



Date March 9, 2026

**RECEIVE AND FILE AMENDMENTS TO BYLAWS OF CITY ZONING BOARD OF ADJUSTMENT**

**WHEREAS**, pursuant to section 134-8.1.2.D of the Municipal Code of the City of Des Moines, the Zoning Board of Adjustment has adopted Rules of Procedure (“Bylaws”) which are from time to time amended; and

**WHEREAS**, at its February 25, 2026 meeting, the Board of Adjustment adopted amendments to the Bylaws in form on file in the City’s Development Services Department and as attached hereto related primarily to the location of meetings following relocation to the T.M. Franklin Cownie City Administration Building.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Des Moines, Iowa that the Zoning Board of Adjustment’s Bylaw amendments as attached hereto are hereby received and filed and the City’s Development Services Department is hereby directed to maintain a copy of the Bylaws as amended on file for public review and inspection.

Moved by \_\_\_\_\_ to adopt. Second by \_\_\_\_\_.

Approved as to form:

/s/ Gary D. Goudelock Jr.  
Gary D. Goudelock Jr.  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
BARRON				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				

MOTION CARRIED APPROVED

**CERTIFICATE**

I, LAURA BAUMGARTNER, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

## RULES OF PROCEDURE ZONING BOARD OF ADJUSTMENT

### Article I - Meetings

1. Regular meetings of the Zoning Board of Adjustment shall be held at 1:00 PM on the fourth Wednesday of each month except November and December, and shall be held on the third Wednesday of November and December, unless otherwise scheduled by the Board.
2. Special meetings may be called by the Chair, or at the request of three members. Notice of a special meeting shall be mailed or emailed to each member at least three days before the time set, or personally delivered to the residence of each member at least 24 hours before the time set. However, the announcement of a special meeting at any meeting at which all members are present shall be sufficient notice of such meeting.

### Article II - Cases Before the Board

1. The Board shall hear those appeals and applications over which it is granted jurisdiction by the Zoning Ordinance of the City of Des Moines, Iowa. All appeals and applications shall be initiated by the filing of an application with the Development Services Department upon forms, electronic or otherwise, provided for that purpose by the Development Services Department.
2. All information required to be set forth in the cases referred to above shall be furnished by the applicant or appellant in the manner therein prescribed on the application form.
3. The Development Services Department shall reject any appeals or applications unless same are made on the prescribed forms, properly filled out, with all the required data attached.
4. Every appeal and application from an order, decision, or determination of the Zoning Enforcement Officer shall be taken by the applicant to whom the order, decision, or determination was directed within ten days from the date of such order, decision, or determination. Every appeal from an order, decision, or determination of the Zoning Enforcement Officer shall be taken by any other aggrieved person within ten days of actual notice by such person of such order, decision, or determination, which in no event shall be later than ten days after commencement of such physical construction or use.
5. Any appeal or application shall be considered as having been taken, at such time as the form for such appeal or applications has been properly executed and filed by appellant or applicant with the Board. Any communication purporting to be such appeal or application shall not be considered as having been properly taken until it is made in the manner set forth above with the payment of the associated fees.

### Article III - The Agenda

1. Each appeal or application for variation or modification filed in proper form, electronic or otherwise, with the required data attached and all applicable fees paid, shall be numbered serially, docketed, and placed upon the agenda of the Board by the Development Services Department.
2. Each application shall be assigned a docket number. The docket numbers for applications received shall begin anew after January 1<sup>st</sup> of each year.
3. The Development Services Department shall place items that are minor in nature and unlikely to be opposed on the Consent portion of the agenda.
4. All cases docketed, determined to be complete with all applicable fees paid, at least 27 calendar days before a scheduled meeting shall be set for hearing on the next regularly scheduled meeting.
5. Appeals or applications shall be heard in the order in which they appear on the agenda, except that an appeal or application may be advanced, deferred or continued for hearing by order of the Board upon good cause shown. Where all appeals or applications cannot be disposed of on the day set, the Board may adjourn from day to day, or until the next regular meeting, as it may order.
6. The agenda of cases to be heard shall be posted in the ~~office of the Development Services Department, Permit and Development Division, Argonne Armory Building, 602 Robert D. Ray Drive~~T.m. Franklin Cownie City Administration Building, 1200 Locust Street, at least three days before each regular meeting.
7. The Development Services Department, subject to the provisions of the Zoning Ordinance, these rules, and the direction of the Board and its Chair, shall conduct all correspondence of the Board; send out all notices required by these rules and the order of the Board; shall attend all meetings of the Board and all hearings; shall scrutinize all appeals and applications ~~for variations~~ to see that these rules are complied with; shall keep the dockets and minutes of the Board's proceedings; shall compile all required records; shall maintain the necessary files and indexes; and shall generally supervise all the clerical work of the Board.
8. The Development Services Department shall notify the applicant or appellant and any designated representative, of the hearing by depositing in the United States mail, or by email, a notice to the address stated in the application or the appeal.
9. Owners of property in the vicinity of each application or appeal shall be notified of the hearing by depositing in the United States mail a notice addressed to such property owner as on file with the County Assessor, as follows:

