

**CHAPTER 159: ZONING REGULATIONS**

---

## Section

***General Provisions***

- 159.001 Title
- 159.002 Districts and boundaries; official map
- 159.003 Compliance with the regulations
- 159.004 Definitions

***Zoning Districts***

- 159.015 A-1 Agricultural Reserve District
- 159.016 R-1A, R-1B, R-1C One-Family Residential District
- 159.017 R-2 Two-Family Residential District
- 159.018 R-4 Residential District
- 159.019 R-5 Condominium Residential District
- 159.020 MH Manufactured Home District
- 159.021 PUD Planned Unit Development Overlay District
- 159.022 C-1 Local Commercial District
- 159.023 C-2 General Commercial District
- 159.024 C-2M General Commercial/Light Manufacturing District
- 159.025 PWC Parkway Commercial District
- 159.026 C-3 Central Business District
- 159.027 SP Special Purpose Commercial and Historical Overlay Districts
- 159.028 C-4 Planned Commercial District
- 159.029 C-R Commercial/Recreation District
- 159.030 M-1 Industrial (Light) District
- 159.031 M-2 Industrial (Heavy) District
- 159.032 M-3 Industrial (Park) District

***Zoning Regulations***

- 159.045 Height and area requirements
- 159.046 Supplemental regulations
- 159.047 Nonconforming uses
- 159.048 Signs
- 159.049 Special use regulations

- 159.050 Certificates of occupancy
- 159.051 Plans
- 159.052 Amendments
- 159.053 Interpretation, purpose and conflict
- 159.054 Zoning permits and inspections

***Off-Street Parking and Loading***

- 159.065 Off-street parking requirements
- 159.066 Off-street loading requirements

***Zoning Board of Adjustment***

- 159.080 Zoning Board of Adjustment

***Wireless Communication Facilities***

- 159.095 Purpose
- 159.096 Certain uses not covered by this subchapter
- 159.097 Interpretation and definitions
- 159.098 Designation and applicability
- 159.099 Allowable uses/development criteria
- 159.100 Review process
- 159.101 Approval process
- 159.102 Shared facilities and collocation policy
- 159.103 Removal of abandoned wireless communication facilities
- 159.104 Nonconforming wireless communications facilities
- 159.105 Revocation of tower use permits

- 159.999 Penalty

Appendix A: Wireless communication facilities

**GENERAL PROVISIONS**

**§ 159.001 TITLE.**

This chapter shall be known and cited as the "Zoning Chapter of the City of Clinton, Iowa."

(1999 Code, § 165.01)

**§ 159.002 DISTRICTS AND BOUNDARIES; OFFICIAL MAP.**

(A) In order to classify, regulate and restrict the location of trades and industries and the location of buildings designated for specific uses; to regulate and limit the intensity of the use of lot areas and to regulate and determine the area of yards and other open

spaces surrounding the building, the city is hereby divided into "districts." The use and area regulations are uniform in each district, and the districts are known as:

A-1	Agricultural Reserve District
R-1A	One-Family Residential District
R-1B	One-Family Residential District
R-1C	One-Family Residential District
R-2	Two-Family Residential District
R-4	Apartment Residential District
R-5	Condominium Residential District
C-1	Local Commercial District
C-2	General Commercial District
C-2M	General Commercial-Light Manufacturing District
C-3	Central Business District
C-4	Planned Commercial District
C-R	Commercial-Recreation District
M-1	Industrial (Light) District
M-2	Industrial (Heavy) District
M-3	Industrial (Park) District
M-H	Manufactured Home District
SP	Special Purpose Commercial and Historic Overlay District

(B) The boundaries of these districts are hereby established as shown on the "zoning district map" of the city, which map is by this reference made a part of this chapter. The zoning district map and all the notations, references and other information shown thereon is properly attested and on file with the Clerk. Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning district map, the following rules apply.

(1) The district boundaries are either streets or alleys unless otherwise shown, and where a district designated on the map is bounded approximately by street or alley lines, the centerline of the street or alley shall be construed to be the boundary of the district, the zoning district line for railroads shall also be construed to be the centerline between the tracks.

(2) Where district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

(3) In subdivided property, the district boundary lines on the zoning district map shall be determined by use of the scale appearing on the map.

(4) Whenever any street, alley or other public way is vacated by official action of the Council, the zone adjoining each side of the alley, street or public way shall be automatically extended to the center of the vacation, except where the street, alley or public way is deeded to one party, then the zoning district line will be extended to include the full vacated area, and all area included therein shall thereafter be subject to all appropriate regulations of the extended district.

(5) (a) Boundaries indicated as following shorelines or streams will be construed as following the centerline of the stream or

corporate limits in the case of the Mississippi River.

(b) A tract of land may be voluntarily annexed into a specific zone after recommendation by the Plan Commission and after a public hearing is held by the Council.

(1999 Code, § 165.02) (Ord. 2247, passed 10-9-2001) Penalty, see § 159.999

***Cross-reference:***

*For ordinances amending the zoning district map, see Table of Special Ordinances, Table V*

**§ 159.003 COMPLIANCE WITH THE REGULATIONS.**

The purpose of this section is to assure that the land is not used in any other way except in conformity with these regulations. This section contains statements of policy, a declaration to those who live under the ordinance codified in this chapter and those responsible for administration and enforcement of it and to the courts that may, at some time in the future, be required to interpret it so that there is a schedule of district regulations considered a binding requirement that is to be enforced, except as hereinafter specifically provided.

(A) No land shall be used except for a purpose permitted in the district in which it is located.

(B) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used except for a use permitted in the district in which the building is located.

(C) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located.

(D) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which the building is located.

(E) No building shall be erected or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading requirements of this chapter.

(F) The minimum yards, parking spaces and open spaces, including lot area per family required by this chapter for each and every building existing at the time of passage of this chapter or for any building hereafter erected or structurally altered, shall not be encroached upon or considered a part of the yard or parking space required for any other building, nor shall any lot area be reduced below the requirements of this chapter for the district in which the lot is located.

(G) Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot except where allowed.

(H) As defined in § 159.004 of this chapter, the use of land for agricultural purposes shall be permitted in any zoning district and a farm shall be permitted in any zoning district.

(I) On a farm as defined in § 159.004 of this chapter, the following uses shall be permitted:

(1) Truck gardens, nurseries, grain storage facilities and other agricultural uses including the sale and distribution of agricultural products, and produce grown on the farm and including a greenhouse, but not including a sales room or roadside stand. One additional single-family dwelling that is under the same ownership as the principal farm dwelling is allowed to be used by the family or employees of the farm; and

(2) Any other use permitted in the zoning district in which the farm is located.

(J) The following regulations shall not apply to the use of land for agricultural purposes on farms:

(1) Fence restrictions as set out in § 159.046(I);

(2) Restriction on storage of vehicles as set out in § 159.016; and

(3) Residential use restrictions as set out in §§ 159.030, 159.031 and 159.032.

(K) The Americans with Disabilities Act of 1990 requires all "places of public accommodation" to be accessible to all individuals regardless of disability (42 U.S.C. § 12181).

(L) Use regulations for all land, buildings and structures are described in § 159.046(N).

(1999 Code, § 165.03) (Ord. 2247, passed 10-9-2001; Ord. 2352, passed 7-24-2007)

## **§ 159.004 DEFINITIONS.**

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. For use in this chapter, the following terms and words are defined, and as used in this chapter the word "building" includes the word "structure" and the word "lot" includes the word "plot" or "parcel."

**ACCESSORY BUILDING AND USE.** A subordinate building or use which is incidental and customary in connection with the principal building or principal use and is located on the same lot.

**ADULT ENTERTAINMENT ESTABLISHMENT.** A building or use having a substantial or significant portion of its business by the offering of entertainment, stock in trade of materials, scenes or other presentations characterized by emphasis on depiction or description of specific sexual activities including nude and semi-nude dancing. The uses include but are not limited to: adult book stores, adult massage parlors, adult modeling studios, adult mini motion picture theaters, adult motion picture theaters, adult theaters, adult sexual encounter centers and licensed beer and liquor establishments offering nude and semi-nude performances for entertainment.

**AGRICULTURE.** Land used for agricultural purposes, agricultural horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for treating or storing the produce provided, however, that the operation of any accessory use is secondary to that of normal agricultural activities. Does not include animal feeding operations as defined by the Iowa Department of Natural Resources in the Iowa Code Chapter 65.

**AIRPORT ZONING.** See Airport Zoning Regulations, Chapter 157.

**ALLEY.** A public thoroughfare which affords only a secondary means of access to property abutting thereon.

**APARTMENT HOUSE.** See **DWELLING, MULTIPLE.**

**AUTOMOTIVE SERVICE STATION.** Any building, structure or land used primarily for supplying automotive fuel and motor oil at retail cost direct to the customer, including the supplying of accessories, replacement parts and minor services essential to the normal operation of automobiles, but not including body or fender work, painting or major motor repairs. When the aforementioned service is incidental to the conduct of a public garage, the use shall be classified as a public garage.

**BASEMENT** or **UNDERGROUND HOUSE.** A building partly underground, having at least three-fourths of its height below adjoining ground level. All dwellings must provide, in each room or living area (excluding storage rooms, utility rooms and the like), proper ventilation, adequate lights and proper drainage. Not to be counted as a story for height regulations.

**BED AND BREAKFAST HOME INN** and **BED AND BREAKFAST HOME.** A building, other than a hotel, where, for compensation, meals and lodging are provided on a short term basis. Short term basis shall be defined as 14 days or less. A **BED AND BREAKFAST HOME** shall not exceed three guest rooms. A **BED AND BREAKFAST INN** shall not exceed ten guest rooms. Facilities must meet the requirements of the Iowa Code § 137C.35.

**BOARDING HOUSE.** A building other than a hotel, where, for compensation and by pre-arrangement for definite periods, lodging, meals or lodging and meals are provided for three or more persons, but not exceeding 20 persons.

**BUILDING.** Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind.

**BUILDING, ACCESSORY.** Any structure erected or constructed, including buildings as herein defined, the use of which requires location on the ground or attachment to something located on the ground and which is incidental and customarily appurtenant to a principle use permitted on the zoning lot. An **ACCESSORY BUILDING** cannot be used for a dwelling use. See **ACCESSORY BUILDING AND USE.**

**BUILDING, HEIGHT OF.** The vertical distance measured from the grade to the highest point of a roof.

**BUILDING, ZONING ADMINISTRATOR** or **BUILDING AND NEIGHBORHOOD SERVICES DIRECTOR OR HIS OR HER DESIGNEE.** The Building and Neighborhood Services Director or his or her designee of the city.

