

ORDINANCE NO. 267

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HOLSTEIN, IOWA, BY AMENDING PROVISIONS PERTAINING TO ZONING CODE

BE IT ENACTED by the City Council of the City of Holstein, Iowa:

SECTION 1. CHAPTER MODIFIED. Chapter 165 of the Code of Ordinances of the City of Holstein, Iowa, is repealed and the following adopted in lieu thereof:

CHAPTER 165

ZONING REGULATIONS

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| 165.01 Purpose | 165.28 Warehouse Restrictions |
| 165.02 Nature | 165.29 Floodplain District (FP) |
| 165.03 Authority | 165.30 Agricultural District (A-1) |
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| 165.12 Accessory Buildings, and Structures | 165.39 Non-Conforming Buildings, Structures, and Uses of Land |
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| 165.15 Yard and Parking Space Restriction | 165.42 Organization: Basis of Regulations |
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165.01 PURPOSE. The various use districts created by this chapter and the various sections of this chapter are adopted for the following purposes, among others, of:

1. Carrying out the Comprehensive Plan for the City.
2. Promoting the public health, safety, morals, comfort, general welfare, and preserving the natural, scenic, and historically significant areas of the City.
3. Helping to achieve greater efficiency and economy of land development by promoting the grouping of those activities that have similar needs and are compatible.
4. Encouraging such distribution of population, classification of land use, and distribution of land development throughout the City, which will tend to facilitate adequate economic provisions of transportation, communication, water supply, drainage, sanitation, education, recreation, and other public requirements.

5. Lessening or avoiding congestion in the public streets and highways.
6. Protecting against fire, explosion, noxious fumes, flood, panic, and other dangers in the interest of public health, safety, comfort, and general welfare.
7. Helping to ensure that all residential, commercial, and manufacturing structures, as well as other types of structures, will be accessible to firefighting and other emergency equipment.
8. Prohibit the formation or expansion of nonconforming uses of land, buildings, and structures that are adversely affecting the character and value of desirable development in each district.
9. Promoting the development of residential neighborhoods that are free of noise, dust, fumes, and heavy traffic volumes in which each dwelling unit is assured of light, air, and open spaces.
10. Helping to prevent land development activities which lead to roadside blight, and to minimize the effects of nuisance-producing activities.
11. Promoting and guiding the continued growth and expansion of the City while protecting the natural, economic, historic, and scenic resources of the City.
12. Conserving the taxable value of land and buildings throughout the City.
13. Defining the powers and duties of the Zoning Administrator and other bodies, as provided herein.

165.02 NATURE. This chapter classifies and regulates the use of land, buildings, and structures within the corporate limits of the City. The regulations contained herein are necessary to promote the health, safety, convenience, morals, and welfare of the inhabitants, and to preserve the natural, scenic, and historically significant areas of the City by dividing the City into zoning districts and regulating therein the use of the land and the use and size of the buildings as to height and number of stories, the coverage of the land by buildings, the size of yards and open spaces, the location of buildings and the density of population.

165.03 AUTHORITY. This chapter, in pursuance of the authority granted by Chapter 414 of the *Code of Iowa*, shall be known and cited as the "Zoning Code of the City of Holstein, Iowa."

1. **165.04 DEFINITIONS.** For the purpose of this chapter and in order to carry out the provisions contained herein, certain words, terms, phrases, and illustrations are to be interpreted and defined herein. The word "lot" includes the words "plot or parcel," and the word "building" includes "structure." The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout these regulations. Terms not herein defined shall have the meaning customarily assigned to them. "Accessory building or use" means a building or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building or use.
2. "Accessory dwelling unit" means an additional residential dwelling unit located on the same lot as a single-family residence that is either attached to or detached from the single-family residence.
(*Code of Iowa, Sec. 364.3(20)(e)(1)*)
3. "Adult entertainment business" means and includes any of the following:
 - A. "Adult amusement or entertainment" means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing, or relating to sex acts or specified anatomical areas, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, or similar entertainment.
 - B. "Adult bookstore" means an establishment having as a significant portion of its stock in trade books, films, magazine, and other periodicals or goods and items held for sale which are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.
 - C. "Adult hotel or motel" means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing sex acts or specified anatomical area for observation by the individuals therein.
 - D. "Adult motion picture arcade" means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer

persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.

E. "Adult motion picture theater" means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.

F. "Adult photo studio" means an establishment which, upon payment of a fee, provides photographic equipment or models for the purpose of photographing specified anatomical areas or sex acts.

G. "Massage parlor" means any building, room, or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on sex acts or specified anatomical areas by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse, or practical nurse operating under a physician's direction, physical therapist, registered speech pathologist, and physical or occupational therapist who treat only patients recommended by a licensed physician and operate only under such physician's direction, whether with or without the use of mechanical, therapeutic, or bathing devices. The term does not include a regular license hospital, medical clinic, or nursing home, duly licensed beauty parlors or barber shops.

H. "Sex act" as used in the definition of adult entertainment business, means any sexual contact, actual or simulated, either natural or deviated, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of one person and the genitalia of another, or by the use of artificial sexual organs or substitute therefor in contact with the genitalia or anus.

I. "Sexual encounter center" means any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons may congregate, assemble, or associate for the purpose of engaging in sex acts or exposing specified anatomical areas.

J. "Specified anatomical areas" means and includes the following: human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola.

4. "Agriculture" means the use of land for agricultural purposes, including animal husbandry, agriculture, dairying, farming floriculture, forestry, groves, horticulture, orchards, poultry husbandry, ranching, and the necessary accessory uses for packing, treating or storing the produce; however, the operation of the accessory uses shall be subordinate to that of the normal agriculture activities. The above does not include commercial feeding of livestock.

5. "Alley" means a public way, other than a street, 20 feet or less in width, affording secondary means of access to abutting property.

6. "Alterations, structural" means any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

7. "Amendment" means a change in the wording, context or substance of this chapter, or a change in the zoning or district boundaries of the "Official Zoning Map," a part of this Code, when adopted by ordinance passed by the proper authoritative body in the manner prescribed by law.

8. "Animal and poultry production plant" means any building in which the principal use is the raising of, or the concentrated feeding of livestock, fowl, fur-bearing animals or edible animals for research or sale of such animals or the sale of products derived from such animals.

9. "Apartment" means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three or more such rooms or suites.

10. "Auto or car wash" means a building (or portion thereof) containing facilities for washing more than one automobile, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices, or providing space, water, equipment, or soap for the complete or partial handwashing of such automobiles, whether by operator or by a customer.

11. "Automobile service station" means any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any vehicular fuels, oils, or accessories and in connection with which is performed general vehicular servicing, as distinguished from automotive repairs.

12. "Basement" is a story having part but not more than 50 percent of its height below the average grade of the adjoining ground (as distinguished from a cellar). A basement is counted as a story for purposes of height measurement.
13. "Billboard" means a type of sign having more than 100 square feet of display surface, which is either erected on the ground or attached to or supported by a building or structure.
14. "Board of Adjustment" means the Zoning Board of Adjustment of the City as established in Section 165.44.
15. "Boarding, rooming, and lodging house" means a building, other than a hotel, where, for compensation and by arrangement, meals, lodging, or lodging and meals are provided for three or more persons on a weekly or monthly basis.
16. "Building" means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.
17. "Building height" means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.
18. "Building length" means greatest horizontal distance, measurable between enclosing walls of a building. Building length will usually be measured between the wall facing the building's front lot line and the wall facing the rear of the lot line.
19. "Building site" means the ground area of one lot; or the ground area of two or more lots which have been combined for the use of one building or permitted group of buildings, together with all open spaces required by this Code.
20. "Building width" means the greatest horizontal distance measurable between enclosing walls of a building, as measured at right angles from the building length. Building width will usually be measured between the walls facing side lot lines.
21. "Bulk stations" means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquified petroleum products, where the aggregate capacity of all storage tanks is more than 6,000 gallons.
22. "Carport" means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than three sides. For the purpose of this chapter, a carport attached to a principal building shall be considered a part of the principal building and subject to all yard requirements therein.
23. "Cellar" is a story having 50 percent or more of its height below the average grade of the adjoining ground. A cellar is not counted as a story for purposes of height measurement.
24. "Centerline, public thoroughfare" means a line running parallel with the thoroughfare right-of-way which is half the distance between the extreme edges of the official right-of-way width.
25. "Childcare center" means any place, home, or institution that receives four or more children under the age of 16 years, and not of common parentage, for care apart from their natural parents, legal guardian, or custodians, when received for regular periods of time for compensation.
26. "Clinic" means a building or buildings used by physicians, dentists, veterinarians, osteopaths, chiropractors, and allied professions for outpatient care of persons requiring such professional service.
27. "Commercial recreation" means an establishment or facility operated for profit that provides entertainment, amusement, or athletic activities to the general public or members.
28. "Commercial use" means the barter, exchange, sale, service, or trade of goods, materials, or services, either tangible or intangible for financial, material or monetary gain.
29. "Commission" means the Plan and Zoning Commission of the City as established in Chapter 23.
30. "Conditional Permit" means a permit issued in view of specified conditions, limitations or restrictions, and which is subject to review or cancellation by the issuing department.

31. "Conditional use" means a use type that is not automatically permitted within a zoning district but a use that may be allowed if certain conditions and requirements are met to ensure the use is compatible with its surroundings.
32. "Consignment and auction sales operation" means a business that, on an ongoing basis, stores and sells personal property to the public, indoors.
33. "Court" means an open, unoccupied space on the same lot and fully enclosed on at least three sides by walls of the buildings. An outer court is any court facing for its full required width on a street, or on any other required open space is not a court.
34. "Developmentally disabled" refers to a person who has a disability that has continued or can be expected to continue indefinitely and which is one of the following:
- A. Attributable to an intellectual or physical disability, cerebral palsy, epilepsy, or autism.
 - B. Attributable to any other condition found to be closely related to an intellectual or physical disability.
 - C. Attributable to dyslexia resulting from a disability.
 - D. Attributable to a mental or nervous disorder.
35. "District" means a section or sections of land area of the City, within which the regulations governing the use of buildings or premises or the height and area of buildings and premises are uniform.
36. "Dog kennel" means the keeping of four or more dogs, six months or older for any purpose.
37. "Drive-in restaurant" or "refreshment stand" means any place or premises principally used for the sale, dispensing, or serving of food, refreshment, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on or off the premises.
38. "Driveway" means an improved surface leading from a street or alley to a garage or designated parking pad. The improved surface must be constructed and maintained in a manner sufficient to prevent ruts or damage to soil caused by vehicular traffic. Permitted surfacing for a driveway includes concrete, asphalt, pavers, or solid bricks.
39. "Dwelling" means any building or structure (or portion thereof) designed or adapted to serve as a place of abode for one or more persons, or one or more households. The terms "dwellings" and "residence" have the same meaning.
- A. "Dwelling, detached" means a dwelling that is not attached to any other dwelling by any means. The detached dwelling does not have any roof, wall, or floor in common with any other dwelling units.
 - B. "Dwelling, single-family" means a building designed or used exclusively for occupancy by one family.
 - C. "Dwelling, two-family" or "duplex" means a building designed or used exclusively for occupancy by two families.
 - D. "Dwelling, multiple-family" means a building, or portion thereof containing three, or more dwelling units.
 - E. "Dwelling unit" means one or more rooms in a dwelling which are arranged, designed, used, or intended for use as living quarters for one family. This includes a permanent kitchen and bathroom facilities.
 - F. "Dwelling, condominium" means a multiple dwelling unit as defined herein whereby the fee title to each dwelling unit is held independently of the others.
 - G. "Dwelling, row house" or "townhouse" means any one of three or more attached dwellings in a continuous row, each dwelling designed and erected as a unit on a separate lot, and separated from one another by an approved wall or walls.
40. "Easement" means a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

41. "Economic base" means the production, distribution, and consumption of goods and services within a planning area.
42. "Economy efficient dwelling" means a dwelling of at least 250 square feet and less than 500 square feet that is placed on a permanent foundation.
43. "Egress" means an exit.
44. "Eminent domain" means the authority of a government to take, or to authorize the taking of, private property for public use for just compensation.
45. "Environmental Impact Statement" (EIS) means a statement on the effect of development proposals and other major activities which significantly affect the environment.
46. "Essential services" means the erection, alteration, or maintenance, by public utilities, municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, which may be reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies for the public health, safety, or general welfare, but not including buildings.
47. "Family" means a group of immediate-kindred persons, related by blood, marriage, or adoption. A family is considered a household for purposes of this chapter.
48. "Family home" means a community-based residential home that is licensed as a residential care facility under Chapter 135C of the *Code of Iowa* or as a child foster care facility under Chapter 237 of the *Code of Iowa* to provide room and board, personal care, habilitation services, and suspension in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. A family home does not mean an individual foster care family, as licensed under Chapter 237 of the *Code of Iowa*.
49. "Farm" or "farmland" means a parcel of land used for agricultural purposes and the growing and production of all agricultural products thereon, and their storage on the area, or for the raising thereon of livestock.
50. "Farm animal" means the production, keeping, or maintenance for sale, lease, or personal use of animals useful to humans, including (but not limited to) dairy animals, poultry, livestock (including beef cattle), sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof (including the breeding and grazing of any or all of such animals), bees, fish, and fur animals, but not including rabbits kept as pets.
51. "Feasibility study" means an analysis of a specific project or program to determine if it can be successfully carried out.
52. "Feedlot" means any parcel of land or premises on which the principal use is the concentrated feeding within a confined area of cattle, hogs, sheep, or poultry. The term does not include areas that are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.
53. "Fence, residential" means a barrier and/or structure erected in a residential district and intended to provide security, mark a boundary, or as a means of landscaping with the centerline of said barrier to be located inside the designated property line. Such fence shall be constructed of materials commonly used for landscape fencing, such as masonry block, lumber, chain link, but does not include corrugated sheet metal, barbed wire, or salvage material.
54. "Fence, nonresidential" means a barrier or structure erected in a district other than an residential district intended to provide security, mark a boundary or a means of landscaping, with the centerline of said barrier to be located inside the designated property line.
55. "Flag lot" means a lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way.
56. "Flood" means the temporary overflowing of water onto land that is usually devoid of surface water.
57. "Floodplain" means the channel and the relatively flat area adjoining the channel of a natural stream or river that has been or may be covered by floodwater. See Figure 1.

