

BOARD OF SUPERVISOR BOONE COUNTY, IOWA

ORDINANCE NO. 159

Prepared by: Boone Co. Planning & Development, 201 State St, Boone, IA 50036 515-433-0550
Return to: Boone Co. Auditor's Office, 201 State St, Boone, IA 50036 515-433-0502

Article III. General Regulations

Section 3.01 Comprehensive Development Plan Relationship

These regulations are designed to implement various elements of the comprehensive development plan as required by Iowa Code. Any amendment to the district regulations or map shall conform to the comprehensive development plan adopted by Boone County

Section 3.02 General

The regulations set forth by this Ordinance within each district shall be minimum standards applicable uniformly to each class or kind of building, structure, or land, except as provided hereinafter.

Section 3.03 Scope of Ordinance

No building, structure, or land in the unincorporated areas shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with the provisions of this Ordinance herein specified for the district in which it is located and except after receiving a zoning permit from the Boone County Zoning Administrator and:

Section 3.04 Zoning Variance Standards

A Variance is required if any of the following items are requested:

1. To reduce any required yard setbacks.
2. To exceed the height or bulk.
3. To occupy a greater percentage of lot area.
4. To accommodate or house a greater number of families.

Section 3.05 Zoning Commission Recommendations

Pursuant to Iowa Code Ann. §335.8, it shall be the purpose of the Planning and Zoning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Zoning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report.

Section 3.06 District Regulations, Restrictions, Boundary Creation

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings, as well as, the location of the affected district(s) by naming township(s) and section(s) and, if possible, by describing the roads and streets that form the boundaries of the affected area shall be given by publication thereof in a paper of general circulation in the County at least one (1) time, not less than four (4) days or more than twenty (20) days prior to such hearing.

Section 3.07 Courtesy Notice

1. Notification for public hearings shall be published per State law 331.305, .
2. As a courtesy, notification will be sent to surrounding property owners up to five- hundred (500) feet from the petitioning parcel according to the most current addresses within the county database.

Section 3.08 Fines and Penalties

1. In the case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land used in violation of this ordinance, the Zoning Administrator is authorized and directed to institute any appropriate action to put an end to such violation.
2. Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply therewith, or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$500.00 dollars per offense or be imprisoned not more than thirty (30) days, or both, and each and every day such violation shall continue shall be deemed a separate offense.
3. The owner or owners of any building or premises, or part thereof, where anything in violation of this ordinance, shall be placed, or shall exist, any architect, builder, contractor, agent, person or corporation employed in connection therewith, and who have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof, shall be fined as herein provided.
4. The violation of any of the provisions of this ordinance shall also constitute a *civil infraction*. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance, upon judgment shall be subject to the following fine schedule:
 - First Violation – \$500.00
 - Second violation – \$750.00

★ Each day that a violation occurs or is permitted to exist constitutes a separate violation.
5. In addition to the above fines, the County may seek alternative relief to halt or abate the violation. The imposition of civil penalties in this section does not prevent the County from seeking criminal penalties in the same action.

Section 3.09 Fees

All fees for any zoning action shall be adopted by the County Board of Supervisors by Resolution.

Section 3.10 Nonconformity, General Intent

It is the intent of this Ordinance *to permit lawful nonconforming uses to continue until* they are removed, but not encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that any nonconformity shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

Section 3.11 Nonconforming Lots of Record

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings *may be erected on any single lot of record* at the effective date of adoption or amendment of this Ordinance.

Section 3.12 Nonconforming Structures

- 3.12.01 **Authority to continue:** Any structure that is devoted to a use, permitted in the zoning district, in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 3.12.02 **Enlargement, Repair, Alterations:** Any such structure described in **Section 3.12.01** may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure..
- 3.12.03 **Damage or Destruction:** In the event that any structure described in **Section 3.12.01** is damaged or destroyed, by any means, to the extent of more than 60 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in **Section 3.11**, shall not have a side yard of less than five feet. When a structure is damaged to the extent of 60 percent or less, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- 3.12.04 **Moving:** No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

Section 3.13 Nonconforming Uses

- 3.13.01 **Nonconforming Uses of Land:** Where at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is made no

longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

3.13.02 *Nonconforming Uses of Structures:* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance but no such use shall be extended to occupy any land outside such building;
3. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
4. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) consecutive months, the structure or structure and premises in combination shall not

thereafter be used except in conformance with the regulations of the district in which it is located;

5. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Section 3.14 Lot

Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.

Section 3.15 Reductions in Lot Area Prohibited

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

Section 3.16 Yard Requirements

- 3.16.01 Yard requirements shall be set forth in the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 3.16.02 All accessory buildings that are attached to principal buildings (i.e., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 3.16.03 Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to forty (40) feet and shall contain *landscaping and planting suitable to provide effective screening*.