**BULK CONTROL PLANE.** An imaginary inclined plane rising over a lot, drawn at a specified angle from the vertical, the bottom side of which is coincidental with the lot line(s) or yard line(s) of the lot, or directly above them and which, together with other bulk regulations and lot size requirements, delineate the maximum area of any improvement which may be constructed on the lot.

**CELLAR.** A story having more than one-half of its height below grade but not to be counted as a story for height regulations.

**CLINIC, MEDICAL.** An establishment where patients are not lodged overnight but are admitted for examination or treatment by one or more practitioners providing medical, dental, psychiatric, osteopathic, chiropractic, ophthalmology, physical therapy or similar services with or without shared common spaces or equipment. This includes a common area pharmacy or drug dispensary available to persons other than patients being treated therein and billing for the services only.

**CLUB.** A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

**CONDOMINIUM.** A building containing two or more dwelling units which are designed and intended to be separately owned in fee. See Horizontal Property Act, Iowa Code Chapter 499B.

#### **DAY CARE FACILITIES.**

(1) **ADULT DAY CARE FACILITY.** A facility providing short-term supervision for the frail, elderly and disabled person.

(2) **CHILD CARE FACILITY.** A facility operating under the Iowa Code Chapter 237A providing for the care of seven or more children.

(3) **FAMILY DAY CARE FACILITY.** A facility operating under the Iowa Code Chapter 237A for the care of less than seven children and owned and operated by a resident occupant.

**DECK.** A structure, without a roof, directly adjacent to a building, which has an average elevation of 12 inches or greater from finished grade.

**DISTRICT.** Any section of the city within which the zoning regulations are uniform.

**DWELLING.** A building or portion thereof designated or used exclusively for residential occupancy, but not including home trailers, mobile homes, hotels, motels, bed and breakfast homes, boarding and lodging houses, tourist courts or tourist homes.

**DWELLING, ATTACHED (ROW).** A multi-family dwelling where each dwelling unit has a separate outdoor entrance and is either joined to one other dwelling unit at one side by one party wall; or joined to two other dwelling units by one party wall on each side.

**DWELLING, DETACHED.** A dwelling that is completely surrounded by open space on the same lot.

**DWELLING, ONE-FAMILY.** A building designated for or occupied exclusively by one family.

**DWELLING, TWO-FAMILY.** A building designated for or occupied exclusively by two families.

**DWELLING, MULTIPLE.** A building designated for or occupied exclusively by three or more families.

**FACTORY-BUILT HOUSING.** A factory-built structure designed for long term residential use. For the purpose of these regulations, factory-built housing consists of three types: modular homes, mobile homes and manufactured homes.

**FACTORY-BUILT STRUCTURE.** Any structure which is, wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site.

**FAMILY.** One person or two or more persons occupying a living unit as an individual housekeeping organization.

**FARM.** A parcel of land of not less than 40 acres which is used primarily for the commercial, soil dependent cultivation of agricultural crop production and/or the raising of livestock including dairy farms with the necessary accessory uses for treating and storing the produce provided from the normal farming activities. See **AGRICULTURE**. Animal feed operations, as defined by the Iowa Department of Natural Resources in the I.A.C. Chapter 65, are not considered a farm activity for purposes of permitted uses unless the use is secondary to that of normal farming activities.

**FENCE.** A structure, other than a building, used to enclose or screen an area of land.

**FLOODPLAIN.** Land adjoining the channel of a river, stream, watercourse or other body of water established by using a known

flood elevation determined to be land inundated by a 100-year frequency flood or other flood frequencies established for the city. It is the purpose of the **FLOODPLAIN** to apply special regulations to the use of land in those areas of the city which are subject to predictable inundation of known frequency intervals. The land use controls are necessary and follow prescribed requirements to qualify property owners for flood protection insurance adopted by the city in 1976, as defined under the National Flood Insurance Act of 1968, as amended and Chapter 156 of this code of ordinances.

**FLOOR AREA.** The total gross area on all floors, as measured to the outside surfaces of exterior walls, excluding crawl spaces, garages, carports, breezeways, attics without floors, open porches, balconies and terraces.

**GARAGE, PRIVATE.** A detached accessory building or portion of a main building housing the automobiles of the occupants of the premises.

**GARAGE, REPAIR.** A building or portion thereof, other than a private, storage or parking garage, designated or used for equipping, servicing and repairing motor vehicles. The term **REPAIRING** includes an automotive body repair shop, automobile repair shop and vehicle rebuilding, as defined in the definition of vehicle rebuilder below. Dismantling or storage of wrecked or junked vehicles (defined as a salvage yard) is prohibited.

**GARAGE, STORAGE.** A building or portion thereof designated or used exclusively for term storage of motor driven vehicles, as distinguished from daily storage furnished transients and within which motor fuels and oils are not sold and motor driven vehicles are not equipped, repaired, hired or sold.

**GRADE.** The average level of the finished surface of the ground adjacent to the exterior walls of the building.

**HOME OCCUPATION.** An occupation, profession, activity or use that is clearly a customary, incidental and secondary use of a residential dwelling unit, and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**HOTEL.** A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all times. As such is open to the public, in contrast to a boarding house, a lodging house or an apartment which are herein separately defined.

**INSTITUTION** or **INSTITUTIONAL BUILDING.** An establishment owned and occupied by a private or public non-profit corporation, association, organization or group for the use or benefit of the general public.

**KENNEL, COMMERCIAL.** An establishment licensed to operate a facility housing dogs, cats or other household pets and where grooming, breeding, boarding, training or selling of animals is conducted as a business.

**KENNEL, NONCOMMERCIAL.** The use of a private residence for the care of dogs and cats belonging to the owner of the residence, kept for purposes of show, hunting or as pets.

**LAUNDROMAT, SELF-SERVICE.** An establishment providing home-type washing, drying or ironing machines for use on the premises.

**LODGING HOUSE.** See **BOARDING HOUSE.**

**LOT.** A portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of ownership or of building development and having its principle frontage upon a street or upon an officially approved place.

**LOT, CORNER.** A lot abutting upon two or more streets at their intersection.

**LOT DEPTH.** The mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.

**LOT, DOUBLE FRONTAGE.** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT OF RECORD.** A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Deeds or a lot described by metes and bounds, the description of which has been recorded in the office of the County Recorder of Deeds.

**LOT WIDTH.** The width of the lot at the front yard line.

**MANUFACTURED HOME.** A factory-built, single-family structure which is manufactured or constructed under the authority of

the state and 42 U.S.C. § 5403, and is to be used as a place for human habitation, but which is not constructed 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 mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purpose of these regulations, a **MANUFACTURED HOME** is considered the same as any site-built, single-family detached dwelling if it meets the requirements of § 155.06.

**MINI WAREHOUSE FACILITY.** A building or group of buildings which are rented and designed, through individual compartments or controlled stalls, for self-service storage purposes.

**MOBILE HOME.** Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highway and so designed, constructed or reconstructed which will permit the vehicle to be used as a place for human habitation by one or more persons, but shall also include any vehicle with motive power not registered as a motor vehicle in Iowa. A **MOBILE HOME** is factory-built housing built on a chassis. A **MOBILE HOME** shall not be construed to be a travel trailer or other form of recreational vehicle. A **MOBILE HOME** shall be construed to remain a mobile home subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenant of mobility are removed, and regardless of the nature of the foundation provided. However, certain **MOBILE HOMES** may be classified as manufactured homes. Nothing in this chapter, unless defined, shall be construed as permitting the **MOBILE HOME** in other than an approved mobile home park, unless the mobile home is classified as a manufactured home.

**MOBILE HOME PARK.** Any site, lot, field or tract of land upon which mobile homes used for human habitation are parked, either free of charge or for revenue purposes, which shall include any roadway, building, structure, vehicle or enclosure used or intended for use as part of the facilities of the **MOBILE HOME PARK**. Also includes **MANUFACTURED HOME PARK** and **MANUFACTURED HOMES**.

**MODULAR BUILDING.** A prefabricated transportable building manufactured in whole or in part off the site, designed to be used by itself or to be incorporated with similar units at a building site into a modular structure. The term is intended to apply to major assemblies and does not include prefabricated panels, trusses or sub-elements which are to be incorporated into a structure at the site. A seal must be obtained from the State Building Department for these units.

**MODULAR HOME.** Factory-built housing certified as meeting the State Code as applicable to modular housing. Once certified by the state, **MODULAR HOMES** are subject to the same standards as site-built homes.

**MOTOR COURT** or **MOTEL.** A building or group of buildings used primarily for the temporary residence of motorists or travelers.

**MOTOR VEHICLE STORAGE YARD.** An open surfaced area used for the temporary storage of damaged, wrecked or inoperable motor vehicles. Storage of any vehicles shall not exceed 60 days. No vehicle salvaging is allowed. All storage lots or parts of lots used for vehicle storage shall be completely screened with a six-foot high visual barrier. Construction of this barrier shall comply with the requirements of § 159.046(I).

**NONCONFORMING BUILDING, USE OR LAND.** A building, structure, use or land or a portion thereof, lawfully existing at the time this chapter or an amendment thereto becomes effective which does not meet the bulk, height, yard, parking, loading or other requirements of this chapter or any amendment thereto.

**NURSING, REST OR CONVALESCENT HOME.** A home for the aged or infirm in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**PARKING AREA.** An open, unoccupied space used or required for use for parking of vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged.

**PARKING LOT.** An open, all-weather surfaced area used exclusively for the temporary, daily or overnight storage of motor vehicles and within which motor fuels and oils may be sold and fees charged, but no vehicles are to be equipped, repaired, rented or sold.

**PARKING SPACE.** An all-weather surfaced (minimum of four-inch rock, seal coated) area not in a street or alley and having a minimum space nine feet by 18 feet exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by an all-weather surfaced (minimum of four-inch rock, seal coated) driveway which affords ingress and egress for a vehicle without requiring another vehicle to be moved.

