

AMANA COLONIES LAND USE DISTRICT

Land Use Plan, Phase II

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Division 2.0 – Administration

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DIVISION 2.0 – ADMINISTRATION

CHAPTER 21.00 BOARD OF TRUSTEES

Sections:

21.00.010 Authority

Section 21.00.010 - Authority.

The corporate authority for the management and control of the Amana Colonies Land Use District is the Board of Trustees. The Board of Trustees has been established and its members duly elected in accordance with the provisions of Chapter 303, Code of Iowa, subsections 303.41 through 303.68. All actions of the Board of Trustees regarding the adoption, enforcement, amendment and administration of the Land Use Plan, including all divisions thereto, have been accomplished in accordance with the provisions of Chapter 303. All activities of the Board of Trustees in exercising its corporate authority including the election of officers, meetings and public hearings, expenditure of funds, appointment of Boards and employees shall be a public record, and in accordance with the provisions of Chapter 303, Code of Iowa.

CHAPTER 21.02 BOARD OF ADJUSTMENT

Sections:

21.02.010	Membership; Appointment, Removal, Terms and Vacancies
21.02.020	Chairman and Vice-Chairman
21.02.030	Secretary; Minutes; Public Records
21.02.040	Quorum
21.02.050	Meetings and Hearings
21.02.060	Records and Decisions
21.02.070	Conflicts
21.02.080	Petition for Certiorari
21.02.090	Jurisdiction and Authority
21.02.100	Legal Advice

Section 21.02.010 - Membership; Appointment, Removal, Terms and Vacancies.

Pursuant to Chapter 303, Code of Iowa, there is established a Board of Adjustment of five members, appointed by the Board of Trustees, for terms of five years, such terms to be staggered so that the term of not more than one member expires each calendar year. No member, however, shall be appointed to more than two consecutive five-year terms. Members of the Board of Adjustment shall be qualified resident electors of the Amana Colonies Land Use District, and shall not be officers or employees of the District or any agency or department of the District. The compensation for the members of the Board of Adjustment shall be as authorized by the Board of Trustees, and shall not exceed that of the Board of Trustees.

- A. Permanent vacancies on the Board of Adjustment shall be filled by the Board of Trustees in the same manner as other appointments hereunder, for the unexpired term of the former member whose place has become vacant.
- B. Any member of the Board of Adjustment may be removed for cause by the Board of Trustees at any time; provided, however, that before any such removal, such member shall be presented with specific charges in writing and shall be given an opportunity to be heard in his own defense at a public hearing. Cause for removal of a member shall include any undisclosed or unlawful conflict of interest, any violation of the codes, ordinances or rules applicable to the member's performance of his duties, any unwillingness or inability to carry out his duties in a prompt, conscientious and competent manner, any conduct tending to cast doubt upon the integrity or objectivity of the member in performing his duties, or any other specific conduct of the member found by the Board of Trustees to be detrimental to the proper functioning of the Board of Adjustment.

Section 21.02.020 - Chairman and Vice-Chairman.

The members of the Board of Adjustment shall annually elect one of their number as chairman, to preside at all meetings and hearings and to fulfill the customary functions of that office, and another of their number as vice-chairman. The chairman and vice-chairman may administer oaths and compel the attendance of witnesses. In the absence of the chairman, the vice-chairman shall act as chairman and shall have all of the powers of the chairman. The vice-chairman shall have such other powers and duties as may from time to time be provided by the rules of the Board.

Section 21.02.030 - Secretary; Minutes; Public Records.

The Land Use Administrator or his delegate shall serve as secretary to the Board of Adjustment. The secretary shall attend all of the meetings of the Board of Adjustment. The secretary shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain permanent records of all Board meetings, hearings and proceedings and all correspondence of the Board. The secretary shall provide for keeping a file of all records of the Board, and such records shall be public records open to inspection at reasonable times and upon reasonable notice. The secretary shall perform such other duties as may be established from time to time by the rules of the Board.

Section 21.02.040 - Quorum.

A. No business shall be transacted by the Board of Adjustment without a quorum, consisting of three members, being present. The concurring vote of at least three members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination appealed to it, to decide in favor of the applicant on any application made, or to effect any variation in the provisions of the Land Use Plan. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding three weeks at any one time. The secretary shall in writing notify all members of the date of the adjourned hearing and shall also notify such other interested parties as may be designated in the vote of adjournment.

