

DIVISION 140: BOARD OF ADJUSTMENT

Sections:

- 140-010 Confirmation of Existing Board of Adjustment
 - 140-020 Creation of Board
 - 140-030 Powers of the Board of Adjustment
 - 140-040 Procedure for Hearing Cases
 - 140-050 Decision From the Board
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SECTION 140-010: CONFIRMATION OF EXISTING BOARD OF ADJUSTMENT

The members of the existing Board of Adjustment are hereby confirmed to continue their appointed terms of office. Future members of the Board of Adjustment may be appointed to office by the City Council for a term of 5 years.

SECTION 140-020: CREATION OF BOARD

A Board of Adjustment is hereby established. The Board shall consist of 5 members to be appointed by the City Council for a term of 5 years, except when the Board shall first be created one member shall be appointed for a term of 5 years, one for a term of 4 years, one for a term of 3 years, one for a term of 2 years, and one for a term of one year. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by the City Council for the unexpired term of the member.

SECTION 140-030: POWERS OF THE BOARD OF ADJUSTMENT

The Board of Adjustment shall have the following powers and duties:

140-030.A: Administrative Review Power/ Interpretation of Zoning Ordinance.

To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the City Council in the enforcement of this Ordinance.

140-030.B: Special Use Exceptions Power.

To hear and decide only such exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance, and as provided for in this Article. The Board of Adjustment shall refer the special-use request to the Planning and Zoning Commission for its review and recommendation before deciding on the request. The following are some special-use exceptions that may come before the Board.

1. To permit erection and use of a building or the use of premises or vary the height and the regulations in any location for a public service corporation for public utility purposes or for purposes of public communication, which the Board determines is reasonably necessary for the public convenience or welfare.
2. To permit the extension of a use into a district where it would be otherwise prohibited in a case where a district boundary line is so located that a lot or plat is in more than one district.
3. To hear and decide only such other special exceptions as the Board is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as appropriate under this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance. A special exception shall not be granted by the Board unless and until:
 - a) A written application for special exceptions is submitted indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.
 - b) A review and recommendation of the special-use exception for nonconforming uses (residential, large-scale commercial and industrial) from the Planning and Zoning Commission.
 - c) Notice of public hearing shall be given in advance of public hearing. The owner of the property for which special exception is sought or his agent and any other affected property owners shall be notified by mail. Notice of hearing may also be posted on the property for which special exception is sought.
 - d) The public hearing shall be held. Any party may appear in person, or by agent or attorney.
 - e) The Board shall make a finding that it empowered under the Article of this Ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

4. In granting any special exception, the Board 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 special exception is granted, shall be deemed a violation of this Ordinance. The Board may prescribe a time limit within which the action for which the special exception is required to be begun or be completed, or both. Failure to begin or complete, or both, such action within the time set, shall void the special exception.

140-030.C: Variance Power.

To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where owing to special conditions; a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Board unless and until:

1. A written application for a variance is submitted demonstrating:
 - a) That special conditions and circumstances 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;
 - b) That 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;
 - c) That the special conditions and circumstances do not result from the actions of the applicant; and
 - d) That granting the variance requested would not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district. No nonconforming 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.
2. Notice of public hearing shall be given in advance of the public hearing. The owner of the property for which the variance is sought for his agent and any other affected property owners shall be notified by mail.
3. The public hearing shall be held. Any party may appear in person or by agent or by attorney.
4. The Board of Adjustment shall further 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.

5. The Board 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 will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
6. The application for a variance shall be accompanied by a fee of \$100.00.
7. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under this Article.

SECTION 140-040: PROCEDURE FOR HEARING CASES

The following rules will apply to all appeals or applications before the Board.

140-040.A: Appeals.

Appeals to the Board may be taken by any person, group, or by any officer or department of the city affected by any decision of the City Council and by applicants for a special exception or variance.

140-040.B: Filing.

