

**BYLAWS
BOONE COUNTY BOARD OF ADJUSTMENT
BOONE, IOWA**

ARTICLE I. AUTHORITY

- 1.1 In compliance with Iowa Code Chapter 335 County Zoning, Section 335.12 Rules, and the Boone County Zoning Ordinance, which states that the Board of Adjustment will adopt rules to carry out the provisions of the Zoning Ordinance, the following rules of procedures are hereby adopted by the Boone County Board of Adjustment.
- 1.2 All prior Bylaws and Administrative Rules adopted by the Boone County Board of Adjustment are hereby repealed and replaced by these Bylaws.

ARTICLE II. NAME

- 2.1 The name of this Board shall be the Boone County Board of Adjustment hereinafter referred to as the "Board."

ARTICLE III. MEMBERSHIP

- 3.1 The Board consists of five (5) members. The terms of Board members, except for the initial terms of members appointed to the initial Board, are five (5) years. The Board shall be appointed by the Boone County Board of Supervisors. Terms begin on January 1st and end December 31st. The majority of the members of the Board shall reside outside any City or Town in Boone County.
- 3.2 Permanent vacancies on the Board shall be filled by the Boone County Board of Supervisors, in the same manner as other appointments hereunder, for the unexpired term of the former member whose place has become vacant.

ARTICLE IV. STIPEND

- 4.1 Board members may receive payment for mileage incurred only upon approval of the Board of Supervisors. Mileage shall be paid at the rate set by the Boone County Board of Supervisors.

ARTICLE V. ATTENDANCE

- 5.1 Board members are expected to attend all Regular and Special meetings of the Board. Each Board member shall be responsible for notifying the Secretary and/or the Director of Planning as soon as possible before any Board meeting if unable to attend.
- 5.2 If a member has a valid excuse for nonattendance, the member shall notify the Secretary or the Director of Planning *prior* to the meeting. For purposes of these Bylaws, failure to notify the Secretary or the Director of Planning prior to the meeting constitutes an "Unexcused Absence."
- 5.3. The Chairperson may grant an "Excused Absence" or a "Leave of Absence." An "Excused Absence" is defined as an absence from one (1) Regular Meeting. A "Leave of Absence" is defined as an absence from two (2) or more Regular Meetings.

ARTICLE VI. RESIGNATION AND REMOVAL

- 6.1 A Board member may be asked to resign if at any time, the member has three (3) consecutive 'Unexcused Absences' from a Regular or Special Meeting, or if total absences (whether excused or not) exceed forty (40) percent of the total meetings in a calendar year.
- 6.2 Three (3) "Unexcused Absences" in a row from Regular Meeting shall be grounds for the Board to

recommend to the Boone County Board of Supervisors that the individual be removed from the Board.

- 6.3 Any member of the Board may be removed for cause by the Boone County Board of Supervisors at any time, provided however, that before any such removal, such member shall be presented with specific charges in writing and shall be given an opportunity to be heard in his or her own defense at a public hearing.
- 6.4 Any Board member may resign their office at any time by giving written notice to the Boone County Board of Supervisors. The Boone County Board of Supervisors shall appoint a replacement to complete the remainder of the officer's term

ARTICLE VII. BYLAWS AMENDMENTS

- 7.1 These Bylaws may be amended by a simple majority vote of the members of the Board.
- 7.2 Annual Review. The Bylaws shall be reviewed on an annual basis at the first Regular meeting of the Board in January or next scheduled Regular meeting when Election of Officers is held.

ARTICLE VIII. ELECTION OF OFFICERS

- 8.1 A Chairperson and Vice-Chairperson shall be elected annually in the month of January or at the first meeting of each year by ballot majority vote by members of the Board.
- 8.2 Election Procedure. For each office of the Chairperson and the Vice-Chairperson, the Chairperson shall invite nominations from the Board members. These *nominations may be ...*
- 8.02.01 Called out by the Board members; or if any member requests anonymity, then all members shall submit nominations by Ballot.
- 8.02.02 After nominations have been received, the Chairperson shall entertain a Motion to Close nominations.
- 8.02.03 If such Motion is made and passed, and *more than one nomination has been made*, the Chairperson shall distribute Ballots to the Board members, and each member shall write his or her selection on the Ballot. The Recording Secretary shall tally the Ballots and announce the nominee receiving the most votes.
- 8.02.04 In the event of a tie, the Recording Secretary shall announce the nominees tied in the voting and balloting shall be repeated until an election occurs.
- 8.02.05 If only one nomination has been received, the Chairperson may conduct the voting by voice vote.
- 8.02.06 If a majority of the members present vote in the affirmative for the nominee, the nominee shall be elected.
- 8.3 A Chairperson and Vice-Chairperson shall be elected annually in the month of January or at the first meeting of each year by Ballot vote of the Board. Said Chairperson and Vice-Chairperson may serve in the capacity of Chairperson and Vice-Chairperson for a period of two consecutive (2) years.
- 8.4 Said Vice-Chairperson shall have the same powers as the Chairperson during the absence of the Chairperson.
- 8.5 In the event the Chairperson resigns his or her position, then the Vice-Chairperson shall serve in the capacity of Chairperson for remainder of his or her appointed or re-appointed term. Within the next two (2) Regular Meetings, the Board shall then elect a Vice-Chairperson to serve in the capacity of Vice-Chairperson for the remainder of his or her appointed or re- appointed term.
- 8.6 The Board may elect Interim Officers, if necessary, if both the Chairperson and the Vice-Chairperson are not available for a meeting.