B. No member absent from any portion of a hearing shall be qualified to vote upon the matter heard unless the member shall first certify on record that he/she has reviewed the entire record of any such portion of the hearing during which the member was absent and has been fully informed of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

Section 21.02.050 - Meetings and Hearings

A. Regular meetings of the Board of Adjustment shall be held at the call of the chairman or as provided by rule of the Board. Special meetings shall be called by the chairman at the request of any two members of the Board or at the request of the Board of Trustees.

B. All meetings and hearings of the Board of Adjustment shall be open to the public. At least ten days prior to regular meetings of the Board of Adjustment, notice of all meetings of the Board of Adjustment shall be given as provided in Section 21.4, Code of Iowa. Amended, 4-98, to specify 10 day notice required for meetings.

C. The Board of Adjustment shall adopt its own rules of procedure for the conduct of its business not inconsistent with this Division and the statutes of the State of Iowa. Such rules shall be filed with the secretary of the Board and with the District Clerk. Any rule so adopted which relates solely to the conduct of the Board's hearings and which is not mandated by this Division or the statutes of the State of Iowa, may be waived by the chairman upon good cause being

shown.

Section 21.02.060 - Records and Decisions.

A. The transcript of testimony, if any; the minutes of the secretary; all applications, requests, exhibits and papers filed in any proceeding before the Board of Adjustment; and the decision of the Board shall constitute the record. The Board may rely on the personal knowledge of its members, on its inspections of the property and on any reports available to it; provided, however, that reliance on such matters shall not be allowed unless the Board shall have made the particular knowledge, inspection or report a matter of record at the public hearing and afforded every party reasonable time to respond to it.

B. Every decision of the Board of Adjustment shall be by written record which shall include findings of fact, shall refer to all the evidence in the record and to the exhibits, plans or specifications upon which such decision is based, shall specify the reason or reasons for such decision, shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief, and shall expressly set forth any limitations or conditions imposed on any relief granted or work or use authorized.

C. The secretary shall immediately file any decision of the Board of Adjustment in the office of the Board. Within seven days following any decision of the Board of Adjustment the secretary shall mail notice thereof to each person entitled to such notice.

Section 21.02.070 - Conflicts.

No member of the Board of Adjustment shall participate in the hearing or disposition of any matter in which the member is interested. For purposes of this section, "interested" includes any direct or indirect financial or personal interest held by a member or any member of his or her family. Prior to any hearing or disposition a member shall cite any conflict of interest and withdraw from participation or may disclose the facts involved and request a determination of whether or not a conflict of interest exists. Any question of whether a member has a conflict of interest sufficient to disqualify the member shall be decided by a majority vote of the members, not including the member whose qualification is at issue. Where such vote results in a tie, the member shall be disqualified.

Section 21.02.080 - Petition for Certiorari.

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, 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 days after the filing of the decision in the office of the Board of Adjustment.

Section 21.02.090 - Jurisdiction and Authority.

The Board of Adjustment shall have the following jurisdiction and authority:

- A. Subject to the provisions of Division 3.0, Chapter 31.08, to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Land Use Administrator in the enforcement of the zoning ordinance.
- B. Subject to the provisions of Division 3.0, Chapter 31.08, to authorize upon appeal in specific cases such variances from the terms of the zoning ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship.
- C. Subject to the provisions of Division 3.0, Chapter 31.08, to hear, review and finally decide applications for special exceptions to the terms of the zoning ordinance.
- D. To issue permits and decide such other matters as may be provided by the Board of Trustees under the terms of Division 3.0 or any other division of the Land Use Plan.
- E. To recommend changes and amendments to Division 3.0 and to such other Divisions of the Land Use Plan as the Board of Adjustment may consider to be appropriate.
- F. In furtherance of the above jurisdiction and authority, to make such investigations, maps, and reports, and recommendations in connection therewith, relating to the Land Use Plan and its divisions and administration as seems desirable and necessary; provided, however, that the expenditures of the Board of Adjustment shall not exceed the amount appropriated therefor, if any, by the Board of Trustees.
- G. The jurisdiction of the Board of Adjustment shall not include any variances or special exceptions to the issuance or approval of a Certificate of Approval as provided by Division 3.0, Chapter 31.36 of the Land Use Plan.

Section 21.02.100 - Legal Advice.

The attorney for the Amana Colonies Land Use District or his delegate shall provide legal advice and representation to the Board of Adjustment, as needed, and as may be authorized by the Board of Trustees.