58. "Floodway" means the channel of a river or stream, and those portions of the floodplains adjoining the channel, which carry and discharge flood waters or flood flows so the water does not elevate beyond a designated height.

59. "Floodway fringe" means those portions of the flood plain, other than the floodway, which can be filled, levied, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

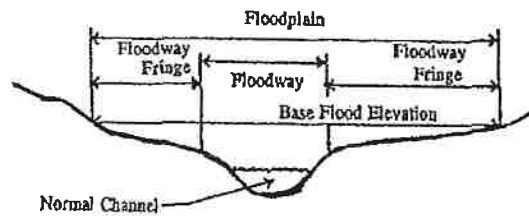


Figure 1 – Floodplain Cross Section

60. "Frontage" means that side of a lot abutting on a street, the front lot line. The building façade of the primary structure should be facing the front lot line. Also see "lot line, front."

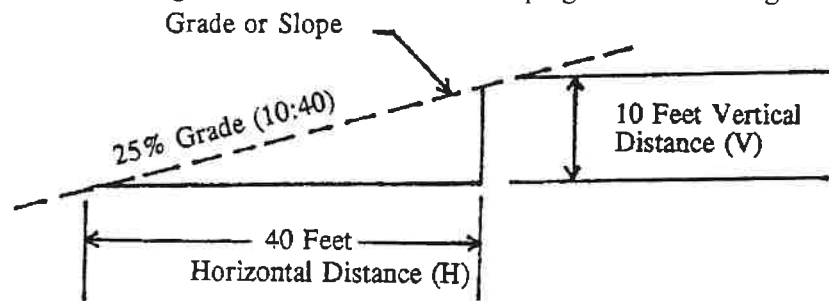
61. "Garage, mechanical" means a structure in which major mechanical repair or rebuilding of motor-powered vehicles is performed for commercial gain and in which the storage, care, and minor servicing is an accessory use.

62. "Garage, private" means an accessory building or an accessory portion of the main building designed or used for the shelter or storage of vehicles owned or operated by the occupants of the main building. A private garage, of less three car capacity may be rented for the private vehicles of persons not residents on the premises.

63. "Garage, public" means a building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

64. "Garage, storage" means a building or portion thereof designed or used exclusively for term storage by pre-arrangement of motor-driven vehicles, as distinguished from daily storage furnished transients, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.

65. "Grade" means the degree of rise or descent of a sloping surface. See Figure.



$$\text{SLOPE CALCULATION} = V / H$$

Figure 2 - Grade

66. "Grade, finished" means the final evaluation of the ground surface after development. See Figure 3.

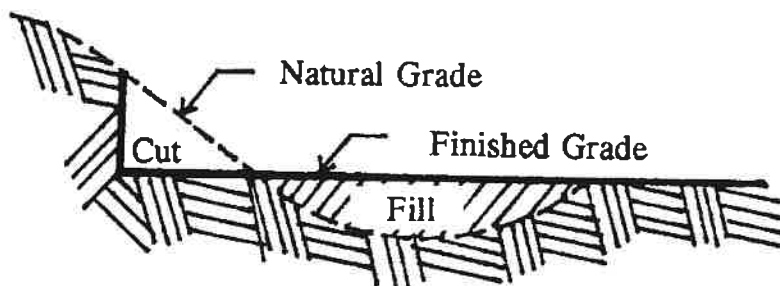


Figure 3 – Cut and Fill Cross Section

67. "Grade, natural" means the evaluation of the ground surface in its natural state before manmade alterations. See Figure 2.
68. "Group care facility" means a facility that provides resident services to nine or more individuals of whom one or more are unrelated. These individuals are handicapped, aged, or disabled, are undergoing rehabilitation, and are provided services to meet their needs. This category includes any licensed or supervised Federal, State or County health or welfare agencies, such as group homes (all ages), halfway houses, resident schools, resident facilities, and foster or boarding homes.
69. "Half-story" means a story with at least two of its opposite sides situated in a sloping roof, the floor area of which does not exceed two thirds of the floor area of the floor immediately below it.
70. "Hard surfaced" means any surface used for movement of vehicular or pedestrian traffic that is designed and paved with either asphalt, concrete, permeable pavement, or pavers to City standards, but shall not include surfacing materials such as crushed rock, gravel, or cinder.
71. "Heavy equipment" means large, industrial machinery and vehicles used in construction, excavation, and related activities.
72. "Height, maximum" means the total height of any structure including any signage or other attachments to a structure.
73. "Historic preservation" means the protection, rehabilitation, and restoration of districts, sites, buildings, structures, and artifacts significant in American history, architecture, archaeology, or culture.
74. "Home occupation" means any gainful occupation or profession conducted entirely within an enclosed dwelling unit and which is clearly incidental and secondary to residential occupancy and does not change the character thereof. (See Section 165.27)
75. "Hospital" means an institution for the diagnosis, care, or treatment of two or more unrelated persons suffering from illness, injury, or deformity, or for the rendering of obstetrical or other professional medical care other than in an emergency. For the purposes of this definition, nursing care shall not be construed to be professional medical care.
76. "Household" means one or more persons living together in a single dwelling unit, with common access to, and common use of, all areas within the dwelling unit.
77. "Ingress" means access or entry.
78. "Institution" means an organization whose purpose is to promote public welfare or learning, including, but not limited to, a church, library, public or private school, hospital, or municipal government or other non-profit or public organization. For the purposes of this chapter, "institution" includes the building, structures, or land owned or used for public purposes, by such organizations.
79. "Junkyard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, stored, or abandoned, baled or packed, disassembled, or handled, including the dismantling or wrecking of automobiles or other vehicles or machinery, house wrecking yards, house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.
80. "Land-leased community" means any site, lot, field, or tract of land under common ownership upon which 10 or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the land-leased community. The term land-leased community shall not be construed to include homes, buildings, or other structures temporarily maintained by an individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.
- (Code of Iowa, Sec. 335.30A(2))*
81. "Laundromat" means an establishment providing washing, drying or dry-cleaning machines on the premises for rental use to the general public for family laundering or dry-cleaning purposes.
82. "Livestock" means farm animals kept for use or profit.

83. "Loading space" means any off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking, less than 24 hours of a commercial vehicle while loading or unloading merchandise or materials.
84. "Lot" means for zoning purposes, as covered by this chapter, a lot is a parcel of real property of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a dedicated street, and may consist of any one of the following:
- A. A single lot of record, a portion of a lot of record, a combination of complete lots of record; of complete lots of record and portions of lots of record; or portions of lots of record.
 - B. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this chapter.
 - C. A portion of a lot of record.
 - D. Single lot of record.
85. "Lot, double frontage or through" means a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.
86. "Lot lines" means a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space. (See Figure 4.)
87. "Lot line, front" means the property line abutting a street.
88. "Lot line, rear" means the boundary of a lot which is most distant from and is or is most nearly parallel to, the front lot line.
89. "Lot line, side" means any boundary of lot which is not a front lot line or rear lot line.
90. "Lot measurements" means the following:
- A. "Area" means the gross area, exclusive of streets or other public rights-of-way, within the boundary lines of a lot.
 - B. "Depth" means the horizontal distance between the front and rear lines as measured perpendicular to the mid-point of the mean front lot line. In the case of an interior triangular or gore-shaped lot, the depth shall be the horizontal distance between the midpoints of the front and rear lot lines.
 - C. "Width" means the horizontal distance between the side lot lines as measured perpendicular to the line comprising the lot depth at its point of intersection with the required minimum front setback. Where the lot width is decreasing from front to rear, the horizontal distance between the side lot lines described above shall be measured at its point of intersection with the required minimum rear setback.
91. "Lot of record" shall mean a lot which is part of a subdivision, the deed of which is recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
92. "Lot types" mean the following for the purposes of this chapter:
- A. "Corner lot" means a lot located at the intersection of two or more streets, and having the street right-of-way abut the front and one or more side lines of the lot.
 - B. "Double frontage lot" means a lot other than a corner lot with frontage on more than one street or public thoroughfare which do not intersect one another.
 - C. "Frontage" means the length of the front line measured at the street right-of way. (See Figure 4.) With a corner lot, the primary lot frontage of a corner lot or double frontage lot is the frontage abutting the street which provides the lot's County E-911 address.
 - D. "Interior lot" means a lot, other than a corner lot, having frontage on more than one street or public thoroughfare which do not intersect one another.

E. "Key lot" means an interior lot so located as to have a sideline coincide with the rear lot line of an adjacent lot on either or both sides.

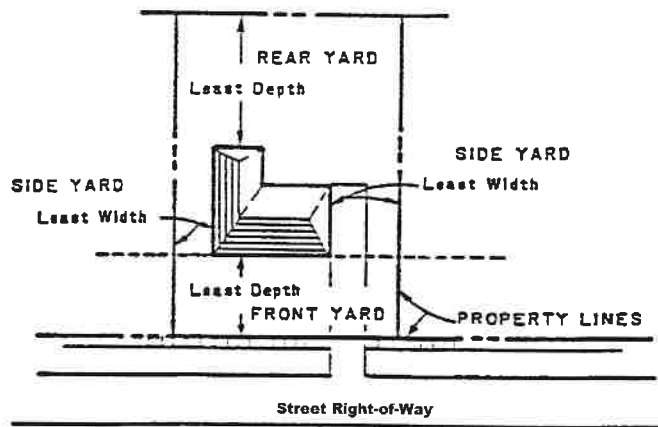


Figure 4 – Yard Definitions

93. "Massage establishment" means any place of business wherein massage (as the practice of a profession, scientifically applied to the patient by a massage therapist's hands) is administered or used.

94. "Manufactured home" means a factory-built structure built under authority of 42 U.S.C. §5403 that is required by federal law to display a seal from the United States Department of Housing and Urban Development and was constructed on or after June 15, 1976.

(Code of Iowa, Sec. 435.1(3))

95. "Manufacturing" means establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

96. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in the State. A mobile home is not built to a mandatory building code, contains no State or federal seals, and was built before June 15, 1976.

(Code of Iowa, Sec. 435.1(5))

95. "Mobile home park" means a site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operate as a for-profit enterprise with water, sewer, or septic, and electrical services available. The term mobile home park shall not be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

(Code of Iowa, Sec. 435.1(6))

96. "Modular home" means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the State Building Code for modular factory-built structures, as adopted pursuant to Section 103A.7 of the Code of Iowa, and must display the seal issued by the State Building Code Commissioner.

(Code of Iowa, Sec. 435.1(7))

97. "Motor court or motel" means a building or groups of buildings used primarily for the temporary residence of motorists or travelers, with parking facilities conveniently located to each unit, and may include accessory facilities such as swimming pool, restaurant, meeting rooms, etc.

97. "Nonconforming use" means any building or land lawfully occupied by a use at the time of passage of this chapter or amendment thereto which does not conform after the passage of this chapter or amendment thereto, with the use regulation of the district in which it is situated.

