

LINN COUNTY ORDINANCE # 3-7-2025

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES, LINN COUNTY, IOWA
BY MODIFYING PROVISIONS IN CHAPTER 107: ARTICLE IV SECTION 107-74 REGARDING
VARIANCES AND SPECIAL EXCEPTIONS, ARTICLE VI SECTION 107-113 REGARDING
ACCESSORY DWELLING UNITS, ARTICLE VII TABLE 107-147-1 REGARDING ACCESSORY
DWELLING UNITS, AND ARTICLE IX SECTION 107-180 REGARDING A DEFINITION RELATED
TO ACCESSORY DWELLING UNITS**

BE IT ORDAINED by the Board of Supervisors, Linn County, Iowa as follows:

SECTION 1. SECTION MODIFIED. Chapter 107, Article IV, Section 107-74 Variances and Special Exceptions is hereby amended to read as follows:

(a) Purpose.

- (1) The board of adjustment shall authorize upon appeal, in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter and comprehensive plan shall be observed and substantial justice done.
- (2) The board shall also authorize upon appeal, in specific cases, special exceptions from the terms of this chapter with respect to the area, dimensional, or other numerical limitations of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of provisions of this chapter will result in practical difficulties to the property owner in making a beneficial use of the property allowed by this chapter, and so that the spirit of this chapter and comprehensive plan shall be observed and substantial justice done. Area, dimensional, or other numerical limitations include but are not limited to requirements for minimum lot size, setbacks, yard widths, height, bulk, fencing, signage, and off-street parking.
 - a. Application. An applicant shall submit an application for a variance or special exception on forms provided by the planning and development department to the zoning administrator. A minor site plan shall be required with the

application. The application shall be accompanied by the full application fee as established in section 107-27.

- b. Conditions on variances or special exceptions. The board of adjustment may impose such conditions, including restrictions and safeguards, upon the property benefited by the variance or special exception as considered necessary to prevent or minimize adverse effects upon other property in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the grant of variance or special exception. Violation of such conditions shall be a violation of this chapter.
 - c. Relief less than requested. A variance or special exception less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.
- (b) Standards for granting variances. No variation in the application of the provisions of this chapter shall be made unless and until the board of adjustment shall be satisfied that all of the following criteria are met:
- (1) The requested variance is not a prohibited variance; and
 - (2) The requested relief is not related to area, dimensional, or numerical limitations of this chapter; and
 - (3) The provisions of this chapter, as applied to this property, result in an unnecessary hardship and amount to a practical confiscation. The applicant must demonstrate that a hardship is a compelling force and will not merely serve as a convenience to the applicant; and
 - (4) The requested variance will not impair the general purpose and intent of the regulations and provisions contained in this chapter; and
 - (5) The requested variance will not impair the public health, safety and general welfare of the inhabitants of the county.
- (c) Standards for granting special exceptions. No variation to the application of the provisions of this chapter shall be made unless and until the board of adjustment shall be satisfied that all of the following criteria are met:
- (1) Strict compliance with area, dimensional, or other numerical limitations of this chapter would result in a practical difficulty upon the owner of such property; and
 - (2) The exception relates entirely to a permitted use (principal, conditional, or accessory) classified by applicable district regulations; and
 - (3) The property owner must prove that the practical difficulty is due to circumstances unique to the property at issue and is not self-created, and would do substantial justice to an applicant. Such circumstances may include:
 - a. Topographical conditions;
 - b. Surroundings;
 - c. Size and shape of the property;

- d. Location of public utilities or improvements on or adjacent to the subject property;
 - e. Other extraordinary or exceptional situation(s); and
 - (4) Relief can be granted in a manner that will not alter the essential character of the locality.
- (d) Process for review of variance and special exception applications. The following process shall be followed in reviewing applications for variances and special exceptions:
- (1) Review for completeness. The zoning administrator shall review the application and shall determine if the application is complete pursuant to this chapter. If the zoning administrator determines the application is not complete, then the applicant shall be instructed as to the reasons for the incompleteness of the application and informed of the most expedient review schedule.
 - (2) Site review. Planning and development staff will conduct an on-site review of the property with the proposed variance or special exception. The applicant shall cooperate in making the property accessible to staff. Staff will take photographs of the property with at least one photo taken of the notification sign required in section 107-66(c)(4).
 - (3) Board of adjustment public hearing. The board of adjustment shall set a public hearing for the application and shall publish notice of time and place of the hearing, in a publication of general circulation within the county of not less than four days nor more than 20 days before the date of such hearing. The applicant and surrounding property owners shall be notified of the date and time of the hearing and shall be invited to attend.
 - (4) Action by the board of adjustment. The board of adjustment shall, after receiving the report from planning and development staff and conducting the public hearing on the application, reach its decision within 45 days of the date of the public hearing, unless such time is extended by mutual consent of the applicant and the board of adjustment. In its review, the board of adjustment shall consider each of the standards established in subsections (b) and (c) of this section, and each of the circumstances for granting variances listed in subsection (e) of this section. The board of adjustment is prohibited from granting variances of the types listed in subsection (f) of this section. The board of adjustment shall grant the application, grant it subject to conditions, grant relief less than requested, or deny the application.
- (e) Additional circumstances for granting special exceptions. Special exceptions from the regulations of this chapter shall be granted by the board of adjustment only in accordance with the standards established in subsection (c) of this section and may additionally be granted in the following instances:
- (1) To permit the reconstruction of a nonconforming building which has been damaged or destroyed by fire, explosion, act of God, or public enemy, to the extent of more than 65 percent of the fair market value of the building before