CHAPTER 21.04 HISTORIC PRESERVATION COMMISSION

Sections:

21.04.010	Membership; Appointment, Removal, Terms and Vacancies
21.04.020	Officers
21.04.030	Secretary; Minutes; Public Records
21.04.040	Quorum
21.04.050	Meetings and Hearings
21.04.060	Records and Decisions
21.04.070	Conflicts
21.04.080	Powers and Duties

Section 21.04.010 - Membership; Appointment, Removal, Terms and Vacancies.

- A. Pursuant to Chapter 303, Code of Iowa, and Chapter 21.00 of this division, there is established a Historic Preservation Commission, which shall consist of five members appointed by the Board of Trustees. Of the five members first appointed to the Historic Preservation Commission hereby created, one shall be appointed for a term of one year, one shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years and one shall be appointed for a term of five years. Thereafter, all members shall be appointed for a term of five years so that the term of not more than one member of the Commission shall expire in any calendar year. No member, however, shall be appointed to more than two consecutive five-year terms. Members whose terms have expired shall continue to serve until a successor has been appointed.
- B. Members of the Historic Preservation Commission shall be qualified resident electors of the Amana Colonies Land Use District, and qualified by interest in, knowledge or experience in matters pertaining to the history, culture and architecture of the Amana Colonies, and shall not be officers or employees of the Amana Colonies Land Use District or of any agency or department of the District. Members of the Commission shall serve without compensation except for their actual expenses as may be authorized by the Board of Trustees.
Permanent vacancies on the Historic Preservation Commission shall be filled by the Board of Trustees in the same manner as other appointments hereunder, for the unexpired term of the former member whose place has become vacant.
- C. Any member of the Historic Preservation Commission may be removed for cause by the Board of Trustees at any time; provided, however, that before any such removal, such member shall be presented with specific charges in writing and shall be given an opportunity to be heard in his/her own defense at a public hearing. Cause for removal of a member shall include any undisclosed or unlawful conflict of interest, any violation of the codes, ordinances or rules applicable to the member's performance of his duties, any unwillingness or inability to carry out his duties in a prompt, conscientious and competent manner, any conduct tending to cast doubt upon the integrity or objectivity of the member in performing his/her duties, or any other specific conduct of the member found by the Board of Trustees to be detrimental to the proper functioning of the Commission.

Section 21.04.020 - Officers.

The members of the Historic Preservation Commission shall annually elect one of their number as chairman, to preside at all meetings and hearings and to fulfill the customary functions of that office, and another of their number as vice-chairman.

In the absence of the chairman, the vice-chairman shall act as chairman and shall have all the powers of the chairman. The vice-chairman shall have such other powers and duties as may from time to time be provided by the rules of the Commission.

Section 21.04.030 - Secretary; Minutes; Public Records.

The Land Use Administrator or his delegate shall be the secretary of the Historic Preservation Commission and shall attend all its proceedings. The secretary shall provide for the keeping of minutes of the proceedings of the Commission, showing attendance and the vote upon every question, and shall maintain permanent records of all Commission meetings, hearings and proceedings and all correspondence of the Commission. The secretary shall provide for keeping a file of all records of the Commission, and such records shall be public records open to inspection at reasonable times and upon reasonable notice. The secretary shall perform such other duties as may be established from time to time by the rules of the Commission.

Section 21.04.04 - Quorum.

No official business shall be transacted by the Historic Preservation Commission without a quorum, consisting of three members, being present. The concurring vote of at least three members shall be necessary to support any action by the Commission. If less than a quorum is present, a hearing may be adjourned from time to time for a period not exceeding three weeks at any one time. The secretary shall in writing notify all members of the date of the adjourned hearing and shall also notify such other interested parties as may be designated in the vote of adjournment.

No member absent from any portion of a hearing shall be qualified to vote upon the matter heard unless the member shall first certify on the record that he or she has reviewed the entire record of any such portion of the hearing during which the member was absent and has been fully informed of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

As to any matter not requiring a hearing, the Historic Preservation Commission may meet and deliberate at any properly called meeting regardless of the presence of a quorum or may continue consideration of such matter to any later meeting. However, no final action shall be taken on any such matter without a quorum, consisting of three members, being present. The concurring vote of at least a majority of those voting shall be necessary to approve any matter or report or to make any recommendation.

Any one or more members of the Commission may file minority or dissenting reports in support of any position concerning a matter brought before the Commission.

Section 21-04-050 - Meetings and Hearings.

Regular meetings of the Historic Preservation Commission shall be held at the call of the chairman or as provided by rule of the Commission. Special meetings shall be called by the chairman at the request of any two members of the Commission or at the request of the Board of Trustees. All meetings and hearings of the Commission shall be open to the public.