98. "Nursing home" means a home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept, or provided with food, shelter, and care, for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment, or care of the sick or injured.
99. "Overhang" means the part of a roof or wall which extends beyond the façade of a lower wall.
100. "Parking space" means a permanently surfaced off-street space accessible and available for the parking of one motor vehicle and having an area of not less than 200 square feet, together with a driveway connecting the parking space with a street, road, or alley, and permitting ingress and egress of an automobile.
101. "Person" means any individual, firm, co-partnership, joint venture, association social club, fraternal organization, corporation, estate, trust, receiver, syndicate, governmental bodies and agencies, district or other political subdivision or any other group or combination acting as a unit.
102. "Place" means an open unoccupied space or a public or private thoroughfare, other than a street or alley, permanently reserved as the principal means of access to abutting property.
103. "Portable storage container" means a transportable storage structure or container that is designed and used primarily for the storage of goods, items, and materials placed outside the primary structure on a property. Portable storage containers include, but are not limited to, containers uniquely designed for their ease of loading to and from a transport vehicle. For the purposes of these regulations, the trailer portion of a tractor trailer, boxcars, shipping containers, and similar structures will specifically be considered as a portable cargo container when expressly used for the purposes of on-site, outdoor storage.
104. "Premises" means any lot, plot, parcel, or tract of land, building or buildings, structure or structures, used publicly or privately as a place of business, dwelling or meeting place.
105. "Principal building" means the building situated or to be placed nearest the front property line and the use of which conforms to the primary use permitted by zoning classification in which it is located.
106. "Public right-of-way" means all streets, roadways, sidewalks, alleys, and other areas reserved for present or future use by the public, as a matter of right for the purpose of vehicular pedestrian travel or utility installation.
107. "Recreational livestock" means the keeping of animals such as horses, goats, chickens, or similar animals for personal enjoyment, hobby, or educational purposes, rather than for commercial sale, agricultural production, or business operations.
108. "Recreational vehicle" means a vehicular type portable structure without permanent foundation, which can be towed, hauled, or driven and primarily designed as temporary living accommodation for recreational, camping, and travel use, and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.
109. "Satellite dish antenna" means a satellite receiver, a satellite ground dish antenna, or a satellite rooftop antenna, which may or may not be able to rotate to enable the dish to aim at different satellites for the purpose of television reception.
110. "Shouse" means a single-family residential dwelling that is integrated with or connected to a shop or storage space that provides residential style doors and windows along the primary frontage.
- A. A shouse should meet single-family and other permitted uses bulk requirements in Section 165.25.
 - B. The design and construction of a shouse shall be found to be reasonably consistent with the character of other dwellings and construction in the area.
111. "Sidewalk" means a paved or surfaced area, paralleling and usually separated from the street, used as a pedestrian walkway.
112. "Sign" means any device designed to inform, or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:
- A. Signs that do not exceed one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.

- B. Flags and insignias of any government except when displayed in connection with commercial promotion.
- C. Legal notices; identification, information, or directions signs erected or required by governmental bodies,
- D. Integral, decorative, or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- E. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

113. "Sign, on-site" means a sign relating its subject matter to the premises on which it is located or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by outdoor advertising industry in the conduct of the outdoor advertising business.

114. "Sign, off-site" means a sign other than an on-site sign.

115. "Site plan" means a plan (to scale) showing uses and structures proposed for a parcel of land as required by the regulations involved.

116. "Story" means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

117. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than four feet above the top floor level.

118. "Street," (as a general term) means a public right-of-way that provides a channel for vehicular and pedestrian movement, and may provide for vehicular and pedestrian access to properties adjacent to it, and which may also provide space for the location of utilities, both above and below ground.

119. "Street line" means a dividing line between a lot, tract, or parcel of land and a contiguous street.

120. "Structure" means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, billboards, and poster panels.

121. "Subdivision" means a division of lot, tract, or parcel of land into two or more lots, plats, sites, or other subdivisions of land for the purpose, whether immediate or future, of sale, rent, lease, building development, public right-of-way dedication, or other use.

122. "Swimming pool" means a tank of water, either above or below grade level, in which the depth of the container exceeds 24 inches. Swimming pools, hot tubs, whirlpool baths and tubs, and Jacuzzi-type tubs or baths, are considered swimming pools if they are located outdoors.

123. "Temporary use" means an impermanent use of an occasional nature. Temporary uses may involve the use of permanent structures and portable signs. Uses of a seasonal nature that recur regularly on the same site and reoccupy the same permanent structure are not considered temporary uses.

124. "Travel trailers" means any vehicular, portable structure built on a chassis, designed as a temporary dwelling not exceeding eight feet in width and not exceeding 40 feet in length exclusive of separate towing unit. The term travel trailer shall include pick-up coach, motor home, camp trailer, or other similar mobile and temporary dwelling commonly used for travel, recreation, or vacation quarters.

125. "Travel trailer park" means any lot, tract, or parcel of land licensed and used or offered for use in whole or in part, with or without charge, for the parking of occupied travel trailers, pickup campers, converted buses, motor homes, tent trailers, tents or similar devices used for temporary portable housing, not to exceed 30 days duration and used solely for living or sleeping purposes.

126. "Variance" means a relaxation of the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area, and size of structure or size of yards and open spaces;

establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning districts or uses in an adjoining zoning district.

127. "Warehouse storage facility" means a building or portion of a building where goods are stored for hire.

128. "Waterfront" means any site where any or all of its lot lines abut on or are contiguous to any body of water, including creek, canal, lake, river, or any other body of water, natural or artificial, not including a swimming pool, whether said lot line is front, rear, or side.

129. "Yard" means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from 30 inches above the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building shall be used. (See Figure 4)

A. "Front yard" means a yard extending the full width of the lot and situated between the front lot line and the building line. The depth of the front yard shall be measured between the building line and the front lot line. Covered porches and garages, whether enclosed or unenclosed, shall be considered as part of the principal structure and shall not project into a required front yard.

B. "Rear yard" means a yard extending the full width of the lot and situated between the rear line of the principal building and the rear lot line. Accessory building or non-building uses may be located within the rear yard only.

C. "Side yard" means a yard situated between the building and the side lot line and extending from the front yard to the rear yard.

130. "Zoning Administrator" means the Zoning Administrator for the City of Holstein, who is appointed by the City Council.

165.05 ESTABLISHMENT OF DISTRICTS. The City is organized into the following zoning districts:

1. Flood Plain District (FP)
2. Agricultural District (A-1)
3. Residential District (R-1)
4. Mobile Home Park District (R-3)
5. Commercial District (C)
6. Light Industrial District (M-1)
7. Heavy Industrial District (M-2)

165.06 LOCATION AND BOUNDARIES OF ZONING DISTRICTS. The location and boundaries of the zoning districts established by this chapter are set forth on the map entitled "Zoning Map," which is located in the office of the Clerk and hereby made a part of this chapter. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this chapter as though fully set forth and described herein.

165.07 OFFICIAL ZONING MAP.

EDITOR'S NOTE			
Ordinance	No.	entitled	
_____, adopted _____, and amendments thereto are contained in the Appendix of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Official Zoning Map of the City and have not been codified herein, but are specifically saved from repeal and are in full force and effect.			
ORDINANCE	ADOPTED	ORDINANCE	ADOPTED

165.08 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the centerlines of such streets, highways, or alleys.
2. Boundaries shown as following or approximately following platted lot lines or other properly lines shall be construed to follow said boundary lines.
3. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
4. Boundaries shown as following or approximately following the centerlines of streams, rivers, or other continuously flowing water courses shall be construed as following the channel centerline of such water courses taken at a mean low water mark.
5. Boundaries shown as following or closely following the City limits shall be construed as following such City limit lines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by the City's subdivision regulations in Chapter 170, the Board of Adjustment shall interpret the district boundaries.
8. Whenever any street, alley, or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classifications of the vacated land.

165.09 ANNEXED TERRITORY. Before a petition for annexation of territory to the City is presented to the Council for action, the petition shall first be submitted to the Planning and Zoning Commission. The Planning and Zoning Commission shall review the petition and make a recommendation to the Council regarding the appropriate zoning classification for the property set forth in the petition. In the event the Council approves the annexation of the territory, the property shall be annexed pursuant to the classification recommended by the Planning and Zoning Commission.

165.10 ZONING AFFECTS EVERY STRUCTURE. Except as hereinafter provided, no building, structure, or land shall be erected, constructed, reconstructed, occupied, moved, altered, or repaired, except in conformity with the regulations herein specified for the class of district in which it is located.

165.11 MINIMUM REQUIREMENTS.

1. Minimum Street Frontage. No lot shall be created after the adoption of the Zoning Code unless it abuts at least 30 feet on a public street.
2. Use of Lot of Record. In any residential district on a lot of record at the time of enactment of the Zoning Code, a single-family dwelling may be established regardless of the size of the lot, provided all other requirements of this chapter are met.
3. Contiguous Lots Held in Common Ownership. Where two or more vacant and contiguous recorded lots are held in common ownership, they shall be combined into one zoning lot and shall thereafter be maintained in common ownership and shall be so joined and developed for the purpose of forming an effective and conforming zoning lot. For the purpose of this section, the razing of a building on a substandard lot shall constitute the formation of a vacant lot.
4. Lots Unserved by Sewer or Water. In any residential district where neither public water supply or public sanitary sewer are reasonably available, one single-family dwelling may be constructed provided the otherwise specified lot area and width requirements shall be a minimum of one acre.

165.12 ACCESSORY BUILDINGS, STRUCTURES, AND USES.

1. Time of Construction. No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory and no accessory building shall be used unless the principal building on the lot is also being used.
2. Permit Required. A permit shall be required for all detached accessory buildings or any other buildings or any building which changes or adds to an existing structure, including fences. A fee shall also be paid to the City in accordance with the fee schedule adopted and published by the Council by separate resolution.
3. Private Pools. All in-ground and above ground swimming pools shall comply with the *International Residential Code*, 2015 Edition, as adopted in this Code. A permit shall be required and approved by the Zoning Administrator.
4. Storage and Parking. No more than four total licensed and operable vehicles, recreational or power sports vehicles and equipment, RVs and trailers which are used for hauling or storing recreational and power sport vehicles, or heavy equipment may be parked or stored on property outside a building as follows:
 - A. In the front yard, provided they are kept on an established hard-surfaced driveway, entirely on the vehicle owner's property. Recreational vehicles and heavy equipment may not be parked or stored on public property or public right-of-way.
 - B. In the side yard abutting an attached or detached garage provided recreational vehicles and equipment are not closer than five feet from the side lot line unless properly screened.
 - C. On a corner lot not closer than 20 feet from the property line abutting the side street and not within drainage and utility easements.
 - D. Each vehicle stored on an open trailer shall be counted as one item. In addition, each open or enclosed trailer shall count as one vehicle or item.
5. Size of Accessory Building. No detached accessory building or structure shall exceed 15 feet in height, and the side walls shall not exceed 10 feet in height, with a designated entry point not exceeding eight feet in height, with a footprint of no more than 864 square feet. Any accessory building shall not occupy more than 30 percent of the rear yard.
6. Location on Lot. No accessory building or structure shall be erected in any front yard. Accessory buildings or structures shall be no closer than three feet from any main buildings. Accessory buildings shall be distinct at least three feet from alley lines or easement lines, and three feet from lot lines of adjoining lots which are in "residential district, and on a corner lot they shall conform to the setback regulations on the side street; however, in no case shall any eave or overhang extend closer than two feet to a rear or side yard line, or an easement line.
7. Portable Storage Containers. In no event shall a portable storage container be used as permanent storage or an accessory building within any residential district. Portable storage containers, including those rented from moving and storage companies, shall be allowed as a temporary accessory building in any residential district for up to 120 days. Portable cargo containers, such as those used in freight and shipping, shall not be permitted as a temporary accessory building in any residential district.
8. Storage of Trash Receptacles. All trash receptacles shall be stored in the rear yard or in a permitted accessory structure.
9. Fabric Tension Buildings. In no event shall a fabric tension building, or hoop shed, be constructed as an accessory building within any residential district.
10. Accessory Dwelling Units. Internal, attached, and detached accessory dwelling units shall be an allowed accessory to a principal structure, subject to the following:
 - A. The principal residential structure shall be a permitted or conditional single-family dwelling.
 - B. No more than one accessory dwelling unit shall be allowed per lot.
 - C. The accessory dwelling unit shall not be sold separately from the principal dwelling unit and shall not create a separate tax parcel.
 - D. Unit Size. The floor area of the accessory dwelling unit shall not exceed 1,000 square feet or equal to 50 percent of the size of the single-family residence, whichever is greater.
 - E. Access and Entrances.

- (1) A walkway shall be provided from an abutting public street to the primary entrance of an accessory dwelling unit.
- (2) Upper floor units within the principal structure shall have interior stairway access to the primary entrance of the unit. Secondary stairways required for safety may be located on the exterior of the side or rear of the structure but not allowed on the front.
- (3) Exterior stairways shall be built of durable materials that match the finish of the principal structure or accessory building to which they are attached. Raw or unfinished lumber shall not be permitted.

165.13 REQUIRED YARD CANNOT BE REDUCED OR USED BY ANOTHER BUILDING. No lot, yard, court, parking area, or other open space shall be so reduced in area or dimension as to make any such area or dimension less than the minimum required by this chapter, and if already less than the minimum required, it shall not be further reduced. No required open space provided around any building or structure shall be included as part of any open space required for another building or structure.

165.14 CONVERSION OF DWELLING. The conversion of any building or structure into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or households, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this chapter, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, dimensions of yards and other open spaces, and off-street parking. Each conversion shall be subject also to such further requirements as may be specified herein within the section applying to such district.

165.15 YARD AND PARKING SPACE RESTRICTION. No part of a yard or other open space, or off-street parking or loading space, required about or in connection with any building for the purpose of complying with this Ordinance shall be included as part of yard, open space, off-street parking or loading space similarly required for any other building.