The Zoning Administrator shall tell the applicant or interested party why the zoning or building permit was denied or why the application is necessary. He or she shall inform the applicant or interested party of the right to apply or appeal to the Board and that it be made within 15 days. Such appeal shall be filed with the Zoning Administrator, and will transmit the completed appeal form along with all papers constituting the record upon which the Board shall act. A fee of \$25.00 dollars shall be paid to the City of Mediapolis at the time the notice of appeal is filed.

140-040.C: Required Forms and Information.

The applicant shall complete the required forms, providing all information requested by the form and any additional information as requested by the Zoning Administrator.

140-040.D: Deadline to the Board.

The secretary of the Board shall reject any such application or appeal that is not filed within 15 days of the City Council's decision. Also, the secretary shall reject any such application or appeal unless it is made on prescribed forms properly filled out, with all required data attached.

140-040.E: Notice.

The secretary of the Board shall notify the parties of interest by mail of the time, place, and purpose of the public hearing, and give more than 4 days, but less than 20 days public notice in a newspaper of general circulation.

140-040.H: Public Hearing.

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.

1. The order of the hearing shall be as follows:
 - a) The applicant's or appellant's side of the case
 - b) City Council's side of the case
 - c) Interested property owners' opinions
 - d) Applicant's rebuttal

After the hearing, the Board shall deliberate the case. The Board may ask its attorney for comments. The applicant or appellant may withdraw his or her application or appeal at any time prior to the decision by the Board of Adjustment.

SECTION 140-050: DECISION FROM THE BOARD

Final decision of any application or appeal shall be made in the form of a resolution by anyone on the Board. The resolution may affirm, modify, or reverse the refusal of a permit by the decision of the City Council. In the case of an application for a variance or special exception, the resolution shall set forth that the application is granted or denied and said resolution shall specifically set forth what variances or special uses are permitted and what conditions, if any, shall be complied with. Within 15 days after the hearing the Board shall notify the parties of interest and the City Council of its decision.

140-050.A: Rehearing.

A rehearing of any decision of the Board of Adjustment may be made if the following occur:

1. The motion to reconsider is made by a member of the Board and carried by not less than 4 affirmative votes.
2. New evidence is submitted that could not reasonably have been presented at the original meeting.
3. At least 90 days have elapsed since the resolution was defeated.
4. The case is put on the agenda for a rehearing.

SECTION 140-060: REVIEW BY COUNCIL

The Council may provide for its review of variances granted by the Board before their effective date. The Council may remand a decision to grant a variance to the Board for further study. The effective date of the variance is delayed for 30 days from the date of the remand.

SECTION 140-070: STAY OF PROCEEDINGS

An appeal stays all proceedings in furtherance of the action, which was appealed, unless the City Council from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him/her, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on the application on notice to the City Council from whom the appeal is taken and on due cause shown.

SECTION 140-080: OFFICERS

The Board of Adjustment shall select from its membership a chairperson and vice-chairperson who shall perform the usual duties pertaining to such offices.

140-080.A: Selection.

At the first regular meeting in January of each year the Board will select its officers from its membership. All officers are eligible for re-election.

140-080.B: Tenure.

The chairperson and vice-chairperson shall take office immediately following their election and shall hold office for a term of one year or until their successors are selected and assume office.

140-080.C: Duties.

The chairperson shall preside at all meetings and hearings of the Board, shall decide all points of order or procedure, and shall appoint any committees that may be found necessary. The vice-chairperson shall assume the duties of the chairperson in the absence of the chairperson.

140-080.D: Secretary.

The secretary will be appointed by the City Council and may be a member of the Board, an employee of the Board, or a regular employee of the city. The secretary shall conduct all official correspondence subject to these rules at the direction of the Board, shall send out all notices required by these rules of procedure, keep the minutes of the Board's proceedings, and keep a file on each case that comes before the Board.

For all appeals and applications, the secretary shall issues the proper forms; see that information maps and plats are compiled and ready for Board’s review; notify any property owner and other interested parties by mail of the time and place of the hearing; and any other duties as determined by the Board.

SECTION 140-090: MEETINGS

The annual meeting of the Board will take place at the first regular meeting in January of each year. Meetings of the Board of Adjustment shall be held in City Hall when needed. The secretary shall give each member of the Board 72 hours notice of such meeting by mail.

