director may grant such authorization subject to the condition that the violation be corrected.

C. Revoke Permits

1. A permit, certificate or other form of authorization required under this zoning ordinance may be revoked by the community development director when the community development director determines:
 - a. That there are unapproved departures from approved plans or permits; or
 - b. That any provision of this zoning ordinance or approval previously granted by the city is being violated.
2. Written notice of revocation must be sent by regular mail to the subject property owner and all persons to whom the permit was issued.

D. Stop Work

1. If the zoning enforcement officer finds work being performed in a manner contrary to the provisions of this zoning ordinance or in a dangerous or unsafe manner, the zoning enforcement officer is authorized to issue a stop work order.
2. A stop work order must be in writing and must be posted at the site of the violation. A copy of the order must also be provided to the owner of the subject property, to the owner's authorized, or to the person doing the work. Upon issuance of a stop work order, the cited work must cease immediately. The stop work order must state the reason for the order and the conditions under which the cited work is authorized to resume.
3. Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, is subject to penalties and enforcement as set out in this section.

E. Injunctive Relief. The city may seek an injunction or other equitable relief in court to stop any violation of this zoning ordinance or of a permit, certificate or other form of authorization granted under this or previous zoning ordinances.

F. Forfeiture and Confiscation of Signs on Public Property. Any sign installed or placed on public property, including rights-of-way, except in compliance with the regulations of this zoning ordinance will be considered forfeited to the public and subject to confiscation. In addition to other

¹ This section (revised 3-2-2017) is a proposed replacement for the two existing ordinance provisions that address penalties and enforcement. The intent is to provide a more robust explanation of the types of actions that constitute violations and to more clearly identify the range of possible penalties and enforcement actions that may be employed to secure voluntary compliance.

Enforcement

remedies and penalties of this article, the city has the right to recover from the sign owner or person who placed the sign, the full costs of sign removal and disposal.

G. Abatement

1. The city may seek a court order for abatement, injunction or other action requiring the owner to correct a violation and order that the city's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property on which the violation occurred, or both.
2. The city may seek a court order authorizing the city to abate or correct the violation and order that the city's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property on which the violation occurred, or both.

H. Other Penalties, Remedies and Powers. The city may seek such other penalties and remedies as are provided by law.

I. Continuation of Previous Enforcement Actions.

Nothing in this zoning ordinance prohibits the continuation of previous enforcement actions, undertaken by the city pursuant to previous ordinances and laws.

8.2.5 REMEDIES CUMULATIVE

The remedies and enforcement powers established in this zoning ordinance are cumulative, and the city may exercise them in any combination or order.

8.2.6 PERSONS SUBJECT TO PENALTIES²

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to penalties, remedies and enforcement actions.

8.2.7 ENFORCEMENT PROCEDURES

A. Non-Emergency Matters. In the case of violations of this zoning ordinance that do not constitute an emergency or require immediate attention, the subject property owner must be given notice by

regular mail. Notices of violation must state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

B. Emergency Matters. In the case of violations of this zoning ordinance that constitute an emergency situation as a result of public health or safety concerns if not remedied immediately, the city may use the enforcement powers available under this zoning ordinance without prior notice to the subject property owner, including the authority to abate or correct the violation.

8.2.8 APPEALS

A determination made by the community development director, zoning enforcement officer or other administrative officials that a zoning ordinance violation has occurred may be appealed by the affected party in accordance with section [134-6.9](#).

² Staff comments on previous draft had suggested that all "or" statements in this subsection be changed to "and/or." We have not done so because the rules of language/construction include in the zoning ordinance intro provisions already state that "'or'" indicates that the connected items or provisions may apply singularly or in combination."