ARTICLE IX. DUTIES OF CHAIRPERSON

- 9.1 Said Chairperson shall preside at all meetings, appoint committees and advisory committees as directed by the Board, and shall perform other such duties as the Board may direct, shall decide all Points of Order and rule on all questions relating to Cases, with concurrence of the majority of the Board.
- 9.2 Said Chairperson shall work in conjunction with the Director of Planning and Development Department in the preparation of agendas.

ARTICLE X. DUTIES OF VICE-CHAIRPERSON

- 10.1 Said Vice-Chairperson shall act in the capacity of the Chairperson in the Chairperson's absence. In the event the office of the Chairperson becomes vacant, the Vice-Chairperson shall succeed to this office for the unexpired term and the Board shall select a successor of the Vice-Chairperson for the unexpired term.
- 10.2 Said Vice-Chairperson shall function in the same capacity as the Chairperson in cases of the Chairperson's inability to act.

ARTICLE XI. DUTIES OF SECRETARY

- 11.1 The Director of Planning and Development or his or her designee will act as Board Secretary and shall receive all appeals and applications, insure that all the information is ready for Board review, shall send out all notices to property owners, and other interested parties, shall keep minutes of the Board proceedings, and shall keep a file of each case which comes before the Board.
- 11.2 Records. The Director of Planning and Development/Zoning Administrator shall keep the Minutes of the Proceedings and all records of cases. All records are public.

ARTICLE XII. QUORUM

- 12.1 The presence of three (3) Board members constitutes a Quorum.
- 12.2 The concurring (*definition - to be of the same opinion*) vote of three (3) members of the Board shall be necessary to reverse any decision or determination of the Director of Planning and Development/Zoning Administrator or to decide in favor of an application for a Variance or Conditional Use Permit or Special Use or Special Exception Permit
- 12.3 Whenever a Quorum is not present at a Regular or Special Meeting, those present may adjourn the meeting to another day or hold the meeting for the purpose of considering such matters as are on the agenda. It shall be noted that no action taken at such a meeting shall be final or official unless and until ratified and confirmed at a subsequent meeting at which time a Quorum is present.

ARTICLE XIII. PARLIAMENTARY PROCEDURE

- 13.1 Parliamentary procedure in the Board meeting shall be governed by Roberts Rules of Orders.

ARTICLE XIV. CONFLICT OF INTEREST

- 14.1 Members of the Board shall avoid Conflicts of Interest. Conflict of Interest for purposes of these Bylaws is defined as a situation in which a Board member who, contrary to the obligation and absolute duty to act for the benefit of the public, is seen (whether real or perceived) as exploiting the relationship for personal benefit or gain, typically pecuniary (financial).
- 14.2 The Board must avoid Conflicts of Interest. The Board shall be an impartial decision-maker. When in doubt, disclose.

- 14.3 If a Board member determines that he or she may have a Conflict of Interest on a particular issue, then said member shall declare the nature of such conflict and ask to be excused from deliberation and voting on the issue related to such conflict.
- 14.4 When the issue comes before the Board, then said member shall remove them self from the meeting room during all deliberation and voting pertaining to such matter.
- 14.5 ***In no instance may a member be excused from voting merely due to an unwillingness to vote on the issue at hand where no conflict of interest is found to exist.***

ARTICLE XV. EX-PARTE COMMUNICATIONS

- 15.1 Members of the Board shall avoid Ex-Parte Communication outside the Board's meeting room or chambers. Ex-Parte Communication for purposes of these Bylaws is defined as a Board member engaging in a one-sided discussion, without providing the other side (remaining Board Members) an opportunity to respond and state their case. Ex-Parte contact or communication occurs outside the public realm or public hearing. Any contact through e-mail, telephone, in- person, or in such similar fashion that a Board member may have with an outside party involved, or potentially involved, in a case before the Board and outside the public hearing process is known as an Ex-Parte contact or communication.
- 15.2 Board members shall not discuss a case privately and as a single Board member with an applicant or objector prior to the filing and prior to the hearing if it can be politely avoided. In the event it is not avoidable, and many times it is not, then the Board member shall be very non-committal. The Board member shall explain that he or she is only one member of the Board, and that as a Board member you have not had an opportunity to study the matter thoroughly, and that you have not seen the staff recommendation, and that you have no way of knowing what opposition there may develop or what will occur at the public hearing.
- 15.3 As a Board member who cannot avoid Ex-Parte Communication, be certain that the person that confronted you understands that you cannot commit yourself in any manner, except to assure that person that he or she may expect a fair and impartial hearing.
- 15.4 Board members shall disclose all Ex-Parte Communication or Contact to the Board prior to hearing a case.