140-090.A: Special Meetings.

Special meetings may be called by the chairperson or at the request of three members of the Board. Notice of the special meeting shall be given by the secretary to the members of the board at least 48 hours prior to such meeting and shall state the purpose and time of the meeting.

140-090.B: Quorum.

A quorum of the Board shall consist of 3 members.

140-090.C: Public.

All regular, special, and subcommittee meetings; public hearings; records; and accounts shall be open to the public.

140-090.D: Order of Business.

The secretary shall prepare an agenda for each meeting and send it to each Board member as a part of the notification process 72 hours prior to the meeting. The order of business shall be as follows:

- a) Roll Call
- b) Reading the minutes of pervious meeting
- c) Communications
- d) Report of committees
- e) Unfinished business
- f) New business
- g) Adjournment

140-090.E: Voting.

The concurring vote of 3 members of the Board is required to reach a decision (no matter how many Board members are present). Voting will be by roll call and will be recorded by yeas and nays. All members of the Board, including the chairperson, are required to cast a vote for each motion. Minutes will show members absent for each vote. A member may abstain if he or she feels there is a conflict of interest, particularly if the conflict is of a financial nature. If a member

elects to abstain from voting, he or she is required to state the reason for his or her abstention at the time of voting.

140-090.F: Unfinished Business.

When all appeals or applications cannot be disposed of on the day set (due to length of meeting or extenuating circumstances), the Board may adjourn from day to day or until the next regular meeting as the Board may decide.

140-090.G: Board Action.

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.

140-090.H: Parliamentary Procedure.

Roberts Rules of Order, Revised, will govern the Board Meetings.

SECTION 140-100: RECORDS

The secretary shall keep books showing the status of all cases and minutes as part of the records of the Board of Adjustment. In addition, the secretary shall keep a file of all cases including forms and additional information as a part of the legal records. All records of the Board shall be public. The secretary shall publish the minutes of all meetings in a newspaper of general circulation within 15 days of the meeting.

SECTION 140-110: 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 of application.

SECTION 140-120: APPEALS FROM DECISION OF THE BOARD (PETITION FOR CERTIORARI)

Any person or persons, jointly or severally, aggrieved by any decision of the Board under the provisions of this Ordinance, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board.

DIVISION 145: PLANNING AND ZONING COMMISSION

Sections:

- 145-010 Creation of Commission
 - 145-020 Membership and Terms of Office
 - 145-030 Zoning Duties of the Commission
 - 145-040 Additional Duties of the Commission
 - 145-050 Officers
 - 145-060 Meetings
 - 145-070 Hearings
 - 145-080 Expenses
 - 145-090 Meeting Attendance
 - 145-100 Removal
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SECTION 145-010: CREATION OF COMMISSION

Pursuant to the provisions of statutes and regulations of the State of Iowa, and as hereinafter set forth, there is hereby created and established a Planning and Zoning Commission consisting of 7 members appointed by the City Council of Mediapolis.

SECTION 145-020: MEMBERSHIP AND TERMS OF OFFICE

All members shall be citizens and residents of Mediapolis, provided that at all times a majority of the members shall reside in the city limits. The term of office for the commission members shall be 3 years, except that the initial terms under the provisions of this Section shall be 3 members shall serve for 1 year, 3 members shall be appointed for 2 years, and one member for 3 years. At the effective date of this Ordinance those members whose original date of appointment occurred first shall be given 1-year terms, and the date of the original appointment shall also be used to determine the 2 and 3-year terms. The expiration date for all terms of office shall be the first Monday in March, provided, however, that all members shall hold office until their successors are appointed and approved.

SECTION 145-030: ZONING DUTIES OF THE COMMISSION

The responsibility to plan and zone on behalf of the community rests with the Planning and Zoning Commission. The Commission is appointed by the legislative body and has three basic advisory responsibilities on matters affecting local zoning. The legislative body must solicit recommendations from the Commission, but is not required to follow such recommendations. The three basic zoning responsibilities of the Planning and Zoning Commission are as followed.