**PET CREMATORIUM.** Any structure, facility or building provided by any person for a fee, whether or not for profit, to veterinarians or members of the general public, for the cremation of pets. However, a **PET CREMATORIUM** shall not provide for



permanent internment or inurnment of pet remains.

**PLACE.** An open, unoccupied space or thoroughfare other than a street or alley permanently reserved as a principal means of access to abutting property.

**PORCH, UNENCLOSED.** A porch consisting only of a roof, floor and supporting members together, if desired, with a solid or open support for a rail and not more than three feet in height.

**RECYCLING PROCESSING FACILITY.** Buildings used for the collection, reduction, recovery, recycling and related activities when all processing activities are conducted within a completely enclosed building, and subject to compliance with all applicable federal, state and local regulations. This definition does not include waste handling facilities, salvage yards or solid waste transfer stations.

**SALVAGE YARD.** A lot or portion thereof where waste, discarded or salvaged materials are bought, sold, exchanged, baled, stored, packed, disassembled or handled. Types of operation include used vehicle parts dealers and vehicle salvagers as licensed under the Iowa Code § 321H.2(6), building wrecking activities, used lumber sales and places for storage of salvaged building materials and equipment, but not including places where the uses are conducted entirely within a completely enclosed building.

**SATELLITE DISH ANTENNA.** Round, parabolic antenna intended to receive signals from orbiting satellites or other sources. In residential zoning districts, all satellite dish antennas having a diameter greater than one meter (3.28 feet) are defined as accessory structures. In nonresidential zoning districts, satellite dish antennas having a diameter greater than two meters (six and one-half feet) are defined as accessory structures.

**SIGN.** A name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel or lot, and which directs attention to an object, product, place, activity, person, institution, organization or business.

**SIGN, GROUND or BILLBOARD.** Any sign erected, constructed or maintained for the purpose of displaying outdoor advertising by means of posters, pictures, pictorial and reading matter when the sign is supported by upright posts or braces permanently anchored or secured to the ground and not attached to any part of a building.

**SIGN, MONUMENT.** A freestanding sign supported by an internal structural framework or integrated into landscaping or other solid structural features other than poles. The base of the structure shall be placed on or at ground level, and shall not be attached to any building, wall, fence or other structure.

**SIGN, PORTABLE.** A sign intended for changeable copy, designed to be moved or readily capable of being moved from place to place, which is not permanently affixed to the ground or any other structure.

**STABLE, NONCOMMERCIAL.** An accessory building or use that shelters animals for the exclusive use of the occupants of the premises.

**STORAGE YARD OR LOT.** An area outside of an enclosed building, where construction materials and equipment, solid fuels, lumber, building materials, monuments and stone products, public service and utility equipment or other materials, goods, products, vehicles, equipment or machinery are stored, baled, piled, handled or distributed, whether a principal or accessory use. A **STORAGE YARD OR LOT** shall not be construed to include a vehicle salvage yard or a junk yard.

**STORY.** The portion of a building, excluding a cellar, between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, than the space between the floor and the ceiling next above it. In split level homes, height and story regulations shall apply to each section of the residence independently.

**STORY, HALF.** A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space was not more than two-thirds of the floor area is finished off for use. A half-story containing an independent apartment of living quarters shall be counted as a full story.

**STREET.** All property dedicated or intended for public or private use for access to abutting lands or subject to public easements therefore, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle or however otherwise designated. See the subdivision regulations, Chapter 158.

**STREET LINE.** A dividing line between a lot and a contiguous street.

**STREET RIGHT-OF-WAY.** The land, property or interest therein, formally established and intended for a street.

**STRUCTURAL ALTERATIONS.** Any change except those required by law or ordinance which would prolong the life of the supporting members of a building such as bearing walls, columns, beams or girders, not including openings in bearing walls as permitted by other ordinances.

**STRUCTURE.** Anything constructed, erected or placed with a more or less fixed location on the ground or attached or resting on something having a fixed location on the ground.

**TOURIST HOME.** An establishment used for dwelling purposes in which rooms, with or without meals, are offered to transient guests for compensation.

**UNDEVELOPED LAND.** Property in its natural state, prior to grading, construction and subdividing.

**USE.** The purpose or purposes for which land or a structure is designed, arranged or intended, or to which purpose land or a structure is occupied, maintained, leased or operated.

**VEHICLE REBUILDER.** A person or business licensed under the Iowa Code Chapter 321H engaged in the business of rebuilding or restoring to operating condition vehicles subject to registration under the Iowa Code Chapter 321, which have been wrecked or damaged.

**VISUAL CLEARANCE ZONE.** A triangular area formed by the intersection of two public rights-of-way with two sides of the triangle located along the two abutting public rights-of-way and the third side being a line connecting the ends of the other two lines.

**WAREHOUSE.** A building where commercial or industrial goods are stored for compensation.

**WAREHOUSE FOR RECREATIONAL VEHICLE STORAGE AND OTHER MATERIAL.** A building designated for storage of personal and household goods and recreational vehicles during the off season.

**WELDING SHOP.** A building containing equipment capable of uniting metallic or other material by heating and allowing the metals or other material to flow together or by hammering or compressing with or without previous heating. The processing of these materials must comply with all fire safety code requirements of the city.

**YARD.** An open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter.

**YARD, FRONT.** A yard across the full width of the lot, extending from the front line of the building to the front property line of the lot.

**YARD, REAR.** A yard extending the full width of the lot between a principal building and the rear lot line.

**YARD, SIDE.** A yard on the same lot with the building between the main building and the adjacent side of the lot and extending from the front yard to the rear yard thereof.

(1999 Code, § 165.04) (Ord. 2247, passed 10-9-2001; Ord. 2352, passed 7-24-2007; Ord. 2360, passed 2-12-2008; Ord. 2378, passed 7-8-2008; Ord. 2392, passed 11-11-2008; Ord. 2459, passed 8-23-2011)

## ZONING DISTRICTS

### § 159.015 A-1 AGRICULTURAL RESERVE DISTRICT.

The A-1 Agricultural Reserve District is intended to preserve existing agriculture and other non-intensive uses; to prevent premature development and non-orderly encroachment of intensive urban uses; and to help guide urban growth into suitable areas. The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the A-1 Agricultural Reserve District.

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

- (1) Agriculture uses;
- (2) One-family dwelling on a lot containing a minimum of five acres;
- (3) Parks, game and forest preserves;

(4) Home occupations in accordance with § 159.046(M); and

(5) Noncommercial stables.

(B) *Height and area regulations.* The height and area requirements for the A-1 Agricultural Reserve District are the same as those established for the R-1A One-Family Residential District in §§ 159.045 and 159.046 except that the minimum lot area and minimum area per family shall be five acres.

(C) *Parking requirements.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in § 159.065.

(D) *Signs.* Signs shall be permitted according to the provisions of § 159.048.

(1999 Code, § 165.05) (Ord. 2247, passed 10-9-2001) Penalty, see § 159.999

## **§ 159.016 R-1A, R-1B, R-1C ONE-FAMILY RESIDENTIAL DISTRICT.**

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the R-1A, R-1B, R-1C One-Family Residential District.

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

(1) One-family dwelling, provided that for all new one-family dwellings for which building permits have been issued on or after January 1, 1985, the minimum dimension of the main body of the dwelling unit shall not be less than 24 feet. The structure shall be placed on a permanent foundation and taxed as real estate;

(2) Farming, agriculture and other agricultural uses such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, apiaries including a greenhouse, but not including a sales room or roadside stand. Commercial sales are not permitted on the premises, except on farms as defined in this chapter;

(3) Publicly owned and operated park, playground, community building and publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums and armories;

(4) Church or other place of worship or Sunday school;

(5) Public, parochial, elementary and high schools and educational institutions having a curriculum the same as ordinarily given in public schools;

(6) Golf club or grounds. A miniature course or practice driving tee operated for commercial purposes are not permitted;

(7) Child day care, adult day care, nursery school and preschool facilities if located within a public/private institutional building;

(8) Noncommercial stable, provided that the land area is not less than five acres and provided that no structure or building for the stabling of animals or tethering area is closer than 200 feet from any abutting residential property. The area devoted to the accessory use shall be used exclusively by the residents of the property and shall be kept in a clean and sanitary condition. Maximum number of horses per five acres is three;

(9) Accessory uses and buildings including private garages and storage sheds. No accessory building may be used as a place of business. An accessory garage may be used for the storage of not more than one commercial vehicle. Accessory buildings shall follow the use and area requirements in § 159.046(G);

(10) Temporary buildings and uses for construction purposes for a period not to exceed one year. An extension must be requested if there is a need for a longer period of time;

(11) Group/family homes licensed under the Iowa Code Chapter 135C and Chapter 237. A minimum separation of one-quarter mile shall be provided between a group/family home and any other similarly licensed home;

(12) Home occupations in accordance with § 159.046(M); and

(13) Trucks and commercial vehicles/equipment. No truck used for commercial purposes of one ton rated capacity or other type of commercial vehicular equipment shall be parked or stored on a lot in this district except when located in a garage or enclosed structure. This provision shall not apply to a bona fide agricultural use.

(B) *Height and area requirements.* The height and area requirements set forth in §§ 159.045 and 159.046 shall be observed.

(C) *Parking requirements.* Off-street parking space rules shall be provided in accordance with the requirements for specific uses set forth in § 159.065.

(D) *Signs.* Signs are permitted according to the provisions of § 159.048.

(1999 Code, § 165.06) (Ord. 2247, passed 10-9-2001; Ord. 2352, passed 7-24-2007) Penalty, see § 159.999

### § 159.017 R-2 TWO-FAMILY RESIDENTIAL DISTRICT.

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the R-2 Two-Family Residential District.

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

(1) A two-family dwelling;

(2) Any use permitted in the R-1A One-Family Residential District;

(3) Single-family residential attached. A single-family residential use in which one dwelling unit is located on a single lot and is attached by a common vertical wall to only one other adjacent dwelling unit on another single lot. Proposals for single-family attached dwellings must meet the following requirements:

(a) Dimensional requirements.

Minimum lot area	3,000 square feet
Minimum lot area per unit	3,000 square feet
Minimum lot width	40 feet
Minimum front yard	25 feet
Minimum rear yard	25 feet
Minimum side yard	5 feet on the side opposite the zero lot line
Maximum number of stories	2-1/2

(b) Each dwelling unit shall be provided separate building access, shall face a public street, and shall have separate utility service from the street or rear lot line; and

(c) Submission requirements.

