

## CHAPTER 165

# ZONING REGULATIONS DEFINITIONS AND GENERAL PROVISIONS

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**165.01 SHORT TITLE.** This chapter shall be known and may be cited as the “City of Stuart, Iowa, Zoning Ordinance.”

**165.02 PURPOSE.** The purpose of the Zoning Ordinance is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and to promote the health, safety, and general welfare of the City.

**165.03 DEFINITIONS.** For the purpose of this chapter, certain terms and words are defined as set forth in this section. The words “used or occupied” include the words “intended, designed, or arranged to be used or occupied,” and the word “lot” includes the words “plot or parcel.”

1. “Abutting” means having property or district lines in common.
2. “Access” means a way of approaching or entering a property from a public street.
3. “Accessory building” means a subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.
4. “Accessory use” means a use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall accessory use dominate, in extent or purpose, the principal lawful use or building.
5. “Agriculture” means the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to humans, including but not limited to: forages and sod crops, grains, and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, including beef cattle, sheep, swine, horses, mules or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals, bees and apiary products, fur animals, trees and forest products, fruits of all kinds, vegetables, or lands devoted to a soil conservation or forestry management program.
6. “Alley” means a public way, other than a street, 20 feet or less in width, affording secondary means of access to abutting property.
7. “Basement” means a story having part but not more than one-half its height below grade. A basement is counted as a story if the vertical distance from the average adjoining grade to its ceiling is over five feet.

8. "Bed and breakfast house" means a house or portion thereof where short-term lodging, rooms and meals are provided. The operator shall live on the premises.
9. "Board" means the Board of Adjustment.
10. "Boardinghouse" means a building other than a hotel where, for compensation, meals and lodging are provided for four or more persons.
11. "Building" means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards and not including structures or vehicles originally designed for transportation purposes.
12. "Building, height of" means the vertical distance from the average natural grade at the building line 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.
13. "Condominium" means a building or group of buildings in which units are owned individually and the structure, common areas, and facilities are owned by all of the owners on a proportional undivided basis.
14. "District" means a section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
15. " Dwelling/dwelling unit" means any building or portion thereof which is designed for use exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.
16. " Dwelling, multiple" means a building or portion thereof designed for or occupied exclusively for residence purposes by two or more families.
17. " Dwelling, single-family" means a building designed for or occupied exclusively for residence purposes by one family.
18. " Dwelling, two-family" means a building designed for or occupied exclusively for residence purposes by two families.
19. " Family" means one or more persons related by blood, marriage or adoption occupying a single dwelling unit. A family may include four, but not more than four, persons not related by blood, marriage or adoption, except by special exception of the Board of Adjustment; however, domestic employees employed on the premises may be housed on the premises without being counted as a family or families.
20. " Family home" means a community-based residential home which 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 supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under Chapter 237.
21. " Frost-free foundation" means a foundation supporting a structure and which is required to be at least 42 inches below grade.

22. “Garage” means a building or portion thereof in which a motor vehicle containing gasoline, distillate or other volatile, flammable liquid in its tank is stored, repaired, or kept.
23. “Garage, private” means building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
24. “Garage, public or storage” means a building or part thereof other than a private garage, for the storage of motor vehicles and in which service station activities may be carried on.
25. “Grade” means the average elevation of the finished ground at the exterior walls of the main building.
26. “Health care facility” means any residential care facility, intermediate care facility, or skilled nursing facility.
- A. “Residential care facility” is any institution, place, building or agency providing, for a period exceeding twenty-four consecutive hours, accommodation, board, personal assistance and other essential daily living activities to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse on an emergency basis.
- B. “Intermediate care facility” is any institution, place, building or agency providing, for a period exceeding twenty-four consecutive hours, accommodation, board, and nursing services, the need for which certified by a physician, to three or more individuals, not related to the administrator or owner thereof within the third degree or consanguinity, who by reason of illness, disease or physical or mental infirmity require nursing services which can be provided only under the direction of a registered nurse or a licensed practical nurse.
- C. “Skilled nursing facility” is any institution, place, building, or agency providing, for a period exceeding 24 consecutive hours, accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity require continuous nursing care services and related medical services, but do not require hospital care. The nursing care services provided must be under the direction of a registered nurse on a 24-hour basis.
27. “Home occupation” means an occupation conducted in a dwelling unit, provided that:
- A. No person other than members of the family residing on the premises shall be engaged in such occupation, except by special exception by the Board of Adjustment, which may allow one person other than family members not residing on the premises to be employed.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants,

and not more than 30 percent of the main floor area of the dwelling unit shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, nor shall there be any outdoor storage associated with the home occupation or other visible evidence of the conduct of such home occupation other than one sign, not exceeding three square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

D. No home occupation shall be conducted in any accessory building, except by special exception of the Board of Adjustment.

E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by providing off-street parking and shall not be in a required front yard. Further, no off-street parking resulting from the home occupation shall interfere with the off-street parking of surrounding properties.

F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

G. Automotive repair and vehicle maintenance shall only be allowed by special exception of the Board of Adjustment.

H. All home occupations shall have been registered in the office of the Clerk within one year of adoption of the Zoning Ordinance or shall be subject to all terms and conditions of this chapter. Said registration shall be on a form provided by the office of the Clerk.

28. "Hospital" means an institution which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care, over a period exceeding 24 hours, of two or more nonrelated individuals suffering from illness, injury or deformity, or a place which is devoted primarily to the rendering, over a period exceeding 24 hours, of obstetrical or other medical or nursing care, for two or more nonrelated individuals, or any institution, place, building or agency in which any accommodation is primarily maintained, furnished or offered for the care, over a period exceeding 24 hours, of two or more nonrelated aged or infirm persons requiring or receiving chronic or convalescent care, and includes sanitariums or other related institutions. However, this does not apply to hotels or other similar places that furnish only food and lodging or either to their guests. "Hospital" includes, in any event, any facilities wholly or partially constructed or to be constructed with federal financial assistance, pursuant to Public Law 725, 79th Congress, approved August 13, 1946.

29. "Hotel" means a building occupied as the more or less temporary residence of individuals who are lodged for compensation with or without meals, in which there are sleeping rooms or suites of rooms with no provision for cooking in any individual room or suites of rooms, and entrance is through a common lobby or office.

30. “Junkyard” means any area not fully enclosed in a building, including a salvage yard, which is used in whole or in part for the storage or deposit of junk, waste, discarded or salvaged materials or where they are bought, sold, exchanged, baled or packed, disassembled, stored, abandoned or handled, including the dismantling or “wrecking” of automobiles or other vehicles or machinery, house-wrecking yards, used lumber yards and places or yards for storage of salvage, house-wrecking and structural steel materials and equipment encompassing either: (i) an area of 200 square feet or more; or (ii) two or more inoperable motor vehicles, or used parts and materials, thereof, which taken together equal the bulk of two or more motor vehicles.
31. “Kennel (commercial)” means an establishment in which dogs or domestic animals more than one year old are housed, groomed, bred, boarded, trained, or sold.
32. “Lodging house” means a building originally designed for or used as single-family, two-family, or multiple-family dwelling, all or a portion of which contains lodging rooms or rooming units which accommodate persons who are not members of the keeper’s family. Lodging or meals, or both, are provided for compensation. The term “lodging house” shall be construed to include boardinghouse, rooming house, fraternity house, sorority house, and dormitories.
33. “Lot” means a parcel of land 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 an improved public street, or on an approved private street, and may consist of:
- A. A single lot of record;
  - B. A portion of a lot of record;
  - C. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record;
  - D. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.
34. “Lot frontage” means the front of a lot and the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of lot adjacent to streets shall be considered frontage and yards shall be provided as indicated under the definition for “yard” in this section.
35. “Lot measurements” include the following:
- A. Width of a lot is the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the building line; provided, however, width between side lot lines at their foremost points (where they intersect with the street line or front property line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where 80% requirement shall not apply.
  - B. Depth of a lot shall be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

36. "Lot of record" means a lot which is part of a subdivision 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.
37. "Lot Types" are shown on Exhibit 1 at the end of this chapter which illustrates terminology used in this chapter with reference to the following:
- A. A "corner" lot is a lot located at the intersection of two or more streets.
  - B. An "interior" lot is a lot other than a corner lot with only one frontage on a street other than an alley.
  - C. A "through" lot is a lot other than a corner lot with frontage on more than one street other than an alley. Lots with frontage on two nonintersecting streets may be referred to as "through" lots.
  - D. A "reversed corner" lot is a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.
38. "Manufactured home" means a factory-built structure which is manufactured or constructed under the authority of 42 U.S.C. Section 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. A manufactured home shall be located and installed according to the same standards, including but not limited to, a foundation system, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. A mobile home as defined in Section 435.1 of the *Code of Iowa* is not a manufactured home, unless it has been converted to real property as provided in Section 435.26 of the *Code of Iowa*, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.
39. "Mobile home" means any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, and which is, has been or reasonably may be equipped with wheels, or other devices for transporting the structure from place to place, whether by motive power or other means. The term "mobile home" includes camp car and house car.
40. "Modular home" means factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.
41. "Motel" (also "motor hotel," "motor court," "motor lodge," or "tourist court") means a building or group of buildings designed to provide sleeping accommodations to transient guests for compensation and provides near each guest room a parking space for the guest's vehicle. A swimming pool, restaurant, meeting rooms, management offices, and other such accessory facilities may be included.
42. "Nonconformities" means lots, structures, uses of land and structures or characteristics of uses which are prohibited under the terms of this chapter but were lawful at the date of the Zoning Ordinance's enactment.
43. "Nursing home" or "convalescent home" means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent or

physically disabled persons, not including insane and other mental cases, inebriate or contagious cases.

44. “Parking space” means an area of not less than 180 square feet, either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle.

45. “Permitted use” means a use by right, which is specifically authorized in a particular zoning district.

46. “Principal use” means the main use of land or structures as distinguished from an accessory use.

47. “Projections” (into yards) means parts of buildings such as architectural features that extend beyond the building’s exterior wall.

48. “Service station” (gas station) means a building or premises used for dispensing or offering for sale at retail any automobile fuels, oils or having pumps and storage tanks therefor, or where battery, tire, or any similar services are rendered, and where vehicles are not parked for purposes of inspection or sale.

49. “Setback” means the required distance between every structure and lot line on the lot which it is located.

50. “Sign” means any advertising device or surface out-of-doors, on or off premises, on which letters, illustrations, designs, figures, or symbols are printed or attached and which conveys information or identification.

51. “Sign, off-premises” means an advertising device including the supporting structure which directs the attention of the general public to a business, service, or activity not usually conducted or a product not usually sold upon the premises where such a sign is located. Such a sign shall not include on-premises signs, directional, or other official signs which have a significant portion of their face devoted to giving public service information (date, time, temperature, weather, information, etc.).

52. “Sign, on-premises” means an advertising device concerning the sale or lease of the property upon which it is located and an advertising device concerning activities conducted or products sold on the property upon which it is located.

53. “Statement of intent” means a statement preceding regulations for individual districts intended to characterize the districts and their legislative purpose.

54. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling or roof next above it.

55. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story.

56. “Street” means all property dedicated or intended for public or private use for access to abutting land or subject to public easements therefor, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle or however otherwise designated.

57. “Street line” means the right-of-way line of a street.

58. “Structural alteration” means any change in the supporting members of a building, such bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.
59. “Structure” means anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.
60. “Townhouse” means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.
61. “Use” means the purpose or activity for which a piece of land or its buildings is designed, arranged, or intended or for which it is occupied or maintained.
62. “Variance” means a device used by the Board of Adjustment which grants a property owner relief from certain provisions of a Zoning Ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money and which condition is not of the owner’s own making.
63. “Yard”<sup>†</sup> means an open space on the same lot with a building, 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 depth of a front yard or the depth of the rear yard, the least distance between the lot line and the main building shall be used. Fences and walls are permitted in any yard, subject to height limitations as indicated herein.
64. “Yard, front” means a yard extending across the width of the lot between the side yards, and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches. Corner lots shall meet the front yard requirements on each street frontage. One yard on a corner lot shall be designated as a primary front yard, that being the yard that includes the front entrance to the house, the other being the secondary front yard. Accessory structures may be erected in the secondary front yard according to the bulk district regulations.
65. “Yard, rear” means a yard extending across the width of the lot between the side yards and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots there shall be no rear yard required.
66. “Yard, side” means a yard extending from the front lot line to the rear lot line and measured between the side lot lines and the building. On corner lots the yards not designated as front yards shall be considered the side yards. Each corner lot shall have two fronts and two side yards.
67. “Zoning/Building Administrator” means the local official responsible for reviewing zoning/building permits and following a determination by the Zoning Board of Adjustment for special exceptions and variances. Decisions of the

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<sup>†</sup> **EDITOR’S NOTE:** See Exhibit 2 at the end of this chapter for Yard Chart.

Administrator may be appealed to the Board of Adjustment. Permits are issued by the Zoning/Building Administrator.

68. "Zoning District" means a section the City designated in the text of the Zoning Ordinance and delineated on the Zoning Map in which requirements for the use of land, the building and development standards are prescribed. Within each district, all requirements are uniform.

69. "Zoning Map" means the map delineating the boundaries of districts which, along with the zoning text, comprises the Zoning Ordinance.

**165.04 APPLICATION OF DISTRICT REGULATIONS.** The regulations set by the Zoning Ordinance within each district are minimum regulations and apply uniformly to each class or kind of structure or land and particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.

2. 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 the Zoning Ordinance shall be included as part of a yard, open space, or off-street parking or loading space similar required for any other building.

3. No yard or lot existing at the time of passage of the Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the Zoning Ordinance shall meet at least the minimum requirements established herein.

4. Whenever the requirements of this Zoning Ordinance are at variance with the requirement of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standard shall govern.

5. All structures existing as of the effective date of the Zoning Ordinance and which comply with the terms and conditions hereof, shall be considered lawful and be allowed to continue and exist or be reconstructed as they currently exist.

**165.05 OFFICIAL ZONING MAP.**

1. Provision for Official Zoning Map. The City shall be divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, shall be adopted by ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Clerk. If, in accordance with the provisions of this chapter and Chapter 414 of the *Code of Iowa*, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Council, with an entry on the Official Zoning Map as follows: By official action of the Council, the following changes were made in the Official Zoning Map. (Indicate the changes by ordinance numbers and date of publication.) No amendment of this chapter which involves matters portrayed on the Official Zoning Map shall become effective until after such change entered and entry made on said map.