- A. For any Conditional Use, pursuant to City Code Section 134-6.4.6, all property owners within 250 feet of the subject property shall be notified, except as follows: for any Conditional Use for a wireless telecommunications tower, pursuant to City Code Section 134-6.4.6.1, all property owners within 300 feet of the subject property shall be notified, and for any Conditional Use for a wireless telecommunications use other than a tower, pursuant to City Code Section 134-6.4.6.2, all abutting and diagonally opposite (front and rear) property owners shall be notified.
- B. For any Type 2 Zoning Exception, pursuant to City Code Section 134-6.6.6, all abutting and diagonally opposite (front and rear) property owners shall be notified.
- C. For any Zoning Variance, pursuant to City Code Section 134-6.7.5, all property owners within 250 feet of the subject property shall be notified.
- D. For any appeal or application other than a Conditional Use, Type 2 Zoning Exception, or Zoning Variance, all property owners within 250 feet of the subject property shall be notified.

Lack of receipt of written notice by the Board shall have no effect of an adjoining property owner's right to appeal.

- 10. The Development Services Department shall send the Neighborhood Associations recognized by the City of Des Moines a copy of each meeting agenda either by the United States mail or electronic mail.
- 11. Upon docketing of any appeal or application for variation, the Development Services Department may make a personal inspection of the premises, shall see that all maps and plats are properly prepared, and be prepared to advise the Board on the physical conditions of the property affected by such appeal or application.
- 12. The Development Services Department shall require the appellant or applicant to timely provide additional information and as may be required to fully advise the Board with reference to the appeal or application, whether such information and data is called for by the official forms or not. Any failure or refusal on the part of the appellant or applicant to furnish some additional information or data shall be grounds for the dismissal of the appeal or application by the Board.

#### Article IV - Hearings

- 1. Hearings shall be held by the Zoning Board of Adjustment in the ~~Board Room~~ Council Chambers at the Municipal Service Center, 1551 East Martin Luther King, Jr. Parkway T.M. Franklin Cownie City Administration Building, 1200 Locust Street, unless otherwise noticed.
- 2. A quorum for hearing by the Board shall consist of *four* members. Every appeal or application for variation or modification shall be disallowed unless the concurring vote of four members of the Board shall favor the appeal or application.
- 3. Hearings shall be open to the public.

4. The appellant or applicant may appear on his own behalf or be represented by agent at said hearing. In the absence of any personal appearance on behalf of the appellant or applicant, the Board may proceed to dispose of the matter on the record before it or defer the matter until the next regularly scheduled meeting to allow an appearance.
5. Items listed on the Consent portion of the agenda will not be individually discussed and will be considered for approval in accordance with the recommendation in the staff report unless an individual present, a member of the Board, or a member of City Staff requests that the item be removed from the consent agenda and separately considered under the public hearing agenda.
6. All material, written or otherwise, submitted as a part of any presentation will become a permanent part of the record and will not be returned. Materials presented by architects, professional engineers, attorneys and other licensed professionals may with the permission of the Chair be returned to the licensed professional upon their agreement to retain such materials for at least 60 days and to produce such materials in the event of an appeal from the decision of the Board.
7. At a hearing, the order shall be as follows:
  - A. Staff's presentation and recommendation
  - B. Appellant's or applicant's presentation or comments
  - C. Interested property owners' presentation or comments
  - D. Comments by Development Services Department, the Zoning Enforcement Officer, and/or the City Legal Department
  - E. Appellant's rebuttal
  - F. Board deliberation
  - G. Action by the Board