Section 3.17 Permitted Obstructions in Required Yards

The following shall *not be considered* to be obstructions when located in the required yards:

- 3.17.01 **All Yards:**
 1. Steps and accessibility ramps used for wheelchair and other assisting devices which are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys; recreational and laundry- drying equipment;
 2. Approved freestanding signs;
 3. Arbors and trellises;
 4. Flag poles;
 5. Window unit air conditioners projecting into the required yard
 6. Fences or walls subject to applicable height restrictions are permitted in all yards.
- 3.17.02 **Front Yards:**
 1. Bay windows projecting into the yard are permitted.
 2. Open or screened porches, platforms, decks, or terraces

- 3.17.03 3. Awnings and canopies
Rear and Side Yards:
1. Open off-street parking spaces,
 2. Balconies or outside elements of central air conditioning systems.
 3. Open or screened porches, platforms, decks, or terraces including a permanently roofed-over terrace or porch.
 4. Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, so long as the same are so placed as not to obstruct lights and ventilation.
- 3.17.04 *Double Frontage Lots:* The required front yard shall be provided on each street.
- 3.17.05 *Building Grouping:* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

Section 3.18 Accessory Building and Uses

- 3.18.01 No accessory building shall be constructed upon a lot until the construction of the principal building has commenced unless the property is four acres or more in size. In no event shall such building be used as a dwelling unless it is a facility designed for human habitation.
- 3.18.02 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
- 3.18.03 Regulation of accessory uses shall be as follows:
1. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than fifteen (15) feet from street lines.

Section 3.19 Permitted Modifications of Height Regulations

- 3.19.01 The height limitations of this Ordinance shall NOT apply to:

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Flag Poles	Radio and Television Towers less than 125 ft in height
Conveyors	Air Pollution Prevention Devices
Cooling Towers	Grain Elevators
Elevator Bulkheads	Smoke Stacks
Fire Towers	State Towers or Scenery Lots
Storage Tanks	Water Towers & Standpipes

- 3.19.02 When permitted in district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding seventy-five (75) feet when each required yard line is increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

Section 3.20 Repairs and Maintenance

- 3.20.01 On any building, work may be done on *ordinary* repairs or replacement provided that the cubic content of the building as it existed at the time of passage of amendment of this Ordinance shall not be increased.
- 3.20.02 Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 3.22 Corner Lots

On a corner lot in any district, nothing shall be erected or placed for storage in such a manner as to materially impede vision between a height of two and one-half feet and eight feet above the grades of the centerline of the intersecting street or road, from the point of intersection 120 feet in each direction measured along the centerline of the streets or roads. *Agricultural crops are specifically exempted from this section.*

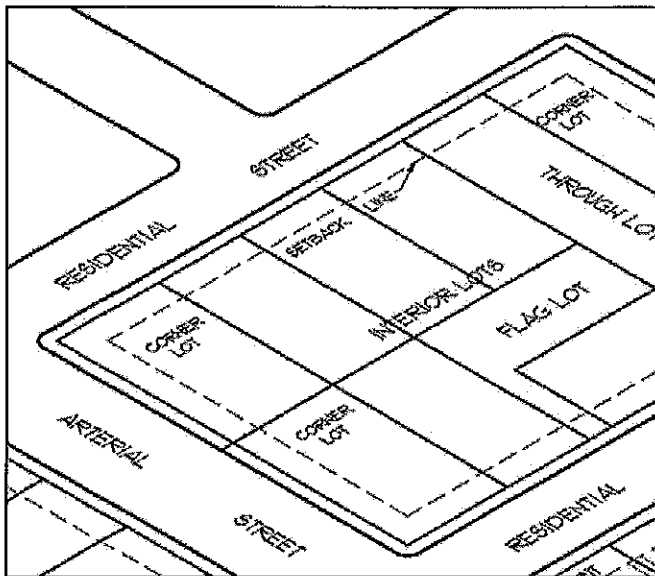
Section 3.23 Recreation Equipment Storage

No such recreational equipment shall be utilized as a dwelling when parked on a residential lot or in any location not approved for such use.

Section 3.24 Building Setback

The building setback lines shall be determined by measuring the horizontal distance from the property line to the vertical face of the nearest wall of the existing or proposed structure to the right-of-way and/or property line.

Figure III-1: Building Setback



Section 3.25 Temporary Structures

Temporary structures incidental to construction work may be erected in all districts and shall be removed upon completion or abandonment of the construction work. *Mobile homes may be utilized as a temporary residence while construction of a residence is ongoing. A zoning permit is required.*

Section 3.26 Caretaker's Quarters and Granny Flats

Caretaker's quarters are permitted in all districts, providing the use is accessory to the principal use.

Section 3.27 Exception Nonconforming Setbacks

Variances *allowed by staff* are as follows. The setback of a structure can be reduced based on the average setbacks of the current structures within two-hundred (200) feet. If this is not feasible, a variance of up to ten (10) percent of the bulk regulation setback can be issued by staff.

Section 3.28 Screening

All *extractive industries* shall be screened by means of plant materials, earth mounding, or solid fencing *at least six (6) feet in height* to provide visual and aural separation between such use and adjacent areas.