1. Site development plan that is in compliance with § 159.052(D)(2); and

2. Covenants and other documents to ensure the peculiar needs of attached housing are addressed.

(4) Trucks and commercial vehicles/equipment. No truck used for commercial purposes of one ton rated capacity or other type of commercial vehicular equipment shall be parked or stored on a lot in this district except when located in a garage or enclosed structure. This provision shall not apply to a bona fide agricultural use.

(B) *Height and area requirements.* The height and area requirements set forth in §§ 159.045 and 159.046 shall be observed.

(C) *Parking requirements.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in § 159.065.

(D) *Signs.* Signs are permitted according to the provisions of § 159.048.

(1999 Code, § 165.07)(Ord. 2247, passed 10-9-2001; Ord. 2296, passed 6-28-2005; Ord. 2352, passed 7-24-2007) Penalty, see §

### **§ 159.018 R-4 RESIDENTIAL DISTRICT.**

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to this section, are the regulations in the R-4 Residential District.

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

- (1) Multiple-family dwelling;
- (2) Any use permitted in the R-2 Two-Family District, which complies with the minimum requirements;
- (3) Rooming house and boarding house;
- (4) Bed and breakfast inn and bed and breakfast home;
- (5) Religious, educational, charitable institution of a philanthropic nature, but not a penal or mental institution;
- (6) Private club, fraternity, sorority or lodge, except one whose chief activity is a service customarily carried on as a business;
- (7) Accessory building or use customarily incidental to any of the above uses, including a storage garage on a lot occupied by a multiple-dwelling, rooming or boarding house, or other allowable uses;
- (8) Child day care, adult day care, nursery school and preschool facilities operated by an Internal Revenue Service designated 501(c)3; and
- (9) Trucks and commercial vehicles/equipment. No truck used for commercial purposes of one ton rated capacity or other type of commercial vehicular equipment shall be parked or stored on a lot in this district except when located in a garage or enclosed structure. This provision shall not apply to a bona fide agricultural use.

(B) *Height and area requirements.* The height and area requirements set forth in §§ 159.045 and 159.046 shall be observed.

(C) *Parking requirements.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in § 159.065.

(D) *Signs.* Signs are permitted according to the provisions of § 159.048.

(1999 Code, § 165.09) (Ord. 2247, passed 10-9-2001; Ord. 2319, passed 3-14-2006; Ord. 2352, passed 7-24-2007) Penalty, see § 159.999

### **§ 159.019 R-5 CONDOMINIUM RESIDENTIAL DISTRICT.**

Any building or premises must qualify under Horizontal Property Act, Iowa Code, Chapter 499B. The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the R-5 Condominium Residential District.

(A) *Use regulations.* Any building or premises shall be used only for the following purposes:

- (1) Condominiums; and
- (2) All uses under the R-1A, R-1B and R-1C One-Family Residential District, which comply with the minimum lot size.

(B) *Height and area requirements.* The height and area requirements set forth in §§ 159.045 and 159.046 shall be observed.

(C) *Parking and loading requirements.* Off-street parking spaces shall be provided in accordance with the requirements set forth in § 159.065.

(D) *Signs.* Signs are permitted according to the provisions of § 159.048.

(1999 Code, § 165.10) (Ord. 2247, passed 10-9-2001) Penalty, see § 159.999

## **§ 159.020 MH MANUFACTURED HOME DISTRICT.**

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the MH Manufactured Home District.

(A) *Use regulations.*

(1) *Generally.* In the MH District, a building or premises shall be used only for the following purposes.

(2) *Specifically.* Manufactured home, park manager's office and residence, community center and recreation facility, laundry, maintenance building and commercial uses intended exclusively for the service and convenience of the residents of the park.

(B) *Height and area requirements.*

(1) *Height.* Same as the R-4 District.

(2) *Area.* Maximum density of seven manufactured home spaces per acre.

(3) *Setbacks.* Each manufactured home space shall have 15-foot front and rear yards and ten-foot side yards.

(4) *Accessory uses.* Accessory uses and buildings including private garages and storage sheds.

(C) *Parking requirements.* Each manufactured home space shall provide two off-street parking areas. All nonresidential buildings shall provide one space for each 150 square feet of floor area.

(D) *Signs.* Signs are permitted according to § 159.048(S).

(E) *Other.* All buildings and manufactured homes shall be served with community or municipal water and sewage disposal systems approved by the County Health Department. All manufactured home spaces shall abut a hard surfaced roadway. All manufactured homes shall be skirted and anchored.

(Ord. 2247, passed 10-9-2001) Penalty, see § 159.999

## **§ 159.021 PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT.**

(A) *Generally.*

(1) In order to permit greater development flexibility than is allowed under traditional zoning and to encourage redevelopment within the urban core, the PUD Planned Unit Development Overlay District is hereby established. The intent of this overlay zoning district is to apply it to a comprehensive development and/or redevelopment plan and not apply it on a parcel-by-parcel basis.

(2) The intended application of this designation is when one or both of the following situations exist:

(a) Includes land which, because of environmental or topographical issues, shape problems or other practical difficulties, otherwise could not be feasibly developed; and/or

(b) Incorporates multiple land uses within a common area of land. A district shall be laid out and developed as a unit and shall not be approved simply to attain variations in development standards that could have been achieved through the variance process. The open space provision of the PUD Overlay District is intended to create additional bicycle/pedestrian trails and park spaces to serve nearby residents and further ensure the park goals of the city's development plan, as amended, are attained. The open space requirement is not intended to facilitate the acquisition or construction of additional community-wide or regional parks or athletic fields.

(B) *Use regulations.* Buildings or premises shall be used only for the following purposes:

(1) Any Planned Unit Development (PUD) Overlay District containing residential development permits uses allowed in C-2 General Commercial District. Any PUD Overlay District containing industrial development permits uses allowed in M-3 Industrial (Park) District;

(2) This Overlay District is intended to function as an "overlay" to the underlying base zones, in addition to other applicable provisions of the municipal code. The regulations and requirements imposed by the PUD Overlay District shall be in addition to the underlying base zones, which jointly apply. Under the joint application of the underlying base zones, the more restrictive requirements shall apply unless otherwise approved during the planned development process;

(3) (a) Planned developments.

1. The owner or owners of any tract of undeveloped land comprising an area of not less than two acres or any tract of developed land comprising an area of not less than one acre and which meets the following criteria:

a. Includes land which, because of environmental or topographical issues, shape problems or other practical difficulties, otherwise could not be feasibly developed; or

b. Incorporates multiple land uses within a common area of land, may submit a plan for the use and development of all or part of the tract for the purposes of and meeting the requirements set forth in this section.

2. The plan shall be referred to city staff for review with a subsequent report and recommendation for approval/denial being given to the City Plan Commission for study, report and public hearing. If no report is transmitted from the City Plan Commission to City Council within 60 days of notification, the City Council may take action without further awaiting of the report. If the Commission approves the plans, they shall then be submitted to the City Council for its consideration and action. The Commission's approval and recommendations shall be accompanied by a report stating the reasons for approval and that the application meets the requirements of the Planned Unit Development Overlay District, as set forth in this section. In order that the purpose of this district may be realized, the land and buildings and appurtenant facilities shall be in single ownership or under the management or supervision of a central authority or otherwise subject to the supervisory lease or ownership control until the project is fully developed. In the event the planned unit development is not constructed within 24 months, unless otherwise negotiated during the planned development process, the city shall consider reverting the subject area to the same zoning classification which existed prior to the change to the Planned Unit Development Overlay Zone and the district regulations in force prior to the establishment of the planned unit development shall thereupon be in full force.

(b) Planned unit development projects shall be designated as a whole, unified single project in compliance with the following requirements and, if built in stages, each stage shall conform to the approved plan.

(C) *Site plan requirements.* In addition to the requirements of division (A) above, the owner or developer must submit a site plan in accordance with § 159.052(D)(1).

(D) *Open space requirements.* Planned unit development projects which include any residential units must dedicate land for public open space, pay a fee in lieu of land for public open space or a combination thereof. The in-lieu fee shall be equal to the fair market value of the land that otherwise would have been required for dedication. The fair market value of the undeveloped land shall be determined by a qualified real estate appraiser who is acceptable to both the city and the subdivider or developer. The city and subdivider or developer will equally share the appraisal costs. The amount of land dedicated shall be determined by the following formula with a minimum size of 0.50 acres required for dedication:

$A \times 0.94 \text{DU} \times \text{PDU} \times 2.0/1000$
where
A = Acres of property
DU = Maximum dwelling units per acre (43,560 divided by the minimum lot area requirement for the highest density residential use allowed in the subject base zone)
0.94 = This percentage figure reflects the average development density occurring in Clinton
PDU = Persons per dwelling unit based on the most recent census
2.0/1000 = The city's development plan goal of acres of mini-park space per 1,000 population

(1) The dedication of land shall be reviewed as part of the preliminary subdivision plat or preliminary site development plan, whichever is applicable. The subdivider or developer shall designate the area or areas of land to be dedicated pursuant to this subchapter on the preliminary subdivision plat or preliminary site development plan.

(2) The city and owner/developer will decide during the planned development process whether the dedicated land will be privately- or publicly-owned.

(3) If a payment in lieu of open space is requested, the subdivider or developer must include a request in a letter submitted with the application for a preliminary subdivision or preliminary site development plan, whichever is applicable.

(4) The payment of fees in lieu of open space land dedication shall be reviewed and approved as part of the preliminary subdivision plat or preliminary site development plan, whichever is applicable.

(5) In-lieu fees must be paid in full in a single total payment by the owner/developer prior to the issuance of the first building permit for a lot within the planned unit development.

(6) All payments in lieu of dedication shall be deposited in a special neighborhood open space account designated by the name of the contributing development. The city will use all payments in lieu of open space to acquire or upgrade/improve existing open spaces, parks, recreation facilities and greenways/trails that are located within 0.50-mile of the perimeter of the planned unit development to benefit the residents of the planned unit development.

(7) The city is required to use the payment in lieu of dedication within five years from the date received. All funds not spent within the time frame will be forfeited by the city and returned to the owner/developer within 30 days of the end of the five-year period.