145-030.A: Prepare the Zoning Ordinance.

While the legislative body had the power to adopt zoning, it cannot prepare the ordinance for adoption. The law assigns responsibility of preparing the original zoning ordinance to the Zoning Commission. Once the zoning ordinance and district map are prepared and put in final form, the Commission forwards them to the City Council with its recommendation that the ordinance be adopted.

As stated previously, the City Council is not bound by the recommendations of the Commission. The City Council may adopt the ordinance as submitted, make changes in the ordinance before adoption, or refuse to adopt it.

145-030.B: Recommendations on Proposed Changes in Zoning.

Once the zoning ordinance has been adopted, it may be changed from time to time. Any proposed change, either in the written text or map, must be submitted to the Commission for consideration. The Commission should study the proposed change(s) and submit a recommendation to the City Council, approving or disapproving the proposed change(s). As in the original adoption of the zoning ordinance, the City Council is not bound by the Commission's recommendations.

145-030.C: Review and Update the Ordinance.

The Commission should conduct a review of the zoning ordinance from time to time to assure that it still reflects the needs and desires of the community. If such review reveals a need for changes in the text or district map, a recommendation should be forwarded to the City Council proposing such changes.

If these changes are acceptable to the City Council, the same procedure must be followed as required for any other proposed amendment to zoning.

SECTION 145-040: ADDITIONAL DUTIES OF THE COMMISSION

As an advisory body, the Commission may be assigned responsibilities, such as the following:

145-040.A: Comprehensive Plan.

The Commission may prepare, recommend to the governing body, and maintain a comprehensive plan for the physical development of the community.

145-040.B: Reviewing Special Types of Development.

The Commission may review and make recommendations on special types of development permitted under the ordinance, such as site plan review, planned unit developments, and industrial parks.

145-040.C: Subdivision Regulations.

The Commission may prepare subdivision regulations for adoption by the governing body. The Commission shall review and make recommendations on all preliminary and final subdivision plat proposals, street layouts, and other developments, which involve expansion of the developed area of the city.

145-040.D: Supervising Planning Staff.

The Planning and Zoning Commission shall work closely with the planning staff or planning consultants to insure that the local planning work program is acceptable and that technical assistance is being accomplished in a timely fashion.

145-040.E: Educating Public.

The Commission shall inform and educate the public about the purposes of planning and how specific local problems are being resolved.

SECTION 145-050: OFFICERS

The Commission shall select from its membership a chairperson and vice-chairperson, who will perform the usual duties pertaining to such offices.

145-050.A: Selection.

At the first regular meeting in January of each year, the Commission will pick its officers from its membership. All officers are eligible for re-election.

145-050.B: Tenure.

The chairperson and vice-chairperson shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.

145-050.C: Duties.

The chairperson will preside at all meetings, appoint committees, and perform such other duties as may be ordered by the Commission. The vice-chairperson shall act in the capacity of the chairperson in his or her absence and if the office of the chairperson becomes vacant, the vice-chairperson shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of vice-chairperson for the unexpired term. The City Clerk will perform the duties of secretary of the Commission. The secretary will record and maintain minutes of the meetings, ensure that the minutes and adopted recommendations are properly published and recorded, and perform such other duties as the Commission may determine.

SECTION 145-060: MEETINGS

The Planning and Zoning Commission shall meet on a night (to be announced) every month beginning promptly at 7:00 p.m. in the City Hall. When the regular meeting day falls on a legal holiday, the Commission shall select a suitable alternative day in the same month. There shall be an annual meeting with the City Council to discuss the commission's proceedings and activities, suggestions for policy and zoning ordinance revisions, and other items relating to the commission's duties.

145-060.A: Special Meetings.

Special meetings will be called at the request of the chairperson, or of any three members of the commission. Notice of the special meeting shall be given by the secretary to the members of the Commission at least 72 hours before such meeting and shall state the purpose and time of the meeting.

145-060.B: Public.

All regular and special meetings, subcommittee meetings, hearings, records, and accounts shall be open to the public.

