

ITEM #:	<u>46</u>
DATE:	<u>06-24-25</u>
DEPT:	<u>P&H</u>

COUNCIL ACTION FORM

SUBJECT: TEXT AMENDMENTS FOR NEW AREA, DIMENSION, AND OTHER NUMERIC STANDARDS VARIANCE

BACKGROUND:

The Iowa Legislature recently passed House File 652, which was subsequently signed by the Governor, amending Iowa Code 414.12 to create a new type of Variance to certain zoning standards. **The new Variance option is limited in applicability to area, dimension, and other numeric zoning requirements. The current Variance process includes all types of zoning standards, including uses of property.**

Variances are a process established by *Iowa Code* in relation to the authority of the Zoning Board of Adjustment (ZBA). Certain criteria apply to the review of a variance and the ZBA must with three affirmative votes find the proposal is consistent with the criteria or the request is denied.

The current Variance process is based upon a legal threshold of an “unnecessary hardship” for the use of property. The hardship threshold is a very high bar to meet for an approval as it is rare that allowed use of property cannot occur in a manner consistent with zoning and a true hardship exists as defined by state law and case law. The new variance process is based upon a new legal standard of “practical difficulties” related to a beneficial use of land. A showing of a financial hardship is not a component of the practical difficulties standard.

The City is required to allow for the new types of variances consistent with HF 652. The variances will apply to standards of Ames *Municipal Code* Chapter 29 Zoning Ordinance and by language of the bill include signage standards, which are part of Chapter 29 and Chapter 21 of the Ames *Municipal Code*.

Staff proposes to merely include a reference in Chapter 21 for signs and the new standards within Chapter 29 in order to follow the City’s current noticing and hearing process for the ZBA. Notice of the hearing for a variance shall be provided in the local newspaper and the City elects to provide mailed and posted notice as well. Additional edits to 29.1504 clean up the application submittal process to correspond to current practices where Planning staff prepares the application form and reviews for completeness.

ALTERNATIVES:

1. Approve on first reading the proposed changes to Chapter 21 and Chapter 29. **Staff requests waiving the rules and adopting on third reading in order for the new ordinance to be effective by July 1, 2025, when the state law goes into effect.**
2. Approve on first reading the proposed changes to Chapter 21 and Chapter 29.
3. Approve on first reading the proposed changes to Chapter 21 and Chapter 29 with modifications.
4. Refer to staff for more information.

CITY MANAGER'S RECOMMENDED ACTION:

The proposed changes implement recently approved changes to state law. The new, additional variance standards go into effect on July 1, 2025, regardless of the City adoption of an ordinance. By adding these requirements to the Municipal Code, the new variance application will follow the City's established notification rules for Zoning Board of Adjustment review. Therefore, the City Manager recommends approval of Alternative 1, as described above.

ATTACHMENT(S):

[**DRAFT Ordinance incorporating new variance requirements.pdf**](#)