(8) All dedicated open space shall be a contiguous parcel of land unless the city determines that two or more parcels would better serve the public interest. If the city determines that two or more parcels are necessary to best serve public interest, the city may require the parcels to be connected by a strip of land to provide access between the parcels.

(9) Land dedicated for open space includes neighborhood parks and pedestrian/bicycle trails. Efforts should be made to connect any trail to existing trail systems in order to promote neighborhood connectivity.

(10) Public access to pedestrian/bicycle trails and parks shall be maintained by adjoining public street frontage or providing a dedicated public access easement at least 50 feet in width which connects the dedicated land to a public street or right-of-way.

(11) Lands set aside for open space dedication cannot exceed 15% in grade or be located in wetlands subject to federal or state regulatory jurisdiction, floodways, lakes or other bodies of water or other any areas the city deems unsuitable for neighborhood open space due to topography, flooding or other appropriate considerations.

(E) *Height and area requirements.* The height and area requirements as set forth in §§ 159.045 and 159.046 shall be observed, unless otherwise approved during the planned development process.

(F) *Parking and loading requirements.* Off-street parking and loading spaces shall be provided in accordance with the requirements of specific uses set forth in §§ 159.065 and 159.066.

(G) *Screening requirements.* In the absence of a natural barrier, the City Plan Commission may recommend a form of screening to mitigate the impacts of an incompatible development on adjacent properties. If the City Plan Commission deems screening as necessary for development, a landscaping plan must be submitted with the request for a building permit for city staff review. The landscaping plan must indicate the types of materials/plantings being used for screening, along with their respective size, location and current/estimated heights upon maturation. All screening must be five to six feet in height and more than 50% solid year round. Suitable screening materials may include a solid or opaque fence, berms, native evergreen shrub species including but not limited to: Arborvitae, Boxwood, Cotoneaster, Firethorn, Holly, Leyland Cypress, Ligustrum or Yew, or associated landscape materials or a combination of the above. All screening must be installed prior to occupancy or commencement of a use, unless any plantings being used cannot be installed at the time due to seasonal conditions. In the event the plantings cannot be installed, the Building Official may issue a temporary certificate of occupancy and grant a delay of installation until the seasonal calendar dates of June 1 or November 1, whichever occurs first, and the property owner must place in an escrow account, established with the city, an amount which will cover 110% of the estimated costs of the plantings and installation of the screening. Funds placed into the escrow account will be returned to the owner/developer upon installation of the plantings.

(H) *Signs.* Signs are permitted according to the provisions of § 159.048.

(I) *New construction/additions.* All new construction/additions shall meet the requirements of § 159.046(O).

(J) *Developer incentives.* Developers are eligible to receive incentives, as negotiated during the planned development process, in exchange for landscaping and/or additional open space beyond the required amounts as described in § 159.065. Examples of developer incentives include having a portion or all of the fees from the Community Development Department exempted and/or receiving expedited review and permit processing from the Community Development. Developers can also earn incentives based on the quality



of materials used for construction. To improve the aesthetic quality of development, the use of high-quality, permanent building materials is encouraged. Examples of high-quality materials include but are not limited to brick, stone, manmade stone and the like. Potential incentives will be discussed during the planned development process.

(Ord. 2392, passed 11-11-2008) Penalty, see § 159.999

### **§ 159.022 C-1 LOCAL COMMERCIAL DISTRICT.**

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the C-1 Local Commercial District.

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

(1) Any use permitted in the R-5 Condominium Residential District;

(2) Day care facility;

(3) Office use, provided that no use permitted in this division shall employ more than five persons in a single shift on the premises. This does not include employees whose principal duties are off the premises or temporary, seasonal employees;

(4) Retail sales and service, provided that no use permitted in this division shall employ more than five persons in a single shift on the premises. This does not include employees whose principal duties are off the premises or temporary, seasonal employees. Dressmaking, tailoring, shoe repair, repair of household appliances and bicycles, dry cleaning and pressing, catering and bakery products on the premises and other uses of a similar character, provided that no use permitted in this division shall employ more than five persons in a single shift on the premises. This does not include employees whose principal duties are off the premises or temporary, seasonal employees;

(5) Automotive service station and automobile convenience store. No major repairs or sales of vehicles will be permitted on the premises;

(6) Restaurants, including outdoor eating areas and taverns, excluding uses offering adult entertainment;

(7) Business and technical schools;

(8) Florist shop or greenhouse;

(9) Funeral home; and

(10) Accessory building or uses customarily incidental to any of the above uses.

(B) *Height and area requirements.* The height and area requirements set forth in §§ 159.045 and 159.046 shall be observed.

(C) *Parking and loading requirements.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in § 159.065.

(D) *Signs.* Signs are permitted according to the provisions of § 159.048.

(E) *New construction/additions.* All new construction/additions shall meet the requirements of § 159.046(O).

(1999 Code, § 165.11) (Ord. 2247, passed 10-9-2001; Ord. 2256, passed 6-25-2002) Penalty, see § 159.999

### **§ 159.023 C-2 GENERAL COMMERCIAL DISTRICT.**

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the C-2 General Commercial District. If all or part of a C-2 General Commercial District has been designated a Special Purpose Overlay District, use, height and area, parking, loading and sign regulations can be found in § 159.027(B).

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

(1) Any use permitted in the C-1 Local Commercial District;

(2) Motor vehicle sales and service;

- (3) Office use, retail sales and service, entertainment, restaurant and recreation trade. Adult entertainment excluded;
  - (4) Short-term lodging;
  - (5) Short-term automobile parking lot and parking ramp, but not including motor vehicle storage lots;
  - (6) Motor vehicle services and repairs provided all repairs are conducted within a completely enclosed building. All outdoor storage areas must comply with the requirements for a motor vehicle storage yard. No more than seven vehicles awaiting repair may be stored at one time;
  - (7) Radio or television broadcasting station or studio. Special use permit required for transmission towers, see § 159.049;
  - (8) Veterinarian animal hospital or kennel. Outdoor runs must be at least 100 feet from a residential district;
  - (9) Microbreweries and brew pubs;
  - (10) Publishing, sales promotion, lettering work, electronic or other technical research, electrical and/or light assembly work, office and research use, insurance company home and branch office or other financial institution use, any commercial enterprise employing substantially clerical and technical personnel, coupon clearinghouse, marketing systems, service and research, direct mail service, sales promotion handling and analysis, publishers circular and fulfillment and inquiry card processing;
  - (11) Mini warehouse;
  - (12) Hospital and nursing home;
  - (13) Building material and product sale. Outdoor storage allowed if suitably screened from abutting public streets; and
  - (14) Accessory building or use customarily incidental to any of the above uses.
- (B) *Height and area requirements.* The height and area requirements set forth in §§ 159.045 and 159.046 shall be observed.
- (C) *Parking and loading requirements.* Off-street parking and loading requirements shall be provided in accordance with the requirements for specific uses set forth in § 159.065.
- (D) *Signs.* Signs are permitted according to the provisions of § 159.048.
- (E) *New construction/additions.* All new construction/additions shall meet the requirements of § 159.046(O).
- (1999 Code, § 165.12) (Ord. 2247, passed 10-9-2001; Ord. 2256, passed 6-25-2002; Ord. 2352, passed 7-24-2007) Penalty, see § 159.999

## **§ 159.024 C-2M GENERAL COMMERCIAL/LIGHT MANUFACTURING DISTRICT.**

The regulations in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the C-2M General Commercial/Light Manufacturing District.

- (A) *Use regulations.* A building or premises shall be used only for the following purposes:
- (1) Any use permitted in the C-2 General Commercial District. No residential uses allowed;
  - (2) Light manufacturing uses are permitted, provided the Council enters the following findings concerning the use:
    - (a) The establishment, maintenance or operation of the permitted use will not be detrimental to public health, safety, morals, comfort or general welfare;
    - (b) The permitted use will not be injurious to the use and enjoyment of other properties in the immediate vicinity;
    - (c) The permitted use will not substantially diminish and impair property values within the neighborhood;
    - (d) The permitted use will be compatible with and will not impede development and/or the character of the area where it is located;
    - (e) A site and building development plan, including plans for outdoor storage, if any, has been reviewed by the Public Works Director and the Fire Marshal;

(f) The permitted use will not be in conflict with the comprehensive plan; and

(g) Inspection by the Fire Marshal to comply with the Fire Prevention Code and established use compliance by the Building and Neighborhood Services Director or his or her designee.

(3) Existing manufacturing uses approved prior to (amendment adoption date) are exempted from the provisions of division (A) (2) above.

(B) *Height and area requirements.* The height and area requirements set forth in §§ 159.045 and 159.046 for the C-2 General Commercial District shall be observed.

(C) *Parking and loading requirements.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in § 159.065.

(D) *Signs.* Signs are permitted according to the provisions of § 159.048.

(E) *New construction/additions.* All new construction/additions shall meet the requirements of § 159.046(O).

(1999 Code, § 165.13) (Ord. 2247, passed 10-9-2001; Ord. 2256, passed 6-25-2002) Penalty, see § 159.999

### **§ 159.025 PWC PARKWAY COMMERCIAL DISTRICT.**

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations for the PWC Parkway Commercial District. The PWC Parkway Commercial District shall be designated to provide a district for local or small regional commercial or office use. The city shall encourage the creation of unified and coordinated development.

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

- (1) Short-term lodging;
- (2) Office use, excluding contractors and others who perform services off site;
- (3) Retail sales and service, excluding the sale and/or repair of motor vehicles and machinery; and
- (4) Entertainment, restaurant and recreation trade.

(B) *Height and area requirements.*

- (1) *Front yard.* Thirty feet.
- (2) *Side yard.* None required, except 25 feet minimum required if adjacent to a residential district.
- (3) *Rear yard.* None required, except 25 feet minimum required if adjacent to a residential district.
- (4) *Lot area.* No minimum.
- (5) *Lot width.* No minimum.
- (6) *Building height.* Thirty-five feet maximum.

(C) *District area.* Five acre minimum.

(D) *Parking and loading requirements.* See §§ 159.065 and 159.066.

(E) *Performance standards.*

- (1) Outside storage of merchandise or other materials shall not be visible from the public right-of-way.
- (2) Parking areas shall be designed to minimize headlights shining into residential areas.
- (3) All uses shall be designed to be compatible with adjacent residential areas.
- (4) All utilities shall be placed underground.