165.16 TRAFFIC VISIBILITY ACROSS CORNER LOTS. In an agricultural, residential, or manufacturing district on any corner lot, no fence, wall, hedge, or other plantings or structures that will obstruct vision shall be over two and one-half feet in height above the centerline grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed at a point that is 25 feet distant from the point of intersection of the public right-of-way lines. (See Figure 5)

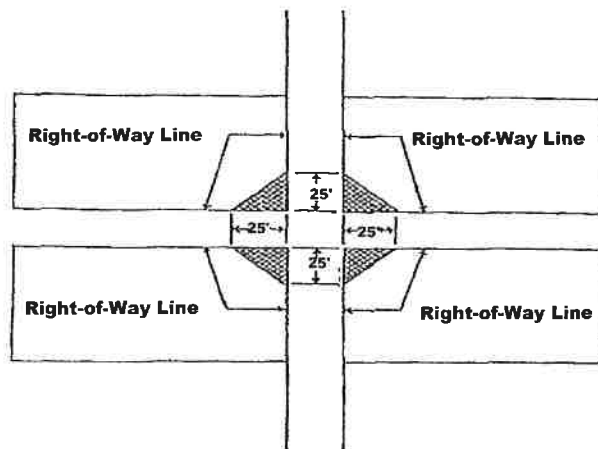


Figure 5 – Traffic Visibility Across Corner Lots

165.17 ESSENTIAL SERVICES. Essential services shall be permitted as authorized and regulated by law and other ordinances of the community, it being the intention hereof to exempt such essential services from the application of this chapter.

165.18 BUILDING PERMITS.

1. **Expiration of Permits.** A building permit shall expire automatically if:

A Within one year after issuance, substantial action not been taken to accomplish the purpose for which the permit was granted; or,

B After substantial action has been taken and work is subsequently discontinued for a period of one year, the permit shall immediately expire.

2. **Validity of Existing Permits.** Nothing herein contained shall require any change in the overall layout, plans, construction, size, or designated uses of any development, building, structure, or part thereof, for which the official approvals and required building permits have been granted before the enactment of the Zoning Code, the construction of which, conforming with such plans, shall have been started prior to the effective date of the Zoning Code and the completion thereof carried on in a normal manner within the subsequent six-month period, and not discontinued until completion, except for reasons beyond the builder's control. All Building Permits require the signature of the Zoning Administrator.

3. **Driveways.** Driveways must be hard surfaced within one year of the date of the Building Permit.

4. **Building Permits for Nuisance Properties.** No Building Permit shall be issued for a property on the City's nuisance abatement list, unless the work described in the Building Permit will be used to abate nuisances.

165.19 HEIGHT EXCEPTIONS. The height limitations contained in Section 165.25 do not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing, or other structures placed above roof level and not intended for human occupancy.

165.20 PUBLIC RIGHT-OF-WAY USE. No portion of the public street or alley right-of-way shall be used or occupied by all abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.

165.21 FENCES.

1. **In Residential Districts.** Residential fences or landscape features must be completely erected within the boundaries of the property owner installing the barrier; provided, no such fence in any front yard exceeds four feet in height and no fence in a side or rear yard exceeds six feet in height. Height shall be measured from the average grade along the fence line.

2. **In Other Districts.** Non-residential fences located in a district other than an residential district must be located within the boundaries of the property owner installing the barrier and cannot exceed seven feet in height.

3. **Placement of Fences on Property Lines.**

A. Mutual Agreement. Two adjoining property owners may agree to install a fence directly on the shared property line, providing that:

(1) Both property owners sign a written agreement specifying the fence placement, maintenance, responsibilities, and any cost-sharing agreements.

(2) The agreement is notarized and recorded with the County Recorder's office for all involved properties to ensure clarity and enforceability.

B. Fence Permit Requirement.

(1) A Fence Permit must be obtained from the Zoning Administrator prior to construction.

(2) The Fence Permit application must include a copy of the signed and recorded agreement between the property owners.

C. Material and Maintenance.

(1) Fences placed on the property line must comply with all height, material, and design standards outlined in this Code.

(2) Both property owners shall be jointly responsible for maintaining the fence in good repair unless otherwise stated in the recorded agreement.

A. D. Disputes and Removal.

- (1) If ownership of either property changes, the new owner assumes responsibility for the shared fence.
 - (2) Any disputes regarding maintenance or removal of the fence shall be resolved between property owners or, if necessary, through mediation facilitated by the City.
4. Allowable Materials. All materials used to construct fences should be new or like-new and in sound condition without visible deterioration.
 - A. Wood (pressure-treated, cedar, redwood, or other approved lumber).
 - B. Vinyl or PVC.
 - C. Masonry (brick, stone, or concrete block).
 - D. Composite materials specifically designed for fencing.
 - E. Metal (wrought iron, aluminum, or galvanized steel).
 - (1) Must be galvanized steel, aluminum-coated steel, or vinyl-coated wire.
 - (2) Standard wire gauge between nine and 11.5 gauge (heavier gauge for added durability).
 - (3) Openings in the mesh should not exceed two inches per side.
 - (4) Top rail and tension wire are required to stabilize the fence and maintain tension. Use galvanized or coated steel rails and tension wires.
 - F. Posts.
 - (1) Made of galvanized or powder-coated steel, aluminum, or treated wood.
 - (2) Diameter width of posts must meet structural standards based on fence height.
 - (3) Makeshift posts are prohibited.
5. Prohibited Materials.
 - A. Pallets.
 - B. Scrap wood or untreated lumber.
 - C. Corrugated metal panels not designed for fencing.
 - D. Tires, tarps, or other unconventional materials.
 - E. Rusted, corroded, or structurally unsound materials.
 - F. Recycled materials not approved for structural integrity.
 - G. Salvaged materials.
6. Electric Fences. No electric fence, except for underground animal control fencing, also known as invisible fencing, shall be constructed or maintained within the City.
7. Barbed Wire Fences. The use of barbed wire in the construction of any fence is prohibited except:
 - A. Perimeter security fencing of buildings constructed in an industrial district. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
 - B. Farm fencing constructed for agricultural purposes on parcels of land 10 acres or more in size, located in the Agricultural District (A-1).
8. Regulations for All Fences.
 - A. The finished surfaces of any fence shall face toward adjacent properties and street frontage.
 - B. All fences must have at least a three-foot setback from all property lines, except in the case of the mutual agreement to place the fence on a property line, as outlined in this chapter.
 - C. Structural Requirements.

- (1) Posts must be securely anchored in concrete or a similarly durable material. Posts must be set at least 24 inches below ground to ensure durability and wind resistance.
 - (2) Panels or slats must be evenly spaced, securely attached, and aligned.
 - (3) No leaning or visibly unstable fences allowed.
- D. All fences must be constructed to withstand local weather conditions.
- E. Fences should maintain consistent design, color, and material use throughout. It is discouraged to use improvised or makeshift styles that detract from neighborhood aesthetics.
- F. All fences should be maintained in good repair, free of rust, peeling paint, or missing components, and meet up-keep standards established in corresponding nuisance abatement ordinances and regulations approved and enacted by the City.
- G. No fence shall be constructed within the zoning jurisdiction of the City unless a Fence Permit is approved by the Zoning Administrator and is constructed in accordance with the standards in this Code.

165.22 PROPOSED USE NOT COVERED. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Planning and Zoning Commission for a recommendation as to the proper district in which such use should be permitted and the chapter amended, as provided in this chapter, before a Building or Fence Permit is issued for such proposed use.

165.23 ACCESS REQUIRED. Every building hereafter erected or structurally altered shall be on a lot having frontage on a public street.

165.24 APPLICATION OF REGULATIONS. The regulations set by this chapter within each district shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

1. Permitted Uses. Use is permitted in all zoning districts for the purpose of the distribution of essential services. However, design and placement of said equipment and devices may be reviewed by the Board of Adjustment and approved by the Council. All other uses are permitted only as listed under each specific zoning district.
2. Special Exception. A request for a Special Exception Permit for a special use or modification of a conditional use may be initiated by a property owner or their authorized agent by filing an application with the Zoning Administrator. The application shall be accompanied by a site plan and other corresponding plans and data showing the dimensions, arrangement, descriptive data, and other materials constituting a record essential to understanding the proposed use and modification in relation to the standards outlined herein. The application shall also be accompanied by a fee outlined in the separately approved fee schedule.
3. Abandonment. If any principal or accessory structure is abandoned for a period of 12 consecutive months or more, such structure shall not be resettled or restored unless it shall thereafter conform to this Codes for the zoning district for which it is located.
4. Temporary Use Permits.
 - A. The following uses may be permitted by a Temporary Use Permit, valid for 10 days or less to the applicant, subject to the review and approval of the application by the Board of Adjustment:
 - (1) Carnival, circus.
 - (2) Festivals, auctions.
 - B. In determining whether a Temporary Use Permit shall be granted, the Board of Adjustment shall give consideration to:
 - (1) Health, safety, morals, and comfort of area residents.
 - (2) Adverse impact on land uses.
 - (3) Possibility of traffic congestion.
 - (4) Harm to public roads.
 - (5) Erosion of adjacent property.

- C. Conditions and restrictions, as determined necessary to protect the public health, safety, morals, and comfort, may be attached to the Temporary Use Permit. The above events listed do not constitute the complete list, as other similar events of a temporary nature may also be permitted.

Table 1 – Bulk Requirements

[illegible]

R-1 and R-3	15 feet or one story, whichever is lower				3 feet		10 feet
<p>*Each yard abutting on a public street shall be a front yard. **When fronting on the right-of-way of a major thoroughfare on the Official Thoroughfare Plan ***When adjacent to residential district or street right-of-way. ****When the rear lot line adjoins a railroad right-of-way, no minimum is required</p>							

165.26 DWELLING: MINIMUM SIZE. No building or structure in the City shall be designed, adapted, constructed, or used for a dwelling unless such building or structure is fully 24 feet in length at the longest extent of the enclosure and 24 feet in width at the widest extent of the enclosure, with at least a footprint of 576 square feet. No tent, cabin, or trailer may be occupied as a dwelling. No individual unit may be occupied by a household numbering more than four members, unless household is a family.

1. *When approved by the Board of Adjustment, an economy efficient dwelling shall be allowed on substandard lots not suitable for development of the minimum dwelling size outlined in this section. An economy efficient dwelling shall be placed on a permanent foundation and no less than 250 square feet and no more than 500 square feet. The length at the longest extent of the enclosure shall be no less than 20 feet and no more than 30 feet, with a minimum sidewall elevation of no less than 12 feet and no more than 20 feet. Economy efficient dwellings must be built in compliance with all building and sanitary codes to qualify for a Certificate of Occupancy.*

165.27 HOME OCCUPATIONS. To qualify as a permitted use in any district under this chapter, any and all home occupations must satisfy all of the following criteria:

1. Use of the property for home occupation must be clearly incidental and secondary to the use of the dwelling unit as a residence (as shown by comparative amounts of square footage used for home occupation and for living space).
2. The occupation must be conducted entirely within an existing dwelling unit or entirely within an accessory building.
3. The occupation must be conducted by members of the family or household residing within the dwelling unit, and employing no more than two nonresident employees.
4. The occupation must show no evidence of its existence on the premises, perceivable at or beyond the lot lines, by virtue of outside storage, displays, noise, odors, smoke, vibration, heat, dust, electrical disturbance or excessive generation of customer traffic.
5. Water, sewer, and waste disposal systems shall be subject to approval of the City.
6. Customer parking shall be provided and be inconspicuous as possible on the premises.
7. Only one identification sign may be displayed upon the lot, subject to the following requirements:
 - A. The sign may not display more than the name of the occupant and the nature of the occupations.
 - B. The sign shall not contain more than six square feet and shall be no more than two feet high or not more than three feet in width.
 - C. The sign shall be non-illuminated.

165.28 WAREHOUSE RESTRICTIONS. All warehouses within the City shall store only non-toxic, non-combustible materials. No warehouse may store agricultural products, such as grain, hay, livestock, or manure. No warehouse may offer any product or merchandise for direct sale to the public, nor shall any processing of stored materials take place in any warehouse. No warehouse may, by its activities, cause any noxious or offensive odors or noise.

165.29 FLOODPLAIN DISTRICT (FP). The Floodplain District (FP) is intended to protect floodways and floodplains from encroachment; to prevent future losses to property by prohibiting construction in flood ways, and to control construction in floodplains.

1. **Principal Uses Permitted.** Property and buildings in an FP Floodplain District (FP) shall be used only for purposes allowed in accordance with Section 165.36, Use Matrix:

2. Conditional Uses. The uses identified as conditional uses in the Agricultural District (A-1) are as shown in Section 165.36, Use Matrix.
3. Sign Regulations. Sign regulations shall be those regulations as specified in Section 165.37 Permit Required. The applicant must secure a Floodplain Permit from the State Department of Natural Resources and not be in a floodplain district prior to a permit being considered by the Zoning Administrator. No construction is allowed in the Floodplain District.
4. Development in the Floodplain shall occur in accordance with the Floodplain Management Regulations in Chapter 160.

165.30 AGRICULTURAL DISTRICT (A-1). The Agricultural District (A-1) is intended to provide regulations for land situated on the fringe of the urban area that is used primarily for agricultural purposes, but which will be undergoing urban development in the near future. Many tracts in this district will be in close proximity to developing residential, commercial, or industrial uses. The purpose of this district is to restrict the permitted uses to those which are compatible with both agricultural uses and the developing residential, commercial, or industrial use.

1. Principal Uses Permitted. Property and buildings in an A-1 Agricultural District (A-1) shall include those uses identified in Section 165.36, Use Matrix.
2. Conditional Uses. The uses identified as conditional uses in the Agricultural District (A-1) are as shown in Section 165.36, Use Matrix.
3. Bulk Requirements. Height regulations, lot area, frontage, and yard requirements shall be those regulations specified in Section 165.25.