2. Annexation of New Land. Any land annexed to the City after the effective date of the Zoning Ordinance shall be zoned AG (Agricultural) until the Commission and Council shall have studied the area and adopted a final zoning plan for the area in accordance with this chapter.

3. Replacement of the Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Council may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the Clerk. Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

(See EDITOR'S NOTE at the end of Chapter 168 for ordinances amending the zoning map.)

**165.06 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City limits shall be construed as following such City limits.
4. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 to 3 of this section 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 subsections 1 through 6 of this section, the Board of Adjustment shall interpret the district boundaries.
8. Whenever the Council vacates and disposes of a street or alley, adjacent districts shall extend to the centerline of the vacation.
9. Whenever a variance exists between the Zoning Map and the legal description on an amendment to this chapter, the legal description applies.

**165.07 RESIDENTIAL DWELLING STANDARDS.** All single-family dwelling units shall meet the following minimum standards:

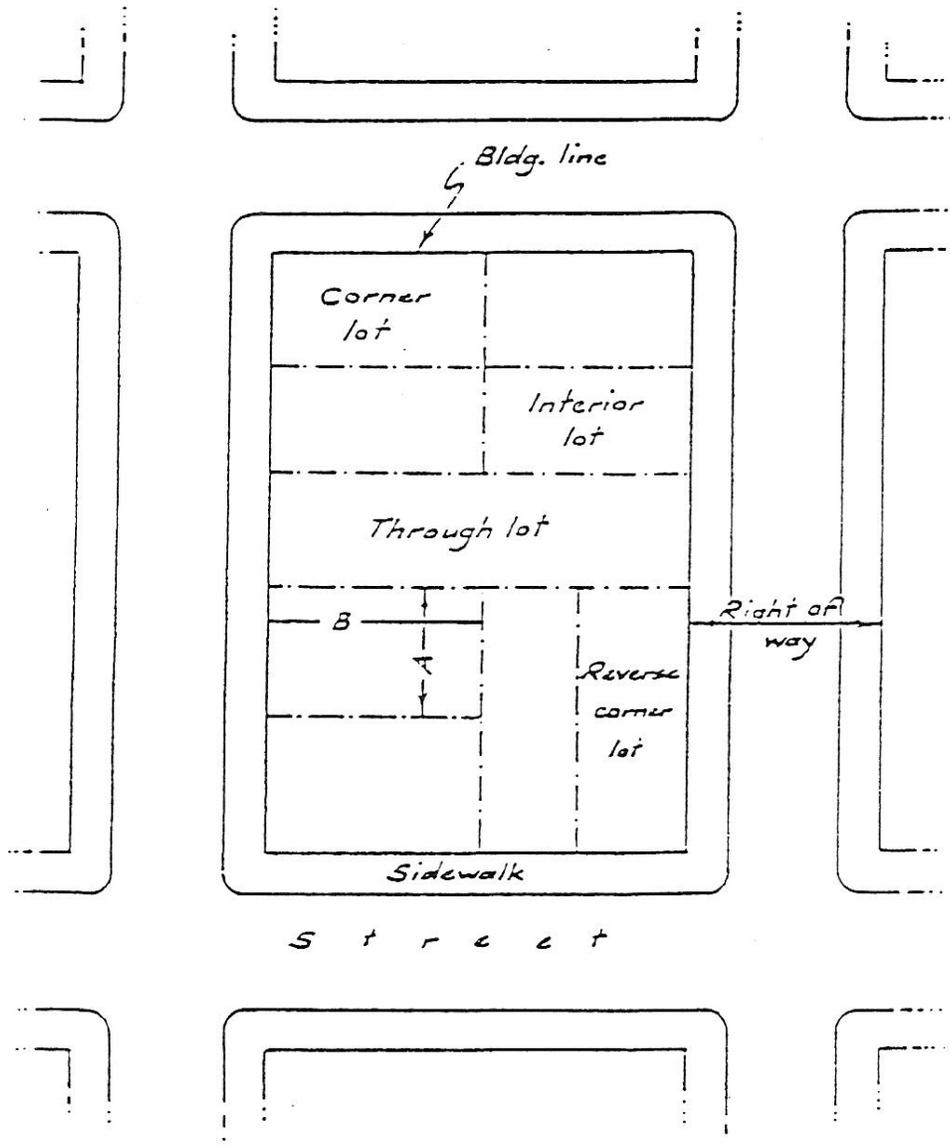
1. The minimum dwelling width shall be 20 feet at the exterior dimension.
2. All dwelling units including attached garages shall be placed on a continuous permanent frost-free foundation.
3. All dwelling units shall provide for a minimum of 900 square feet of interior living floor space.
4. All dwellings units shall have a minimum roof pitch of 3:12. This requirement shall not apply to manufactured housing if the housing otherwise complies with 42 U.S.C. Section 5403.

**165.08 SIDEWALKS.** Any development requiring a zoning/building permit shall require the construction of sidewalks upon any tract or platted lot within 18 months of issuance of the zoning/building permit unless said tract or platted lot has sidewalks as required in the subdivision regulations of the City. In addition, if said tract or platted lot has sidewalks in compliance with the subdivision regulations and the existing sidewalks are in a state of disrepair which poses an inconvenience or a danger to pedestrians, no zoning/building permit for a principal building shall be issued until an agreement is entered into to reconstruct sidewalks in compliance with this Code of Ordinances within 18 months.

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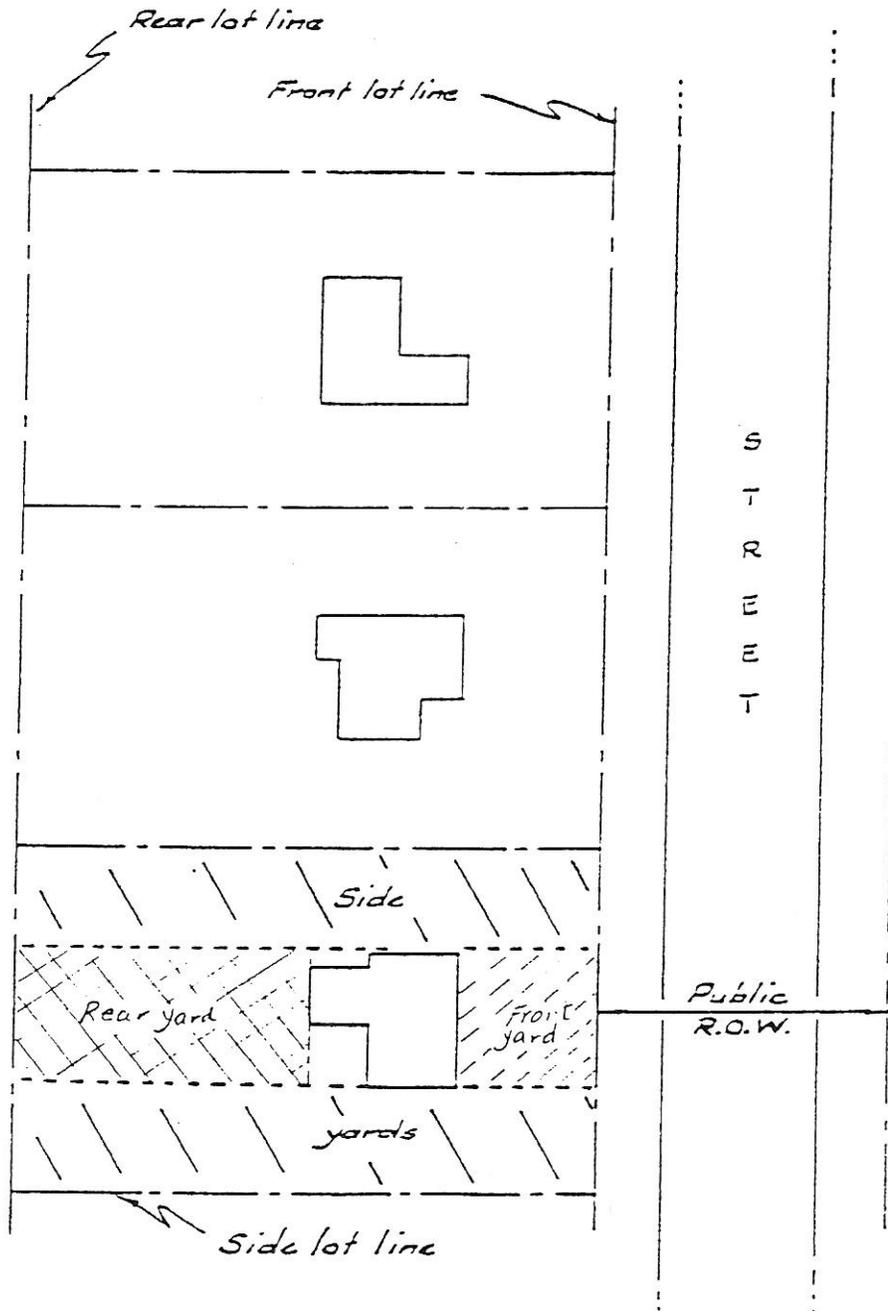
**EXHIBIT 1 TO ZONING REGULATIONS**

**LOT TYPES**



A—Width of lot  
B—Length of lot

**EXHIBIT 2 TO ZONING REGULATIONS**  
**YARD CHART**



[The next page is 825]

**CHAPTER 166**  
**ZONING REGULATIONS**  
**NONCONFORMING USES AND STRUCTURES**

<b>166.01 Nonconformities</b>	<b>166.05 Nonconforming Uses of Structures or of Structures and Premises in Combination</b>
<b>166.02 Nonconforming Lots of Record</b>	<b>166.06 Repairs and Maintenance</b>
<b>166.03 Nonconforming Uses of Land (or Land with Minor Structures Only)</b>	<b>166.07 Uses Under Special Exception Provisions Not Nonconforming Uses</b>
<b>166.04 Nonconforming Structures</b>	

**166.01 NONCONFORMITIES.** Within the districts established by this chapter there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before the Zoning Ordinance was passed or amended, but which are prohibited, regulated, or restricted under the terms of this chapter or future amendment to the Zoning Ordinance. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded or extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same district; however, it is the intent of this chapter to allow structures which were nonconforming under the previous Zoning Ordinance, but which are conforming under this chapter to be considered legal as of the date of adoption of the Zoning Ordinance and shall be allowed to be rebuilt, added to, or modified within the terms and requirements of this chapter. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the Zoning Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

**166.02 NONCONFORMING LOTS OF RECORD.** In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record provided that the lot is not less than 50 feet in width at the effective date of adoption or amendment of the Zoning Ordinance, except by special exception of the Board of Adjustment, notwithstanding limitations imposed by other provisions of the chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, if the lot conforms to the regulations for the district in which such lot is located.

**166.03 NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY).** Where at the time of passage of the Zoning Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
3. If any such nonconforming use of land ceases for any reason for a period of 12 months, then any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
4. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land unless erected at least 200 feet from all adjacent lot lines.

**166.04 NONCONFORMING STRUCTURES.** Where a lawful structure exists at the effective date of adoption or amendment of the Zoning Ordinance that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in such a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to any extent, or be unoccupied for 12 consecutive months, it shall be reviewed by the Board of Adjustment and may be allowed by special exception.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

**166.05 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.** If lawful use involving individual structures with a replacement cost of \$1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of the Zoning Ordinance that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the Zoning Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or

by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used, except in conformity with the regulations of the district in which it is located.

6. When nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. "Destruction," for the purpose of this subsection, is defined as damage to an extent of more than 50 percent of the replacement cost at time of destruction. Replacement shall begin within six months of the time of destruction or the nonconforming status shall expire. Said construction shall also be completed within 18 months of the time of destruction or the nonconforming status shall expire.

**166.06 REPAIRS AND MAINTENANCE.** On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, provided that the cubic content of the building as it existed at the time of passage or amendment of the Zoning Ordinance shall not be increased.

**166.07 USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NONCONFORMING USES.** Any use which is permitted as a special exception in a district under the terms of this chapter (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

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## CHAPTER 167

# ZONING REGULATIONS ADMINISTRATION AND ENFORCEMENT

167.01 Administration and Enforcement  
167.02 Zoning/Building Permits Required  
167.03 Board of Adjustment; Establishment and  
Procedure  
167.04 Board of Adjustment; Powers and Duties  
167.05 Appeals from the Board of Adjustment

167.06 Enforcement and Interpretation  
167.07 Amendments  
167.08 Penalties for Violation  
167.09 Schedule of Fees, Charges, and Expenses  
167.10 Complaints Regarding Violations

**167.01 ADMINISTRATION AND ENFORCEMENT.** A Zoning/Building Administrator designated by the Council shall administer and enforce this chapter. The Administrator may be provided with the assistance of such other persons as the Council may direct.

**167.02 ZONING/BUILDING PERMITS REQUIRED.** No building or other structure shall be erected, moved, or added to, without a permit therefor issued by the Zoning/Building Administrator. No zoning/building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustment. Fees for permits shall be as provided by City resolution. Zoning/building permits shall be applied for with the City Clerk. Every permit issued under the provisions of this chapter shall expire twelve months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Building Official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner of his or her agent and by payment of the renewal fee as established by resolution of the City Council, and provided no changes have been made in plans or location. No permit shall be renewed more than once. The fee for the extension shall be \$75.00 re-inspection fee if the project is at the finish (drywall and trim installed) state and 50 percent of the original building permit fee if the project is at the rough-in stage (drywall and trim not installed).

**167.03 BOARD OF ADJUSTMENT; ESTABLISHMENT AND PROCEDURE.**

1. Board Created. A Board of Adjustment is hereby established which shall consist of five members. The terms of office of the members of the Board and the manner of their appointment shall be as provided by statute. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. 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 of real estate.

2. Proceedings of the Board of Adjustment. 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 time as the Board may determine. The Chairperson or, in that person's absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall, through its Secretary, keep minutes of its proceedings, showing the vote of each member upon

each question of 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 immediately filed in the office of the Board and shall be a public record. All actions of the Board concerning a special exception or variance shall also be recorded in the office of the County Recorder. It is the responsibility of the appellant to record said action and all corresponding stipulations; and further, said action shall take effect upon the Board receiving sufficient confirmation of the same. A copy of said action shall also be filed in the office of the Zoning/Building Administrator.