(F) *Architectural standards.* All sides of commercial buildings visible from the public right-of-way shall be architecturally treated

to produce an aesthetically pleasing facade. Exterior materials of commercial quality shall include brick or other suitable clay masonry material, stone veneer, granite, cast in place concrete panels, finished faced precast concrete, wood (only if painted or treated, and approved by City Building Department), ceramic tile, decorative concrete block and tinted glass.

(G) *Parking lot landscaping.* See § 159.065(B).

(H) *Sign regulations.*

(1) See § 159.048 for sign regulations except as modified according to division (H)(2) below.

(2) Sign regulation modifications.

(a) No off-premise advertising signs, roof signs or portable signs.

(b) Total area of all signs shall not exceed 200 square feet per building.

(c) One freestanding sign identifying the shopping/office center and the names of the businesses contained therein. Individual freestanding business signs are not allowed.

(d) Height of a freestanding sign shall not exceed 25 feet.

(e) Area of a freestanding ground sign shall not exceed 200 feet.

(I) *Site plan requirements.* See § 159.052(D).

(Ord. 2352, passed 7-24-2007) Penalty, see § 159.999

### **§ 159.026 C-3 CENTRAL BUSINESS DISTRICT.**

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the C-3 Central Business District. If all or part of a C-3 Commercial District has been designated a Special Purpose Overlay District, use, height and area, parking, loading and sign regulations can be found in § 159.027(A).

(A) *Use regulations.*

(1) *Generally.* A building or premises shall be used only for the following purposes.

(2) *Specifically.* Any use permitted in the C-2 General Commercial District unless designated a Special Purpose Overlay District. See § 159.026(A) for permitted uses and other requirements for these special districts.

(B) *Height and area requirements.* The height and area requirements set forth in §§ 159.045 and 159.046 shall be observed.

(C) *Parking and loading requirements.* Off-street loading spaces shall be provided in accordance with the requirements of § 159.066. Provision for off-street parking is not required in the C-3 Central Business District.

(D) *Signs.* Signs are permitted according to the provisions of § 159.048.

(E) *New construction/additions.* All new construction/additions shall meet the requirements of § 159.046(O).

(1999 Code, § 165.14) (Ord. 2247, passed 10-9-2001; Ord. 2256, passed 6-25-2002) Penalty, see § 159.999

### **§ 159.027 SP SPECIAL PURPOSE COMMERCIAL AND HISTORICAL OVERLAY DISTRICTS.**

Special purpose districts are intended to further the goal of creating a new vision for the city including the planning and management of growth, protect significant features of the community and to allow for economic expansion. The overlay district may encompass one or more underlying zoning district (base zone) and may require additional requirements above that required by the underlying zoning district (base zone). Where the standards or requirements of the overlay and base zones are different, the more restrictive requirements shall apply.

(A) *CBD Overlay Zone.* The CBD Overlay Zone will be used to manage the future growth and redevelopment of downtown Clinton.

(1) *Zone designation; CBD Overlay Zone.* The Overlay Zone for the downtown area will be separated into two subzones, each with specific design standards and uses. The CBD Overlay Zone includes the area known as the downtown Clinton area and the area bounded by South First Street on the east; South Fourth Street on the west; Second Avenue South on the north and Eleventh Avenue South on the south. The CBD Overlay Zone shall be designated on the official zoning map.

(2) *Applicability.* The requirements of this division shall apply to all building construction/ reconstruction, renovation and use of land within the CBD Overlay Zone.

(3) *Design standards.* All projects in the CBD Overlay Zone shall comply with the downtown Clinton design and use standards plan if and when a plan is adopted. The design standards shall address the following design characteristics:

- (a) Signage, lighting and landscaping;
- (b) Placement of buildings on the lot or lots;
- (c) Limiting ingress and egress by individual uses;
- (d) Parking standards and parking lot landscaping; and
- (e) Building design and facades.

(4) *Use regulations.*

(a) *CBD Core Zone.* A building or premises shall be used only for the following purposes:

1. Retail sales;
2. Restaurants and taverns, including brewpubs and microbreweries;
3. Retail services limited to barber/beauty shops, dance studios, pharmacies;
4. Office uses having five or fewer employees; and
5. Residential uses above first floor.

(b) *CBD Fringe Zone.* A building or premises shall be used only for the following purposes:

1. Retail sales;
2. Entertainment, restaurants and recreation trade, including brewpubs and microbreweries;
3. Retail services including business, personal and repair services;
4. Office use;
5. Residential uses above first floor; and
6. Short-term lodging; average length of stay is less than 60 days.

(5) *Height and area requirements.* The height and area requirements set forth in §§ 159.045 and 159.046 shall be observed.

(6) *Parking and loading.* Off-street loading spaces shall be provided in accordance with the requirements of § 159.066. Provisions for off-street parking is not required in the CBD Overlay Zone.

(7) *Signs.*

(a) *CBD Core Overlay Zone.* Signs are permitted according to the provisions of § 159.048 and the *Signage Guidelines and Regulations for Downtown Clinton*. The following requirements shall be observed:

1. Off-premises signs are prohibited;
2. One freestanding ground sign for each developed parcel having a frontage on a public right-of-way, not to exceed 50 square feet. Height shall not exceed 15 feet;
3. Wall or facia signs for each occupancy, not to exceed a total copy area of two square feet for each linear foot of building occupancy, not to exceed 150 square feet. Signs shall not exceed 10% of the wall area, and in no case shall the signs exceed 10% of the first 15 vertical feet of wall area;

4. One projecting sign is permitted per occupancy, not to exceed 40 square feet per face. Signs shall not project more than one-half the distance from the building to the curb; and

5. One roof sign is allowed on buildings containing three or more stories. Sign may not project more than 16 feet above the roofline. Total copy area may not exceed 100 square feet.

(b) *CBD Fringe Zone.* Signs are permitted according to the provisions of § 159.048.

(B) *LSO Liberty Square Overlay Zone.* The "LSO" Liberty Square Overlay Zone is intended to promote a consistent and comprehensive development/redevelopment of the Liberty Square area.

(1) *Zone designation.* The LSO Liberty Square Overlay District shall be designated on the official zoning map by ordinance. The Liberty Square Overlay Zone includes the areas between Camanche Avenue and Liberty Avenue extending from 25th Place to South 4th Street and all properties with street frontage along the north side of Camanche Avenue within the same corridor. Designation of the overlay zone is by separate ordinance.

(2) *Applicability.* The requirements of this division (B) shall apply to all building construction/reconstruction, renovation and use of land within the LSO. Where the requirements of the LSO and underlying base zone are different, the more restrictive requirements shall apply. The following are exempt from the requirements of this division (B):

(a) One-family dwellings.

(b) Existing structures at the time of the adoption of the LSO. Any renovation or addition exceeding 50% of the total assessed value of the structure requires the entire structure to come into compliance with the provisions of this division (B).

(c) This division (B) shall not prevent the routine maintenance of any exterior elements of any building, structure or sign described in this division (B). Routine maintenance includes work done to prevent deterioration or to replace parts of a building, structure or sign with equivalent materials in order to correct any deterioration, decay of or damage to any such building, structure or sign.

(3) *Design standards.* The design standards provide a clear set of architectural and site design criteria that will be used by land developers to create sustainable, high quality development for Liberty Square properties. The intent of development in the Liberty Square district is to create a "streetscape" and an environment for "street life." The proximity of the buildings to the public street, coupled with the development of public and private activity spaces (e.g., entrance courts, patios and outdoor display areas), will promote street character and human activity. Developers are required to meet the minimum parameters established by the design standards and are further encouraged to assist the city in maintaining high quality standards and exemplary development in the Liberty Square District.

(a) *Design features.*

1. Architectural features and building facades (faces) of new buildings will be constructed of permanent building materials (brick, stone, manmade stone and concrete) and clear glass.

2. Parapet walls will be used to conceal flat roofs and/or roof mounted mechanical and electrical equipment from street level view. Both flat roofed buildings and gabled roofed buildings will have parapet features at building entrances and other architectural focal areas. The parapets will be accentuated with peaks and other architectural features.

3. Buildings will be one, two or three stories.

4. Architectural variety and interest can be achieved by varying the heights of adjacent building facades. Lengthy building facades will be broken into bays (sections/divisions) or vertical/horizontal architectural treatments to suggest bays (sections/divisions) can be added.

5. Solid waste containers shall be placed on a concrete pad in the rear yard and screened from all public right-of-ways. Screening shall provide a solid visual barrier and shall not exceed the height requirements for fences. Screening shall be constructed of materials that are the same or similar to the primary structure.

6. All outdoor storage areas will be screened from all public right-of-ways. Screening shall provide a solid visual barrier and shall not exceed the height requirements for fences.

7. The architectural facades of accessory buildings will be constructed of permanent building materials and building design should be an extension of the architecture of the primary building served.

8. Synthetic plastic veneer, metal siding and vinyl siding are not permitted in the Liberty Square District.

(b) *Site development.*

1. Building orientation and access:

- a. Liberty Square District buildings will be located along Camanche Avenue and/or Liberty Square side streets.
- b. At least 75% of building facades will be located along the building setback line (15 feet).

c. Each building will be designed for pedestrian access from both the public street face and the building face opposite the public street face. The facades of buildings parallel with Camanche Avenue, or the Liberty Square street side, should have a public front that orients to street visibility and a public entrance on the street side of the building.

d. The majority of parking for buildings should be opposite the public street façade of the building. A minimal amount (20%) of parking may be placed between the buildings; however, parking should not front or abut the public right-of-ways.

2. Building setbacks: Building setbacks along public streets may not be less than 15 feet nor greater than 20 feet.

3. Site open space:

- a. Each development site will maintain a minimum 20% open space.
- b. Open space will be landscaped "green space."

c. Open space may contain pedestrian improvements (e.g. walks, site furniture, lights, and the like); however, the majority of open space must be unencumbered "green space."

d. Building foundation-planting areas less than six feet wide and parking lot islands do not qualify as site open space.

(4) *Use regulations.* Permitted uses listed in this division (B) shall be used instead of the permitted uses listed in the base "C-2" and "M-1" Zoning Districts. Regardless of specific uses, all operations within the subject district must be restricted to enclosed buildings and all outdoor storage is prohibited, unless otherwise specified.