4. Signs. Sign regulations shall be those regulations as specified in Section 165.37.

165.31 RESIDENTIAL DISTRICT (R-1). The principal use of land is for single-family and multi-family dwellings and related recreational, religious, and educational institutions and facilities normally required to provide an orderly residential area. These residential areas are intended to be defined and protected from encroachment of uses that are not appropriate to a residential environment. Internal stability, order, and efficiency are encouraged by providing adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different uses.

1. Principal Uses Permitted. Permitted uses in the Residential District (R-1) shall include but are not limited those identified in Section 165.36, Use Matrix
2. Accessory uses that are customarily incidental to any of the above stated uses, but not involving the conduct of business other than a home occupation.
3. Conditional Uses. The uses identified as conditional uses in the Residential District (R-1) are as shown in Section 165.36, Use Matrix
4. Bulk Regulations. Height regulations, lot area, frontage, and yard requirements shall be those regulations specified in Section 165.25.
3. Signs. Sign regulations shall be those regulations as specified in Section 165.37.
4. Special Use Regulations. Garage sales, yard sales, flea markets, auctions, or other similar methods of selling tangible personal property shall not extend longer than two consecutive days in a calendar year. On any lot, such sales may occur no more than a total of six days in any calendar year. Nothing in this chapter shall be construed to broaden the prohibitions set forth in this section.

165.32 MOBILE HOME PARK DISTRICT (R-3). The Mobile Home District (R-3) is intended and designed for high density mobile home development. Internal stability, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

1. Principal Uses Permitted. Property and buildings in an R-3 Mobile Home District shall be used only for the purposes outlined in Section 165.36, Use Matrix.
2. Conditional Uses. The uses identified as conditional uses in the Residential District (R-1) are as shown in Section 165.36, Use Matrix.
3. Bulk Requirements. Height regulations, lot area, frontage and yard requirements shall be as specified in Section 165.25. Each yard abutting on a public street shall be a front yard and shall be a minimum of 20 feet. The

minimum space for each mobile home shall be 3,000 square feet and shall measure at least 40 by 75 feet. Mobile homes shall be located on each space so that there will be at least a 20-foot clearance between each mobile home, a five-foot open space between mobile homes including any permanent enclosed appendage, and any driveway, walkway, or mobile home space boundary; and 10-foot open space at the rear of the mobile home.

4. Signs. Sign regulations shall be those regulations as specified in Section 165.37.

5. Use Limitation. Notwithstanding any other provision of this Code, this section shall govern location, placement and use of mobile homes within the City. Mobile homes used as dwelling or for any other use may be located only within an Mobile Home District (R-3). Mobile homes unoccupied and held for commercial sale may be placed for temporary storage on lots within an Agricultural District (A-1) or Commercial District (C-1) District. Any other location or use of mobile homes within the City is prohibited. Mobile homes validly placed or located within other districts prior to enactment of the Zoning Code may continue as a non-conforming use subject to Sections 165.39 and 165.40.

165.33 COMMERCIAL DISTRICT (C-1). The Commercial District (C-1) is intended to accommodate a broad range of retail, service, and general business establishments that serve the community. This district supports both pedestrian-oriented businesses and those requiring off-street parking and loading spaces.

1. Principal Uses Permitted. Property and buildings in the Commercial District (C-1) shall include, but are not limited to, the uses identified in Section 165.36, Use Matrix.

2. Conditional Uses. The uses identified as conditional uses in the Agricultural District (A-1) are as shown in Section 165.36, Use Matrix.

3. Performance Standards.

A. Retail businesses or service establishments must be open to the public a minimum of three days a week. Each day must include at least four consecutive hours of operation.

B. Storage shall be limited to those inventories, supplies, and equipment necessary to support the principal use and shall not exceed 40 percent of the total gross floor area; further provided that storage shall be wholly contained within the principal building.

3. Bulk Requirements. Height regulations, lot area, frontage, and yard requirements shall be those regulations as specified in Section 165.25.

4. Signs. Sign regulations shall be those regulations as specified in Section 165.37.

165.34 LIGHT INDUSTRIAL DISTRICT (M-1). The Light Industrial District (M-1) is intended primarily for the conduct of manufacturing, assembling, and fabrication. It is designed to provide an environment suitable for industrial activities that do not create appreciable nuisances or hazards. The uses permitted in this district make it most desirable that they be separated from residential uses.

1. Principal Uses Permitted. Property and buildings in the Light Industrial District (M-1) shall include, but are not limited to, the uses identified in Section 165.36, Use Matrix.

2. Conditional Uses. The uses identified as conditional uses in the Agricultural District (A-1) are as shown in Section 165.36, Use Matrix.

3. Bulk Requirements. Height regulations, lot area, frontage, and yard requirements shall be those regulations as specified in Section 165.25.

4. Signs. Sign regulations shall be those regulations as specified in Section 165.37.

165.35 HEAVY INDUSTRIAL DISTRICT (M-2). The Heavy Industrial District (M-2) is intended primarily for the conduct of activities and an environment suitable for heavy industrial activities so as not to create appreciable nuisances or hazards. The uses permitted in this district make it most desirable that they be separated from residential uses.

1. Principal Uses Permitted. Property and buildings in the Heavy Industrial District (M-2) shall be used only for the uses identified in Section 165.36, Use Matrix.

2. Conditional Uses. The uses identified as conditional uses in the Agricultural District (A-1) are as shown in Section 165.36, Use Matrix.

3. Bulk Requirements. Height regulations, lot area, frontage, and yard requirements shall be those regulations as specified in Section 165.25.

4. Signs. Sign regulations shall be those regulations as specified in 165.37.

165.36 USE MATRIX. The following use types are designated as a permitted use (P), conditional use (C), or a temporary use (T), within each zoning district as indicated within the following chart.

1. Accessory Uses.

	ZONING DISTRICTS						
ACCESSORY USES	A-1	C	FP	M-1	M-2	R-1	R-3
Accessory Dwelling Unit	P					P	P
Awning		P		P	P	P	P
Barns	P						
Bins, Grain Storage, or Other Agricultural	P						
Carports		P				P	
Decks, Gazebos, Enclosed Porch (Elevated or On-Grade)	P					P	P
Fuel Tanks and Dispensing Equipment	C	P		P	P		
Garages, Private	P	C		P	P	P	
Greenhouses	P					C	
Home Occupation or Home Based Business	P					P	
Portable On-Demand Storage	T	T				T	T
Patio, Unenclosed	P	P				P	P
Roadside Stand	T						
Silos	P						
Storage Shed, Private	P			P		P	
Swimming Pool, Private	P					P	

2. Agricultural Uses.

	ZONING DISTRICTS
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AGRICULTURAL USES	A-1	C	FP	M-1	M-2	R-1	R-3
Agricultural Crops	P						
Agricultural Sales and Service	C	P					
Community Garden	P					P	P
Dairy Farming	C						
Forests and Forestry	P						
Livestock and General Farming	C						
Livestock Sales	C						
Pastures	P						
Plant Nurseries	P			P			
Poultry Farms	C						
Product Storage and Drying Facilities	P			P			
Recreational Livestock	P						
Stables or Riding Academies	C						

3. Civic Uses.

	ZONING DISTRICTS						
CIVIC USES	A-1	C	FP	M-1	M-2	R-1	R-3
Campground or Recreational Vehicle (RV) Park	P					C	
Cemetery	P						
Club and Community Center		P		P		C	
Daycare Facility	C	P				P	
Detention Facility	C			C			
Emergency Residential Facility		P				C	
Group Care and Nursing Facility	C	P				P	
Health Care Office	C	P				P	
Hospital	C	P				C	
Maintenance Facility	P	P		P			
Parks	P	P	P			P	
Recreational Facility	P	P				P	
Public Facility	P	P				P	
Primary Education Facility	P	P				P	
Religious Assembly	P					P	
Public Safety Facility	P	P		P		C	
Secondary Educational Facility	P	P				P	
Swimming Pool, Public		P				P	

4. Commercial Uses.

	ZONING DISTRICTS						
COMMERCIAL USES	A-1	C	FP	M-1	M-2	R-1	R-3

Adult Entertainment Business				C	C		
Auction House		P					
Auto Body Repair		P		P			
Auto Service		P		P			
Automobile Washing Facility		P		P			
Automotive Rental and Sales		P		P			
Bed and Breakfast						P	P
Brew Pub and Bar		P					
Brewery, Distillery, Winery	C	P		P			
Barber Shop or Hair Salon		P				P	
Carnival		C			P		
Circus					P		
Commercial Recreation	T	P					
Communication Services		P		P			
Construction Sales and Service		P		P			
Crematorium		P					
Equipment Rental and Sales		P					
Equipment Repair Services		P					
Food Sales		P					
Funeral Services		P					
Gas Station and Truck Stop	C	P		P	P		
General Offices		P					
Golf Course, Public or Private	P					C	
Hotel or Motel		P		P			
Kennels	C			P			
Kennels, Breeding	C			P			
Laundry Service		P		P			
Liquor Sales (Retail Establishment)		P		P			
Research Services		P		P			
Restaurants		P		P			
Retail Services, General		P		P			
Self-Storage Units		P		P			
Surplus Sales		P		P			
Veterinary Services		P					

5. Industrial Uses.

	ZONING DISTRICTS						
INDUSTRIAL USES	A-1	C	FP	M-1	M-2	R-1	R-3
Alternative Energy Production (Large-Scale, Commercial, Manufacturing)				P	P		

Biofuel Distillation Facilities					P		
Construction Yards				C	C		
Junk Yards				C	C		
Manufacturing				P	P		
Recycling Collection or Processing					P		
Resource Extraction – Minerals and Ores					C		
Resource Extraction – Oil and Gas					C		
Resource Extraction – Sand and Gravel	P				P		
Resource Extraction – Timber	C				C		
Salvage Services				C	C		
Vehicle Storage (Long-Term)				C	C		
Warehousing				P	P		

6. Miscellaneous Uses.

	ZONING DISTRICTS						
MISCELLANEOUS USES	A-1	C	FP	M-1	M-2	R-1	R-3
Amateur Radio Tower	C			C	C		
Construction Batch Plant				P	P		
Garbage Dump and Landfill	C				C		
Solar Energy System	C			C	C	C	
Tower or Transmitting Station	C			C	C	C	
Wind Energy Conservation System	C						

7. Transportation Uses.

	ZONING DISTRICTS						
TRANSPORATION USES	A-1	C	FP	M-1	M-2	R-1	R-3
Aviation Facility	C				P		
Helipad	C	C		C	C		
Railroad Facility				P			
Truck Terminal				P			

8. Residential Uses.

	ZONING DISTRICTS						
RESIDENTIAL USES	A-1	C	FP	M-1	M-2	R-1	R-3
Manufactured Home	C					C	P
Mobile Home	C					C	P
Multi-Family Dwelling or Apartment Home						P	
Seasonal Dwelling	P					C	
Shouse	P					C	

Single-Family Detached Dwelling	P					P	
Three Unit Dwelling						P	
Two-Family Dwelling						P	

165.37 SIGNS. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use ceases, they shall be removed within 30 days and the surrounding area restored to a condition free from refuse and debris. All temporary, illuminating, flashing, portable signs must secure a Sign Permit from the City Administrator, allowable only in commercial and industrial/manufacturing districts and valid for a maximum time limit of 72 hours. Such Sign Permit will not be renewed to the same person or business for 14 days. The 14-day period is calculated from the first day, as written on the Sign Permit.

1. Floodplain Districts. In a floodplain district the following signs are permitted.
 - A. Traffic and official signs.
 - B. Temporary signs pertaining to the sale or lease of property, or to activities conducted on the property; provided, however these shall not exceed 30 square feet in area.
2. Agricultural Districts. In an agricultural district the following signs are permitted:
 - A. Name plates, not to exceed one square foot in area.
 - B. Church or public bulletin boards.
 - C. Temporary signs advertising the lease or sale of the premises, not to exceed 12 square feet in area.
 - D. Bulletin boards and signs pertaining to the lease, hire or sale of a building premises, or signs pertaining to any material that is grown or treated within the district; provided, however, such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed, or stored.
3. Residential Districts. In a residential district the following signs are permitted:
 - A. Name plates not to exceed one square foot.
 - B. Church or public bulletin boards.
 - C. Temporary sign advertising the lease or sale of the premises not to exceed 12 square feet in area.
 - D. Facilities, other than single-family dwellings, normally required to provide an attractive residential area may illuminate signs, bulletin boards, and name plates only with indirect not-intermittent light that does not exceed 60 watts.
 - E. Signs for home occupations not exceeding six square feet in area.
 - F. Signs must not project more than four feet above the roofline.
4. Commercial Districts. The following signs are permitted in all commercial districts:
 - A. Signs permitted in residential districts;
 - B. Any exterior sign shall pertain only to a use conducted within the building and be integral or attached thereto. No sign may project over any street line (back of curb) or extend more than six feet over any building line whether fixed to the building or any other structure. In no case shall any sign project more than four feet above the roof line, and the total area of all signs pertaining to the business conducted in a building shall not exceed two square feet in area for every lineal foot occupied by the front of the building displaying such sign, but not to exceed lot frontage. Where the lot adjoins an residential district, the exterior sign shall be attached flat against the building and shall not face the side of the adjacent lot located in the residential district; however, this does not apply to the side of the building which is opposite the side adjoining the residential district;
 - C. One post sign or business identification sign, provided, however, that said post sign shall not have a surface area of greater than 40 square feet on any one side thereof and no more than two sides of post sign shall be used for advertising purposes. The bottom of said post sign or surface area thereof shall not be less than 12 feet above the sidewalk or above the surface of the ground upon which it is erected, and the total

vertical dimension of 12 feet or horizontal dimension of said sign shall not be greater than seven feet. Total maximum height of said sign shall not be over 24 feet. The term post sign shall not be deemed to include any sign advertising the trade name, merchandise, or service of any person, firm, or corporation who pays a consideration for the privilege of placing, maintaining, or using any portion of said sign to the owner or occupant of the premises upon which said sign is erected or placed, and said post sign shall not extend over street right-of-way lines or otherwise obstruct or impair the safety of pedestrians or motorists.