145-060.C: Quorum.

A quorum of the Commission shall consist of 4 members. A quorum shall be required to conduct the business of the commission.

145-060.D: Order of Business – Agenda.

The secretary will prepare an agenda for each meeting and send it to each commissioner seven days before the meetings. The order of business shall be as follows:

- a) Roll Call
- b) Approval of minutes
- c) Time open for citizens wishing to address the commission on matters not on the established agenda
- d) Advertised public hearing(s). The chairperson will declare such a public hearing open and state its purpose. The petitioner or his/her representative will be heard first.
- e) Unfinished business of commission
- f) Consideration of matters heard under (d) above
- g) Reports from zoning administrator, planning agency, etc.
- h) New business
- i) Adjournment

145-060.E: Motions.

Motions may be made by anyone on the Commission except the chairperson. The chairperson will restate the motion before a vote is taken.

145-060.F: Voting.

Voting will be by roll call and will be recorded by yeas and nays. Every member of the Commission, including the chairperson, is required to vote on each motion. However, a member may abstain if the member believes there is a conflict of interest, particularly if the conflict is of a financial nature. A member who elects to abstain from voting shall state the reason for the abstention at the time of voting. During the discussion the matter under consideration, a member who plans to abstain from voting should so inform the Commission so that other Commission members can properly weigh the opinions given by a member who believes a conflict of interest exists.

145-060.G: Commission Action.

Action by the Commission on any matter on which a hearing takes place will not be taken until the hearing has been conducted.

145-060.H: Parliamentary Procedure.

Roberts Rules of Order, Revised, will govern the Commission meetings in all cases where these rules do not provide the procedures to be followed.

SECTION 145-070: HEARINGS

145-070.A: Comprehensive Plan and Zoning Hearings.

Before the adoption or amendment of any part of the comprehensive plan, or recommending approval of an amendment to the zoning ordinance to the City Council, the Commission will conduct a public hearing on the matter. Notice of the time and place of the hearing will be given, and that at least 7 days [*Iowa Code*, Chapters 362, 380, & 414] before such hearing, by one publication in a newspaper of general circulation

Special notice of a proposed rezoning will be given by mail to all interested parties including the owners and residents of property within 200 feet of the boundaries of the premises under consideration. (Note: This is a courtesy and not required by Iowa law.)

SECTION 145-080: EXPENSES

Commission members may receive payment for actual expenses and mileage incurred only upon approval of the Commission. Mileage shall be paid at the rate allowed by state law.

145-080.A: Annual Appropriations.

The Commission may request of the City Council an appropriate sum of money from the general fund for payment of the expenses of the Commission. The Commission has full and exclusive authority to expend, on behalf of the City of Mediapolis, all the money so appropriated. The chairperson and/or secretary shall have the authority to expend up to \$200 for items covered by the Commission's budget. All expenditures above that amount shall first be authorized by vote of a majority of the Commission.

145-080.B: Gifts.

Gifts, donations, and payments of every kind received by the city for planning purposes shall be appropriated solely for use by the Commission for the benefit of the city planning. Commission members may not receive any type of gift for their personal use or enjoyment.

SECTION 145-090: MEETING ATTENDANCE

Commission members are expected to attend all regular and special meetings of the Commission. If a member has a valid reason for nonattendance, the member shall notify the Commission chairperson or secretary before the meeting. A Commission member will be asked to resign if at any time the member has three consecutive unexcused absences from a regular, special, or subcommittee meeting, or if total absences (whether excused or not) exceed 40 percent of the total meetings in a calendar year. A review of attendance will be made at the end of each year.

SECTION 145-100: REMOVAL OF COMMISSION MEMBERS

The City Council of Mediapolis appoints Planning and Zoning Commission members. They serve at the Council's pleasure and may be removed at the Council's discretion.

DIVISION 150: CHANGES AND AMENDMENTS

Sections:

150-010 Procedures

150-020 Application For Change in Zoning District Boundaries

SECTION 150-010: PROCEDURES

This Ordinance and the District Map created by said Ordinance may be amended from time to time. However, no amendment shall become effective unless it has been proposed by or first submitted to the Planning and Zoning Commission for review and recommendation.