### **Article V - Final Disposition of Appeal**

1. The final disposition of any appeal or application for variation or modification shall be in the form of a Finding of Facts that shall affirm, modify or reverse the refusal of a permit by the Zoning Enforcement Officer. In case of an application for variation or modification, the Finding of Facts shall set forth that the application is denied or that it is granted with or without conditions, and said Finding of Facts shall specifically set forth what variations or modifications are permitted and what conditions, if any, shall be complied with. Every appeal or application for variation or modification shall be disallowed unless the concurring vote of four members of the Board shall favor the appeal or application.

2. Any appellant or applicant may withdraw his appeal or application at any time prior to the decision by the Board of Adjustment.

### **Article VI - New Applications**

No rehearing or reconsideration of any decision by the Board of Adjustment shall be held within two years of the Board's initial decision. However, an aggrieved applicant or appellant may file a new application or appeal seeking different relief with respect to a subject property. Such a new application shall be permitted in cases where the facts and circumstances present at the time of the Board's prior decision have so changed as to materially affect the reasons that produced and supported it.

A change in the facts and circumstances present at the time of the Board's prior decision may be such as:

- A. Where the appellant or applicant proves the consent of owners who previously objected to the relief sought at the earlier hearing.
- B. Where the appellant or applicant proves that land adjacent to the subject property is no longer subject to restrictive covenants that were in effect at the time of the earlier hearing.
- C. Where the appellant or applicant presents a new plan that involves substantially greater limitations on the use of the property.
- D. Where the appellant or applicant presents evidence showing that the vicinity of the proposed variance has undergone a material and substantial change since the earlier decision was rendered.

When presented with such a new appeal or application, the Board shall first determine whether there has been a change in circumstances since the prior Board decision. If the Board determines circumstances have changed, then it shall make the additional determination whether the change in circumstances is so material as to affect the reasons underlying the prior Board decision.

### **Article VII - Officers**

1. The Board at its first meeting shall elect a Chair and a Vice Chair and annually thereafter at the first regular meeting in April.
2. The Chair shall preside at all meetings and hearings of the Board. In the event of the absence or disability of the Chair, the Vice Chair shall preside. In the event of the absence or disability of both the Chair and Vice Chair, the Chair or Vice Chair shall appoint a Board Member to preside.
3. The Chair, subject to these rules, shall decide all points of procedure unless otherwise directed by a majority of the Board in session at the time.

4. The Chair may designate members of the Board to make personal inspections when necessary from time to time, and unless directed by a majority of the Board, shall appoint such committees as may be found necessary.
5. The Chair shall report at each meeting on all official transactions that have not otherwise come to the attention of the Board.
6. The Chair shall, subject to these rules and further instructions from the Board, transact the official business of the Board.
7. The Secretary of the Board shall be staff, as assigned, from the Development Services Department. In their absence, the Planning Administrator or Development Services Department Director shall perform these duties. The Secretary shall prepare and co-sign the Decision and Order and shall be that officer upon whom legal service of process on the Board shall be made.

### **Article VIII - Docket and Minute Book**

1. The docket shall be a record in which the number of the appeal or application, the name of the appellant or applicant, and the street number or otherwise, of the premises is kept.
2. The Minutes of each meeting shall be kept on file with the Development Services Department. The Minutes shall be a record of those appearing for and against each case, the resolution relating to each case acted on, and the vote of each member of the Board.
3. A recording of each meeting shall also be kept on file in the Development Services Department office.

### **Article IX - Amendments**

These rules may be amended or modified by an affirmative vote of not less than five (5) members of the Board, provided that such amendment be presented in writing.

### **Article X - Resolutions**

Every resolution not otherwise provided for shall require a majority vote of the members present at a legally constituted meeting.

### **Article XI - Advice**

No informal requests for advice or moot questions will be considered by the Board.

| Adopted by the Board, on ~~April 28, 2021~~ February 23, 2026.