

**RULES OF PROCEDURE
of the
JESUP, IOWA BOARD OF ADJUSTMENT**

The following are hereby adopted as the Jesup Board of Adjustment Rules of Procedure in accordance with the Code of Iowa.

The Jesup Board of Adjustment, herein referred to as the Board, shall be a quasi-judicial body that makes decisions, as is necessary and appropriate, according to the Iowa Code, Jesup Comprehensive Plan, and Jesup Zoning Ordinance.

SECTION 1.0 OFFICERS

The Board shall select from its membership a Chair and Vice-Chair, who will perform the usual duties pertaining to such offices. The selection, tenure, and duties of Board officers is as follows:

- 1.1 Selection. At the first regular meeting of the calendar year, the Board will pick its officers from its membership. All officers are eligible for re-election.
- 1.2 Tenure. The Chair and Vice-Chair shall take office immediately following their selection and shall hold office for a term of one (1) year or until successors are selected and assume office.
- 1.3 Duties. The Chair will preside at all meetings, hearings, appoint committees, and perform such other duties as may be ordered by the Board. The Vice-Chair shall act in the capacity of the Chair in the Chair's absence and if the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Board shall select a successor to the office of Vice-Chair for the unexpired term.
- 1.4 Secretary. The City Clerk or Deputy City Clerk will perform the duties of Secretary of the Board. The Secretary will prepare and post the agenda, record and maintain minutes of the meeting, ensure that the minutes and adopted recommendations are properly noted, publish and/or provide notices, perform any necessary recording, provide appropriate applications to potential applicants, and perform such other duties as the Board may determine.

SECTION 2.0 MEETINGS

The regular meeting of the Board shall be scheduled for the third (3rd) Thursday of every month beginning promptly at 5:00 p.m. in the Council Chambers of the Jesup City Hall. However, if there are no business items on the agenda, the Chair of the Board may choose not to meet. The Chair and/or the Secretary shall call all meetings. When the regular meeting day is a legal holiday, the Board at the prior regular meeting shall select a suitable alternative day in the same month.

- 2.1 Special meetings. Special meetings will be called at the request of the Chair, or any three (3) members of the Board. Notice of the special meeting shall be given by the Secretary to the members of the Board prior to said meeting and shall state the purpose, time, and place of the meeting.
- 2.2 Public. All regular and special meetings, hearings; records and accounts shall be open to the public. The agenda shall be posted, per the Code of Iowa.
- 2.3 Quorum. A quorum of the Board shall consist of three (3) members. Without a quorum, the meeting will not be called to order, and no business or action will take place.
- 2.4 Order of business: Agenda. The Secretary will prepare an agenda for each meeting and provide it to each Board member prior to each regular or special meeting. Said agenda shall be posted according to Iowa Code. The order of business shall be as follows:

- a) Call to Order
- b) Roll call.
- c) Consideration of the Agenda.
- d) Consideration of the Minutes from the previous meeting(s).
- e) Advertised public hearing(s) will be conducted according to Section 7.8.
- f) Consideration of matters heard under e) above.
- g) *Other Agenda Item(s) (informal discussion will be discouraged)*
- h) Adjournment.

2.5 Motions. Motions may be made and seconded by anyone on the Board. In order to vote on a motion, it must be made and seconded by different members of the Board. Without a second, a motion shall fail without vote. Upon request, the Chair will restate the motion before a vote is taken.

2.6 Voting. Voting on motions will be by yeas and nays or by roll call, if requested by the Chair or any Board member. A concurring, affirmative vote of three (3) members will be required for the exercise of the powers or functions conferred or imposed upon this Board. Every member of the Board, including the Chair, may vote on each motion. However, a member may abstain if the member believes there is a conflict of interest. Before consideration of a request or discussion on a particular agenda item, a member who intends to abstain from voting may inform the Board of their intention. An abstention shall not be considered an affirmative vote.

2.7 Board action. Action by the Board on any matter shall be conducted according to Sections 2.5 and 2.6. The Board, by Iowa Code and the Jesup Zoning Ordinance, is empowered to make decisions regarding the situations defined in Section 6.0. In any case, an action item that requires a hearing will not be decided until said hearing has been conducted.

SECTION 3.0 PUBLIC HEARINGS

Before consideration of an appeal, variance request, or special exception, the Board will conduct a public hearing. Hearings shall be conducted according to the Iowa Code and Jesup Zoning Ordinance, and hearing requirements include, but shall not be limited to, the following requirements:

3.1 Notice. Notice of the time and place of the hearing will be given not less than seven (7) days, but not more than twenty (20) days, prior to the hearing by one (1) publication in a newspaper of general circulation. A courtesy notice will be given by mail to all interested parties including all of the owners and residents of property within two hundred (200) feet of the boundaries of the premises under consideration.

3.2 Hearing Rules. Prior to conducting the hearing, the Chair may read any rules and regulations governing hearings. Rules may include provisions regarding: order of speakers; length of speaking time; participant identification and conduct; integration of written comments; and an explanation of the public hearing and decision-making processes.

3.3 Hearing Continuance. The Board may continue a hearing to the next regular or special meeting. Notice requirements, per Section 3.1, shall be repeated for any continued hearings.

SECTION 4.0 EXPENSES AND GIFTS

The Board shall be governed by the following rules regarding personal expenses and gifts.

4.1 Expenses. Board members may receive payment for actual expenses and mileage incurred only upon approval of the Council.

- 4.2 Personal Gifts. Board members may not receive any type of gift for their personal use or enjoyment.