(a) *Permitted uses, land with a base zoning of C-2.*

1. C-1 permitted use - florist shop.
2. C-1 permitted use - restaurant.
3. C-2 permitted use - office use.
4. C-2 permitted use - retail sales and service.
5. C-2 permitted use - entertainment.
6. Accessory buildings or uses customarily incidental to any of the above uses.

(b) *Permitted uses, land with a base zoning of M-1.*

1. M-1 permitted use - wholesale trade.
2. M-1 permitted use - industrial services.
3. M-1 permitted use - warehousing and freight handling.
4. Accessory buildings or uses customarily incidental to any of the above uses.

(c) *Restrictions.* No fast food restaurants with drive through windows.

(5) *Height and area requirements.*

(a) Yard requirements:

1. Front: 15 feet minimum/20 feet maximum.
2. Side: five feet.
3. Rear: 15 feet minimum.

- (b) Minimum lot width: 100 feet.
- (c) Minimum lot area: one-half acre.
- (d) Maximum building height: 45 feet.
- (e) Maximum building stories: Three.

(6) *Parking and loading requirements.* The vitality of the area will depend upon the accessibility, availability and distribution of parking.

(a) At any time any building or structure is erected or structurally altered, off-street parking and loading spaces shall be provided in accordance with §§ 159.065 and 159.066 except as modified herein.

1. Off-street parking areas will provide 75% of use requirement and no more than 115% of the use requirement.

2. All parking areas will be constructed with an asphalt or concrete surface. Flexible pavement design must be a minimum three-inch on a six-inch crushed rock base. Rigid pavement design must be six inches of concrete on stabilized subgrade.

(b) All parking areas will be accessible from either Camanche Avenue or Liberty Avenue and one Liberty Square side street.

(c) Shared parking arrangements will help to improve parking efficiency. To accomplish shared parking, agreements between area businesses and the city will be essential. Evening and daytime businesses and businesses with varying peak use periods can agree to share parking spaces. The net effect will be less surface parking and more efficient and cost effective utilization of area real estate.

(d) All surface-parking areas should contain 10% landscaped open space. To be recognized as parking open space, parking lot islands must be at least nine feet wide. Perimeter parking lot islands may be included in the required open space.

(e) The minimum parking setback along public streets is ten feet. Parked vehicles may not overhang the parking setback.

(f) Parking areas will be screened from view. Screening may be accomplished with plantings, masonry walls or a combination of walls and plantings. Cinder block walls and chain link fences with slats shall not constitute acceptable screening materials.

(7) *Signs.*

(a) *Permitted signs.*

1. Temporary signs in conformance with § 159.048(R)(3)(a) through (d).

2. Monument signs. One monument sign for each developed parcel having frontage on a public right-of-way. A developed parcel having multiple public right-of-way frontages will be permitted a maximum of two monument signs, each to be located along a different street frontage with a minimum separation distance of 100 feet. The permitted sign area shall not exceed 25 square feet per sign. Where two or more uses are located on the same developed parcel, the sign(s) must be shared. The sign(s) shall be oriented perpendicular to the adjacent public right-of-way and installed in a landscaped area of not less than 12 square feet which will count towards site open space requirements. The sign(s) shall be constructed of permanent building materials consistent with the architecture of the primary building served.

3. Wall signs in conformance with § 159.048(T)(3)(c). Wall signs must be of the individual channel-letter type.

4. Projecting signs in conformance with § 159.048(T)(3)(e).

5. Directional signs in conformance with § 159.048(T)(3)(g).

6. Awning, canopy or marquee sign in conformance with § 159.048(T)(3)(h).

(b) *Temporary use signs.* Permits required.

1. All temporary signs in conformance with § 159.048(R)(3)(a) through (d).

2. Special event signs in conformance with § 159.048(V).

3. Wall sign in conformance with § 159.048(T)(3)(c).

(c) *Height and setback requirements.*

1. Minimum/maximum height.



- a. Temporary signs: 12 feet/15 feet.
- b. Monument signs: none/six feet.
- c. Wall signs: 12 feet/15 feet.
- d. Projecting signs: 15 feet/20 feet.
- e. Directional signs: none/four feet.
- f. Awning, canopy or marquee signs: 12 feet/15 feet.

2. Setback from public right-of-way.

- a. Temporary signs: ten feet.
- b. Monument signs: ten feet.
- c. Projecting signs: five feet.
- d. Directional signs: ten feet.
- e. Awning, canopy or marquee signs: five feet.

(d) *Prohibited signs.*

1. Roof signs.
2. Portable signs.
3. Pole mounted ground signs, except for directional signs.
4. Off-premises signs.
5. Electronic changeable copy signs, other than signs which exclusively display the current time and temperature.
6. Electronic changeable graphic signs.
7. Painted wall signs.

(e) *Lighting.*

1. *Monument signs.* Monument signs shall be externally lit. External lighting shall be white and designed and shielded so that it illuminates the face of the sign and does not shine beyond the edge of the sign.

2. *Wall signs.* Wall signs must include one of the following methods of illumination: back lit, halo-lit illumination or reverse channel letters with halo illumination.

(8) *Landscaping.*

(a) A variety of plants (shade trees, ornamental flowering trees, evergreen trees, deciduous and evergreen shrubs, groundcovers, perennial and annual flowers and grasses) will be used to augment site open spaces. Varying species of plants are encouraged to minimize disease risks and encourage environmental diversity. Each species of plant used will be adapted to the site microenvironment. All trees shall be selected from the city's Master Tree list.

(b) Plants will be used to provide traditional environmental comforts (e.g., shade, temperature and wind buffering, and the like) and they will also be used to supplement site aesthetics.

(c) Plants will be used to define public areas, direct pedestrian movement and link private and public spaces.

(d) The size and quantity of plants used will be ample to perform functional requirements (e.g., screening) and to create a landscape setting for the site.

(e) Minimum plant sizes and root conditions:

1. Deciduous shade trees: two and one-half inch caliper; balled and burlapped root condition.
2. Evergreen trees: six feet height; balled and burlapped root condition.

3. Deciduous shrubs: 24 inch spread or three feet height; container grown stock.
4. Evergreen shrubs: 15 inch spread or two and one-half feet height; container grown stock.
5. Groundcovers and other perennial plants: Container class, #SP5; container grown stock.

(f) All landscape plants will meet the requirements of the current American Standard for Nursery Stock published by the American Nursery and Landscape Association.

(g) Upon installation of required landscape materials, each owner shall take appropriate actions to maintain the health of the plant materials in order to provide an aesthetically pleasing appearance and to assure that the buffer actually serves the purpose for which it is intended. Required landscaping that does not remain healthy shall be replaced consistent with this division (B) and the approved landscaping plan for the project.

(9) *Site plan required.*

(a) All new development and existing facility renovations or additions exceeding 50% of the total assessed value of the structure are required to submit eight 22-inch by 34-inch and sixteen 11- inch by 17-inch site plans. The site plan must indicate the following information:

1. Title block with sheet number, title name, address, telephone and fax number of the firm or individual who prepared the plans and date(s) of submission.
2. Revision block with date(s) of any revision(s) and a summary of the revision(s).
3. Legal description, address, and parcel identification number of property.
4. Name and address of the property owner(s).
5. Name and address of the developer(s) (if different).
6. Seal and expiration date, signature, registration number and address of the professional engineer, surveyor, architect, landscape architect or other design professional licensed in the State of Iowa who assisted in the development of the site plan.
7. Title, engineer's scale (not to exceed one inch equaling 20 feet), legend, north arrow and date listed on each sheet.
8. Stamped survey from a licensed surveyor in the State of Iowa.
9. Survey information including distances with angles or bearing.
10. All notes from previous plans and plats.
11. Location map with a 1,000 foot minimum radius of site to surrounding area.
12. Existing and finished grade elevations using two-foot contours.
13. Drainage flow arrows.
14. Existing zoning classification(s).
15. Lot dimensions.
16. Total lot area in square feet and acres.
17. Building setback lines.
18. Location and dimensions of proposed and existing streets, curbs, sidewalks, easements and right-of-ways.
19. Location, dimensions and area (in square feet) of all present and proposed structures.
20. Architectural renderings of all sides of each structure, including accessory buildings.
21. Proposed use of structure including the estimated number of employees.
22. Location of all parking lots including driveways, direction of vehicular traffic flow, maneuvering widths, number of parking spaces and loading spaces required and typical parking space dimensions. Reference § 159.065 of the Zoning Regulations when determining the required number of parking spaces.

23. Location of all loading bays and docks.
24. Location, type and height of proposed and existing fencing.
25. Location of nearest existing and/or proposed fire hydrant(s).
26. Location of all solid waste containers.
27. Location of exterior lighting.
28. Location of all utilities including water and sewer lines/connections.
29. Location, size and height of all proposed signage.
30. Stormwater detention/erosion control plan.
31. Landscaping plan including the percentage of open space (in square feet).

32. Other data may be required if deemed necessary by city staff to determine compliance with the provisions of the Zoning Regulations.

(10) *Variance*. Variances from the requirements under this division (B) shall be heard by the Zoning Board of Adjustment in accordance with § 159.080.

(C) *HOD Historic Overlay District*. The HOD Historic Overlay District is intended to recognize the establishment of the city's historic districts (§§ 32.115 through 32.122 of the code of ordinances) and to promote the public interest in having the full and informed participation of the city's Historic Preservation Commission in the hearing of building permit applications potentially affecting the city's historic resources.

(1) *Zone designation*. The HOD Historic Overlay District shall be designated on the official zoning map by ordinance. Designation of the overlay zone is by separate ordinance.

(2) *Notice*. Within ten days of the receipt of any application for a building permit or Zoning Board of Adjustment appeal by the Planning/ Community Development Department respecting property located within a HOD Historic Overlay District, the Chairperson of the Historic Preservation Commission shall be notified of the application. The application shall be considered by the Historic Preservation Commission as specified in §§ 32.115 through 32.122.

(3) *Certificate of appropriateness*. Unless exempted from the provisions of §§ 32.115 through 32.122, no building permit can be issued or appeal heard by the Zoning Board of Adjustment until a certificate of appropriateness is issued by the Historic Preservation Commission.