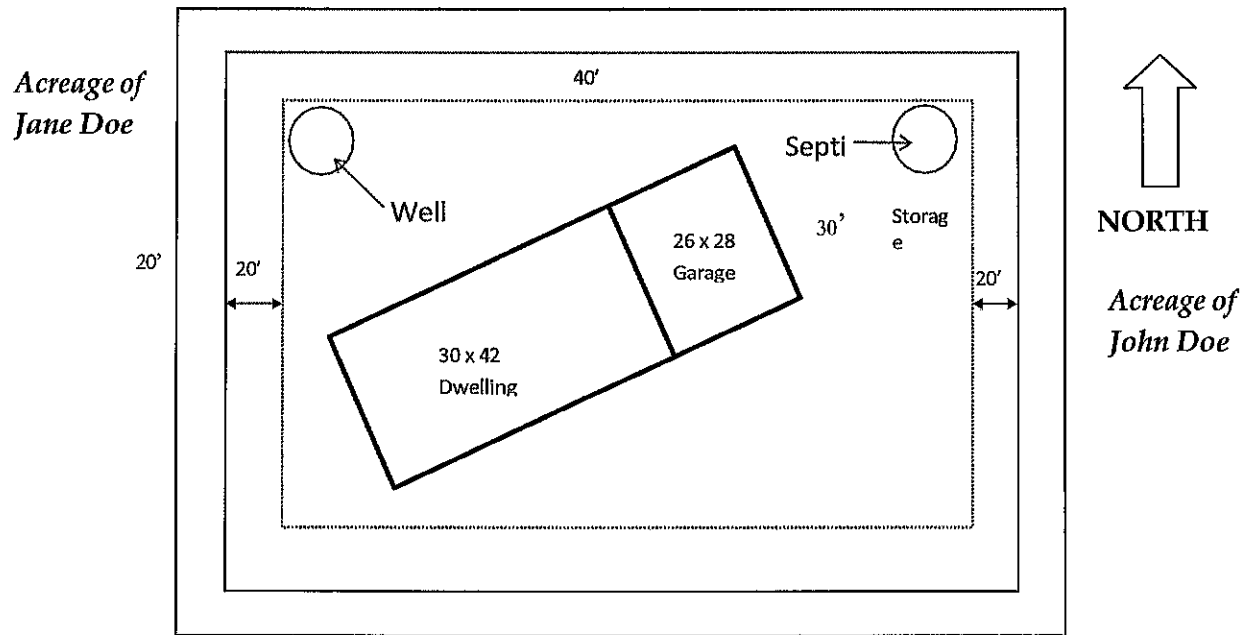
Section 3.29 Cooperatives, Condominiums

Cooperatives, condominiums and all other forms of property ownership do not affect the provisions of these ordinances and all requirements shall be observed as though the properties were under single ownership.

Section 3.30 Special Requirements

- 3.30.01 Petitioners requesting a parcel to be rezoned *shall submit a site plan, with dimensions of the proposed development as an exhibit accompanying the petition for the change in zoning or applying for a zoning permit. The site plan shall show the following and shall be binding upon the petitioner, his heirs, successors, and assigns for construction of said use.*
1. A site plan with dimensions of the proposed building and land.
 2. A description and or a drawing and floor plans of the of the building(s) to be constructed and or existing building(s), to include the following:
 - A. Identification of lot lines and lot size.
 - B. Designation of structure(s).
 - C. Designation of roads, ingress, and egress.
 - D. Designation of distance between structures, lot lines, and right-of-way.
 - E. Description of the use.
 3. A description of the manner in which solid and liquid waste will be disposed.
 4. A showing of compliance of state, federal laws, and regulations relating to the business shall be made prior to the request.
 5. Whenever a parcel of land is split from adjoining land, said parcel must be surveyed and a survey thereof filed with the County Recorder, as per the Boone County Subdivision Regulations.
 6. The Board of Supervisors reserve the right to require a survey before the final approval.

Figure III-2: Septic Design and Location



Section 3.31 Storage of Junk Vehicles

- 1. The storage of 3 or more unlicensed or inoperable vehicles not associated with restoration of classic cars.

ACTION UPON FIRST READING

DATE: December 20, 2023

Moved by: Bryant

Seconded by: Kretzinger

Discussion:

AYES (A), NAYES (N), ABSENT (X):

Shawn Bryant Bill Zinnel

Erich Kretzinger

ACTION UPON SECOND READING

DATE: December 27, 2023

Moved by: Bryant

Seconded by: Kretzinger

Discussion: Waived 3rd Reading

AYES (A), NAYES (N), ABSENT (X):

Shawn Bryant Bill Zinnel

Erich Kretzinger

ACTION ON WAIVING FINAL READING AND APPROVE ADOPTION

DATE: December 27, 2023

Moved by: Bryant

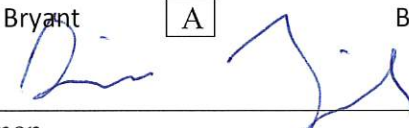
Seconded by: Kretzinger

Discussion:

AYES (A), NAYES (N), ABSENT (X):

Shawn Bryant Bill Zinnel

Erich Kretzinger

(s) 
Chairman

December 27, 2023
Date

Boone County Board of Supervisors

(s) 

December 27, 2023
Date

ATTEST:
Diane Patrick, County Auditor

