

263—6.10(17A) Ruling. Iowa Code section 17A.9A(3) describes certain procedural aspects for considering a petition for waiver and issuing a ruling thereon, including the burden of persuasion; the manner in which a petition for waiver must be evaluated; the limits of the waiver, if one is issued; and the circumstances under which the board may place a condition on the waiver. When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons. The board shall have the sole discretion to decide whether to grant a waiver.

6.10(1) *Form of ruling.* An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver, if one is issued.

6.10(2) *Time for ruling.* The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 90 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a pending city development action, the board shall grant or deny the petition no later than the time at which the final decision in that matter is issued.

6.10(3) *When deemed denied.* Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

6.10(4) *Service of order.* Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

6.10(5) *Filing of waiver ruling.* Within 60 days of granting or denying a waiver, the board shall submit information as required by Iowa Code section 17A.9A(4).

[ARC 7704C, IAB 3/6/24, effective 4/10/24]