

SECTION 177

ADMINISTRATION AND PROCEDURES

177.01 Purpose

The Administration and Procedures Provisions establish the methods for implementation of the Zoning Regulations. These provisions include procedures for reviewing specific uses within certain zoning districts; amending the Zoning Regulations; and granting variances.

177.02 Site Plan Review Procedure

a. Purpose

The Site Plan Review Procedure provides for the administrative review in addition to plan review required by other sections of the Glenwood Municipal Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.

b. Administration

The Zoning Administrator, or his/her designee shall review, evaluate, and act on all site plans submitted pursuant to this procedure. An applicant may appeal a denial of any application to the Board of Adjustment.

c. Uses Requiring Site Plan Review

All uses indicated as subject to Site Plan Review in Table 177-1 are subject to the provisions of this section, unless otherwise subject to a Conditional Use Permit procedure for specific zoning districts.

d. Application Requirements

An application for a Site Plan Review may be filed by the owner(s) of a property or the owners' authorized agent with the Zoning Administrator. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address, and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
  - a) The date, scale, north point, title, name of owner, and name of person preparing the site plan.
  - b) The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
  - c) The location, size, and use of proposed and existing structures on the site.

d) The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.

e) Location of any major site feature, including drainage and contours at no greater than five foot intervals.

f) Any other information that may be required for review by the Zoning Administrator, or his/her designee.

e. Administrative Action and Appeal

The Zoning Administrator, or his/her designee must act upon each complete application within ten working days of filing. An applicant may appeal a denial to the Board of Adjustment within ten days of the action. The Board of Adjustment shall consider the appeal at the first available meeting after the filing of the appeal.

f. Review and Evaluation

1. The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), shall review and approve the site plan based on the criteria established in Table 177-1 and conformance with applicable regulations in these Zoning Regulations.

2. The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), shall make the following findings before approval of the site plan:

a) The proposed development, together with any necessary modifications, is compatible with the criteria established in Table 177-1.

b) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.

c) The site plan conforms to the Zoning Regulations.

g. Modification of Site Plan

The Zoning Administrator, or his/her designee (or the Board of Adjustment in cases of appeal), may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, welfare, community character, property values, and/or aesthetics.

h. Term and Modification of Approval

1. A Site Plan Approval shall become void one year after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.

2. The Zoning Administrator, or his/her designee, may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the criteria set forth in Table 177-1.

3. The Zoning Administrator, or his/her designee may revoke a Site Plan Approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.

i. Approval to Run With Land

An approval pursuant to this section shall run with the land until the expiration date of such approval.

**177.03 Conditional Use Permit Procedure**

a. Purpose

The Conditional Use Permit Procedure provides for public review and discretionary Planning Commission approval for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.

b. Administration

The Zoning Administrator shall be responsible for the administration of the Conditional Use Permit Procedure. The Planning Commission shall review, evaluate, and approve of each application. An applicant may appeal a denial of any application pursuant to this section to the City Council. In addition, a valid protest petition, meeting the requirements set forth in Section 177.04.d.3 of these Regulations shall also initiate an appeal to the City Council.

c. Application Requirements

An application for a Conditional Use Permit may be filed with the Zoning Administrator by the owner(s) of a property or the owners' authorized agent. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.

d. Approval Process

The Planning Commission, following proper notice, shall hold a public hearing on each Conditional Use Permit and, following such public hearing, shall act on the application.

e. Appeal Process

1. A denial by the Planning Commission may be appealed to the City Council by an applicant within ten days of the action. The appeal request must be submitted in writing to the Zoning Administrator.
2. An approval by the Planning Commission may be appealed to the City Council by the submittal of a valid protest petition, meeting the requirements set forth in Section 177.04.d.3 of these Regulations, within ten days of the action.

3. The Zoning Administrator shall transmit the application and appeal documents, along with his/her recommendation and the record of the Planning Commission action, to the City Council.