SECTION 5.0 MEETING ATTENDANCE

Board members are expected to attend all regular and special meetings. Members shall notify the Board Chair or Secretary before the meeting if the member will be absent. An annual review of Board attendance will be made by the Secretary and presented to the Council.

SECTION 6.0 ACTIONS TO BE CONSIDERED BY THE BOARD OF ADJUSTMENT

The following types of cases may be considered by the Board of Adjustment.

- 6.1 Appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator or official in the enforcement of the Zoning Ordinance.
- 6.2 Special or use exceptions, conditional use permits, and temporary permits that the Board is required to act on, as may be indicated in the Zoning Ordinance.
- 6.3 Consideration of variances, as may be authorized by the Zoning Ordinance.
- 6.4 Zoning district map interpretation, as may be indicated in the Zoning Ordinance.

All cases brought before the Board shall have substantial documentation, including a properly completed application.

SECTION 7.0 PROCEDURE FOR HEARING CASES

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

- 7.1 An appeal to the Board may be made by any person, group, applicant, or by any officer or department of the city affected by any decision of the Zoning Administrator or official in enforcement of this Ordinance.
- 7.2 Regarding an appeal, the Zoning Administrator shall explain to the applicant or interested party the basis of the Zoning Administrator's decision. The applicant or interested party may appeal the decision. Appeals shall be filed with the Secretary on the application provided by the Secretary. The Secretary will transmit the completed appeal application, along with all documentation constituting the record upon which the Board shall act, to the Board of Adjustment for consideration.
- 7.3 In the case of an appeal, special exception, or variance, the applicant shall complete the required application, providing all information requested by the application and any additional information as requested by the Zoning Administrator or Secretary.
- 7.4 The Secretary of the Board shall reject any application or appeal that is not filed within ten (10) calendar days of the Zoning Administrator's or other official's decision.
- 7.5 All applications or appeals filed according to the above procedure shall be given a case number. Applications or appeals will be assigned to the Board for consideration in the order in which they are received. Applications to be considered by the Board shall be received by the Secretary at least twenty-one (21) days prior to a regular meeting. Cases not received twenty-one (21) days prior will automatically be set, by the Secretary, for hearing on the subsequent regular meeting day. Also, the Secretary shall reject any such application or appeal unless they are made on prescribed forms properly filled out, with all required data attached.
- 7.6 The Secretary of the Board shall provide notice according to Section 3.1.

- 7.7 At the time of the public hearing, the applicant may appear on their own behalf or be represented by legal counsel. In the absence of any personal appearance on behalf of the applicant, the Board may proceed to consider the matter on the application and information provided therefore.
- 7.8 The order of hearings shall be as follows:
- a) The Chair reads any rules and/or regulations governing the hearing.
 - b) The Zoning Administrator or other official prepares the staff report on the request, which is presented to the Board.
 - c) The Applicant or Appellant presents their request.
 - d) The general public, including interested property owners, may then address the request.
 - e) The Applicant is given a chance for rebuttal and concluding statements.
 - f) The Board of Adjustment may ask questions at any time during the hearing or discussion.
 - g) The Board may continue a hearing to the next regular or special meeting of the Board.
- 7.9 After the hearing, the Board shall deliberate the case. The Board may table the matter to ask their attorney for advice.
- 7.10 The applicant or appellant may withdraw their application or appeal at any time prior to the decision by the Board of Adjustment.
- 7.11 Final decision of any application or appeal shall be made in the form of a motion and second by anyone on the Board of Adjustment followed by a vote of the Board of Adjustment members, per Section 2.6 of these Rules. In the case of an appeal, the motion may affirm, modify, or reverse the decision of the Zoning Administrator. In the case of an application for variance, or special or use exceptions, or conditional use permit, the motion shall state that the application is granted or denied, and said motion shall specifically set forth what variance or special or use exception is being considered as well as any conditions, if any, that may be required. Any action item that is approved by the Board of Adjustment shall become effective seven (7) days after adoption, unless waived by the Board.
- 7.12 Within fifteen (15) days after the decision the Board shall provide written notice to the Applicant of its decision.
- 7.13 A rehearing of any decision of the Board of Adjustment may be considered if the following occur: (a) new evidence is submitted that could not reasonably have been presented at the original meeting or (b) at least one (1) year has elapsed since the previous application was denied.

SECTION 8.0 PLANNING STAFF

In accordance with the Iowa Code and Jesup Zoning Ordinance, the Jesup City Council shall appoint staff, including a Zoning Administrator and City Clerk, who shall assist the Board. Duties of the staff include:

- 8.1 Implementing and administering the Comprehensive Plan and Jesup Zoning Ordinance.
- 8.2 Providing public information and relations regarding Comprehensive Plan and Jesup Zoning Ordinance.
- 8.3 Enforcing of the Jesup Zoning Ordinance.
- 8.4 Serving as Secretary to the Board of Adjustment. The Secretary shall serve as a non-voting, ex-officio member of the Board.

SECTION 9.0 RECORDS

The Secretary shall keep files showing the status of all cases, minutes, and findings as part of the records of the Board. In addition, the Secretary shall keep a file of all cases including applications and additional information as a part of the legal records. All records of the Board shall be considered public record.

SECTION 10.0 INFORMAL ADVICE

The Board, or its individual members are discouraged from providing informal advice, as it may be contrary to subsequent Board decision.

SECTION 11.0 ADOPTION AND AMENDMENT

Proposed amendments shall be presented in writing at any regular meeting of the Board of Adjustment and may not be voted on until the next regular meeting of the Board. Passage of any such amendments shall require a two-thirds (2/3) vote of the total membership of the Board.

Adopted _____, 20____

Jesup Board of Adjustment Chair