5. Manufacturing Districts. All signs allowed within the commercial district are allowed within the Light Industrial District and the Heavy Manufacturing District.

6. Outdoor Advertising Signs. In all districts where permitted, signs shall be set back from the proposed right-of-way line of any State or federal highway, any major City thoroughfare so designated by the Official Major Street Plan, and from the right-of-way line of any other street or highway. Signs erected in a manner as to obstruct free and clear vision of streets, alleys, or driveways or erected, designed, or positioned to interfere with, obstruct, or be confused with any authorized traffic sign, signal, or device, which may mislead or confuse traffic, shall be permitted in all zoning districts. No sign shall be permitted which faces the front or side lot line of any lot in any residential district used for residential purposes within 100 feet of such lot lines, or which faces any public parkway, public square or entrance to any public park, public parochial school, church, cemetery, or similar institution, within 300 feet thereof, unless said sign is a single-faced wall (fascia) sign that is parallel to its supporting wall and not extending more than 12 inches from the wall.

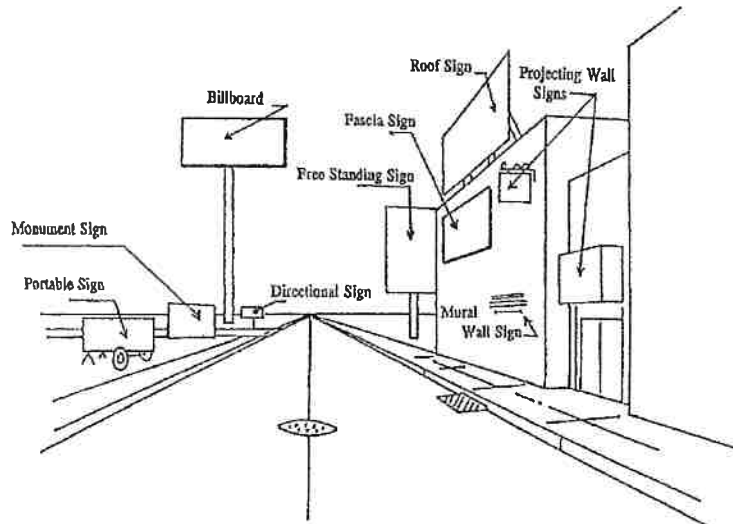


Figure 6 – Sign Types

165.38 OFF-STREET PARKING AND LOADING REQUIREMENTS

1. General. In conjunction with any principal building hereafter erected or any use of land hereafter established, there shall be provided on the same lot therewith sufficient parking spaces to meet the minimum requirements specified herein.

2. Minimum Parking Requirements.

A. Auditoriums, assembly halls, dance halls, theaters, gymnasiums, skating rinks, and other commercial recreation use. One space for each four seats or bench seating capacity

B. Home occupation. One space per dwelling unit plus three spaces for each 200 square feet of floor area devoted to said home occupation

C. Hospital, group care, and nursing facilities, or similar uses. One space for each three beds, plus one for each two employees

D. Hotel or Lodging, Bed and Breakfast. One space for each sleeping room or unit.

E. Industrial /or manufacturing. One space for each two employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection with regular operations.

F. Residential.

- (1) Single-family dwelling. Two parking spaces
 - (2) Multi-family dwelling.
 - a. For each one-bedroom dwelling unit: one parking space.
 - b. For each two-bedroom dwelling unit: One and a half parking spaces rounded up to the nearest whole number.
 - c. Larger than two-bedroom dwelling unit: two parking spaces.
 - (3) Mobile homes. Two parking spaces for each mobile home lot plus one additional space for each 10 mobile homes
3. Application of Parking Requirements. The parking space requirement for a use not specifically mentioned use herein shall be the same as required for a use of a similar nature.
- A. Whenever a building erected or established after the effective date of this Zoning Code is enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise, to create a need for an increase of 10 percent or more in the number of existing spaces, such parking spaces shall be provided based on the expansion or change.
 - B. Whenever a building existing prior to the effective date of this Zoning Code is enlarged to the extent of 50 percent or more in floor area, said building or use shall then and thereafter comply with the parking requirement set forth herein.
 - C. All parking spaces required herein shall be located on the same lot with the building or use served, expect that where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or used jointly by two or more buildings, establishment of the required spaces may be located not to exceed 400 feet therefrom.
4. Off-Street Loading. Off-street loading and unloading space with proper access from street or alley and with at least 14 feet of vertical clearance shall be provided, either within or outside the building to adequately serve the use on the lot. All off-street loading or unloading spaces shall have an all-weather surface to provide safe and convenient access and use during all seasons.

165.39 NON-CONFORMING BUILDINGS, STRUCTURES, AND USES OF LAND.

1. General. A non-conforming building or structure existing at the time of adoption of the Zoning Code may be continued, maintained, and repaired, except as otherwise provided in this section. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe.
2. Alteration or Enlargement of Building and Structure. A non-conforming building or structure shall not be added to or enlarged in any manner unless said building or structure, including additions and enlargements, is made to conform to all the regulations of the district in which it is located; provided, however, that if a building or structure is conforming as to its use, but non-conforming as to yards or height or off-street parking space, said building or structure may be enlarged or added to, provided that the enlargement or addition complies with the yard and height and off-street parking requirements of the district in which said building or structure is located. No non-conforming building or structure shall be moved in whole or in part to another location on the lot unless every portion of said building or structure is made to conform to all of the regulations of the district in which it is located.
3. Building Vacancy. A building or structure or portion thereof, which is non-conforming as to use, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one year shall not thereafter be occupied except by a use that conforms to the use regulations of the district in which it is located.
4. Destruction of Non-Conforming Building or Structure. Any non-conforming building or structure that has been or may be damaged by fire, flood, explosions, earthquake, war, riot, or any other act of God, may be reconstructed and used as before if it can be done within 12 months of such calamity, unless damaged more than 50 percent of its fair market value, as determined by the Board of Adjustment, at the time of the damage, in which case reconstruction shall be in accordance with the provisions of this chapter.
5. Change of Uses. A non-conforming use of a conforming building or structure may be expanded or extended into any other portion of the structure, provided the structure was manifestly arranged or designed for such use at the time of adoption or amendment of the Zoning Code, but no such use shall be extended to occupy any land

outside such building. If such a non-conforming use, or a portion thereof is discontinued or changed to a conforming use, any future use of such building, structure, or portion thereof shall be in conformity with the regulations of the district in which such building or structure is located. A vacant or partially vacant conforming building or structure may be occupied by a use for which the building or structure was designed or intended if occupied within a period of one year after the effective date of this Zoning Code, but otherwise it shall be used in conformity with the regulations of the district in which it is located. The use of a non-conforming building or structure may be changed to a use of the same or a more restricted district classification; but where the use of non-conforming building or structure is changed to a use of a more restricted district classification it thereafter shall not be changed to a use of a less restricted district classification; provided, however, a building or structure that is non-conforming at the time of adoption of the Zoning Code is not in violation. For the purpose of this subsection only, the Residential District (R-1) shall be considered the most restrictive and the Heavy Industrial District (M-2) the least restrictive district.

6. Swimming Pool Fences. The lawful use of a swimming pool existing at the effective date of the Zoning Code may be continued, provided that the owner takes immediate action to bring the non-conforming pool into compliance with Section 165.20.

165.40 NON-CONFORMING USES OF LAND. A nonconforming use of land, where the aggregate value of all permanent buildings or structures is less than \$500.00, existing at the time of adoption of the Zoning Code, may be continued three years therefrom, provided that:

1. Said non-conforming use may not be extended or expanded, nor shall it occupy more area than was in use the effective date of the Zoning Code.
2. If said non-conforming use or any portion thereof is discontinued for a period of six months, or changed, any future use of such land, or change in use, shall be in conformity with the provisions of the district in which said land is located.

165.41 ADDITIONAL REQUIREMENTS, EXCEPTIONS, MODIFICATIONS, AND INTERPRETATIONS.

The requirements and regulations specified elsewhere in this chapter shall be subject to the additional requirements, exceptions, modifications, and interpretations contained in this section.

1. Height and Size Limits. Height limitations stipulated in this chapter do not apply in the following situations:
 - A. To barns, silos, or other farm buildings or structures on farms provided these are not less than 50 feet from every lot line.
 - B. To church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, masts, and aerials.
 - C. To parapet walls extending not more than four feet above the limiting height of the building. However, if in the opinion of the Zoning Administrator, such structure would adversely affect adjoining or adjacent properties, such greater height shall not be authorized except by the Board of Adjustment.
 - D. To bulkheads, conveyors, derricks, elevator penthouses, water tanks, monitors and scenery lofts; to monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height than specified, such as may be authorized by the Board of Adjustment.
2. Exceptions and Modifications for All Yards.
 - A. Yard requirements do not apply to steps and accessibility ramps used for wheelchairs and other mobility aids that are necessary for access to a permitted building or a lot from a street or alley. Ramps must be four feet or less above grade and meet the minimum requirements of the Americans with Disabilities Act (ADA), per the opinion of the Zoning Administrator.
 - B. Fences and barriers subject to applicable height restrictions are permitted according to section 165.21.
3. Front Yard Exceptions and Modifications.
 - A. Front yard requirements do not apply to bay windows or balconies that do not project more than two feet into the front yard.

B. The Zoning Administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided the following:

- (1) More than 40 percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Zoning Code; and,
- (2) A minority of such structures have observed or conformed to an average setback line (see Figure 7 for varying provisions).

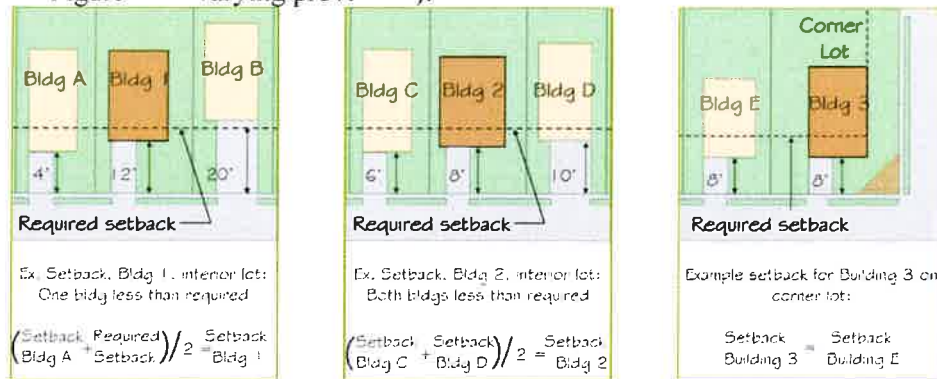


Figure 7

C. For the purpose of determining lot width, that portion of a flag lot used for ingress and egress shall not be included as a part of the required front yard.