**167.04 BOARD OF ADJUSTMENT; POWERS AND DUTIES.** The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning/Building Administrator in the enforcement of this chapter.

A. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board, or bureau of the City affected by any decision of the Zoning/Building Administrator. Such appeal shall be taken within 10 days by filing with the Zoning/Building Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning/Building Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.

B. The Board Chairperson shall fix a reasonable time for the hearing of the appeal, and give not less than 7 or more than 20 days' public notice in a paper of general circulation in the City, and decide the same within 30 days. At said hearing, any party may appear in person, by agent or by attorney.

C. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning/Building Administrator from whom the appeal is taken certifies to the Board of Adjustment after the Notice of Appeal is filed with the Administrator, that by reason of facts stated in the certificate, a stay would, in the Administrator's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning/Building Administrator from whom the appeal is taken and on due cause shown.

2. Special Exceptions: Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:

A. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

- B. The Board shall fix a reasonable time for the hearing of the special exception, and give not less than 7 or more than 20 days' public notice in a paper of general circulation in the City, and decide the same within 30 days.
- C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
- D. The Board of Adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.
3. Variance, Conditions Governing Application; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:
- A. A written application for a variance is submitted demonstrating:
- (1) That special conditions and circumstances exist which are peculiar to land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - (2) That 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;
  - (3) That the special conditions and circumstances do not result from the actions of the applicant;
  - (4) That 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.

No nonconforming use of neighboring land, structures, or buildings in the same district, and no permitted or nonconforming use of land, structures, or buildings in other districts may be considered grounds for the issuance of a variance.

- B. The Board shall fix a reasonable time for the hearing of the variance, and give not less than 7 or more than 20 days' public notice in a paper of general circulation in the City, and decide the same within 30 days.
- C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.
- D. The Board of Adjustment shall make findings that the requirements of this section have been met by the applicant for a variance.
- E. The Board of Adjustment shall further 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.
- F. 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.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation 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 this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a 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 said district.

The concurring vote of the majority of the Board is necessary to reverse any order, requirement, decision, or determination of the Zoning/Building Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

**167.05 APPEALS FROM THE BOARD OF ADJUSTMENT.** Any person or persons, or any board, taxpayer, department, board or bureau of the City, or other areas subject to this chapter 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 Chapter 414, *Code of Iowa*.

**167.06 ENFORCEMENT AND INTERPRETATION.** All questions of interpretation and enforcement shall be first presented to the Zoning/Building Administrator, and such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning/Building Administrator, and recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Chapter 414, *Code of Iowa*.

**167.07 AMENDMENTS.** The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed, provided that at least seven days' notice of the time and place of such hearing shall be published in a paper of general circulation in the City. In no case shall the notice be published more than 20 days prior to the hearing. The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. Notwithstanding Section 414.2, as a 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 owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the City Clerk and signed by the owners of 20 percent or more of the area of the lots included in the proposed change or repeal, or by the owners of 20% or more of the property which is located within 200 feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. The protest, if filed, must be filed before or at the public hearing. Proposed amendments not recommended by the Planning and Zoning Commission shall become effective only upon a favorable vote of three-fourths of the members of the City Council. All zoning amendment application forms shall be approved by resolution of the City Council.

**167.08 PENALTIES FOR VIOLATION.** Violation of the provisions of this chapter with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other legal action as is necessary to prevent any violation.

**167.09 SCHEDULE OF FEES, CHARGES, AND EXPENSES.** The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning district changes, zoning permits, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Zoning/Building Administrator, and the City Clerk, and may be altered or amended only by the City Council, as recommended by the Planning and Zoning Commission. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

**167.10 COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning/Building Administrator. The Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

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## CHAPTER 168

# ZONING REGULATIONS DISTRICT REGULATIONS

168.01 Districts Established	168.07 AC – Arterial Commercial District
168.02 AG – Agricultural District	168.08 BC – Central Business Commercial District
168.03 CN – Conservation District	168.09 DBC – Downtown Business Commercial District
168.04 RS – Residential Single-Family District	168.10 LI – Light Industrial District
168.05 RM – Residential Multi-Family District	168.11 HI – Heavy Industrial District
168.06 MH – Mobile Home District	168.12 Supplementary District Regulations

**168.01 DISTRICTS ESTABLISHED.** The City is herewith divided into the following districts:

AG	Agricultural District
CN	Conservation District
RS	Residential Single-Family District
RM	Residential Multi-Family District
MH	Mobile Home District
AC	Arterial Commercial District
BC	Central Business Commercial District
DBC	Downtown Business Commercial District
LI	Light Industrial District
HI	Heavy Industrial District

These districts are established as identified on the Official Zoning Map which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be part of this chapter.

### **168.02 AG – AGRICULTURAL DISTRICT.**

1. Intent. This district is intended to provide for areas in which agriculture and related uses are encouraged as the principal use of land. However, uses which may be offensive to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic, or physical appearance or other similar factors are not permitted. The district prohibits urban density residential use until these areas may be served by utilities and services of the City. This district is also intended to preserve land suited for eventual development into other uses, pending proper timing for economical and practical provisions of streets, utilities, schools and other facilities so that reasonably compact development will occur and the fiscal integrity of the City is preserved. All newly annexed areas to the City will automatically be placed into this district classification unless otherwise suitably classified.
2. Permitted Uses. The following uses are permitted in the AG District:
  - A. Agriculture, including the usual agricultural buildings and structures.

- B. Home occupations.
- 3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the AG District:
  - A. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.
  - B. Private garages, barns and other farm buildings.
  - C. Roadside stands offering for sale only agricultural products or other products produced on the premises.
  - D. Temporary buildings for the uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
  - E. Satellite dishes.
- 4. Special Exceptions. Certain uses may be permitted in the AG District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:
  - A. Cemeteries, crematories, or mausoleums.
  - B. Commercial kennels.
  - C. Stables, private or public.
  - D. Greenhouses and nurseries.
  - E. Publicly operated sanitary landfills.
  - F. Private recreational camps, golf courses, and recreational facilities.
  - G. Public or private utility substations, relay stations, etc.
  - H. Churches or accessory facilities (on- or off-site).
  - I. Publicly owned and operated buildings and facilities.
- 5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the AG District.

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
1 Acre	200 Feet	40 Feet	30 Feet	40 Feet	2½ stories or 35 feet, excluding farm buildings

- 6. Off-Street Parking. The following off-street parking requirements shall apply in the AG District:
  - A. Dwellings: two parking spaces on the lot for each living unit in the building. For dwellings not consisting of living units: two parking spaces on the lot for each 1,000 square feet of floor area.
  - B. Churches: one parking space on the lot for each five seats in the main auditorium.

- C. Public buildings and facilities: one parking space for each 300 square feet of gross floor area.
  - D. Roadside stands: one parking space for each 50 square feet of enclosed floor area.
  - E. Greenhouses and nurseries: one parking space per 1,000 square feet of enclosed floor area.
7. Off-Street Loading. The following off-street loading requirements shall apply in the AG District:
- A. All activities or uses allowed in the AG District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
  - B. Loading shall not be permitted to block public right-of-way.
8. Signs. The following sign regulations shall apply to the AG District:
- A. Off-premises signs and on-premises signs are permitted.
  - B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
  - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
  - D. No sign may imitate or resemble an official traffic control sign, signal or device.
  - E. Signs shall not encroach or extend over public right-of-way.
  - F. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
  - G. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
  - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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**168.03 CN – CONSERVATION DISTRICT.**

1. Intent. This district is intended to prevent, in those areas which are subject to periodic or potential flooding, such development as would result in a hazard to health or safety or be otherwise incompatible with the public welfare. This district is also intended to provide for water conservation, erosion control, protection of wildlife habitat, protection of natural erosion control, protection of natural drainage ways and to generally provide for ecologically sound land use of environmentally sensitive areas.
2. Permitted Uses. The following uses are permitted in the CN District:
  - A. Undeveloped and unused land in its natural condition.
  - B. Public parks and recreation open space.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the CN District:
  - A. Agriculture, exclusive of dwelling units.
  - B. Agriculture or recreational buildings or structures whose use or value would not be impaired by being flooded.
  - C. Flood control structures.
  - D. Roadside stands offering for sale only agricultural products or other products produced on the premises.
  - E. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the CN District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
  - A. Cemeteries, crematories, or mausoleums.
  - B. Stables, private or public.
  - C. Greenhouses and nurseries.
  - D. Private recreational uses.
  - E. Public or private utility substations, relay stations, etc.
  - F. Publicly owned buildings and facilities.
5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the CN District.

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
5 acres	200 feet	50 feet	20 feet	50 feet	2 ½ stories or 35 feet, excluding farm buildings

6. Off-Street Parking. The following off-street parking requirements shall apply in the CN District:
  - A. Roadside stands: one parking space for each 50 square feet of enclosed floor area.
  - B. Greenhouses and nurseries: one parking space per 1,000 square feet of enclosed floor area.
7. Off-Street Loading. The following off-street loading requirements shall apply in the CN District:
  - A. All activities or uses allowed in the CN District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
  - B. Loading shall not be permitted to encroach public right-of-way.
8. Signs. The following sign regulations shall apply to the CN District:
  - A. Off-premises signs, except for real estate or political signs are not permitted.
  - B. No sign may be lighted in a manner, which impairs the vision of the driver of any motor vehicle.
  - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
  - D. No sign may imitate or resemble an official traffic control sign, signal, or device.
  - E. Signs shall not encroach or extend over public right-of-way.
  - F. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
  - G. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City, or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
  - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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**168.04 RS – RESIDENTIAL SINGLE-FAMILY DISTRICT.**

1. Intent. This district is intended to provide for a variety of single-family residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Low and medium population density neighborhoods are recognized and provided for by varying the minimum bulk regulations. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various single-family residential areas of the City.
2. Permitted Uses. The following uses are permitted in the RS District:
  - A. Single-family detached dwellings.
  - B. Family homes.
  - C. Home occupations.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RS District:
  - A. Private garages.
  - B. Private recreational facilities.
  - C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Accessory Buildings. No accessory building may be erected in any required primary front yard and no separate accessory building may be erected within 10 feet of a main building. No accessory building shall be closer than four feet to the rear or side lot line. Accessory buildings located in the rear yard may not occupy more than 30 percent of the rear yard. No accessory building shall be used without occupancy of the principal building.
5. Special Exceptions. Certain uses may be permitted in the RS District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
  - A. Nursery schools.
  - B. Public or private utility substations, relay stations, etc.
  - C. Churches.
  - D. Publicly owned and operated buildings and facilities.
  - E. Private schools with a curriculum similar to public schools.
  - F. Golf courses but not miniature courses or separate driving tees.
  - G. Bed and breakfast houses.
  - H. Home occupations in accessory buildings.
  - I. Multiple-family dwellings.
  - J. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary shall be considered as accessory buildings. When the

dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.

6. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RS District:

Zoning Symbol	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard *	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
6 RS	6,000 square feet	60 feet	20 feet	6 feet	20 feet	2½ Stories or 35 feet*
10 RS	10,000 square feet	80 feet	30 feet	8 feet	30 feet	2 ½ Stories or 35 feet*
40 RS	40,000 square feet	200 feet	50 feet	20 feet	50 feet	2 ½ Stories or 35 feet*
*Provided that the front yard setback is not closer to the right-of-way than either adjacent property.						

Publicly owned and operated buildings and facilities may be allowed exceptions from the bulk regulations.

7. Off-Street Parking. The following off-street parking requirements shall apply in the RS District:

- A. Dwellings: two parking spaces on the lot for each living unit in the building. For dwellings not consisting of living units: two parking spaces on the lot for each 1,000 square feet of floor area.
- B. Churches: one parking space on the lot for each five seats in the main auditorium.
- C. Elementary, junior high and equivalent private or parochial schools: one parking space for each classroom and office plus one parking space for each 300 square feet of gross floor area in the auditorium or gymnasium.
- D. Senior high schools and equivalent private or parochial schools: one parking space for each employee and one parking space for each 10 students.
- E. Colleges, universities, institutions of higher learning, and equivalent private or parochial schools: one parking space for each employee and one parking space for each five students.
- F. Public buildings and facilities: one parking space for each 300 square feet of gross floor area.
- G. Nursery schools: one and one-half parking spaces per employee.

8. Off-Street Loading. The following off-street loading requirements shall apply in the RS District:

- A. All activities or uses allowed in the RS District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

- B. Loading shall not be permitted to block public right-of-way.
- 9. Signs. The following sign regulations shall apply to the RS District:
  - A. Off-premises signs are not permitted.
  - B. No sign may be lighted in a manner, which impairs the vision of the driver of any motor vehicle.
  - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
  - D. No sign may imitate or resemble an official traffic control sign, signal or device.
  - E. Signs shall not encroach or extend over public right-of-way.
  - F. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
  - G. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
  - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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**168.05 RM – RESIDENTIAL MULTI-FAMILY DISTRICT.**

1. Intent. This district is intended to provide for a variety of multi-family residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Medium and high population density neighborhoods are recognized and provided for by varying the minimum bulk regulations. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various multi-family residential areas of the City.
2. Permitted Uses. The following uses are permitted in the RM District:
  - A. Single-family detached dwellings.
  - B. Multi-family dwellings (as per Bulk Regulations).
  - C. Home occupations.
  - D. Family homes.
  - E. Townhouses.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RM District:
  - A. Private garages.
  - B. Parking lots.
  - C. Private recreational facilities.
  - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Accessory Buildings. No accessory building may be erected in any required primary front yard and no separate accessory building may be erected within 10 feet of a main building. No accessory building shall be closer than four feet to the rear or side lot line. Accessory buildings located in the rear yard may not occupy more than 30 percent of the rear yard. No accessory building shall be used without occupancy of the principal building.
5. Special Exceptions. Certain uses may be permitted in the RM District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
  - A. Nursery schools.
  - B. Public or private utility substations, relay stations, etc.
  - C. Churches and publicly owned and operated buildings and facilities.
  - D. Private schools with curriculum similar to public schools.
  - E. Lodging houses, dormitories, fraternities and sororities.
  - F. Bed and breakfast houses.
  - G. Health care facilities.

H. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings. When the dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.

6. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RM District:

Zoning Symbol	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
RM	10,000 square feet	80 feet	30 feet	8 feet	30 feet	45 feet

7. Off-Street Parking. The following off-street parking requirements shall apply in the RM District:

- A. Single-family dwellings: two parking spaces on the lot.
- B. Multi-family dwellings: one parking space on the lot for each dwelling unit.
- C. Churches: one parking space on the lot for each five seats in the main auditorium.
- D. Elementary, junior, and equivalent private or parochial schools: one parking space for each classroom and office plus one parking space per each 300 square feet of gross floor area in auditorium or gymnasium.
- E. Senior high schools and equivalent private or parochial schools: one parking space for each employee and one parking space for each 10 students.
- F. Colleges, universities, institutions of higher learning, and equivalent private or parochial schools: one parking space for each employee and one parking space for each five students.
- G. Public buildings and facilities: one parking space for each 300 square feet of gross floor area.
- H. Nursery schools: one and one-half parking spaces per employee.

8. Off-Street Loading. The following off-street loading requirements shall apply in the RM District:

- A. All activities or uses allowed in the RM District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to encroach public right-of-way.

9. Signs. The following sign regulations shall apply to the RM District:

- A. Off-premises signs are not permitted.
- B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

- C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- D. No sign may imitate or resemble an official traffic control sign, signal, or device.
- E. Signs shall not encroach or extend over public right-of-way.
- F. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
- G. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 893]

**168.06 MH – MOBILE HOME DISTRICT.**

1. Intent. This district is intended to provide for certain medium density residential areas in the City now developed as mobile home parks which by reason of their design and location are compatible with surrounding residential areas and areas of the City where similar development seems likely to occur. This district has useful application as a transition zone between shopping areas and residential areas and is normally located along thoroughfares where direct access to the site is available.
2. Permitted Uses. The following uses are permitted in the MH District:
  - A. Mobile homes located in an approved mobile home park.
  - B. Home occupations.
3. Accessory Uses.
  - A. Private recreational facilities.
  - B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of the construction work.
  - C. Private garages or private storage sheds.
4. Special Exceptions.
  - A. Public or private utility substation, relay stations, etc.
  - B. Nursery schools.
  - C. Churches or accessory facilities (on or off site).
  - D. Home occupations in accessory buildings.
  - E. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings. When the dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.
5. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the MH District:
  - A. No mobile home shall be located within 24 feet of any other, or within five feet of any driveway or parking space.
  - B. A greenbelt perimeter, at least 25 feet in width, shall be located along the inside of all perimeter boundaries of each mobile home park, except where it is crossed by driveways.
  - C. Each mobile home shall be located on a lot having an area of at least 5,500 square feet.
  - D. Each mobile home park shall be graded and drained so that rainwater will not stand in pools or puddles.
  - E. Each street and parking area in any mobile home park shall be bounded by a sidewalk at least three feet wide.

F. All minimum street widths in mobile home parks shall be approved as private streets and further comply with the following:

	<b>One-Way Street</b>	<b>Two-Way Street</b>
No parking on street	14 feet	24 feet
Parallel parking on one side	20 feet	30 feet
Parallel parking both sides	26 feet	36 feet

6. Signs. The following sign regulations shall apply to the MH District:
- A. Off-premises signs are not permitted.
  - B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
  - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
  - D. No sign may imitate or resemble an official traffic control sign, signal or device.
  - E. Signs shall not encroach or extend over public right-of-way.
  - F. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
  - G. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
  - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 901]

**168.07 AC – ARTERIAL COMMERCIAL DISTRICT.**

1. Intent. This district is intended to provide for certain areas of the City for the development of service, retail, and other nonresidential uses which because of certain locational requirements and operational characteristics are appropriately located in close proximity to arterial and other main thoroughfares. Residential type structures are also permitted. The district is further characterized by a typical need for larger lot sizes, off-street parking, adequate setbacks, clear vision, safe ingress and egress and access to other adjacent thoroughfares.
2. Permitted Uses.
  - A. Sales and display rooms and lots, including yards for the storage or display of new or used building materials but not for any scrap or salvage operation storage or sales.
  - B. Offices and clinics.
  - C. Churches and publicly owned and operated buildings and facilities.
  - D. Hotels and motels.
  - E. Any other retail or service sales business, including food preparation for sale off-premises.
  - F. Publicly owned and operated buildings and facilities.
3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the AC District:
  - A. Private recreational facilities.
  - B. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling, provided that such living quarters shall not be on the first floor.
  - C. Private garages.
  - D. Parking lots.
  - E. Temporary buildings for uses incidental to construction work which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the AC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
  - A. Public or private utility substations, relay stations, etc.
  - B. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings. When the dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the AC District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
10,000 square feet	80 feet	30 feet	8 feet	30 feet	50 feet or 4 stories

6. Off-Street Parking. The following off-street parking requirements shall apply in the AC District:

- A. Sales and service buildings: one parking space per 150 square feet of gross floor area.
- B. Office/clinics: one parking space per 300 square feet of gross floor area.
- C. Churches: one parking space on the lot for each five seats in the main auditorium.
- D. Public buildings and facilities: one parking space per 300 square feet of gross floor area.
- E. Hotels and motels: one parking space per room plus one parking space for each employee.

7. Off-Street Loading. The following off-street loading requirements shall apply in the AC District:

- A. All activities or uses allowed in the AC District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the AC District:

- A. Off-premises and on-premises signs are permitted.
- B. Off-premises signs shall comply with the setbacks of the districts they are located in. Off-premises signs are governed by State and federal regulations along highways, where zoning exists.
- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.

H. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional, or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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**168.08 BC – CENTRAL BUSINESS COMMERCIAL DISTRICT.**

1. Intent. This district is intended to accommodate the major business and office concentration in the City. It is characterized further by a variety of stores and related activities which occupy the central commercial area of the City. This district is intended to be the single central business district of the City and no other use of this district shall be utilized other than contiguously with the currently established BC District. Bulk regulations further reflect a more intense use and development pattern.
2. Permitted Uses. The following uses are permitted in the BC District:
  - A. Business sales and services conducted entirely within the building, including those with incidental manufacturing or processing of goods or products.
  - B. Offices/clinics.
  - C. Hotels and motels.
  - D. Publicly owned and operated buildings and facilities.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the BC District:
  - A. Outdoor sales and service.
  - B. Private garages.
  - C. Parking lots.
  - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
  - E. Accessory uses customarily incidental to any permitted principal use.
4. Special Exceptions. Certain uses may be permitted in the BC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
  - A. Service stations.
  - B. Churches or accessory facilities (on or off site).
  - C. Dwellings – second floor and above.
  - D. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings. When the dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the BC District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
None	None	None	None, except if a side yard is provided it shall be a minimum of 8 feet	None, except if a rear yard is provided, it shall be a minimum of 20 feet	50 feet or 4 stories
Where this district abuts a lower intensity district, the greater side and rear yard setbacks apply.					

6. Off-Street Parking. None required.

7. Off-Street Loading. The following off-street loading requirements shall apply in the BC District:

A. All activities or uses allowed in the BC District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to encroach upon public right-of-way.

8. Signs. The following sign regulations shall apply to the BC District:

A. Off-premises signs are not permitted.

B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.

D. No sign may imitate or resemble an official traffic control sign, signal, or device.

E. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.

F. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

G. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 919]

**168.09 DBC – DOWNTOWN BUSINESS COMMERCIAL DISTRICT.**

1. Intent. This district is intended to accommodate the major business and office concentration in the City. It is characterized further by a variety of stores and related activities which occupy the downtown commercial area of the City. This district is intended to be the single downtown business district of the City. Bulk regulations further reflect a more intense use and development pattern.
2. Permitted Uses. The following uses are permitted in the DBC District:
  - A. Business sales and services conducted entirely within the building, including those with incidental manufacturing or processing of goods or products.
  - B. Offices/clinics.
  - C. Hotels and motels.
  - D. Publicly owned and operated buildings and facilities.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the DBC District:
  - A. Outdoor sales and service.
  - B. Private garages.
  - C. Parking lots.
  - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
  - E. Accessory uses customarily incidental to any permitted principal use.
4. Special Exceptions. Certain uses may be permitted in the DBC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
  - A. Service stations.
  - B. Churches or accessory facilities (on or off site).
  - C. Dwellings – second floor and above.
  - D. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary shall be considered as accessory buildings. When the dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the DBC District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
None	None	None	None, except if a side yard is provided it shall be a minimum of 8 feet	None, except if a rear yard is provided, it shall be a minimum of 20 feet	50 feet or 4 stories
Where this district abuts a lower intensity district, the greater side and rear yard setbacks apply.					

6. Off-Street Parking. None required.

7. Off-Street Loading. The following off-street loading requirements shall apply in the DBC District:

A. All activities or uses allowed in the DBC District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to encroach upon public right-of-way.

8. Signs. The following sign regulations shall apply to the DBC District:

A. Off-premises signs are not permitted.

B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.

D. No sign may imitate or resemble an official traffic control sign, signal, or device.

E. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.

F. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

G. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

H. Free-standing signs shall not exceed 25 feet in height.

I. Signs attached to a building shall not project above the height of the building or more than four feet from the wall of the building.

J. Projecting signs must be no greater than 12 square feet and have a maximum width of three feet and maximum height of five feet. No less than eight feet of clearance shall be provided between the sidewalk elevation and the lowest point of the projecting sign. Maximum distance between sign and

building face is one foot. Projecting or wall signs cannot block or obliterate windows or cornices of the building upon which they are placed.

K. No sign shall exceed 150 square feet in area, nor shall any sign cover more than 10 percent of the building face which it covers.

L. No sign or billboard shall be located in, overhang, or project into a required yard.

M. All signs and billboards shall be maintained in a neat and presentable condition and, in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

N. Internally illuminated signs (not including neon) are prohibited except for theater signage. Temporary window signage is limited to one-third of the window surface area. The combination of neon signage, permanently painted signage, and temporary signage should not exceed a total of two-thirds of the window surface area.

O. All business signs shall be removed from the premises within 90 days of the closing of a business.

9. Primary Building Materials.

A. Painting unpainted brick is not allowed without prior approval of Planning and Zoning Commission and Stuart Historic Preservation Commission.

B. The following materials are allowed on the façades of buildings adjacent to public right-of-ways: (i) brick, four inches in height and 12 inches in length or smaller; (ii) fiber cement board siding; (iii) concrete split-faced block masonry units used only for accents.

C. The following material is allowed on the façades of buildings adjacent to public right-of-ways except buildings contributing to the Uptown Stuart Historic District as listed on the National Register of Historic Places: exterior insulation and finish system (EFIS) stucco.

D. Buildings that are contributing to the Uptown Stuart Historic District as listed on the National Register of Historic Places and which have existing façade material of exterior insulation and finish system (EFIS) stucco can keep, maintain, and have repairs made to the existing EFIS stucco. However, no additional or new areas of the building façade can be covered with EFIS stucco or have the material used on the exterior of the building.

E. The use of other materials not listed above is not allowed without prior approval of Planning and Zoning Commission and Stuart Historic Preservation Commission.

F. If the Planning and Zoning Commission or the Stuart Historic Preservation Commission does not approve a building material submitted, the applicant may appeal the decision to the City Council for consideration.

10. Front Entry.
  - A. Except when using a door style original to the building, doors must be metal or wood with a full panel design with at least the upper panels in glass or be full glass.
  - B. Doors to apartment entrances for upper story house may be full metal or wood.
11. Cornices.
  - A. Owners are required to preserve, maintain, or repair their original configuration or with materials and details to match the existing.
  - B. Plans to remove, conceal, cover, or replace a cornice shall be reviewed and agreed upon between the owner and the Planning and Zoning Commission and Stuart Historic Preservation Commission.
12. Windows.
  - A. Owners are required to repair or retain original windows. Window replacement shall be considered when existing are not original or are so deteriorated that repair is not feasible. Window replacement shall be considered to replace single pane windows with energy efficient multi-pane windows, provided that windows still meet the appearance, dimensions, trim, and glazing pattern of the original windows.
  - B. Plans for new storefront windows shall be reviewed and agreed upon between the owner and the Planning and Zoning Commission and, for those buildings contributing to the Uptown Stuart Historic District as listed on the National Register of Historic Places, by the Stuart Historic Preservation Commission.
  - C. Clear glass shall be installed for display windows. Interior shades or horizontal blinds shall be utilized for shade or privacy. Permanent shades or covers may not be used.
  - D. Creating new window openings or eliminating original window openings on all principal elevations, or on areas of a building that can be viewed easily by the public is not allowed.
  - E. Original window trim shall be preserved and retained. Decorative window lintels and details may be added if approved by the Planning and Zoning Commission and, for those buildings contributing to the Uptown Stuart Historic District as listed on the National Register of Historic Places, also by the Stuart Historic Preservation Commission.
  - F. Upper story replacement windows shall match the original in size and shape. Design, material, and glazing pattern shall be replicated.
  - G. Covering of deteriorating or broken windows/doors with cardboard, plywood, or similar material for more than 30 days is not allowed.
13. Awnings.
  - A. If canvas awnings are used, awnings cannot extend across multiple storefronts and/or multiple buildings. Canvas awnings must be constructed of

durable, protective, and water repellent canvas. Backlighting or illuminating awnings are not allowed.

B. All awnings must be at least three feet away from the plane of any street light.

C. Color and patterns shall be approved by the Planning and Zoning Commission and the Stuart Historic Preservation Commission. If the Planning and Zoning Commission or the Stuart Historic Preservation Commission does not approve a color or pattern submitted, the applicant may appeal the decision to the City Council for consideration.

14. Roofs and Parapets.

A. The roof design or style must be maintained where it is visible from the ground (e.g., a flat roof may not be replaced with a pitched roof).

B. Roofing materials visible from the ground in front of the building cannot include metal except for caps.

C. Adequate gutters and downspouts must be located to carry water off the roof and away from the building.

D. Heating/cooling units, air circulation units, antennas and satellite dishes must be located as near to the rear of the roof as mechanically possible so they cannot be seen from the ground and front of the building. If placement out of view from the ground is not mechanically possible, a movable barrier designed to blend with the rest of the structure shall be built around such mechanical units that would provide adequate air circulation.

