

## **ARTICLE I – DEVELOPMENT REVIEW BODIES**

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### **Section 156.I.001, City Council**

- A. **Generally.** The City Council has all powers conferred upon it by the City of Marshalltown Code of Ordinances and the laws of the state of Iowa. With respect to decision-making pursuant to this Zoning Ordinance, in addition to the authorized acts of the Code of Ordinances, the City Council will exercise the powers set out in this Section.
- B. **Approvals.** The City Council shall have the authority to make final decisions on the development review applications denoted in Table [156.J.002.12-1, Development Review Summary Table](#). In addition, the City Council shall have the authority to approve, adopt, or amend:
  - 1. Plans and programs for the development and redevelopment of the City, including but is not limited to, amending the text and maps of the Comprehensive Plan or other plans from time to time;
  - 2. The City's Capital Improvement Plan (CIP);
  - 3. Policies or procedures to facilitate implementation of planning programs;
  - 4. Proposed covenants, conditions, and restrictions as required by the City; and
  - 5. Any other action not delegated to any other board or commission as the City Council may deem desirable and necessary to implement the provisions of this Zoning Ordinance and the goals and objectives of the City, provided such action is not contrary to the requirements of this Ordinance or state law.
- C. **Appeals.** The City Council shall hear and decide appeals from decisions of the Plan and Zoning Commission after a public hearing, as set out in [Section 156.J.002, Common Review Procedures](#).

### **Section 156.I.002, Plan and Zoning Commission**

- 1. **Established.** The Plan and Zoning Commission is authorized by Iowa Code Chapter 414, *City Zoning*, and shall be established and function according to [Chapter 150, Planning](#), of the City's Code of Ordinances.
- 2. **Powers and Duties.** The Plan and Zoning Commission shall have the authority to make recommendations to the City Council and BOA or make final decisions on the development review applications denoted in Table [156.J.002.12-1, Development Review Summary Table](#).

### **Section 156.I.003, Board of Adjustment**

- A. **Established.** This Section establishes a Board of Adjustment (BOA), with membership, qualifications, and terms of office in accordance with and controlled by the provisions of [Chapter 414 of the Iowa Code](#).
- B. **Powers and Duties.** The BOA shall have the authority to make final decisions on the development review applications denoted in Table [156.J.002.12-1, Development Review Summary Table](#).
- C. **Membership.** The Board shall consist of five members serving without compensation, appointed by the Mayor, subject to the approval of the Council for a term of five years; excepting that, when the Board shall first be created, one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year. Not more than two members of the Board shall be members of the Plan and Zoning Commission.
- D. **Vacancy.** Any vacancy shall be filled by appointment by the Mayor for the unexpired portion of the term. Should any member be absent from the city or become incapacitated, or disqualified, the Mayor shall appoint a substitute to serve as a member of the Board with the same powers and authority as the regular member of the Board until the regular member has returned or is able to serve on the Board.
- E. **Special Uses.** Requests for special uses shall be submitted to the Zoning Administrator, who shall forward such to the Board of Adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary by the Board of Adjustment.
- F. **Meetings and Procedures.**

1. *Time and Place.* Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine. Such Chair or, in their absence, the acting Chair may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.
2. *Record Keeping.* The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
3. *Role of Secretary of the Board.* A city representative shall serve as Secretary of the Board and keep its records.
4. *Relations to Other City Boards.* The Board shall have the power to call on any municipal department or officer for assistance in the performance of its duties, and it shall be the duty of any such department to render such assistance as may reasonably be required.
5. *Rules of Procedures.* The Board shall adopt, from time to time, such rules and regulations as it may deem necessary to carry into effect the power and authority granted it by the provisions of this chapter or any state law.
6. *Quorum and Necessary Vote.* The concurring vote of three members of the Board shall be necessary to decide any appeal, exception, or variation upon which the Board is authorized by this chapter to render a decision.
7. *Decisions.* The Board shall render its decisions without unreasonable delay.

**G. Jurisdiction.** The Board shall have the following powers and authority:

1. *Appeals.* To hear and decide an appeal where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this chapter;
2. *Exceptions.* To grant an exception in the following instances:
  - a. In the extension of a district where the boundary line of a district divides a lot or tract held in a single ownership after the effective date of this chapter;
  - b. In the determination that the actual street layout on the ground varies from the street layout as shown on the District Map;
  - c. In the erection and use of a building or the use of premises for railroads or public utility purposes;
  - d. In the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God or a public enemy, to the extent of more than 50 percent of its fair market value, where the Board finds some compelling necessity requiring a continuance of the non-conforming use and that the primary purpose in continuing the non-conforming use is not to continue a monopoly;
  - e. In the waiving or reduction of the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provisions of the parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or convenience;
  - f. In the permitting of land within 300 feet of a multiple dwelling to be improved for the parking spaces required in connection with a multiple dwelling;
  - g. In the determination of whether an industry should be permitted within the GI, General Industry, because of the methods by which it would be operated and because of its effect upon uses in surrounding districts;
  - h. In the extension or expansion of a non-conforming use on the same or adjoining property to provide parking for employees and for handicapped persons; and

**H. Appeals.** Any person or persons, or any board, taxpayer, officer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review of such decision by a court of record in the manner provided by the laws of the State and particularly by Chapter 414, Code of Iowa.

## **Section 156.I.004, Zoning Administrator**

**A. Generally.** The Zoning Administrator is a member of the City staff who is ultimately responsible for processing an application to a final decision (in case of administrative review applications) or making a recommendation to another review body (in case of all other applications) designated by the City shall administer and enforce this Chapter.

B. **Powers and Duties.** The Zoning Administrator shall have the authority to make recommendations or final decisions on the development review applications denoted in Table [156.J.002.12-1, Development Review Summary Table](#).

### **Section 156.I.005, Floodplain Administrator**

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A. **Designation of the Floodplain Administrator.** The City Administrator shall appoint a Floodplain Administrator to administer and enforce the relevant provisions of this Zoning Ordinance and other appropriate sections of [Code of Federal Regulations \(CFR\) Title 44, Emergency Management and Assistance](#), pertaining to floodplain management.

B. **Powers and Duties.**

1. Review all floodplain development permit applications to ensure that the provisions of this subchapter will be satisfied;
2. Review all floodplain development permit applications to ensure that all necessary permits have been obtained from federal, state, or local governmental agencies;
3. Notify adjacent communities and/or counties and the state's Department of Natural Resources prior to any proposed alteration or relocation of a watercourse;
4. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of floodplain management provision within this Zoning Ordinance;
5. Review subdivision proposals to ensure such proposals are consistent with the purpose of this Chapter and advise the City Council of potential conflicts; and
6. Shall require that no new construction, substantial improvements, or other development (including fill) be permitted within zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), when a regulatory floodway has not been designated unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
7. May, under the provisions of CFR Title 44, [Chapter 1, Section 65.12](#), of the National Flood Insurance Program regulations, approve certain development in zones A1-30, AE, AH, on the City's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the City first completes all of the provisions required by Section 65.12.

### **Section 156.I.006, Building Official**

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A. **Powers and Duties Relative to Matters in this Zoning Ordinance.** The Building Official shall have the authority to make final decisions on the development review applications denoted in Table [156.J.002.12-1, Development Review Summary Table](#).

B. **Powers and Duties Relative to Matters Outside of this Zoning Ordinance.** In addition to the powers and duties set forth above, the Building Official shall perform duties as outlined in the remainder of the City's Code of Ordinances.