150-010.A: The Planning and Zoning Commission shall have 45 days in which to submit its report to the City Council. If the Commission fails to submit a report within the 45-day period, it shall be deemed to have approved the proposed amendment.

150-010.B: A public hearing shall be held by the City Council before adoption of any proposed amendment to this Ordinance. A notice of such public hearing with time and place shall be published not less than 15 days prior to the date established for such hearing. Such notice shall be deemed to have approved the proposed amendment.

150-010.C: In case the Planning and Zoning Commission does not approve the change, or in case of a protect filed with the City Council against a change in district boundaries signed by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto and within 200 feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of 3/4 of all the members of the City Council.

SECTION 150-020: APPLICATION FOR CHANGE IN ZONING DISTRICT BOUNDARIES

Any person may submit to the Council, an application requesting a change in the zoning district boundaries as shown on the official zoning map.

150-020.A: Each application shall be filed with the City Clerk accompanied by a fee of \$35.00 and shall contain the following information:

1. The legal description and local address of the property.
2. The present zoning classification and the zoning classification requested for the property.
3. The existing use and proposed use of the property.

4. The names and addresses of the owners of all property within 200 feet of the property for which the change is requested.
5. A statement of the reasons why the applicant feels the present zoning classification is no longer appropriate.
6. A plat showing existing and proposed locations, dimensions and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads, and other physical features.

150-020.B: All fees shall be deposited to the city's General Revenue Fund. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

150-020.C: Upon receipt of the application by the City Clerk a copy shall be forwarded immediately to the Planning and Zoning Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:

1. Whether or not the current district classification of the property to be rezoned is valid;
2. Whether there is a need for additional land zoned for the purpose requested;
3. Whether the proposed change is consistent with the current land use plan, considering such factors as:
 - a.) Whether the rezoning would result in a population density or development which would in turn cause demand for services and utilities in excess of the capacity planned for the area;
 - b.) Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity.
4. Whether there is intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

150-020.D: The Commission shall report its determinations and recommendations to the Council within 45 days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Commission. The Council shall then hold a public hearing as provided by law.

DIVISION 155: ENFORCEMENT AND PENALTIES

Sections:

- 155-010 Zoning Administrative Officer
 - 155-020 Compliance
 - 155-030 Permits, Licenses, Certificates, and Approvals
 - 155-040 Conditional
 - 155-050 Violations Unlawful
 - 155-060 Penalties Assigned
 - 155-070 Restraining Order
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SECTION 155-010: ZONING ADMINISTRATIVE OFFICER

The City Council of Mediapolis, Iowa, shall appoint a Zoning Administrative Officer, and it shall be the duty of said officer to enforce this Ordinance. Such officer may be a person holding other appointive office in the city, or in another governmental agency.

SECTION 155-020: COMPLIANCE

No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a permit is issued by the Zoning Administrative Officer, upon approval from the Council, stating that the building and use comply with the provisions of this Ordinance.

No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued by the Zoning Administrative Officer. No permit shall be issued to make a change unless the changes are in conformity with provisions of this Ordinance. Nothing in this part shall prevent the continuance of a nonconforming use unless discontinuance is necessary for the safety of life or property.

If the Zoning Administrative Officer finds any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it.

SECTION 155-030: PERMITS, LICENSES, CERTIFICATES, AND APPROVALS

155-030.A: Building Permits Required.

Building permits shall be obtained from the Zoning Administrative Officer before starting or proceeding with the erection, construction, moving into, or the structural alternation of a building or structure, including billboards, porches, decks, and patios. Permits shall be kept on file in the office of the Zoning Administrative Officer, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. Building permits

shall be issued to complying applicants within 7 days after application is made. Fees for building permits shall be as provided by this Ordinance.

1. New Structure: \$1.00 per \$1,000 or any part thereof, valuation with a minimum of \$5.00 for a building permit. No fee or permit shall be required for structures having less than \$200.00 valuation.

155-030.B: Application for Building Permits.