damage, based upon insurance value, where the board finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.

- (2) To permit the substitution or reconstruction of communication towers registered in accordance with the tower regulations in section 107-94, excluding those delineated in section 107-94 which are automatically allowed to be reconstructed by a finding that an infringement on communication activity will occur if the applicant is not allowed to substitute or reconstruct the tower. For the purposes of this subsection reconstruction of a communication tower shall mean any repair, improvement or reconstruction, the cost of which equals or exceeds 50 percent of the current fair market value or current replacement cost of the structure, exclusive of foundation.
 - (3) To permit the enlargement of a nonconforming communication tower, registered in accordance with the tower provisions of this chapter, when the application of those provisions would result in a clear economic hardship to the applicant, noncompliance with the applicant's license requirements or significant infringement upon the ability to conduct amateur communication activities on the property. Enlargement of a nonconforming communication tower shall include adding additional antenna towers to an AM broadcasting antenna system. Other compelling reasons may also be considered.
- (f) Specified variances or special exceptions prohibited. No variance or special exception shall be granted which would:
- (1) Impair the public health, safety or general welfare of the inhabitants of the county.
 - (2) Permit a use which is not allowed as a permitted or conditional use by the provisions of this chapter in the district in which a property is located, nor any use expressly or by implication prohibited from such district.
 - (3) Accomplish a residential parcel split, minor boundary change, or land preservation parcel split.

SECTION 2. SUBSECTION MODIFIED. Chapter 107, Article VI, Section 107-113 Standards for residential uses § (e) is hereby amended to read as follows:

- (e) *Household living, accessory dwelling unit.* All accessory dwelling units shall meet the following standards:
- (1) *Minor site plan required.* A minor site plan shall be submitted and reviewed prior to the approval of an accessory dwelling unit.
 - (2) *One allowed per parcel.* Only one accessory dwelling unit shall be allowed per parcel and only when there is an existing single-family detached dwelling.
 - (3) *Where located.* An accessory dwelling unit may be located within a principal dwelling, or as part of an attached or detached accessory structure. A tiny house may also be

an accessory dwelling unit in accordance with regulations set forth in section 107-113(i) of this chapter. A manufactured or mobile home, converted to real property by being placed on a permanent foundation and assessed for real estate taxes may also be an accessory dwelling unit.

- (4) *Location of entrance.* Any new entrances to the principal building must face the side or rear of the building.
- (5) *Maximum size.* An accessory dwelling unit shall not exceed 1200 square feet in floor area, or 50% of the size of the associated single-family detached dwelling, whichever is larger.

SECTION 3. SECTION MODIFIED. Chapter 107, Article VII, Section 107-147-1 Use Table is hereby amended to read as follows:

Residential Uses		STD	AG	RR 1/2/3	VR	VM	USR	USR- MF	HC	GC	I	CNR	MH
Household Living	Accessory dwelling unit	107-113(e)	A	A	A	A	A					A	
	Tiny house	107-113(i)	P/A	P/A	P/A		P/A	P/A				P/A	

SECTION 4. SECTION MODIFIED. Chapter 107, Article IX, Section 107-180 Definitions is hereby amended to revise the following definition:

Accessory dwelling unit means a secondary dwelling unit located on the same lot as a principal dwelling, which may take the following forms: a detached unit, a unit that is part of an accessory structure, ~~or~~ a unit that is part of a principal dwelling, a tiny house, or a manufactured or mobile home converted to real property by being placed on a permanent foundation and assessed for real estate taxes. The accessory dwelling unit provides complete independent living facilities for one or more persons, which at a minimum includes permanent provisions for living, cooking, and sanitation, including a bathroom and kitchen, and which has an independent access. Accessory building size limitations shall apply as appropriate.

SECTION 5. REPEALER. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 6. SEVERABILITY. 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 7. SAVING. The Code of Ordinances, Linn County, Iowa, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8. EFFECTIVE DATE. This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Planning & Zoning Commission on the 16TH day of JUNE, 2025.

Public hearing and First consideration on the 30TH day of JUNE, 2025.

Second consideration on the 2ND day of JULY, 2025.

Third consideration and final passage on the 9TH day of JULY, 2025.

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