E. Parapets shall be capped and sealed.

F. Unless damaged beyond repair, architectural designs on the parapet shall be maintained.

15. Other Architectural Details. Bulkheads, transoms, molding, and other architectural details shall be replaced with like architectural details, even if exact materials cannot be used. Transom windows shall be replaced with windows unless the interior structure has been altered such that windows are not feasible. In all other cases, materials for architectural details shall replicate the appearance of the original.

16. Color. The color of buildings shall complement the adjacent buildings' colors. The color of brick or other natural building materials shall dictate the color family choice. Bricks in the red and brown tones with light and bright colors shall be used only as minor accents. The accent colors shall complement the primary color. Colors used must either be on the color palette approved by the Planning and Zoning Commission and the Stuart Historic Preservation Commission or a proposed color must be submitted to and approved by them. If the Planning and Zoning Commission or the Stuart Historic Preservation Commission does not approve a color submitted, the applicant may appeal the decision to the City Council for consideration.

17. Utility Areas and Mechanical Equipment Screening. Where mechanical equipment, utility boxes, or dumpsters are located on the ground visible from the front, a barrier shall be constructed around the structure, to screen such equipment or dumpster. Barriers shall maintain necessary access and adequate air circulation to and around such equipment. Barriers shall also screen tires, scrap metal and debris.

18. Exhaust Fans. Exhaust fans may not exhaust through any wall visible from the front.

19. Street Sales, Furniture and Plants. Any benches or planters kept in front of buildings must be a variety approved by the Planning and Zoning Commission and the Stuart Historic Preservation Commission. Any metal shall not have any rust or chipping paint. Any wood must be finished and weather-resistant. Plants kept in front of buildings must be kept green and live with no unsightly weeds.

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**168.10 LI – LIGHT INDUSTRIAL DISTRICT.**

1. Intent. This district is intended to provide for areas of development by industrial firms that have high standards of performance and that can locate in close proximity to residential and business uses. The district regulations are designed to permit the development of any manufacturing or industrial operations which on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic, physical appearance, or other similar factors. Outdoor storage is allowed in this district when the material is enclosed within a solid fence at least six feet high and said fence being within required building lines. All industrial operations must be in an enclosed building. No residential uses are permitted in this district.
2. Permitted Uses. The following uses are permitted in the LI District:
  - A. Any nonresidential building or use which would not be hazardous, obnoxious, offensive, or unsightly by reason of odor, sound, vibrations, radioactivity, electrical interference, glares, liquid or solid waste, smoke, or other air pollutants.
  - B. Storage, manufacture, compounding, processing, packing and/or treatment of products, exclusive of the rendering or refining of fats and/or oils.
  - C. Manufacture, compounding, assembly, and/or treatment of articles or merchandise derived from previously prepared materials.
  - D. Assembly of appliances and equipment, including manufacture of small parts.
  - E. Wholesale distribution of all standard types of prepared or packaged merchandise.
  - F. Sale and storage of building materials. Outdoor or open storage shall be allowed only when the material is enclosed within a solid fence at least six feet high and said fence being within required building lines.
  - G. Contractors' offices and storage of equipment.
  - H. Public or private utility substations, relay stations, etc.
3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the LI District.
  - A. Accessory buildings and uses customarily incidental to a permitted use.
  - B. Living quarters for watchmen or custodians of industrial properties.
4. Special Exceptions. Certain uses may be permitted in the LI District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the LI District.

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
10,000 square feet	80 feet	30 feet	8 feet, except that if adjacent to an "RS" or "RM" district, then it shall be 20 feet	30 feet	4 stories or 50 feet

6. Off-Street Parking. The following off-street parking requirements shall apply in the LI District:

- A. All commercial uses shall provide one parking space on the lot for each 300 square feet of floor area.
- B. All industrial uses shall provide one parking space on the lot for each two employees of maximum number employed at any one time.

7. Off-Street Loading. The following off-street loading requirements shall apply in the LI District:

- A. All activities or uses allowed in the LI District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to encroach upon public right-of-way.

8. Signs. The following sign regulations shall apply to the LI District:

- A. Off-premises signs are not permitted.
- B. On-premises signs are permitted.
- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal, or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
- H. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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**168.11 HI – HEAVY INDUSTRIAL DISTRICT.**

1. Intent. This district is intended to provide areas for activities and uses of a heavy industrial character and is the least restrictive of any district. In the best interest of the City, certain uses in the HI District shall be subject to final City Council approval, conditional approval, or denial to insure that proper safeguards are taken. No residential uses are permitted.

2. Permitted Uses. There may be any use, excluding residential uses and mobile homes. The following uses must be given separate City Council approval before a zoning/building permit is issued.

- A. Acid manufacture.
- B. Cement, lime, gypsum, or plaster of Paris manufacture.
- C. Distillation of bones.
- D. Explosive manufacture or storage.
- E. Fat rendering.
- F. Fertilizer manufacture.
- G. Gas manufacture.
- H. Garbage, offal, or dead animals, reduction or dumping.
- I. Glue manufacture.
- J. Petroleum, or its products, refining of.
- K. Smelting of tin, copper, zinc, aluminum, rubber, or iron ores.
- L. Stockyards or slaughter of animals.
- M. Junk yards. Must be surrounded by a solid fence at least eight feet high located within building lines and the junk piled not higher than the fence.

Before granting such separate approval, the Council shall refer applications to the Commission for study, investigation, and report. If no report is received in 30 days, the Council may assume approval of the application.

3. Determining Provisions for Approval. The Council shall then, after holding a public hearing, consider all of the following provisions in its determination upon the particular use at the location requested:

- A. The proposed location, design, construction, and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
- B. Such use shall not impair an adequate supply of light and air to surrounding property.
- C. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety.
- D. Such use shall not diminish or impair established property values in adjoining or surrounding property.

- E. Such use shall be in accord with the intent, purpose, and spirit of this chapter and the Comprehensive Plan of the City.
- 4. Required Conditions.
  - A. The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance shall be employed and subject to all State and federal regulations.
  - B. All principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least 100 feet from any R District boundary, except where adjoining a railroad right-of-way, and 50 feet from any commercial boundary.
- 5. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the HI District.
  - A. Accessory buildings and uses customarily incidental to a permitted use.
  - B. Living quarters for watchmen or custodians of industrial properties.
- 6. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the HI District.

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
10,000 square feet	None	30 feet	8 feet, except that if adjacent to another district, it shall be 50 feet	20 feet, except when adjacent to another district it shall be 100 feet	3 stories or 45 feet

- 7. Off-Street Parking. The following off-street parking requirements shall apply in the HI District.
  - A. All commercial uses shall provide one parking space on the lot for each 300 square feet of floor area.
  - B. All industrial uses shall provide one parking space on the lot for every two employees of maximum number employed at any one time.
- 8. Off-Street Loading. The following off-street loading requirements shall apply in the HI District:
  - A. All activities or uses allowed in the HI District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
  - B. Loading shall not be permitted to encroach upon public right-of-way.
- 9. Signs. The following sign regulations shall apply to the HI District:
  - A. Off-premises signs and on-premises signs are permitted.
  - B. Off-premises signs shall comply with the setbacks of the districts they are located in. Off-premises signs are governed by State and federal regulations along highways, where zoning exists.

- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
- H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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**168.12 SUPPLEMENTARY DISTRICT REGULATIONS.**

1. **Building Lines on Approved Plats.** Whenever the plat of a land subdivision approved by the Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.
2. **Structures to Have Access.** Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
3. **Erection of More than One Principal Structure on a Lot.** In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.
4. **Accessory Buildings and Structures.** No accessory building shall be erected in any required yard other than a side or rear yard, except as provided herein. Accessory buildings shall be a distance of at least five feet from the rear lot lines and alley lines, and at least three feet from the lot line of adjoining lots, and on a corner lot they shall conform to the setback regulations on the side street. Accessory building may be erected as a part of the principal building or may be connected thereto by a breeze-way or similar structure provided all yard requirements for a principal building are complied with. An accessory building that is not a part of the main building shall not occupy more than 30 percent of the rear yard and shall not exceed the lesser of 17 and one-half feet in height, or the height of the principal building; however, this regulation shall not be interpreted to prohibit the construction of a 440 square foot garage on a minimum rear yard. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used. In any residential district, air conditioning compressor-condensers may be located in any side yard and in any rear yard, provided that: (i) in any side yard adjacent to a street, they shall not be placed more than five feet from the principal structure and shall be screened from the street by a solid fence or plantings; and (ii) in any permitted yard other than a side yard adjacent to a street, the compressor-condenser for any unit of five-ton capacity or more shall not be located within 25 feet of any lot line and a compressor-condenser with less than five-ton capacity shall not be located within five feet of any lot line unless screened therefrom by a solid fence or plantings. In any commercial or industrial district, air conditioning compressor-condensers may be located in any yard adjoining a street if screened therefrom by a solid fence or plantings. Air conditioning compressor-condensers may be located in any side yard which does not adjoin a street and any rear yard, unless the adjoining lot is located in a residential district, in which case the residence district regulations shall apply. The bottom edge of required screening in any district shall be no more than six inches above the ground, and the upper edge shall extend not less than one foot above the top of the compressor-condenser.

5. Fences. Any fence, hedge, or wall shall not exceed four feet in height or be more than 75 percent solid in any required front yard and shall not exceed six feet in height on any remaining part of the lot except as permitted by the Zoning Administrator, after submission of a building permit. The construction of a fence, hedge, or wall shall require City approval upon submission of a building permit. Any such fence, hedge, or wall shall be set back no less than two feet from the property line, unless the adjacent property owner agrees in writing to less than the two-foot setback. A rear yard fence, hedge, or wall shall be set back no less than four feet from the property line unless the adjacent property owner agrees in writing to less than the four-foot setback. Any such fence, hedge, or wall shall have equal appearance on both sides unless otherwise agreed to by the adjacent property owners. Consent by the adjacent property owner shall be in writing and shall include a legal description of both properties, a description of the location, construction materials, type of fence to be constructed, reasonable arrangements for maintenance and repair of the fence, a method of termination of the agreement, notarized signatures of all owners, and proper proof of recording with the County Recorder. Property owners submitting an application for a building permit must establish their property line by legal survey. For purposes of this section, underground electric fences shall be considered fences and their intended use, installation, and construction must reasonably protect the public's right to use all streets, sidewalks, or right-of-ways.
6. Height Limits. Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tank, water towers, ornamental towers, spires, wireless tower, grain elevators, or necessary mechanical appurtenances may be exempt from the height regulations contained in this chapter by special exception of the Board of Adjustment.
7. Projections into Required Yards.
  - A. Sills, belt courses, cornices, and ornamental features may project only two feet into a required yard.
  - B. Open fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard for a distance of not more than three and one-half feet when so placed as not to obstruct light and ventilation, may be permitted by the Zoning/Building Administrator.
  - C. Unenclosed porches 20 square feet and under not extending more than five feet into the required front yard are allowed. A building permit is required, but no fee will be charged. Other unenclosed porches may be allowed to extend into the front yard by special exception of the Board of Adjustment.
  - D. Terraces which do not extend above the level of the ground (first) floor may project into a required yard, provided these projections are distanced at least two feet from the adjacent side lot line.
8. Utility Service Lines. Nothing in this chapter shall have the effect of prohibiting utility service lines.
9. Parking in Front Yards. All vehicular parking spaces located in required front yards shall be a minimum of 10 feet in width and be surfaced with gravel, concrete, or asphalt.

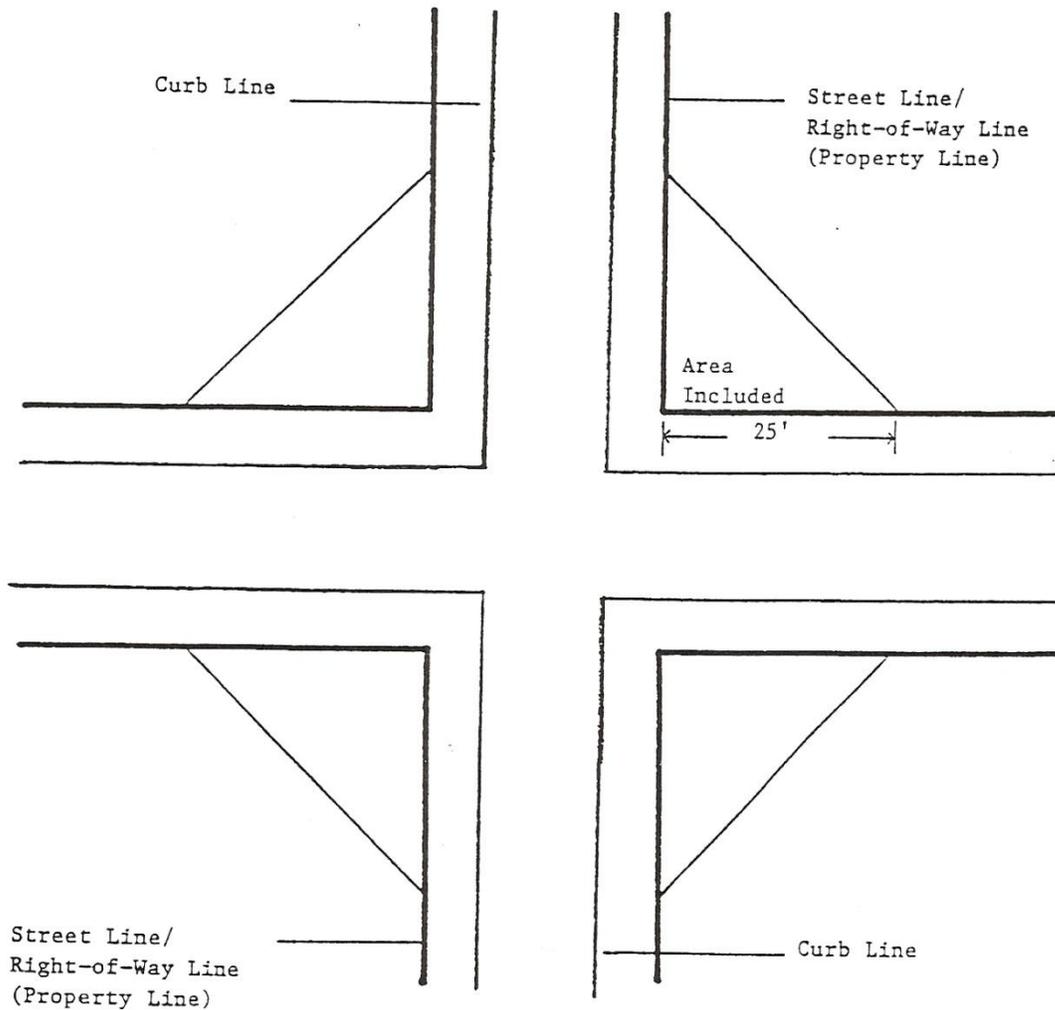
10. Swimming Pools. Private swimming pools shall be allowed only in rear yards and shall not be allowed in front or side yards.