All applications for building permits (including porches, patios, and decks) shall be accompanied by a plan showing the actual dimensions and shape of the lot to be built upon, and the location and dimensions of the existing or proposed building or alteration. The application shall include existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Ordinance.

155-030.C: Change of Zoning.

To Residential Use..... \$20.00
To any Use other than Residential..... \$40.00

155-030.D: Construction & Use To Be As Provided In Applications' Plans And Building Permits.

Building permits issued on the basis of plans and applications, approved by the City Council, authorize only that use, arrangement and construction. Use, arrangement and construction that are not authorized shall be deemed a violation of this Ordinance and punishable as provided by this Article.

155-030.E: Site Plan Permits.

Site Plans are required for review and approval for any use in Commercial and Industrial Districts by this Ordinance, shall comply with and illustrate the following:

1. All Site Plans shall be drawn at a scale not less than 1 inch equals 100 feet, and 12 copies of the Site Plan shall be submitted with the zoning permit application.
2. Preliminary Site Plan clearly illustrating the general methods, special distribution, location, etc., to be used for compliance with the requirements of this Ordinance may be submitted for preliminary land use approval; providing that the Final Site Plan required by this Article shall be submitted, reviewed and approved prior to the issuance of a building or construction permit.

3. The Final Site Plan required shall include the following legal information:
 - a) Legal property owners name and description of property.
 - b) Appellant's name, requested land use and zoning.
 - c) If the appellant is other than the legal owner, the appellant's interest shall be indicated and the legal owners authority to appeal shall be certified on a legal form.

4. The Final Site Plan shall clearly illustrate and enumerate the following information:
 - a) Property boundary lines, dimensions and total area.
 - b) Contour lines at intervals of not more than 5 feet. Town datum. If substantial topographic change is proposed, the existing topography shall be illustrated on a separate map, and the proposed finished topography shown on the Final Site Plan.
 - c) The availability and location of existing utilities.
 - d) The proposed location, size, shape and type of all buildings or structures.
 - e) The total square feet of building floor area, both individually and collectively.
 - f) The number of dwelling units, bedrooms, offices, etc., as required to determine special compliance.
 - g) A vicinity sketch showing detailed adjacent existing land uses within 500 feet of the property, and general existing land uses within 1,000 feet of the property.
 - h) Existing buildings, right-of-ways, street improvements, overhead utilities, easements, drainage courses, etc.
 - i) Parking areas, number of parking spaces proposed, number of parking spaces required by this Ordinance, type of surfacing to be used, etc.
 - j) Walkways, driveways, outside lighting, walls, fences, signs, monuments, statues and other man-made features to be used in the landscape.
 - k) Location and type of all plants, grasses and trees to be used in the landscape. Landscaping to be used for screening purposes shall be illustrated in elevation and prospective as well as plan, with the approximate size and exact name of plants, shrubs or trees to be planted clearly indicated.
 - l) Walls, fences or other artificial screens to be used, as buffers shall be shown in elevation and prospective as well as plan with proposed height and structural material to be used indicated.
 - m) Traffic considerations, architectural themes, pedestrian movement, etc., and all other considerations pertinent to the proposed use may be requested for illustration or statistical purposes.

SECTION 155-040: SPECIAL EXCEPTION USES

The Zoning Administrative Officer may issue a permit for a special exception use after approval by the Board of Adjustment.

SECTION 155-050: VIOLATIONS UNLAWFUL

All departments, officials, and employees of the city who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure, or purpose if the same would not conform to the provisions of this Ordinance.

SECTION 155-060: PENALTIES ASSIGNED

Violation of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates, disobeys, omits, neglects or refuses to comply with or with this Ordinance or any of its requirements, shall upon conviction thereof be fined not more than \$250.00 or imprisoned for not more than 30 days or both, and in addition shall pay all costs and expenses involved in the case. Each calendar day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintain such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 155-070: RESTRAINING ORDER

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the City Attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City of Mediapolis, to prevent such unlawful erection, construction, alternation, repair, conversion, maintenance, conduct, business or use in or about said premises.