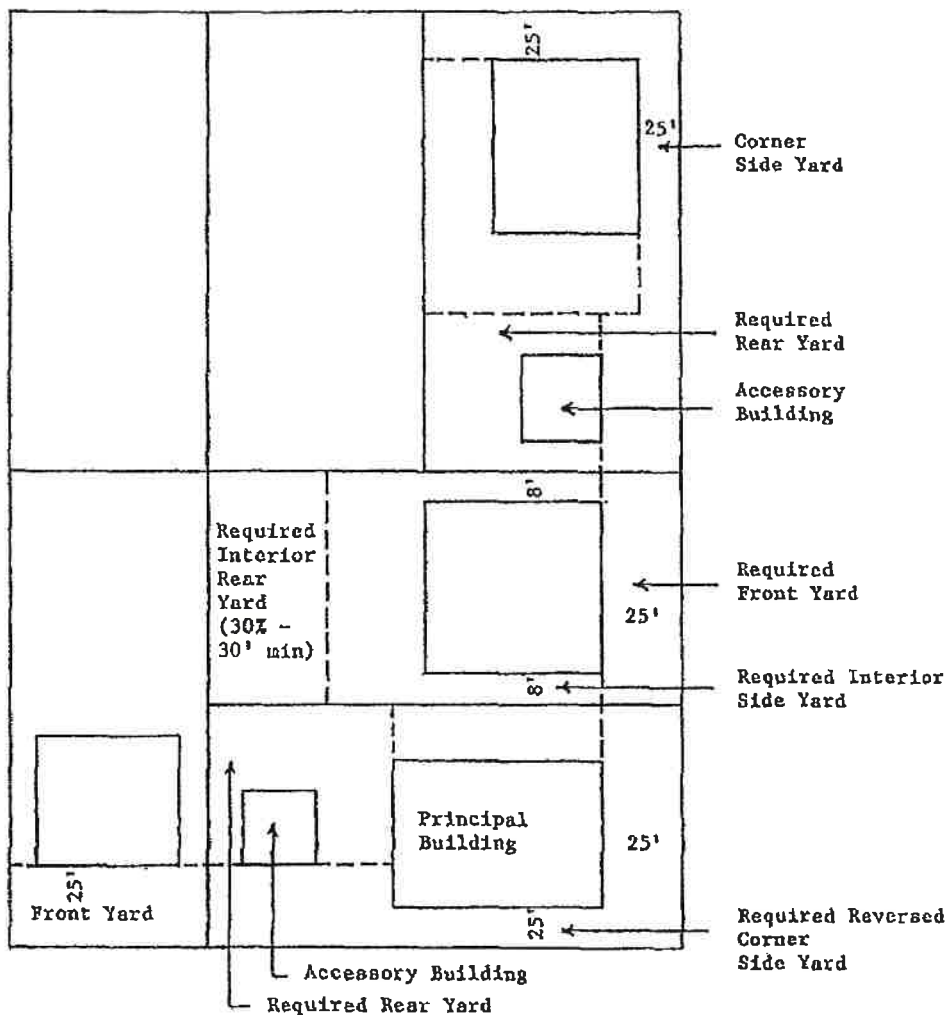


Figure 8

4. Side Yard Exceptions and Modifications.

A. Along any district boundary line, any abutting side yard on a lot in the less restricted district shall have a least width equal to that required in the more restricted district. Where a building is proposed for a lot in a an industrial district, and a line of such lot abuts an residential district, the side yard in the industrial district shall be increased by three feet for each foot that the proposed building

will exceed the height limit of the said residential district.

B. On a corner lot the least width of a side yard along the side street lot line shall be equal to the required front yard along the side street. No part of any accessory building shall be nearer a side street lot line than the least depth on any front yard required along such side street.

C. The following projections or structures may be permitted in side yards:

(1) Accessory buildings or structures, subject to the provisions contained in this chapter.

(2) Fences or walls not over seven feet above the average natural grade except as noted in Section 165.21.

(3) Fire escapes, three feet from side lot line. Bays and balconies not more than three feet from the building, provided these projections are entirely within planes drawn from either main corner of the side wall. The sum of the lengths of such projections shall not exceed one-third of the length of the wall of the main building.

(4) Chimneys, flues, belt courses, leaders, sills, pilasters and lintels, ornamental features, cornices, gutters, and the like, into or over a required side yard not more than one and one-half feet.

(5) Terraces, steps, uncovered porches, stoops or similar features, not higher than the elevation of the ground story of the building and distant three feet from the side lot line.

5. Rear Yard Exceptions and Modifications. The following projections or structures may be permitted in rear yards:

A. Accessory buildings or structures subject to the provisions contained in this chapter.

B. Fences or walls, not over six feet above the average natural grade.

C. Fire escapes, not more than six feet, and bays and balconies, not more than three feet.

D. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, and the like, into or over a required rear yard not more than one and one-half feet.

E. Terraces, steps, uncovered porches, stoops, or similar features not more than ten feet into a required rear yard, or closer than six feet of an alley or within ten feet of a rear lot line.

F. Swimming pools.

165.42 ORGANIZATION; BASIS OF REGULATIONS.

1. The administration of this chapter is vested in the following four offices of the government of the City:

A. The Council.

B. The Planning and Zoning Commission

C. The Board of Adjustment.

D. The Zoning Administrator.

2. Regulations are made in accordance with the Comprehensive Plan and designed to:

A. Preserve the availability of agricultural land.

B. To consider the protection of soil from wind and water erosion.

C. To encourage efficient urban development patterns.

D. To lessen congestion in the street.

E. To secure safety from fire, flood, panic, and other dangers.

F. To promote health and the general welfare.

G. To provide adequate light and air.

H. To prevent the overcrowding of land.

I. To avoid undue concentration of population.

J. To promote the conservation of energy resources.

K. To promote reasonable access to solar energy.

L. To facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.

165.43 MAYOR AND COUNCIL. The Mayor and Council shall discharge the following duties under this chapter:

1. Appoint a Zoning Administrator, whose responsibility will be to enforce the provisions of this chapter.
2. Appoint members of the Board of Adjustment as provided for in this chapter.
3. Appoint members to the Planning and Zoning Commission, as provided for in this chapter.
4. Receive and decide upon all recommendations concerning amendments, supplements, and changes presented by the Planning and Zoning Commission.
5. Receive from the Planning and Zoning Commission all recommendations on the effectiveness of this chapter.
6. Decide all matters upon which it is required to pass under this chapter.

165.44 BOARD OF ADJUSTMENT.

1. Creation. The Board of Adjustment, as established under applicable provisions of Section 414.7 of the *Code of Iowa*, is the Board of Adjustment referred to in this Zoning Code.
2. Appointment; Terms; Removal. The Board of Adjustment shall consist of five members, to be appointed by the Council by majority vote, for staggered terms of five years. A majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members of the Board of Adjustment may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member affected.
3. Powers and Duties. The Board of Adjustment is hereby vested with the following powers and duties:
 - A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter.
 - B. To hear and pass on all applications for special exceptions in the manner prescribed in this chapter.
 - C. To hear and pass on all applications for variances from the terms provided in this chapter, in the manner prescribed and subject to the standards herein.
 - D. To authorize upon appeal, in specific cases, such variances from the terms of the Zoning Code with respect to the area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the Zoning Code, and so that the spirit of the Zoning Code shall be observed and substantial justice done. Area, dimensional, or other numerical limitations subject to variances include but are not limited to requirements for minimum lot size, setbacks, yard widths, height, bulk, sidewalks, fencing, signage, and off-street parking. To receive the requested area, dimensional, or other numerical variance, the property owner must prove that the practical difficulties faced are unique to the property at issue and not self-created and must also demonstrate that granting the variance will not significantly alter the essential character of the surrounding neighborhood.
4. Meetings and Rules. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson or, in the absence of the Chairperson, the acting Chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment 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 and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the Zoning Administrator. The concurring vote of three members of the Board shall be necessary to reverse any order,

requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to affect any variation in application of this chapter.

5. Finality of Decisions of the Board of Adjustment. All decisions and findings of the Board of Adjustment on appeals, applications for a variance, or application for a special exception, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to judicial review as may be provided by law.

165.45 ZONING ADMINISTRATOR. The Zoning Administrator shall enforce this chapter, and in addition thereto and in furtherance of said authority, shall:

1. Issue all Zoning Permits upon approval of the Planning and Zoning Commission and collect any fees.
2. Process all applications for variances, special exceptions, for referral to the Board of Adjustment.
3. Process all application for modifications in the language of this Zoning Code or rezoning of certain parcels for referral to the Planning and Zoning Commission.
4. Respond to complaints of alleged violations to the Zoning Code.
5. Provide and maintain a public information service relative to all matters arising out of this chapter.
6. Provide proper forms to the public for the zoning process.
7. Review site plans for conformance with the Zoning Code.
8. Carry out the administrative duties for both the Planning and Zoning Commission and the Board of Adjustment.
9. Act as the secretary to the Planning and Zoning Commission and the Board of Adjustment.
10. Ensure that public notices of hearings are properly advertised as required by State law and this Code and that notice is provided to parties of interest in compliance with this Code.

165.46 SECRETARY OF THE COMMISSION AND BOARD OF ADJUSTMENT. The secretary of the Planning and Zoning Commission and the secretary of the Board of Adjustment shall be the Zoning Administrator

1. The secretary of the Planning and Zoning Commission shall attend all meetings of the Planning and Zoning Commission, take full and accurate minutes of the proceedings, prepare all necessary reports and documents for and on behalf of the Planning and Zoning Commission, and perform such duties and functions as may be necessary for the orderly recording of the business of the Planning and Zoning Commission.
2. The secretary of the Board of Adjustment shall attend all meetings of the Board of Adjustment, take full and necessary reports and documents for and on behalf of the Board of Adjustment, and perform such other duties and functions as may be necessary for the orderly recording of the business of the Board of Adjustment.

165.47 VARIANCES.

1. Purpose and Findings of Fact. The Board of Adjustment, after a public hearing, may determine and vary the regulations of this chapter, in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Adjustment makes written findings of fact in accordance with the standards hereinafter prescribed, and further finds that there are no practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this chapter.
2. Application for Variance. An application for a variance shall be filed in writing with the Zoning Administrator. Said application shall contain such information as the Board of Adjustment may, by rules, require.
3. Standards for Variance. The Board of Adjustment shall not vary the regulations of this Zoning Code, as authorized in this section, unless there is evidence presented to it in each specific case that:
 - A. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - B. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
 - C. Special conditions and circumstances do not result from the actions of the applicant.

- D. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.
 - E. The use to be authorized by the variance will not alter the essential character of the locality.
4. Further Requirements.
- A. The Board of Adjustment shall make a finding, that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - B. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - C. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 165.52.
 - D. Under no circumstances shall the Board of Adjustment grant a variance to allow for use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the district.
 - E. If a variance is sought to permit building within four feet or less of a property line, the request must be accompanied by a certified survey.

165.48 APPEALS. Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by the *Code of Iowa*.

165.49 USE EXCEPTIONS AND OTHER POWERS OF THE BOARD OF ADJUSTMENT.

1. Purpose. The development and administration of the Zoning Code is based upon the division of the City into zoning districts, within which districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses that, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular locations. Such use exceptions fall into two categories:
 - A. Uses publicly operated or traditionally affected with a public interest; and
 - B. Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
2. Initiation of Use Exception. Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest that may become a freehold interest of an exclusive possessory interest, either of which is specifically enforceable, may file an application to use such land for one or more of the special exceptions provided for in this chapter in the zoning district in which the land is located.
3. Application for Special Exception. An application for a special exception shall be filed with the Zoning Administrator on a form as the Zoning Administrator shall prescribe. The application shall be accompanied by such plans as prescribed by the Board of Adjustment and shall include a statement indicating the section of this Zoning Code under which the special exception is sought and stating the grounds on which it is requested.
4. Hearing on Application. Upon receipt in proper form of the application and statement referred to in Subsection 3, the Board of Adjustment shall hold at least one public hearing on the proposed special exception. Notice of time and place of such hearing shall be published not less than four days or more than 20 days in advance of the public hearing as required by State law and this Code. Before an appeal is filed with the Board of Adjustment, the appellant shall pay to the City in accordance with the schedule of fees adopted and published by the Council.
5. Authorization. For each application for a special exception the Zoning Administrator shall prepare and file with the Board of Adjustment findings and recommendations, including the recommended stipulations of additional conditions and guarantees that are deemed necessary for the protection of the public interest.

6. Standards. No special exception shall be granted by the Board of Adjustment unless such Board shall find that:
- A. The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
 - B. The special exception will not be injurious to the use and enjoyment of other property already permitted or substantially diminish and impair property values within the neighborhood.
 - C. The establishment of special exceptions will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - D. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
 - E. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - F. The special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment.
7. Conditions and Guarantees. Prior to the granting of any special use, the Board of Adjustment shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in this subsection and Subsection 6 above. In all cases in which special exceptions are granted, the Board of Adjustment shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are and will be complied with.
8. Denial and Revocation of Special Exception. No application for a special exception that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Adjustment. In any case where special exception has not been established within one year after the date of granting thereof, then, without further action by the Board of Adjustment, the use on review or authorization shall be null and void.
9. Other Powers of the Board of Adjustment. The Board of Adjustment is hereby vested with the following additional authority and jurisdiction:
- A. Interpretation of District Map. Where the application of the rules for interpretation of district boundaries contained in Section 165.08 leaves a reasonable doubt to the boundary between two zoning districts, the Board of Adjustment after notice to the owners of the property and after public hearing, shall interpret the Official Zoning Map in such a way as to carry out the intent and purposes of this Zoning Ordinance.
 - B. Temporary Uses and Permit. The Board of Adjustment may issue a permit for the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this chapter, provided that such use is of a true temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than a 12-month period, subject to such conditions that will safeguard the public health, safety, convenience, and general welfare.