11. Visibility Obstructions. On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of three and 10 feet above the centerline grades of the intersecting streets in the area bounded by the right-of-way lines of such corner lots and a line joining points along said right-of-way lines 25 feet from the point of the intersection, except in the BC District. (See Exhibit 3 at the end of this chapter.)



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**EXHIBIT 3 TO ZONING REGULATIONS**  
**CORNERS – YARDS AND VISIBILITY**



[The next page is 985]

## CHAPTER 170

# SUBDIVISION REGULATIONS

170.01 Purpose	170.11 Professional Assistance
170.02 Jurisdiction	170.12 Preliminary Plat Requirements
170.03 Definitions	170.13 Final Plat Requirements
170.04 Fees	170.14 Streets and Alleys
170.05 Variances	170.15 Block
170.06 Enforcement	170.16 Lots
170.07 Amendments	170.17 Improvements Required
170.08 Preliminary Platting Procedure	170.18 Specifications
170.09 Final Platting Procedure	170.19 Inspection
170.10 Plats Outside Corporate Limits	

**170.01 PURPOSE.** The purpose of this chapter is to secure coordination of subdivisions of land and extensions of streets; to promote proper standards for development of land, utilities, and streets; to promote public health, safety and general welfare; to facilitate the adequate provisions of transportation, water supply, sewage treatment, storm drainage, parks, and recreation facilities and other public improvements and services in areas of new development through the City, all in accordance with a Comprehensive Plan.

**170.02 JURISDICTION.** All plats, replats, or subdivision of land into three or more parts for the purpose of laying out a portion of the City, additions thereto, or, pursuant to Section 354.9 of the *Code of Iowa*, suburban lots within one mile of the corporate limits of the City for other than agricultural purposes, shall be submitted to the Council and Planning and Zoning Commission of the City, in accordance with the provisions of this chapter, and shall be subject to the requirements established herein.

**170.03 DEFINITIONS.** For the purpose of this chapter, the following terms and words are defined.

1. “Alley” means a permanent public service way or right-of-way designed to provide a secondary means of access to abutting property.
2. “Auditor” means the County Auditor of Guthrie County or Adair County, Iowa.
3. “Building line” means a line established in a plat as a restrictive covenant beyond which no building may be placed. The building lines need not correspond to the front, side or rear yard requirement established in the Zoning Ordinance, and where they do not, the most restrictive requirement will control.
4. “Commission” means the Planning and Zoning Commission of the City.
5. “Cul-de-sac” means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.
6. “Easement” means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of said person’s property.
7. “Final plat” means the map or drawing on which the subdivision plan is presented in the form which, if approved by the Council and Commission, will be filed and recorded with the County Recorder.

8. "Preliminary plat" means a study or drawings indicating the proposed manner or layout of the subdivision which is submitted to the Council and Commission for consideration.
9. "Separate tract" means a parcel of land or a group of contiguous parcels of land under one ownership.
10. "Street" or "road" means a right-of-way other than an alley dedicated or otherwise legally established to be accepted for public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway, thoroughfare, parkway, avenue, road, lane, drive, place, or other appropriate designation.
11. "Thoroughfare" means a street intended for cross-country or through traffic.
12. "Collector street" means a street intended to carry vehicular traffic from residential streets to thoroughfares or traffic generators.
13. "Residential street or road" means a street used primarily for access to abutting property.
14. "Right-of-way" means the area measured between property lines dedicated to and accepted for public use and providing access to abutting properties.
15. "Subdivider" means any person who shall lay out, for the purpose of sale or development, any subdivision or part hereof as defined herein, either for said person or others.
16. "Subdivision" means the division of a separate tract of land or lot of record into three or more lots or parcels for the purpose of transfer of ownership or building development, or if a new road is involved, any division of a parcel of land.

**170.04 FEES.** Each preliminary plat submitted for approval shall be accompanied by a fee of \$5.00 per lot, which shall be credited to the General Fund of the City.

**170.05 VARIANCES.** Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this chapter.

**170.06 ENFORCEMENT.** In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall be enforced as follows:

1. No plat or subdivision in the City or within one mile thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed herein.
2. No more than two building permits shall be issued for each separate tract existing at the effective date of the ordinance codified herein unless the tract shall have been platted in accordance with the provisions contained herein.
3. No Construction Compliance Certificate or Occupancy Compliance Certificate shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of

these subdivision regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations set forth in this chapter.

4. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements or other services in any area that has been subdivided after the date of adoption of the ordinance codified in this chapter unless the subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the Council as a public street.

5. Any person who shall hereafter dispose of or offer for sale or lease any lots in the City or addition thereto unless the plat thereof has been approved in accordance with this chapter and recorded, shall forfeit and pay \$50.00 for each lot sold or disposed of, leased or offered for sale.

**170.07 AMENDMENTS.** This chapter may be amended from time to time by the Council. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report within 30 days, after which the Council shall give notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

**170.08 PRELIMINARY PLATTING PROCEDURE.**

1. The owner or developer of any tract of land to be subdivided shall cause a preliminary plat to be prepared, a plat of the subdivision containing the information specified herein, and shall file three copies and a reproducible sepia or tracing of the plat with the Clerk.

2. The Clerk shall immediately transmit two copies of the preliminary plat to the Commission for study and recommendations.

3. The Commission shall examine the plat as to its compliance with this chapter and the Comprehensive Plan of the City and shall have 30 days to submit a recommendation to the Council, provided that the owner or developer may agree to an extension of time not to exceed 60 days. A copy of the recommendation shall be forwarded to the owner or developer.

4. The Council, upon receipt of the Commission's recommendation or after 30 days, or extension thereof, shall have passed, shall by resolution grant approval of or reject the preliminary plat. If the preliminary plat is rejected, the Council will advise the owner or developer of any changes which are desired or should have consideration before approval will be given. Approval of the preliminary plat by the Council shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.

**170.09 FINAL PLATTING PROCEDURE.**

1. A final plat shall be submitted within 12 months of the approval of the preliminary plat, or such approval shall expire and the preliminary plat shall be resubmitted for approval prior to preparation of a final plat.

2. Procedures for final plats shall be the same as set out for preliminary plats in Section 170.08.

3. Upon approval of the final plat, a certification of approval signed by the Mayor and attested by the Clerk shall be affixed to the original tracing of the final plat and copies of the same filed with the Clerk, County Auditor, and County Recorder along with such other certifications and instruments as may be required by law.

**170.10 PLATS OUTSIDE CORPORATE LIMITS.** The procedure for approval of preliminary and final plats of land within one mile of the corporate limits shall be the same as set out in Section 170.08 and 170.09, except that five copies of the plat shall be filed with the Clerk and the Clerk shall in addition refer one copy to the County Engineer and one copy to the County Planning and Zoning Commission, and request their recommendations to be submitted to the City Planning and Zoning Commission. The Commission shall not take action on the plat prior to receiving the recommendations of the County.

**170.11 PROFESSIONAL ASSISTANCE.** The Council or Commission may request such professional assistance as they deem necessary to properly evaluate the plats as submitted.

**170.12 PRELIMINARY PLAT REQUIREMENTS.** The preliminary plat shall contain the following information:

1. A location map showing:
  - A. The subdivision name;
  - B. An outline of the area to be subdivided;
  - C. The existing streets and public or community utilities, if any, on adjoining property; and
  - D. North point and scale.
2. A preliminary plat of the subdivision drawn to the scale of 50 feet to one inch provided that if the resulting drawing would be over 36 inches in the shortest dimension, a scale of 100 feet to one inch may be used, said preliminary plat to show:
  - A. Legal description, acreage and name of proposed subdivision;
  - B. Name and address of owner;
  - C. Name of person who prepared the plat, and the date thereof;
  - D. Location of existing lot lines, streets, public utilities, water mains, sewers, drain pipes, culverts, water courses, bridges, railroads and buildings in the proposed subdivision;
  - E. Location and widths, other dimensions and names of the proposed streets, utility easements and other open spaces or reserved areas;
  - F. Tract boundary lines showing dimensions, bearings, angles and references to known lines or bench marks;
  - G. Names of adjacent property owners;
  - H. Layout of proposed blocks (if used) and lots, including the dimensions of each and the lot and block number in numerical order;
  - I. A statement concerning the location and approximate size and capacity of vertical intervals of not more than two feet if the general slope of the site is less than 10 degrees and at vertical intervals of not more than five feet if the general slope is 10 degrees or greater;

- J. Grades of proposed streets;
- K. Proposed building lines;
- L. A cross-section of the proposed streets showing the roadway location, the type and width of surfacing, type of drainage and other improvements to be installed;
- M. The location of proposed wells and/or water mains and sewage disposal system if a public or community system is used;
- N. The drainage of the land including proposed storm sewers, ditches, culverts, bridges and other structures;
- O. North point and graphic scale; and
- P. Layout of lots showing approximate dimensions and number.

**170.13 FINAL PLAT REQUIREMENTS.** The final plat shall meet the following specifications:

1. It may include all or only part of the preliminary plat.
2. The plat shall be drawn to the scale of 50 feet to one inch, provided that if the resulting drawing would be over 36 inches in the shortest dimension, a scale of 100 feet to one inch may be used.
3. The final plat shall contain the following:
  - A. Accurate boundary lines with dimensions and angles which provide a survey of the tract closing with an error of not more than one foot in 3,000 feet;
  - B. Accurate references to known or permanent monuments giving the bearing and distance from some corner of a congressional division of the County of which the subdivision is a part;
  - C. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract;
  - D. Accurate metes and bounds description of the boundary;
  - E. Street names;
  - F. Complete curve notes for all curves included in the plat;
  - G. Street right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines;
  - H. Lot numbers and dimensions;
  - I. Block numbers, if blocks are used;
  - J. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use;
  - K. Building lines and dimensions;
  - L. Location, type, material and size of all monuments and markers;
  - M. Name of the subdivision;
  - N. Name and address of owner and subdivider;

- O. North point, scale and date;
  - P. Certification by a registered land surveyor of the State of Iowa;
  - Q. Certification of dedication of streets and other public property; and
  - R. Resolution and certificate for approval by the Council and signatures of the Mayor and Clerk.
4. The final plat shall be accompanied by the following instruments:
- A. A certificate by the owner and spouse, if any, that the subdivision is with their free consent and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.
  - B. One of the following:
    - (1) A certificate bearing the approval of the Council stating that all improvements and installations in the subdivision required by this chapter have been made or installed in accordance with the City specifications, or
    - (2) A surety bond with the City which will insure the City that the improvements will be completed by the subdivider or property owner within two years after the official acceptance of the plat. The form and type of bond shall be approved by the City Attorney, and the amount of the bond shall not be less than the amount of the estimated cost of the improvements plus 10 percent and the amount of the estimate must be approved by the Council. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof to complete the same, or
    - (3) A petition by the developer to the Council to provide the necessary improvements and to assess the costs thereof against the subdivided property in accordance with the requirements regarding special assessments, provided, however, that the subdivider or property owners shall furnish the necessary waivers to permit the assessment of the entire cost of the improvement plus the necessary and reasonable costs of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations.

If option (2) or option (3) above is chosen, the final plat shall state that the developer, the grantees, assignees, and successors in interest agree that public services including but not limited to street maintenance, snow and ice removal, rubbish, refuse and garbage collection will not be extended to this subdivision until the pavement is completed and accepted by the City.
  - C. Copy of all restrictive covenants to be attached to the lots of the subdivision.
5. The final plat shall also be accompanied by the following at the time it is presented for filing:
- A. A complete abstract of title and an opinion from an attorney at law showing that the fee title is in the proprietor and that the land platted is free

from encumbrance, or is free from encumbrance other than that secured by a bond as provided in Section 354.12 of the *Code of Iowa*. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances.

B. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

C. A certified statement from the Clerk of the District Court that the land platted is free from all judgments, attachments, mechanics or other liens as appears by the record in that office.

**170.14 STREETS AND ALLEYS.** Designs standards for streets and alleys are the following:

1. General Considerations.
  - A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.
  - B. Street jogs of less than 150 feet shall be avoided.
  - C. Cul-de-sacs shall not exceed 500 feet in length.
  - D. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.
  - E. New subdivisions shall make provisions for continuation and extension of thoroughfares and collector streets and roads.
  - F. No dead-end streets or alleys will be permitted except at subdivision boundaries.
  - G. Thoroughfare and collector streets in a subdivision shall extend through the boundaries thereof.
  - H. Alleys shall not be permitted in residential areas but shall be provided in commercial and industrial areas.
  - I. Intersection of road centerlines shall be between 80 degrees and 100 degrees.
  - J. Intersections of more than two streets at a point shall not be permitted.
  - K. Where parkways or special types of streets are proposed, the Commission may apply special standards for the design of such parkways or streets.
  - L. Proposed streets that are extensions of or in alignment with existing streets shall bear the name of the existing street.
2. Minimum rights-of-way shall be provided as follows:
  - A. Thoroughfare streets – 100 feet;
  - B. Collector streets – 70 feet;

- C. Residential streets – 60 feet;
  - D. Cul-de-sacs – 110 feet in diameter;
  - E. Alleys – 20 feet.
3. Minimum width of surfacing to be provided shall be as follows:
- A. Thoroughfare streets – 53 feet;
  - B. Collector streets – 41 feet;
  - C. Residential streets – 25 feet;
  - D. Cul-de-sacs – 85 feet in diameter;
  - E. Alleys – 20 feet.
  - F. Sidewalks – 4 feet.
4. No street grade shall be less than one-half of one degree and shall not exceed the following limits:
- A. Thoroughfare streets – 6 degrees;
  - B. Collector streets – 8 degrees;
  - C. Residential streets – 10 degrees.