ARTICLE XVI. REGULAR MEETING

- 16.1 Regular meetings of the Board will normally be held on the second Thursday of the month at 5:30 p.m. If no cases are filed during the filing period, no meeting will be held.
- 16.2 When the Regular Meeting day falls on a legal holiday or other conflicts arise, the Board shall select a suitable alternate day. If no business is to be brought forth, a meeting may be cancelled.
- 16.3 At the time of the Public Hearing the applicant may appear in his or her own behalf or be represented by agent or counsel. In the absence of any personal appearance on behalf of the applicant, the board will proceed to dispose of the matter on the forms and information provided before.
- 16.4 Informal Advice. The Board will not consider a request (informal or not) for advice on theoretical or actual situations that potentially may later come before the Board as an appeal or application.
- 16.5 Regular Meetings shall be conducted according to Robert's Rules of Order.

ARTICLE XVII. SPECIAL MEETING

- 17.1 From time to time Special Meetings may be called in order to process significant caseloads, or to undertake a retreat or strategic planning session either amongst itself or in the company of the Board of Supervisors or other boards and commissions.
- 17.2 Special Meetings can be proposed by any Board member or at the request of the Boone County Director of Planning and Development or the Boone County Board of Supervisors.
- 17.3 Special Meetings shall be conducted according to Robert's Rules of Order.

ARTICLE XVIII. PUBLIC MEETING

- 18.1 All official Regular and Special Meetings and Hearings shall be open to the public and publicized according to the requirements of the Code of Iowa. All records and accounts shall be open to the public.

ARTICLE XIX. VOTING

- 19.1 The presence of three (3) Board members constitutes a Quorum
- 19.2 The concurring (*definition - to be of the same opinion*) vote of three (3) members of the Board shall be necessary to reverse any decision or determination of the Director of Planning and Development and Zoning Administrator or to decide in favor or against an application for a Variance or Conditional Use Permit or Special Use Permit.
- 19.3 Voting shall be by unanimous voice vote unless one nay vote is heard. When the voice vote is not unanimous, e.g. everyone did not voice all yeas or all nays, then the voting shall start again by roll call and will be recorded by yeas and nays.
- 19.4 All members of the Board, including the Chairperson, are required to cast a vote for each motion.
- 19.5 Minutes will show which members are absent for each vote.
- 19.6 A member may abstain if he or she feels a conflict is of a financial nature. If a member elects to abstain from voting, he or she is required to state the reason for the abstention. When the issue comes before the Board, then said member shall remove them self from the meeting room during all deliberation and voting pertaining to such matter and remove himself or herself from the meeting room at deliberation and voting.
- 19.7 The Board may not vote on an appeal or application until all required information has been set forth on the forms and until the Hearing has been conducted.

ARTICLE XX. UNFINISHED BUSINESS

- 20.1 Unfinished Business. Where all appeals or applications cannot be disposed of on the day set due to length of the meeting or extenuating circumstances, then the Board may adjourn until the next Regular or Special Meeting as the Board may decide.

ARTICLE XXI. ORDER OF BUSINESS

- 21.1 The Secretary shall prepare an agenda for each meeting and send to each Board member as part of the notification process. The Order of Business shall be as follows ...
 - 21.1.01 Call to Order by Chairperson
 - 21.1.02 Roll Call
 - 21.1.03 Determination of a Quorum
 - 21.1.04 Approval of Minutes of Previous Meeting
 - 21.1.04 Approval of Agenda
 - 21.1.05 Disclose Conflict of Interest and Ex-Parte Communication Inquiry
 - 21.1.06 Public Hearing(s)
 - 21.1.06.a Chair *opens* hearing on case.

- 21.1.06.b Applicant presentation
- 21.1.06.c Staff presentation
- 21.1.06.d Public comment
- 21.1.06.e (Rebuttal or Closing Statement)
 - * Applicant
 - * Staff
- 21.1.06.f Chair *closes* hearing on case
- 21.1.06.g Board Deliberation
- 21.1.06.h Board Motion
- 21.1.07 Unfinished Business
- 21.1.08 New Business
- 21.1.09 Adjournment

Important Note: The order outlined in the Agenda is subject to the will of the Board.

ARTICLE XXII. APPEALS OF BOARD ACTIONS

22.1 Decisions of the Board are final. Dissatisfied parties may appeal to the District Court.

The Administrative Rules for the Boone County Board of Adjustment were *Originally Adopted* on December 10, 1998.

AMENDED: February 11, 2010

<input type="checkbox"/> Aye	Dennis Lynch	<input type="checkbox"/> Aye	Cy Hornberg	<input type="checkbox"/> Aye	Paul Adix	<input type="checkbox"/> Aye	Ruth Berglund
<input type="checkbox"/> Aye	Amy Yoakum						

/s/ Chair

AMENDED: February 10, 2011

<input type="checkbox"/> Aye	Dennis Lynch	<input type="checkbox"/> Aye	Cy Hornberg	<input type="checkbox"/> Aye	Paul Adix	<input type="checkbox"/> Aye	Ruth Berglund
<input type="checkbox"/> Aye	Amy Yoakum						

/s/ Chair