The Historic Preservation Commission shall adopt its own rules of procedure for the conduct of its business not inconsistent with this Division and the statutes of the State of Iowa. Such rules shall be filed with the secretary of the Commission and with the District Clerk. Any rule so adopted which relates solely to the conduct of the Commission's meetings or hearings and which is not mandated by this Division, or Division 3.0 or the statutes of the State of Iowa may be waived by the chairman upon good cause being shown.

Section 21.04.060 - Records and Decisions.

The transcript of testimony, if any; the minutes of the secretary; all applications, requests, exhibits and papers filed in any proceeding before the Historic Preservation Commission; and the decision and report, or reports of the Commission shall constitute the record.

- A. Every recommendation of the Historic Preservation Commission upon an application for an amendment of Division 3.0 regarding Historic Preservation Districts, or upon an application for a Certificate of Approval or Site Plan approval, as may be provided by Division 3.0, shall include findings of fact, shall refer to the exhibits, plans or specifications upon which such recommendation is based, and shall specify the reason or reasons for such recommendation.
- B. In reaching its decision on any such application, the Historic Preservation Commission may rely on the personal knowledge of its members, on its inspections of the property, and on any reports available to it.
- C. The secretary shall within a reasonable time file any decision of the Commission in the office of the Commission. Within seven days following any decision of the Commission the secretary shall mail notice thereof to each person entitled to such notice, if any.
- D. As to other matters brought before the Commission, the Commission shall prepare such report, as it shall deem appropriate to the subject matter.

Section 21.04-070 - Conflicts.

No member of the Historic Preservation Commission shall participate in the hearing or disposition of any matter in which the member is interested. For purposes of this section, "interested" includes any direct or indirect financial or personal interest held by a commissioner or any member of his or her family. Prior to any hearing or disposition a commissioner shall cite any conflict of interest and withdraw from participation or may disclose the facts involved and request a determination of whether or not a conflict of interest exists. Any question of whether a member has a conflict of interest, sufficient to disqualify, shall be decided by a majority vote of the members not including the member whose qualification is at issue; where such vote results in

a tie, the member shall be disqualified.

Section 21.04.080 - Powers and Duties.

The Historic Preservation Commission shall have the following powers and duties:

- A. To conduct an ongoing survey to identify historically and architecturally significant properties, structures, and areas that exemplify the cultural, social, historic, or architectural history of the Amana Colonies;
- B. To keep a register of all properties and structures that have been designated or undesignated as landmarks within the historic preservation districts, established in Division 3.0, Chapter 31.36.
- C. To determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes within the historic preservation district;
- D. To advise and assist owners of landmarks and property or structures within historic preservation districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;
- E. To recommend the nomination of landmarks and historic sites to the National Register of Historic Places, and to review and comment on any National Register nominations submitted to the Commission upon request of the Board of Trustees;
- F. To hold such public hearings as it deems necessary, and to review applications for construction, alteration, removal, or demolition affecting proposed or designated landmarks or structures within the historic preservation districts and to recommend to the Board of Trustees approval or denial of Certificates of Approval, Site Plan requests and zoning district boundary changes, all as provided by Chapter 31.36 of Division 3.0;
- G. If directed by the Board of Trustees, to develop specific design guidelines for the alteration, construction, or removal of landmarks or property and structures within the historic preservation districts;
- H. To call upon the Land Use Administrator for administrative services and advice and such other technical experts as may be authorized by the Board of Trustees;
- I. To testify before all boards and commissions, including the Board of Adjustment and the Board of Trustees, on any matter affecting historically and architecturally significant property, structures, and areas;
- J. To confer recognition upon the owners of landmarks or property or structures within historic preservation districts by means of certificates, plaques, or markers; subject to the availability of funds for such purpose as may be appropriated by the Board of Trustees;
- K. To periodically review the Land Use Plan and its divisions and to recommend to the

Board of Trustees any amendments appropriate for the protection and continued use of landmarks or property and structures within historic preservation districts; and

L. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to implementation of the purposes of the Land Use Plan.

CHAPTER 21.06 LAND USE ADMINISTRATOR

Sections:

21.06.010 Jurisdiction, Authority and Duties

21.06.020 Legal Advice

Section 21.06.010 Jurisdiction, Authority and Duties.