**170.15 BLOCK.** Design standards for blocks are the following:

- 1. The length of blocks shall be not less than 500 feet and not more than 1,250 feet in length.
- 2. Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth and in no case shall the width be less than 220 feet, except where a single tier of double frontage lots parallels a limited access highway, a thoroughfare, drainage course, railroad or other barrier, the width shall not be less than 150 feet.
- 3. Crosswalks may be required in blocks over 700 feet long or in areas where curved streets require excessive out-of-distance travel. If required, they shall be constructed by the developer.

**170.16 LOTS.** Design standards for lots are the following:

- 1. All lots shall abut on a street or place. Corner lots which abut on a thoroughfare or collector street shall have a minimum radius of 15 feet at the intersection.
- 2. Sidelines of lots shall approximate right angles to straight street lines and radial angles to curved street lines except where a variation will provide better lot layout.
- 3. Lots with double frontage shall be avoided, except in specific locations where good planning indicates their use. In that event, a planting screen shall be provided along the rear of the lot.
- 4. Corner lots shall not be less than 80 feet in width, and interior lots shall not be less than 80 feet in width at the building line.

**170.17 IMPROVEMENTS REQUIRED.**

1. Sanitary Sewers. The subdivider shall provide the subdivision with sanitary sewage facilities in accordance with one of the following.
  - A. Public Collection System. Where reasonably available, the subdivider shall provide the subdivision with a complete sanitary sewer system, which shall connect with the sanitary sewer system of the City. In such case the sewer system shall be approved by the Council and shall be designed and constructed in accordance with the municipal specifications.
  - B. Local or Community Treatment System. Where it is not practical to connect the subdivision sanitary sewer system to municipal sewer, the subdivider shall install a local or community treatment system in accordance with the requirements of the State Board of Health and the County Board of Health.
  - C. Private Disposal System. If it is demonstrated that the above are not practical, the Council may, upon request, permit the subdivider to install on each lot, a septic tank and absorption field or other system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the Zoning Ordinance. In no case, however, shall private disposal systems be permitted where rock, impervious clay, or ground water is closer than 30 inches to the surface of the ground.
2. Water. The subdivider shall provide the subdivision with an approved water supply and distribution system in accordance with one of the following:
  - A. Public Water System. Where reasonably available, the subdivider shall provide the subdivision with a complete water main supply system including hydrants, valves and other appurtenances which shall extend into and through the subdivision to the boundary lines, and which shall provide for a water connection to each lot, and shall be connected to a public or municipal water system.
  - B. Local or Community Water System. Where a public water system is not available, the subdivider shall install a local or community water supply and distribution system, including all necessary mains, valves, hydrants and other appurtenances, in accordance with the standards and requirements of the State Board of Health and the County Board of Health.
  - C. Individual Water System. If it is demonstrated that the above are not practical, the Council may, upon request, permit the subdivider to install individual wells on each lot, or other water system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the Zoning Ordinance.
3. Storm Drains. The subdivider shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes, and manholes to provide for the collection and removal of all surface waters, and these improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.
4. Sidewalks. The subdivider shall provide a four-foot wide concrete sidewalk along each lot frontage upon completion of the structure thereon.

5. Street Signs. The subdivider shall provide the subdivision with acceptable street signs at the intersections of all streets.
6. Markers. An iron rod not less than one-half inch in diameter and 24 inches in length shall be placed as follows:
  - A. At the intersection of all lines forming angles in the boundary of the subdivision.
  - B. At block and lot corners and changes in direction of block and lot boundaries.
7. Grading. All streets and alleys within the platted area which are being dedicated for public use shall be brought to the grade approved by the Council.
8. Curb and Gutter. Curb and gutter shall be installed on all streets in the plat being dedicated for public use and shall be constructed of Portland cement concrete in accordance with designs and specifications and at grades approved by the Council.
9. Surfacing. All streets being dedicated for public use shall be surfaced to the width required by Section 170.14(3). Surfacing shall be Portland cement concrete or asphaltic concrete and shall be constructed in accordance with the design and specifications, and at grades approved by the Council.

**170.18 SPECIFICATIONS.** The type of construction, the materials, the methods, and standards of subdivision improvements shall be equal to the current specifications of the City for like work. Plans and specifications shall be submitted to the Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

**170.19 INSPECTION.** The Council shall cause the installation of all improvements to be inspected to insure a compliance with the requirements of this chapter. The cost of said inspection shall be borne by the subdivider, and shall be the actual cost of the inspection to the City.

## CHAPTER 171

# SITE PLAN REGULATIONS

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**171.01 TITLE.** This chapter shall be known, cited, and referred to as “Site Plan Regulations of the City of Stuart, Iowa.”

**171.02 PURPOSE AND APPLICATION.** It is the intent and purpose of this chapter to establish a procedure which will enable the City to review certain proposed improvements to property within specified zoning districts of the City to insure compliance with all applicable zoning, subdivision, and building regulations. Site plans shall only be required whenever any person proposes to place any structure for which a building permit is required under any other section of this Code, on any tract or parcel on and within any district of the Stuart Zoning Ordinance, and for any use, except one- and two-family dwellings.

**171.03 DESIGN STANDARDS.** The standards of design provided herein are necessary to insure the orderly and harmonious development of property in such manner as will safeguard the public’s health, safety, and general welfare.

1. The design of the proposed improvements shall make adequate provisions for surface and subsurface drainage, for connections to water and sanitary sewer lines, each so designed as to neither overload existing public utility lines nor increase the danger of erosion, flooding, landslide, or other endangerment of adjoining or surrounding property.
2. The proposed improvements shall be designed and located within the property in such manner as not to unduly diminish or impair the use and enjoyment of adjoining property, and to this end shall minimize the adverse effects on such adjoining property from automobile headlights, illumination of required perimeter yards, refuse containers, and impairment of light and air. For the purpose of this chapter, the term “use and enjoyment of adjoining property” means the use and enjoyment presently being made of such adjoining property, unless such property is vacant. If vacant, the term “use and enjoyment of adjoining property” means those uses permitted under the zoning districts in which such adjoining property is located.
3. The proposed development shall have such entrances and exits upon adjacent street and such internal traffic circulation pattern as will not unduly increase congestion on adjacent or surrounding public streets.
4. To such end as may be necessary and proper to accomplish the standards in subsections 1, 2, and 3 above, the proposed development shall provide fences, walls, screening, landscaping, erosion control, or other improvements.
5. The proposed development shall conform to all applicable provisions of the Code of Iowa, as amended, and all applicable provisions of this Code of Ordinances.

**171.04 REQUIRED INFORMATION.** All site plans required under 171.02 of this chapter, unless waived by the City Council, shall include as a minimum the following information:

1. Date of preparation, north point, and scale.
2. Legal description and address of the property to be developed.
3. Name and address of the record property owner, the applicant, and the person or firm preparing the site plan.
4. The existing and proposed zoning.
5. The existing topography with a maximum of two-foot contour intervals. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations where necessary but not more than 50 feet apart in both directions, shall be indicated on site plan.
6. Existing and proposed utility lines and easements in accordance with City standard specifications and Subdivision Regulations.
7. Total number and type of dwelling units proposed; proposed uses for all buildings; total floor area of each building; estimated number of employees for each proposed use where applicable; and any other information which may be necessary to determine the number of off-street parking spaces and loading spaces required by the Zoning Ordinance.
8. Location, shape, and all exterior elevation views of all proposed buildings, for the purpose of understanding the structures and building materials to be used, the location of windows, doors, overhangs, projection height, etc. and the grade relationship to floor elevation, and the number of stories of each existing building to be retained and of each proposed building.
9. All required yard setbacks.
10. Location, grade, and dimensions of all existing and proposed paved surfaces and all abutting streets.
11. Complete traffic circulation and parking plan, showing the location and dimensions of all existing and proposed parking stalls, loading area, entrance and exit drives, sidewalks, dividers, planters, and other similar permanent improvements.
12. Location and type of existing or proposed signs and of any existing or proposed lighting on the property which illuminates any part of any required yard.
13. Location of existing trees six inches or larger in diameter, landslide areas, springs and streams and other bodies of water, and any area subject to flooding by a 100-year storm on site and downstream off site.
14. Location, amount, and type of any proposed landscaping. Location of proposed plantings, fences, walls or other screening as required by the zoning regulations and the design standards set forth in Section 171.03 of this chapter.
15. A vicinity map at a scale of one inch equals 500 feet or larger, showing the general location of the property, and the adjoining land uses and zoning.
16. Soil tests and similar information, if deemed necessary by the City Engineer, to determine the feasibility of the proposed development in relation to the design standards set forth in 171.03 of this chapter.

17. Where possible ownership or boundary problems exist, as determined by the Zoning Administrator, a property survey by a licensed land surveyor may be required.

**171.05 OPEN SPACE, LANDSCAPING, PARKING AND ARCHITECTURAL REQUIREMENTS.** The requirements set forth in this section for open spaces, landscaping, parking, and architectural standards shall apply to any development or redevelopment except one- and two-family dwellings.

1. Open Space Required. On each lot, except for one- and two-family dwellings, there shall be provided open space in accordance with the following schedule:

<b>Zoning District</b>	<b>Percentage of Open Space</b>
AG*	30
RS*	30
RM*	30
MH*	25
AC	25
LI	25
HI	25

\*non-agricultural uses

A. Said open space shall be encumbered with any structure, or off-street parking or roadways and drives, and shall be landscaped and maintained with grass, trees and shrubbery. When the entire lot is not developed, the open space requirement shall be based in proportion to the area of the improved portion of the lot.

B. Each principal structure of an apartment or office complex on same site shall be separated from any other principal structure in the complex by an open space of not less than 16 feet.

2. Landscaping Required. Any development, except one- and two-family dwellings, shall provide the following minimum number and size of landscape plantings based on the minimum required open space for the development. The following is the minimum requirement of trees and shrubs, by number and size, and type of ground cover. Street trees planted in public street right-of-way subject to approval of the City shall not be counted toward fulfillment of the minimum site requirements set forth below. Plant species to be used for landscaping shall be acceptable to the City which are not considered a nuisance or undesirable species, such as trees with thorns, cottonwood or cotton-bearing poplars, elm trees prone to Dutch Elm Disease, box elder, and silver maple. Existing trees and shrubs to be retained on site may be counted toward fulfillment of the landscaping requirements.

A. Minimum requirements at the time of planting – two trees minimum or one tree of the following size per 1,500 square feet of open space, whichever is greater:

- 40 percent – 1½- to 2-inch caliper diameter
- Balance – 1- to 1½-inch caliper diameter

Evergreen trees shall not be less than six feet in height.

B. Minimum requirements at the time of planting – six shrubs, or one shrub per 1,000 square feet of open space, whichever is greater.

- C. To reduce erosion, all disturbed open space areas shall have ground cover of grass or native vegetation which is installed as sod, or seeded, fertilized, and mulched.
3. Buffer Required. The following conditions shall require a buffer, which shall be a landscaped area, wall, or other structure intended to separate and obstruct the view between two adjacent zoning districts, land uses or properties:
- A. Any Arterial Commercial (AC) and Light or Heavy Industrial (LI or HI) District that abuts any Residential (RS, RM or MH) District shall require a buffer as described in this section. The buffer shall be provided by the Arterial Commercial or Industrial uses when adjoining an RS, RM, or MH District.
- B. All Industrial Districts that abut any RS, RM or MH and AC Districts shall provide a buffer as required by this section.
- C. Any storage area, garbage storage, junk storage, or loading docks and loading areas in any District shall be screened from public street view by a buffer.
4. Buffers. Buffers required under the provisions of this section or elsewhere in the Zoning Ordinance shall be accomplished by any one or approved combination of the following methods:
- A. Buffer Wall. A buffer wall shall not be less than six feet in height; constructed of a permanent low-maintenance material such as concrete block, cinder block, brick, concrete, precast concrete, or tile block; the permanent low-maintenance wall shall be designed by an architect or engineer for both structural adequacy and aesthetic quality; weather resistant wood may be used as a substitute material if designed with adequate structural integrity and permanency and approved by the Planning and Zoning Commission and City Council.
- B. Landscape Buffer. A landscape buffer shall not be less than 25 feet in width, designed and landscaped with earth berm and predominant plantings of evergreen type trees, shrubs, and plants so as to assure year-around effectiveness; height of berm and density and height of plantings shall be adequate to serve as a solid and impenetrable screen. A chain link fence may exist for security purposes, but is not considered a part of the landscape screening to satisfy the intent of this requirement.
5. Burden of Provision of Buffer. The burden of provision and selection of the buffer shall be as follows:
- A. Where two different zoning districts requiring a buffer between them are developed, the above requirement is not retroactive and a buffer is not required. If a buffer is desired, it shall be provided by mutual agreement between adjacent property owners. However, in the event of any or all of the improved property is abandoned, destroyed, or demolished, for the purpose of renewal or redevelopment, that portion of such property being renewed or redeveloped shall be considered vacant and subject to the requirements herein.
- B. Where one of two different zoning districts requiring a buffer between them is partly developed, the development of the vacant land shall assume the burden, unless otherwise specified herein.

C. Where both zoning districts requiring a buffer between them are vacant or undeveloped, the burden shall be assumed by the developer of the land that is improved or developed, except for agricultural uses and unless otherwise specified herein.

6. Waiver of Buffer Requirements. The requirement for a buffer may be waived by the Council; provided, such waiver does not permit the exposure of undesirable characteristics of land use to public view.

