

PUBLIC NOTICE

Ordinance No. 143

ORDINANCE NO. 143

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SHEFFIELD, IOWA, BY AMENDING PROVISIONS PERTAINING TO BOARD OF ADJUSTMENT

BE IT ENACTED by the City Council of the City of Sheffield, Iowa:

SECTION 1. SECTION MODIFIED. Section 165.14 of the Code of Ordinances of the City of Sheffield, Iowa, is repealed and the following adopted in lieu thereof:

165.14 BOARD OF ADJUSTMENT. Board of Adjustment provisions are as follows:

Establishment. A Board of Adjustment is hereby established. The Board shall consist of three members who are free-holders, and who are appointed by the Mayor, subject to the approval of the Council, for staggered terms of five (5) years. Members shall be removable for cause by the appointing authority upon written charges and after public hearing unless waived by the member or if the member shall resign. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant by appointment. All members of the Board shall serve without compensation. The Board shall adopt, from time to time, subject to the approval of the Council, such rules and regulations as it may deem necessary for the enforcement of these regulations. The Board shall elect its own Chairperson, who shall serve for one (1) year.

2. Meetings. Meetings of the Board shall be held at the call of the Chairperson and at such times as the Board may determine. Such Chairperson or, in the absence of the Chairperson, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings showing the vote of each member upon each question or if absent or failing to vote, indicate such fact and shall keep record of its examinations and other official actions, all of which shall be filed in the office of the Clerk and shall be a public record. All meetings of the Board shall be open to the public.

3. Appeals. In cases in which the Board has original jurisdiction under the provisions of this chapter, an application to the Board may be taken by any property owner, including a tenant, or by any officer, department, board, or bureau of the City. Such application shall first be filed with the Clerk, who shall transmit to the Board such application, together with all the plans, specifications, and other papers pertaining to the application. An appeal to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected by any decisions of any Administrative Officer administering any portion of this chapter. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken, and with the Board, a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board shall fix a reasonable time for the hearing of an appeal. It shall give public notice of such hearing, as well as due notice to the interested parties. At the hearing any party may appear in person or by an agent or attorney. The Board shall decide the application or appeal within a reasonable time. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with such officer, that, by reason of facts stated in the certificate, a stay would, in the opinion of such officer, cause imminent peril to life or property. In such case proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the Board or by a court of record on notice to the officer from whom the appeal is taken, and on due cause shown.

4. Jurisdiction and Powers. The Board shall have the following powers:

A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made in the enforcement of these regulations.

B. To permit the extension of a use district where the boundary line of a district divides a lot in a single ownership as shown of record.

C. To permit the erection and use of an accessory building on a lot which is to be used for residential purposes before the erection of the residence on such lot, provided

such use is for a period of time not to exceed one (1) year.

D. To permit the erection and use of a building, or the use of a premises in any location for public utility purposes only, which the Board finds to be reasonably necessary for public convenience or welfare.

E. Where the street or lot layout on the ground actually varies from the street and lot lines as shown on the Zoning Map, the Board shall interpret the map and these regulations in such a way as to carry out the intent and purpose of these regulations for the particular district or section in question.

F. To authorize upon appeal in specific cases, such variance from the terms of these regulations as will not be contrary to public interest, where a property owner can show by reason of exceptional shallowness, narrowness, or shape, of a piece of property at the time of the passage of these regulations, or where, by reason of exceptional topographical conditions or other extraordinary situation, that the strict application of these regulations actually prohibit the use of said person's property in a manner similar to that of other property in the district. The Board shall be satisfied, by the evidence heard before it that the granting of such variation will alleviate a hardship approaching confiscation as distinguished from a special privilege sought by the owner; provided, however, all variations granted under this clause shall not be a direct and obvious amendment of any district boundaries or regulations.

G. To permit the extension or enlargement of an existing use located in a district restricted against such use, either by the extension or enlargement if necessary, incident to the trade, business, or industry existing at the time of the adoption of these regulations, provided that such extension or enlargement will not prove detrimental to or tend to alter the character of the neighborhood.

H. To permit the nonconforming use of a building to be changed to another nonconforming use of a more restricted classification.

I. To permit the reconstruction and use as before of a nonconforming building or structure damaged by fire, flood, explosion, or other similar cause.

J. To hear and decide special exceptions to the terms of these regulations upon which the Board is required to pass under this chapter.

K. In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

L. The concurring vote of three (3) members of the Board shall be necessary to reverse an order, requirement, decision, or determination of any such Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations, or to effect any variation in these regulations.

Any person or persons, jointly or severally, aggrieved by any decision of the Board, under these regulations, or any taxpayer or any officer, department, board, or bureau of the City 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 thirty (30) days after the filing of the decision in the office of the Board.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 14th day of June, 2021, and approved this 14th day of June, 2021.

Scott Sanders, Mayor

ATTEST:

Ashley Francis, City Clerk

First Reading: passed

Second Reading: waived

Third Reading: waived

I certify that the foregoing was published as Ordinance No. 143 on the 24th day of June, 2021.

Ashley Francis

City Clerk