4. The City Council, after publication and public hearing, shall act on the appeal.

f. Criteria for Review

1. The Planning Commission shall review and approve the site plan based on the criteria established in Table 177-1 and conformance with applicable regulations in these Zoning Regulations.

g. Scope of Approval

1. The Planning Commission and/or City Council, in cases of appeal, may, at their discretion, apply a Conditional Use Permit to a specific owner or applicant. The approving agencies may establish special site development or operational regulations as a condition for approval of a Conditional Use Permit.

2. The Planning Commission or City Council, in cases of appeal, shall not grant a Conditional Use Permit for any home occupation/home-based business which is otherwise prohibited under Section 171.11 of these Regulations.

h. Lapse and Revocation of Permit

1. A Conditional Use Permit shall become void two years after its effective date if the applicant has not carried out development or occupancy during that period.

2. The Planning Commission may revoke a Conditional Use Permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.

i. Previously Approved Permits

Any special use approved under regulations in effect before the effective date of these Regulations shall be considered to have a valid Conditional Use Permit, subject to requirements imposed at the time of its approval.

**Table 177-1:  
Criteria For Site Plan Review And Conditional Use Permits**

CRITERIA		APPLIES TO		
		Site Review	Plan	Conditional Use Permit
<b>Land Use Compatibility</b>				
Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features.			X
<b>Height and Scale</b>				
Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	X		X
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics.	X		X
Building Coverage	Building coverage should be similar to that of surrounding development of possible. Higher coverage should be mitigated by landscaping or site amenities.	X		X
<b>Site Development</b>				
Frontage	Project frontage along a street should be similar to lot width.	X		X
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles.	X		X
	All structures must be accessible to public safety vehicles.	X		X
	Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	X		X
Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainageways should be preserved.	X		X
<b>Building Design</b>				
	Architectural design and building materials should be compatible with surrounding areas or highly visible locations			X
<b>Operating Characteristics</b>				
Traffic Capacity	Project should not obstruct traffic on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	X		X
External Traffic Effects	Project design should direct non-residential traffic away from residential areas.	X		X
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	X		X

**Table 177-1:  
Criteria For Site Plan Review And Conditional Use Permits**

CRITERIA		APPLIES TO	
Operating Characteristics		Site Plan Review	Conditional Use Permit
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	X	X
<b>Public Facilities</b>			
Sanitary Waste Disposal	Developments within 300 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare.	X	X
	Sanitary sewer must have adequate capacity to serve development.	X	X
Storm Water Management	Development should handle storm water adequately to prevent overloading of public storm water management system.	X	X
	Development should not inhibit development of other properties.	X	X
	Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	X	X
Utilities	Project must be served by utilities.	X	X
	Rural estate subdivisions should be located in designated areas which can accommodate utility and infrastructure installation consistent with the need to protect the environment and public health.	X	X
<b>Comprehensive Plan</b>	Projects should be consistent with the City of Glenwood's Comprehensive Development Plan.	X	X

177.04 Amendment Procedure

a. Purpose

The Amendment Procedures describe the methods by which changes may be made in the text of the Zoning Regulations (text amendment) and/ or the official boundaries of zoning districts (rezoning).

b. Initiation of Amendments

1. Text amendments may be initiated by the Planning Commission or City Council.
2. Rezoning may be initiated by a property owner or authorized agent; the Planning Commission; or the City Council.

c. Rezoning Application Requirements

An application for a rezoning may be filed with the Zoning Administrator, or his/her designee. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.

d. Amendment Process

1. The Planning and Zoning Board shall consider each proposed text or rezoning amendment at a scheduled Planning and Zoning Board meeting when notice of such proposal is set forth on the meeting agenda, and shall recommend action to the City Council. A vote for an amendment by a majority of all Planning and Zoning Board members shall constitute a recommendation to the City Council.
2. The City Council, after publication and public hearing, shall act on the proposed amendment. On applications which receive a recommendation of approval from the Planning Commission, a majority vote of those members either elected or appointed to the City Council is required for approval. On applications which receive a recommendation of denial from the Planning Commission, a majority vote plus one of those members either elected or appointed to the City Council is required for approval.
3. Protest: If a valid protest petition opposing an amendment is filed with the City Clerk by eligible property owners, pursuant to applicable sections of the Code of Iowa, a majority vote plus one of those members either elected or appointed to the City Council is required for approval. A valid protest petition must meet the following criteria:
  - a) Submission of the petition in the office of the City Clerk within fourteen (14) days after the conclusion of the public hearing on the amendment by the Planning Commission.
  - b) Notarized signatures by at least one of the following:

- 1) The owner or owners of at least 20% of the property proposed for rezoning.
- 2) The owners of 20% of the total area, excepting public rights-of-way and public property, within the zoning jurisdiction of the city and within 300 feet of the proposed rezoning.

e. Required Notice and Publication

Prior to consideration of amending, supplementing, changing, modifying, or repealing these regulations by the governing body, notice of public hearings shall be provided by two of the three following methods, as determined by the City:

1. **Notice By Posted Sign:** A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than eighteen inches in height and twenty-four inches in width with a white background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.
2. **Publication:** At least ten days before the date of hearing, the City Clerk shall have published in a daily newspaper having a general circulation in the City of Glenwood a Notice of the time, place and subject matter of such hearing.
3. **Notification by Mail:** At least ten days prior to the date of hearing, the party initiating the rezoning request shall present the City Clerk a certified address list of those persons who own property within 300 feet of the subject site. The City Clerk shall mail notice of the time, place and subject matter of the hearing to such property owners at least ten days prior to the date of the hearing. In addition, the City of Glenwood shall provide for the following:
4. **Notification By Mail of School District:** The City Clerk shall mail notice of the time, place and subject matter of any Planning Commission rezoning hearings to the School District Administrative Official and/or Chair of the Board of Education, within whose boundaries the subject site is located. The notification shall be submitted to the applicable official and/or Board of Education at least ten days prior to the date of such meeting. Each school district to be affected by such rezoning proposal shall be notified

**177.05 Building Permits and Certificates of Zoning Compliance**

a. Administration and Enforcement

The Zoning Administrator shall administer and enforce these regulations. The City Council may direct other persons to assist him/her.

If the Zoning Administrator, or his/her designee shall find that any of the provisions of these regulations are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by these regulations to ensure compliance with or to prevent violation of its provisions.



b. Building Permits Required

No sign, retaining wall, paved or prepared surfaces, building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the administrative official. No building permit shall be issued by the administrative official except in conformity with the provisions of these regulations, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by these regulations.

c. Application for Building Permit

All applications for building permits shall include plans if applicable in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration.

The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alterations; 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 these regulations. One copy of the plans shall be returned to the applicant by the administrative official, after he/she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the administrative official.

d. Certificates of Zoning Compliance for New, Altered or Non-Conforming Uses

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the administrative official stating that the proposed use of the building or land conforms to the requirements of these regulations.

e. Expiration of Building Permit

1. If the work described in any building permit has not begun within 90 days from the date of issuance thereof, said permit shall expire; it shall be canceled by the administrative official; and written notice thereof shall be given to the persons affected.

2. The project contemplated by such building permit must be substantially completed, as determined in the sole discretion of the Zoning Administrator by \_\_\_\_\_, 20\_\_\_\_. Failure to meet substantial completion by such date shall result in the revocation of the building permit unless an extension of the substantial completion date is granted by the Glenwood City Council for good cause shown.

f. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of these regulations, and punishable as provided by Section hereof.