165.50 AMENDMENTS.

1. Procedure. The regulations, restrictions, and boundaries may from time to time, be amended, supplemented, changed, modified, or repealed, but no such amendments shall be made without public hearing before the Council and after a report has been made upon the amendment by the Planning and Zoning Commission. However, the regulation, restriction, or boundary shall not become effective until after a public hearing at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published not less than four days or more than 20 days in advance of the public hearing in a newspaper of general local circulation, but in no case shall the public hearing be held earlier than the next regularly scheduled Council meeting following the published notice. Amendments may be passed by the favorable vote of a simple majority of all members of the Council. However, such amendment must pass by a three-fourths favorable vote of all members of the Council, if any of the following occurs:

- A. In case the Planning and Zoning Commission has not approved the change;
 - B. A protest is filed with the Council against such change, signed by the owners of at least 20 percent of the area to be rezoned; or
 - C. A protest is filed with the Council against the change, signed by the owners of at least 20 percent of all lots abutting, adjoining or lying directly across any streets from the perimeter of the area to be rezoned (such immediately adjacent lots extending the depth of one lot or a maximum of 200 feet, whichever is less). As part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owners before the public hearing required under this section or any adjournment of that hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change in zoning district.
2. Rezoning Applications. An application for rezoning shall contain the following items:
- A. The legal description and local address of the property.
 - B. The present zoning classification and the zoning classification requested for the property.
 - C. The existing use and proposed use of the property.
 - D. The names and addresses of the owners of all property within 200 feet of the property for which the change is requested.
 - E. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
 - F. A plat showing the locations, dimensions, and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads, and other physical features.
3. Fee. Each application for an amendment, except those initiated by the Planning and Zoning Commission, shall be accompanied by a check payable to the City or a cash payment. The fee will be paid according to the amount specified by the Council. Under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

165.51 BUILDING CONSTRUCTION: CERTIFICATE OF ZONING COMPLIANCE. No buildings shall hereafter be erected, reconstructed, or structurally altered, nor shall any work be started upon buildings until a construction permit for the work has been issued by the Zoning Administrator, which permit shall state that the proposed building complies with all provisions of this chapter. No change in the use of land or any change in use in an existing building other than for single-family dwelling purposes shall be made, nor shall any new building be occupied for any purpose other than a single-family dwelling or farming use until a certificate of zoning compliance has been issued by the Zoning Administrator. After final sign-off of the building permit by the Zoning Administrator, a Certificate of Zoning Compliance will be issued.

165.52 VIOLATIONS.

1. Notice to Violators. If the Zoning Administrator finds that any provision of this chapter is being violated, the Zoning Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation or its provisions.
2. Responsibility. The owners or tenants of any building structure, land or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties provided in this Code or by State law.
3. City Remedies. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Zoning Code, the City may, in addition to other remedies, institute injunction, mandamus, or other appropriate lawful action necessary to prevent, correct, or abate such violation.

165.53 EAST RIDGE ADDITION COVENANTS. As a condition of the dedication of this plat, the undersigned are including in this dedication and making the same a part thereof, certain restrictive covenants, reservations, and conditions as set out below in detail to govern the use and occupancy of the lots in the described plat identified in Subsection 1. The undersigned owner further states that the described real estate, as platted, is made with the free consent of an in accordance with he desires of the undersigned, the unqualified owner thereof, and that the same is free and clear of an liens or encumbrances whatsoever except as is specifically stated in the attorneys title option filed with the plat; subject to the following restrictions, covenants, reservations and conditions.

1. Plat Legal Description.

A TRACT OF LAND LOCATED IN SECTION 35, TOWNSHIP 89 NORTH, RANGE 40 WEST OF THE 5TH P.M., CITY OF HOLSTEIN, IDA COUNTY, IOWA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at the Northeast (NE) Corner of the Southwest Quarter (SW 1/4) of said Section 35; Thence on an assumed bearing of North 00° 04' 34" East, along the East line of Block Three (3) O.L.G.C. Addition its northern section, 30.00 feet to the North line of Lamp-Kastner Drive; Thence North 89° 49' 49" East, along the eastern extension of said North line, 375.00 feet; Thence South 89° 49' 49" West, 60 feet; Thence South 00° 23' 43" West, 2454.33 feet to a point on the North line of US Highway 20; Thence North 90° 00' 00" West, along said North line, 375.00 feet; Thence North 00° 23' 43" East 2453.22 feet; Thence North 89° 49' 49" East, 60.00 feet to the Beginning.

Tract contains 21.38 Acres and is subject to all easements of record

2. Deeds to the lots within the East Ridge Addition will be quit claim deeds from the City or its assigns. The owner or owners of each lot will need to develop a new abstract for said lot.

3. The subject property, or any lots therein described shall not be used for any purpose whatsoever, other than for the maintenance of a private residence, public park, or drainage purposes (created solely by the City) except for the use of a home office in conjunction with the private residence, subject to the following restrictions and conditions:

A. No other customary home occupations will be allowed in this subdivision.

B. No buildings that shall be erected, constructed, or maintained on said property may be used for any purpose other than single-family or multi-family private dwelling homes or appurtenant outbuildings, including garages for private use.

C. All new construction, repairs, remodeling, and improvements to residential units shall have a minimum roof pitch of 6/12. Residential units federally regulated by the HUD Code under 24 CFR 3280 shall not be allowed to be placed in the East Ridge Subdivision.

D. No previously constructed building shall be moved to or upon said property (i.e. sheds, garages, homes, etc.). This does not apply to modular homes assembled on-site.

E. Outbuildings appurtenant to said dwelling house or multi-family dwelling may be erected and maintained on said property, provided that they do not exceed one story in height and meet the architectural criteria of design to meet the standards set out in Paragraph C.

F. No outbuildings, garages, sheds, tents, trailers, basements, or temporary buildings of any kind shall be erected on said property prior to the building of permanent residence, nor shall any of such structures be used for residence purposes at any time. The premises shall not be permitted to be used for outside storage or parking of trailers, camper trailers, pickup campers, boats, motor home vehicles, abandoned vehicles, or parts thereof.

G. None of the property or lots included in said platting shall be used for commercial purposes of any kind whatsoever, except as stated in Paragraph D concerning the use of a home office.

H. No noxious, dangerous, or offensive thing, activity, or nuisance shall be erected, constructed, or maintained, operated, or permitted on said property; nor shall anything be done thereon which may be or may become an annoyance, a nuisance to the neighborhood or the City.

I. No livestock shall be kept or maintained on said property except that dogs and cats may be kept as pets provided that they are not kept, bred, or maintained for any commercial use or purpose.

- J. No signs or other advertising device shall be erected or displayed upon any of said real estate property or lots, except a "for sale" sign may be put up by the owner of said lot which may not exceed three feet in width, two feet in breadth, and three feet in height.
- K. No farm or commercial trucks or machinery may be kept or stored on any property or street set out in this platting. There will be no overnight parking allowed on the 100 block of Benning Drive at any time of the year.
- L. No boundary fence, hedge, or wall shall be of other than a finished or ornamental nature, nor shall have a height to exceed six feet above the finished graded surface of the ground upon which said fence, hedge, or wall is situated. This restriction shall not disallow the use of chain link or cyclone fencing, provided it is kept in good repair, but does not specifically forbid the use of any other kind of metal fencing.
- M. Single-family or multi-family dwellings may be erected upon one building lot provided the property set back requirements are met for construction. More than one building lot may be purchased for the purpose of building a multi-family dwelling unit that cannot meet the setback requirements of one building lot. No tract in the above described subdivision shall be divided, resubdivided, or split in any manner or fashion for any purpose, following the original conveyance by the City. The City reserves the right to subdivide the original platted plot, tract, or lot.
- N. All single-family or multi-family dwellings shall be of a permanent nature and construction. The property owner shall have the right to dispose of any or all surplus soil that is not needed in the landscaping of the property and may offer it to the City, without expense to the City.
- O. No one-story dwelling house having a ground floor area exclusive of porches, terraces, patios, and garages, of less than 1,200 square feet shall be erected upon any of said lots of the above described property.
- P. Any two-story houses erected on the property platted shall have a ground floor square foot area of at least 850 square feet exclusive of porches, terraces, patios, garages, and basements.
- Q. All multi-family dwellings erected on the property platted shall have a main floor square foot area of at least 720 square feet exclusive of porches, terraces, patios, garages, and basements.
- R. No building or other structure shall be erected, moved, added to, or structurally altered without a Building Permit therefore, issued by the Zoning Administrator. No Building Permit shall be issued except in conformity with the provisions of the Zoning Code. No changes or variances therefrom shall be made, notwithstanding to the contrary and provisions now or hereinafter enacted by the City. Front yard setbacks will be determined as indicated on the Official Plat and as determined by the Zoning Administrator to be in the best interest of the subdivision.
- The approval by the Zoning Administrator of any Building Permit submitted for approval, as herein specified, shall not be deemed to be a waiver by the Zoning Administrator of the right to object to any of the features or elements embodied in such Building Permit if and when the same features or elements are embodied in any subsequent Building Permit submitted for approval for use on other building sites.
- S. All site improvements in the form of shaping and grading of the building site shall take the natural flow of water into consideration for proper drainage and the effect of drainage on the adjacent properties.
- T. All owners of all lots shall sod, seed, or otherwise cultivate and maintain a suitable permanent grass cover. Planting and sodding requirements may be delayed until construction of the dwelling house and other improvements on the lot are completed and final grading is done. At least three trees must be planted on each lot within one year from the date of occupancy. One tree planted on the street right-of-way will be counted as on the lot and must be of an approved species allowed through the City Code. The titleholder or occupant of each lot, vacant or improved, shall keep such lot free of weeds and debris, and shall mow on a regular basis.
- U. The City shall be responsible for maintaining the appearance of all lots or portions of lots not sold. The City shall also be responsible for maintaining the appearance of the street in the 100 Block of Benning Dr. until such time as adjacent lots are sold and maintenance duties are assumed by any subsequent purchaser or otherwise.
- V. Any tile damaged shall be extended and repaired immediately at no expense of the City.

W. All driveways are to be constructed at the expense of the purchaser. Specifications for driveway cuts shall be obtained from the Zoning Administrator.

X. All drives extending from proposed garages, dwelling homes, or multi-family dwellings, or other facilities used for parking of automobiles shall be constructed of Portland concrete cement only.

Y. No title to land in any street is intended to be conveyed to any purchaser or grantee.

Z. Easements, reservations, and right-of-way shall be reserved on and across all property lines, for the erection, construction, and maintenance of:

(1) Poles, wire, and conduit for the transmission of electricity, power, lighting, telephone, and other purposes, pipes, and mains for water, gas, and heating and for the necessary attachments in connection therewith.

(2) Public and private sewers, storm drains, and land drains.

(3) Any other method of conducting or performing any public or quasi-public utility, function, or use beneath the surface of the ground.

(4) All utilities will be constructed underground where possible.

Such easements, reservations, and rights-of-way shall follow the lot lines designated on said plat, and additional easement, reservations, and right-of-way may be reserved by the City, its successor's and assigns, in any conveyance it or they may make of said property or any portion thereof.

AA. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers and set out at curbside on the appropriate day of the week for solid waste and recycling services with the containers being promptly removed from curbside the same day.

BB. All of the conditions, covenants, restrictions, reservations, and charges set forth in this declaration are imposed upon said property for the direct benefit of the owners thereof, and as a part of the general plan of development, improvement, building, equipment, and maintenance of said property. Each grantee or purchaser under a contract of sale or agreement of purchase, accepts the same subject to all the conditions, covenants, restrictions, reservations, and charges set forth in this declaration, and agrees to be bound by each such condition, covenant, restriction, reservation, and charge. Said conditions, covenants, restrictions, reservations, and charges shall run with the land and continue to be in full force and affect except as hereinafter provided from the date of filing of these covenants with the County Recorder, and shall as then in fore be continued automatically and without further notice from that time for a period of 20 years, at which time said covenants shall automatically be extended for successive periods of 10 years, in accordance with law, unless by vote of the majority of the then owners of the lots within East Ridge it is agreed to change these covenants or any of them, in whole or in part. In voting to change, one vote shall be allowed for each owner of a said lot within East Ridge.

CC. The determination by any court that any of the provisions of this declaration are unlawful or void shall not affect the validity of any other of the provisions hereof.

DD. Damages are hereby declared not be adequate compensation for any breach of the covenants, conditions, or restrictions of this declaration, but such breach and the continuance thereof may be enjoined, abated, and remedied by appropriate proceedings of the City or by an owner of any building site, lot, or real estate contained within the East Ridge Addition.

EE. The provisions contained in this declaration shall bind and inure to the benefit and be enforceable by the City, or by the owner or owners of any portion of said property, their legal representatives, heirs, successors, and assigns, to enforce any of such conditions, covenants, restrictions, or charges herein contained shall, in no event, be deemed a waiver to the right to do so thereafter, unless otherwise provided.

FF. Any and all rights and powers and reservations of the City herein contained may be deeded, conveyed, or assigned to any other corporation, general or limited partnership, or association which will assume the duties of the City hereunder pertaining to the particular rights, powers, and reservations assigned, and upon such corporation, general, or limited partnership, or association evidencing its consent in writing to accept such assignment and to assume such duties and powers, its shall, to the extent of such deed, conveyance, or assignment, have the same rights and powers, and be subject to the same obligations and duties as are given to and assumed by the City herein, and thereupon the City shall be relieved of the

performance of any further duty or obligation hereunder or the extend of such deed, conveyance, or assignment.

SECTION 2. SEVERABILITY CLAUSE. 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 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 25th day of November 2025 and approved this 25th day of November, 2025.


Kathy Breyfogle, Mayor

ATTEST:

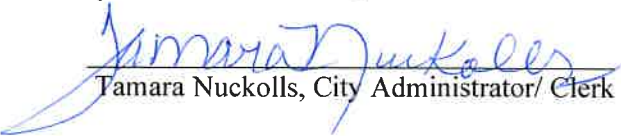

Tamara Nuckolls, City Administrator / Clerk

First Reading: 11/25/2025

Second Reading: Waived

Third Reading: Waived

I certify that the foregoing was published as Ordinance No. 267 on the 25th day of November, 2025.


Tamara Nuckolls, City Administrator / Clerk