7. Surfacing Requirements. All off-street parking and loading areas and access roadways shall have a durable and dustless surface paved with asphaltic or Portland cement concrete pavement in accordance with the requirements as herein set forth. Off-street parking of automobiles, vans, campers, trucks, trailers, tractors, recreational vehicles, boats, construction equipment, and any other mobile vehicles equipped for street and highway travel shall be on an asphaltic or Portland cement concrete paved off-street parking area as required herein and not parked or stored within the landscaped open space area of the front yard between the building and public street right-of-way, except, however, the storage of a recreational vehicle, a camper, and boat within the side or rear yard upon an unpaved area shall be permitted. All off-street parking areas and associated driveways, access roadways and frontage roads, except driveways for single-family residences, shall be constructed with permanent, integrally attached six-inch high curbing or curbing of alternate height acceptable to the City (prefabricated portable curb stops shall not be considered an acceptable alternate), and shall be so graded and drained as to dispose of all surface water accumulation within the area; and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles. The curbing requirements may be waived if it is determined that surface drainage can be adequately handled by other means. The minimum thickness of pavement of the parking area shall be as follows:

A. Portland cement concrete shall have a minimum thickness of five inches.

B. Asphaltic cement concrete shall have a minimum thickness of six inches.

C. Material utilized in the subgrade shall be well drained and not susceptible to frost boils. The part of the parking utilized for driveways and access roadways, shall be specifically designed to accommodate the type and load bearing capacity of traffic anticipated. Driveways for attached townhouse style residences on private property shall be Portland cement concrete or asphaltic concrete with minimum thickness of five inches and six inches, respectively, with a sufficiently compacted and well-drained subgrade base and not greater than 18 feet in width.

8. Landscaping, Screening and Open Space Requirements. It is desired that all parking areas be aesthetically improved to reduce obtrusive characteristics that are inherent to their use; therefore, wherever practical and except for single- and two-family detached and townhouse style residential parking in driveways, parking areas shall be effectively screened from general public view and contain shade trees within parking islands where multiple aisles of parking exist. Not less than five percent of the interior parking area shall be landscaped within parking islands.

9. **Off-Street Parking Access to Public Streets and Internal Traffic Circulation.** Off-street parking or loading facilities shall be designed so as to permit entrance and exit by forward movement of the vehicle for all uses, except single-family detached or row dwellings, which shall be permitted backward movement from a driveway. The backing or backward movement of vehicles from a driveway off-street parking or loading area onto an arterial street or highway shall be prohibited for all uses. Driveway approach returns shall not extend beyond the side lot line as extended, unless such driveway is of joint usage by the adjoining lots, and driveway approaches at roadway not greater than established in the Stuart Municipal Design Standards. The number of ingress/egress access points to public streets from off-street parking areas approved by the City and located to limit vehicular conflicts, provide acceptable location of driveway accesses to public streets, preserve proper traffic safety and, as possible, not impair movement of vehicular traffic on public streets. The permitted number of ingress/egress driveway approaches to public streets for an off-street parking lot shall be dependent upon the projected future average daily traffic (ADT) for the public street and, as possible, public street accesses shall be located in alignment with driveway approaches gaining access to the same public street from property on approaches gaining access to the same public street from property on the opposite side of the street. The design of off-street parking and loading facilities shall provide traffic circulation for the internal forward movement of traffic within the parking lot, so designed, as not to impair vehicular movement on public streets, or backing of vehicles from an off-street parking or loading area to a public street.

10. **Persons with Disabilities Parking Requirements.** Provision of persons with disabilities parking spaces within off-street parking areas shall be in accordance with applicable federal, State, and local regulations, properly identified with signage and provided with accessible ramps and walks in accordance with federal and State regulations, and comply with the following parking space minimum requirements:

<b>Total Parking in Lot</b>	<b>Required Minimum Number of Parking Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total
1,001 and over	20 plus 1 for each 100 over 1,000

11. **Traffic Analysis Requirements.** Any project which contains 100 dwelling units or 1,000 average daily trips as listed for uses in the Trip Generation Handbook; Institute of Transportation Engineers, current edition, shall submit a traffic analysis which provides necessary information to determine the effect that the project will have upon the surrounding traffic. At a minimum, the traffic analysis shall contain project trip generation, directional distribution of project trips, traffic assignment, and capacity analysis, including identification of congestion and turning-movement conflicts.

12. Waiver of Requirements. The City Council reserves the right to waive or modify to a lesser requirement any provision or requirement contained in this chapter, provided said waiver or modification does not adversely affect the intent of these regulations to adequately safeguard the general public and surrounding property. Exceptions will only be considered for those uses where special circumstances warrant a change.

13. Architectural Standards. As part of the submittal of a site plan for development within any of the zoning districts and for any of the uses except one- and two-family dwellings, architectural plans for buildings shall be submitted for review and approval of the City Council after recommendation from the Planning and Zoning Commission. Documentation to be submitted shall include building elevations showing the building's design and description of structural and exterior materials to be used. The following standards shall be considered by the City to review architectural plans:

A. Multiple-Family Dwellings in All Districts. The architecture of multiple-family buildings shall be designed in a manner compatible with adjoining residential uses in the neighborhood. Architectural design for multiple-family buildings shall include exterior building material, exterior details and texture, treatment of windows and doors, and a variety in the wall and roof design to lessen the plainness of appearance that can be characteristic of large residential buildings. Multiple-family buildings with single plane walls and boxy in appearance shall not be considered acceptable unless the use of exterior materials such as brick provides the elements necessary to enhance the building's physical appearance and eliminate its plainness of appearance. Adequate treatment or screening of negative aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters, and HVAC mechanical units) from any public street and adjoining properties shall be required. Buildings shall be designed or oriented not to expose loading docks, or loading areas to the public.

B. Nonresidential Uses in the RS, RM or MH Districts. Any building used for a permitted nonresidential use in RS, RM or MH Districts shall be designed and constructed with architecture and use of materials compatible with the residential uses within the neighborhood. Buildings located on a residential street in an RS, RM or MH District shall be residential in character, and exterior materials shall be wood, brick, and/or brick veneer. The architectural design shall be approved by the City.

C. All Uses within the Commercial Districts. Architectural design and use of materials for the construction of any building shall be approved by the City. Buildings within the Commercial Districts shall have as a primary element of the building exterior fascia glass, brick, concrete panels, textured concrete block, architectural steel or stone panels with all sides of any building built consistent in design and use of materials. No wood, masonite, visible asphaltic exterior wall or roof material, aluminum or steel siding, non-architectural sheet metal, non-textured concrete block, stucco, E.I.F.S. (Exterior Insulation and Finish System) or other similar materials shall constitute a portion of any building except as a trim material, unless the City Council, after receiving a recommendation from the Planning and Zoning Commission, shall determine said material when used as a primary element, does not distract from the physical appearance of the building. Adequate

treatment or screening of negative aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters and HVAC mechanical units) from any public street and adjoining properties shall be required. Building shall not be designed or oriented to expose loading docks, nonresidential use overhead doors or loading areas to the public.

D. All Uses within Industrial Districts. Architectural design and use of materials for construction of any building in the Industrial Districts shall be reviewed as part of the site plan proposal and shall be approved by the City. While it is not the purpose of this section to dictate, specify, or restrict the use of building materials and structural elements, the use of appropriate exterior materials to enhance the appearance of a building is encouraged by the City. The exclusive use of sheet metal as an exterior building material shall not be considered acceptable for buildings facing public streets. The exterior material of the building's front elevation shall be comprised of brick, concrete panels, textured concrete block, architectural steel or stone panels, or other similar material. Loading areas, loading docks, storage areas, and garbage dumpsters shall be located, screened, or oriented to minimize their exposure to view from public streets.

**171.06 ZONING PERMITS - APPLICATION.** No zoning compliance permit or building permit shall be issued for the construction of any structure that is subject to the provisions of this chapter, until a site plan has been submitted for review covering the land upon which said structure is to be erected, and further, approved by City Council for such development in accordance with this chapter.

**171.07 PROCEDURE.**

1. Pre-Application Conference. Whenever any person proposes to place any structure for which a building permit is required under any other section of this Code, on any tract or parcel of land within any district of the Stuart Zoning Ordinance, and any use, except one- and two-family dwellings, the person shall submit to the City Administrator a request for a pre-application conference. The conference shall include the applicant or his/her representative and the Zoning Administrator. The purpose of the conference shall be to acquaint the City staff with the proposed construction and to acquaint the applicant or his/her representative with the procedures and with any special problems that might relate to such construction. The applicant shall furnish a legal description of the subject real estate at the time of requesting a pre-application conference, and the conference shall be held within seven days of such request.

2. Continuous Site Plan Review. After completion of the pre-application conference as required by subsection 1 of this section, and in the event the applicant wishes to proceed with the construction as discussed at said conference, he/she shall cause to be prepared a site plan of such proposed construction, and shall submit five copies of the same to the Zoning Administrator and one copy to the City Engineer. The site plan shall be accompanied by a cover letter requesting review and approval of said plan. The site plan shall contain all the information required by 171.05 and 171.06 of this chapter unless otherwise waived by the Zoning Administrator. The Zoning Administrator shall retain one copy for his/her review and comment. The remaining copies shall be retained by the City Clerk for review and distribution. The Zoning Administrator and City Engineer shall review the plan for conformance of the

design to the standards and required data set forth in 171.04 and 171.05 of this chapter.

3. Action.

A. The Zoning Administrator shall promptly notify the applicant in writing of any revisions or additional information needed as required by 171.04 and 171.05. If necessary, the applicant shall make revisions and resubmit the revised plans to the Zoning Administrator for compliance. If the site plan complies with requirements set forth in this chapter, the applicant shall submit 10 copies of the plan to the Planning and Zoning Commission for approval, disapproval, or approval subject to conditions.

B. The Commission shall in its regularly scheduled meeting, act upon the site plan and accompanying material. The City Engineer, City staff and other departments shall submit to the Commission their recommendation. Applicant or a representative shall be present at the meeting. Action of the Commission shall be approval, approval subject to conditions, or denial.

C. Approval by Commission. In the case of approval by Commission, the approval shall be documented on seven copies of the site plan. One copy shall be returned to the applicant, one copy retained by the Commission and five copies shall be forwarded to the City Council.

D. Conditional Approval by Commission. In the case of approval subject to conditions by the Commission, the approval shall be documented on seven copies of the site plan and the conditions determined attached thereto. One copy shall be returned to the builder, one copy shall be retained by the Commission, and five copies shall be forwarded to the City Council. The applicant shall provide revised copies of the site plan in accordance with the Commission action and submit 10 copies to the City Clerk prior to Council action. The City Clerk shall forward one copy to the City Engineer, five copies to the City Council and one copy for the Commission files.

E. Disapproval by Commission. In the case of disapproval by the Commission, the disapproval shall be documented on three copies of the site plan. One copy shall be returned to the applicant, one copy shall be retained by the Commission, and one copy shall be retained by the City Clerk.

F. Council Action. At the next regularly scheduled Council meeting following Commission action, the Council shall act on the site plan and accompanying material. Applicant or a representative shall be present at the meeting. Action of the Council shall be approval or denial, except as provided in Section 171.05(12).

G. Approval by Council. In the case of approval by the Council, the approval shall be documented on three copies of the site plan. One copy shall be returned to the applicant. One copy shall be forwarded to the Commission, one copy shall be retained by the City Clerk. Applicant may then proceed with approval of building permit and accompanying material.

H. Denial by Council. In the case of denial by the Council, the denial shall be documented on three copies of the site plan. One copy shall be returned to the applicant, one to the Commission, and one copy shall be retained by the City Clerk.

I. Re-Submittal of Site Plan Denied by Council. A site plan that has been approved by the Commission and denied by the Council may be revised by the applicant in accordance with the council action and 10 copies resubmitted to the Commission for approval as before.

J. Re-Submittal of Site Plan Denied by Council and Commission. A site plan that has been denied by both the Commission and the Council may be resubmitted to the City by the applicant for Commission and Council approval with respect to the original terms of these procedures, which includes 10 copies of the preliminary plat and filing fees. Re-submittal under these terms shall be considered a new site plan subject to fees and procedures outlined in Section 171.07.

**171.08 FEES.** The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for site plan approval and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the City Clerk, and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. Applicant shall be responsible for just and reasonable costs incurred by the City for review of preliminary and final site plans deemed necessary by the City to insure proper conformance with City ordinance and site plan regulations.

**171.09 VALIDITY OF APPROVAL.**

1. A site plan shall become effective upon certification of approval by the City Council.
2. The City Council approval of any site plan required by this chapter shall remain valid for one year allowing one-year extension with approval of City Council upon recommendation of the Commission after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this chapter, "actual construction" means that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property, or stockpiling of materials on the site shall not constitute actual construction.

**171.10 SITE PLAN AMENDMENT.** Any site plan may be amended in accordance with the standards and procedures established herein, including payment of fees, provided that the Zoning Administrator may waive such procedures for those minor changes hereinafter listed. Such minor changes shall not be made unless the prior written approval for such changes is obtained from the Zoning Administrator. No fees shall be required for such minor changes.

1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building. Relocation of building entrances or exits, shortening of building canopies.
2. Changing to a more restrictive commercial or industrial use, provided the number of off-street parking spaces meets the requirement of the Stuart Zoning Ordinance. This does not apply to residential uses.
3. Changing angle of parking or aisle provided there is no reduction in the amount of off-street parking as originally approved.

4. Substituting plant species provided a landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effect.
5. Changing type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at property boundary.
6. Increasing peripheral yards.

**171.11 APPLICABILITY TO EXISTING DEVELOPMENT.** The requirements of this chapter shall not apply to the placement of any structure for which building permits have been issued as of the date of the adoption of the ordinance codified in this chapter, provided that if such building permit shall expire, then a new building permit shall not be issued until the requirements of this chapter have been met. Provided further, that if an existing structure is to be reconstructed, enlarged, expanded, or otherwise increased:

1. In the case of building uses, in an amount 50 percent or greater of its existing ground coverage and/or total floor space; or
2. In the case of non-building uses or non-building portion of uses, in the amount 50 percent or greater of the existing developed non-building site area, then the provisions of this chapter shall apply.

**171.12 ENFORCEMENT.** No zoning ordinance certification, occupancy permit, or building permit shall be issued by the City or have any validity until the site plan has been approved in the manner prescribed herein.

**171.13 CHANGES AND AMENDMENTS.** Any provision of this chapter may be changed and amended from time to time by the Council; provided, however, such changes and amendments shall not become effective until after study and report by the Commission and until after a public hearing has been held, public notice of which shall be given in a newspaper of general circulation at least 15 days prior to the hearing.

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