**177.06 Schedule of Fees, Charges and Expenses.**

- a. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to these regulations.
- b. The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by the City Council.
- c. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

**177.08 Board of Adjustment**

a. Establishment

1. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided by this Section. The Board shall consist of seven (7) regular members.
2. Five members shall be appointed by the Mayor with the approval of the City Council. Two members shall be appointed by the Mills County Board of Supervisors and shall be residents of the area outside the city limits over which the zoning jurisdiction of the City of Glenwood is extended beyond its corporate limits under §414.23 of the Iowa Code, as from time to time amended. All members should be appointed for five-year overlapping terms and are removable for cause by the City Council after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
3. The Board of Adjustment shall adopt rules and regulations in accordance with these regulations and the laws of the State of Iowa pursuant to Sections 414.7 through 414.14 of the Code of Iowa. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public. 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. The Board shall keep a record 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. A majority of the Board shall constitute a quorum for the transaction of business.

b. Procedure for Appeals

1. Appeals shall be made to the Board of Adjustment through the office of the Zoning Administrator in written form as determined by the Zoning Administrator. The Board shall fix a reasonable time for the hearing of the appeal and shall decide the appeal within 30 days of the date of the public hearing. An appeal stays all proceedings in furtherance of the action, unless the Zoning Administrator certifies to the Board that by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property.
2. The Board shall provide a minimum of ten days notice of a public hearing on any question before it. Notice of the hearing shall be posted in a conspicuous place on or near the property on which the application has been made; by publication in a newspaper of general circulation in the City of Glenwood; and by written notice to the appealing party.
3. Upon the public hearing, any party may appear in person or by agent or attorney. A concurring vote of four out of seven members of such Board as so composed shall be necessary

to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such regulations.

4. No order or finding of the Board shall become effective until the eighth day following the posting of a copy of such ruling or finding, duly attested by the secretary of the Board upon a readily visible public bulletin board in the City Hall and transmittal of duplicate copies to the Clerk and to the Zoning Administrator.

#### 177.09 Powers and Duties of the Board of Adjustment

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

- a. Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Zoning Administrator, or his/her designee in the enforcement of the Zoning Ordinance.
- b. Interpretation of Zoning Map: To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map.
- c. Variances to Relieve Hardships Relating to Property: To authorize, upon appeal, variances from the strict application of these regulations where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations; or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, such strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property.

1. Requirements for Grant of a Variance. No such variance shall be authorized by the Board unless it finds that:

- (a) The appeal falls within the jurisdiction of the Board.
- (b) All parties directly in interest have been notified of the proceedings.
- (c) The grant of the variance would not have the effect of changing the zoning of the property.
- (d) Strict application of the zoning regulations will produce undue hardship and prevent the reasonable use of the property.
- (e) The alleged hardship producing the variance request was not the result of a willful act of the applicant or other person maintaining an interest in the property or immediate predecessors in interest.
- (f) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
- (g) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
- (h) The granting of such variance is based upon reason of demonstrable hardship as distinguished from variations for purposes of convenience, profit, or caprice.

(i) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these Zoning Regulations.

(j) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

2. Findings by Board. The Board of Adjustment shall make findings that the requirements of Section 177.09 have been met by the applicant for a variance.

3. Conditions for Grant of Variance.

(a) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under Section 177.14 of these regulations.

(b) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district.

(c) No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

e. Board has Powers of Zoning Administrator on Appeals: Reversing Decisions of Zoning Administrator

In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the 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 the application of these regulations.

**177.10 Appeals from the Board of Adjustment.**

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 the District Court for the County in the manner provided by the laws of the State of Iowa.

**177.11 Duties of Zoning Administrator, Board of Adjustment, City Council, and Courts on Matters of Appeal.**

a. It is the intent of these regulations that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of Board of Adjustment shall be to the courts as provided by law.

b. Under these regulations the City Council shall have only the duties (1) of considering and adopting or rejecting proposed amendments, or the repeal of these regulations as provided by law,

(2) of establishing a schedule of fees and charges as stated in Section 177 of these regulations, and (3) of directing a city officer to appeal a decision of the Board of Adjustment.

**177.12 Severability Clause.**

Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

**177.13 Complaints Regarding Violations.**

Whenever a violation of this ordinance occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint immediately, investigate, and take action thereon as provided by this resolution.

**177.14 Penalties for Violation.**

- a. Any person, firm, or corporation violating any provision of the Zoning Regulations of the City of Glenwood, Iowa, is hereby declared to be a common nuisance and subject to penalties and abatement measures authorized under present and future laws.
- b. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- c. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.