The Land Use Administrator, appointed pursuant to Chapter 303, Code of Iowa, shall have all the powers necessary to administer and enforce the Land Use Plan and its divisions and in particular shall have the following jurisdiction, authority and duties:

A. Supervision of Land Use District. The Land Use Administrator shall supervise, manage and be responsible for the day-to-day affairs and activities of the Land Use District and its employees, if any, and may recommend to the Board of Trustees the employment of such assistants, clerks, secretaries and other personnel as the Board of Trustees may determine to be necessary and proper.

B. Rules, Regulations and Application Forms. The Land Use Administrator shall, consistent with the express standards, purposes and intent of the Land Use Plan and its divisions, promulgate and issue such procedural rules, regulations and forms as are in his opinion necessary to the effective administration and enforcement-of the provisions of the Land Use Plan. All rules, regulations and forms issued by the Land Use Administrator shall be filed with the District Clerk and shall be public records of the Land Use District open to inspection by interested parties at reasonable times upon reasonable notice.

C. Secretary to Board of Adjustment and Historic Preservation Commission. The Land Use Administrator shall serve as secretary to the Board of Adjustment and Historic Preservation Commission, and he shall in that capacity:

1. Attend the meetings of such bodies;
2. Inform such bodies of all facts and information at his disposal with respect to any matter brought before such bodies;
3. Give notice, thirty days prior to the expiration of the term of any member of the Board or Commission, of the date on which the term of such member will expire, to such member and to the Board of Trustees;
4. Perform such other duties as may be assigned to him by the Land Use Plan and the rules of the Board of Adjustment and Historic Preservation Commission.

D. Records. The Land Use Administrator shall maintain:

1. Permanent and current records of the Land Use Plan and its divisions, including all maps; amendments; special permit uses temporary uses, planned development approvals and denials; interpretations; subdivision plats; and decisions rendered by the Board of Adjustment, and recommendations and opinions of the Historic Preservation Commission, together with relevant background files and materials;
2. Current files of all certificates of zoning compliance, certificates of approval, zoning lot designations, Site Plan approvals and all notices of violation issued by or entrusted to his office, for such time as necessary to ensure continuous compliance with the provisions of the Land Use Plan and its divisions;
3. Current maps locating all applications for amendments, special use permits, variances and appeals, and indicating the disposition thereof.

E. Report. The Land Use Administrator shall, at least annually, prepare and submit a report to the Board of Trustees and the chairman of the Board of Adjustment and the Historic Preservation Commission, concerning the administration of the Land Use Plan, setting forth such information and statistical data as may be of interest and value in advancing and furthering the goals and purposes of such Plan, and setting forth the recommendations of the Land Use Administrator for the improvement of the Land Use Plan, its regulations and administration, and further setting forth his objectives for the Land Use District for the coming year.

F. Applications and Processing. The Land Use Administrator shall receive and process all applications or permits, certificates, appeals, zoning amendments, Site Plan approvals and subdivision plat approvals, as may be provided by Division 3.0 of the Land Use Plan, in accordance with the specific terms and conditions, as set forth in that Division.

G. Investigation of Applications. Whenever the Board of Trustees shall by general rule or specific direction so request, the Land Use Administrator shall conduct or cause to be conducted such surveys, investigations and field studies, and shall prepare or cause to be prepared such reports, maps, photographs, charts and exhibits, as shall be necessary and appropriate to the processing of any application filed with the Land Use Administrator.

H. Inspection and Enforcement. In furtherance of the enforcement of the Land Use Plan and its divisions, the Land Use Administrator shall undertake such regular and continuing programs of inspection of work approved and under way and of existing structures and uses as may be feasible and proper within the limits of time and funds; shall undertake such inspections as may be necessary to the performance of his duties hereunder; and shall receive from any person complaints alleging a violation of the Land Use Plan, and when appropriate shall cause such investigations and inspections as may be warranted by such complaints to be made.

The Land Use Administrator shall, upon receiving notice of any violation of the Land Use Plan, notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it; and specifically shall order the discontinuance of any illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions or alterations; order discontinuance of illegal work being done; or take any other action authorized by the Land Use Plan and its divisions, to insure compliance with, or to prevent violation of its provisions, and in particular, shall where necessary or appropriate recommend to

the Board of Trustees the institution of legal or equitable actions that may be required for the enforcement of the Land Use Plan.

I. Technical Aid. The Land Use Administrator shall offer such technical aid, assistance and expertise to the Board of Adjustment and Historic Preservation Commission as they may reasonably require in the performance of their duties.

Section 21.06.020 - Legal Advice

The attorney for the Amana Colonies Land Use District or his delegate shall provide legal advice and representation to the Land Use Administrator as needed, and as may be authorized by the Board of Trustees.