(4) *Applicability to underlying district regulations*. The regulations of this section and §§ 32.115 through 32.122 shall also apply in addition to all the requirements and regulations of the underlying zoning district. In the event of conflict between the historic preservation regulations and the underlying zoning district regulations, the historic preservation regulations shall control.

(D) *Main Avenue Overlay Zone*. The Main Avenue Overlay Zone is intended to protect and promote the area as a neighborhood commercial shopping area.

(1) *Zone designation*. The Main Avenue Overlay Zone shall be designated on the official zoning map by ordinance. The Overlay Zone includes those properties near or abutting the Main Avenue Corridor from North Third Street to McKinley Street.

(2) *Applicability*. The requirements of this section shall apply to all building construction/reconstruction, renovation, and use of land within the Main Avenue Overlay Zone.

(3) *Use regulations*.

(a) *Generally*. Permitted uses in the Main Avenue Overlay District shall be those listed in § 159.023, C-2 General Commercial District with the following exception.

(b) *Exception*. Residential uses are only permitted above the first floor.

(4) *Height and area requirements*. The height and area requirements for § 159.023 shall be observed.

(5) *Parking and loading*. Parking and loading requirements for § 159.023 shall be observed.

(6) *Signs*. Sign regulations for § 159.023 shall be observed except that off premise signs are prohibited.

### **§ 159.028 C-4 PLANNED COMMERCIAL DISTRICT.**

In order to provide for modern retail shopping facilities of integrated designs in appropriate locations to serve residential neighborhoods, the C-4 Planned Commercial District is hereby established. The district shall be laid out and developed as a unit.

(A) *Use regulations.* Buildings or premises shall be used only for the following purposes:

(1) Uses allowed in C-2 General Commercial District; and

(2) (a) *Planned developments.* The owner or owners of any tract of land comprising an area of not less than five acres may submit to the City Council a plan for the use and development of all or part of the tract for the purposes of and meeting the requirements set forth in this section. The plan shall be referred to the Plan Commission for study, report and public hearing. If no report is transmitted by the Plan Commission within 60 days of notification, the City Council may take action without further awaiting the report. If the Commission approves the plans, they shall then be submitted to the City Council for its consideration and action. The Commission's approval and recommendations shall be accompanied by a report stating the reasons for approval and that the application meets the requirements of the Planned Commercial District, as set forth in this section. In order that the purpose of this district may be realized, the land and buildings and appurtenant facilities shall be in single ownership or under the management or supervision of a central authority or otherwise subject to the supervisory lease or ownership control as may be necessary to carry out the provisions of this section. In the event the shopping center is not constructed, it shall revert to the same zoning classification which existed prior to the change to the C-4 Planned Commercial District, or a zoning classification the City Council deems appropriate, and the district regulations in force prior to the establishment of the commercial district shall thereupon be in full force and effect except when the zoning is changed. Within the C-4 Planned Commercial District, a building or premises may be used only for the retail sale of merchandise, services, recreation (except outdoor theatres and similar uses), parking areas and other facilities ordinarily accepted as shopping center uses approved by the Plan Commission and City Council.

(b) The shopping center shall be designated as a whole, unified single project in compliance with the following requirements and, if built in stages, each stage shall conform with the approved plan.

(B) *Site plan requirements.* In addition to the requirements of division (A) above, owner or developer must submit a site plan in accordance with § 159.052(D)(1).

(C) *Height and area requirements.* The height and area requirements as set forth in §§ 159.045 and 159.046 shall be observed.

(D) *Parking and loading requirements.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in § 159.065.

(E) *Signs.* Signs are permitted according to the provisions of § 159.048.

(F) *New construction/additions.* All new construction/additions shall meet the requirements of § 159.046(O).

(1999 Code, § 165.15) (Ord. 2247, passed 10-9-2001; Ord. 2256, passed 6-25-2002) Penalty, see § 159.999

### **§ 159.029 C-R COMMERCIAL/RECREATION DISTRICT.**

The C-R Commercial-Recreation District is intended to regulate development and assure compatibility of new construction and uses in and along the city's riverfront areas. The regulations set forth in this section or elsewhere in this chapter, when referred to in this section, are the regulations in the C-R Commercial-Recreation District.

(A) *Intent.* The intent of these regulations is as follows:

(1) To improve the general welfare by increasing public access to riverfront areas;

(2) To encourage revitalization and redevelopment through the expansion of tourist-related and river-related commercial and recreational use;

(3) To compliment and support redevelopment efforts in commercial areas adjoining the riverfront; and

(4) To enhance the general welfare by preserving the principal vistas and visual relationships both from and to the river.

(B) *Use regulations.* A building or premises shall be used only for the following purposes:

- (1) Specialty commercial such as boutiques, antique shops, candy, food or ice cream shops;
- (2) General offices above first floor only;
- (3) Bar/tavern, including microbrewery, brewpub and beer garden;
- (4) Restaurant, including outdoor eating area;
- (5) Hotel/motel;
- (6) Art gallery;
- (7) Gift/souvenir shop;
- (8) Excursion boats, train station, trolley station, carriage stand and services for these uses;
- (9) Museum, auditorium and assembly hall;
- (10) Bicycle rental;
- (11) Indoor recreation facility;
- (12) Artist's studio;
- (13) Pleasure craft harbor, boat rental and associated launch area, excluding boat sales and rental;
- (14) Bed and breakfast;
- (15) Tourist and/or information center;
- (16) Publicly owned and operated park, playground, community buildings and facilities such as baseball stadiums and fields, tennis courts, band shells, swimming pools, skate parks, marinas, recreational vehicle (RV) parks and community centers; and
- (17) Accessory buildings or uses customarily incidental to any of the above uses.

(C) *Temporary uses.* The following uses are permitted as temporary uses (seven days or less) in the C-R Commercial-Recreation District:

- (1) Social or cultural festivals;
- (2) Concerts, craft shows or specialty collection displays; and
- (3) Outdoor sales and marketing of produce, baked goods and other homemade items.

(D) *Height and area requirements.* The height and area requirements shall be the same as those established for the C-1 Local Commercial District.

(E) *Parking and loading requirements.* Off-street parking and loading spaces shall be provided in accordance with the requirements of § 159.065.

(F) *Signs.* Signs are permitted according to the provisions of § 159.048.

(1999 Code, § 165.16) (Ord. 2247, passed 10-9-2001; Am. Ord. 2431, passed 11-9-2010) Penalty, see § 159.999

### **§ 159.030 M-1 INDUSTRIAL (LIGHT) DISTRICT.**

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to this section, are the regulations of the M-1 Industrial (Light) District.

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

- (1) Any use permitted in the C-2 General Commercial, except that no new dwelling, other than that for a resident watchperson or

caretaker employed on the premises, shall be permitted. Existing residences shall not be considered as nonconforming uses;

(2) A building or premise shall be used only for the following purposes:

- (a) Wholesale trade;
- (b) Industrial services;
- (c) Warehousing and freight handling;
- (d) Motor vehicle storage yard;
- (e) Contractor shop and storage yard;
- (f) Metal products;
- (g) Plastic and paper products; and
- (h) Bulk storage of petroleum products for local distribution radius of 50 miles.

(B) *Height and area requirements.* The height and area requirements as set forth in §§ 159.045 and 159.046 shall be observed.

(C) *Parking and loading requirements.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in § 159.065.

(D) *Signs.* Signs are permitted according to the provisions of § 159.048.

(1999 Code, § 165.17) (Ord. 2247, passed 10-9-2001) Penalty, see § 159.999

### **§ 159.031 M-2 INDUSTRIAL (HEAVY) DISTRICT.**

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the M-2 Industrial (Heavy) District.

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

(1) Any use permitted in the M-1 Industrial (Light) District, except that no new dwelling other than for a resident watchman or caretaker employed on the premises, shall be permitted. Existing residences shall not be considered to be nonconforming;

(2) Manufacturing and processing, excluding those identified as special uses in § 159.032(A). Existing manufacturing uses approved prior to (amendment adoption date) shall not be considered nonconforming uses;

- (3) Power generating plant; and
- (4) Railroad yard.

(B) *Height and area requirements.* The height and area requirements set forth in §§ 159.045 and 159.046 shall be observed.

(C) *Parking and loading requirements.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in § 159.065.

(D) *Signs.* Signs are permitted according to the provisions of § 159.048.

(1999 Code, § 165.18) (Ord. 2247, passed 10-9-2001) Penalty, see § 159.999

### **§ 159.032 M-3 INDUSTRIAL (PARK) DISTRICT.**

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the M-3 Industrial (Park) District.

(A) *Use regulations.* In the M-3 Industrial (Park) District, all buildings and premises may be used for any purpose except as follows:

(1) No residential uses are allowed other than a dwelling or residential quarters for a resident watchman or caretaker employed upon the premises;

(2) No adult entertainment establishment will be permitted unless in compliance with the requirements of § 159.046(K); and

(3) The following special uses will be permitted in this zoning classification if the location has been approved by the Zoning Board of Adjustment, who shall take into consideration the special use regulations as set forth in § 159.049:

- (a) Acid manufacture;
- (b) Animal pound;
- (c) Animal, poultry and bird raising (commercial);
- (d) Asbestos products;
- (e) Cement, lime or gypsum manufacture;
- (f) Concrete products or central mixing and pro-portioning plant;
- (g) Distillation, manufacture or refining of bones, coal or tar asphalt;
- (h) Explosives, manufacture or storage;
- (i) Exterminating agents and poisons;
- (j) Fat, grease, lard or tallow rendering or refining;
- (k) Fertilizer (nonorganic);
- (l) Fertilizer manufacture (from organic matter);
- (m) Fire arms manufacture;
- (n) Flour, feed and grain milling or storage;
- (o) Forge plant, pneumatic, drop and forging hammering;
- (p) Glue or size manufacture;
- (q) Garbage, offal or dead animal reduction or dumping;
- (r) Hair and felt products washing, curling and dyeing;
- (s) Leather tanning and curing;
- (t) Meat packing;
- (u) Ore dumps and elevators;
- (v) Paint, lacquer, shellac and varnish (including colors and pigments, thinners and removers);
- (w) Paper manufacture from pulp;
- (x) Petroleum products terminal;
- (y) Petroleum or asphalt refining;
- (z) Planing and millwork;
- (aa) Roofing materials, building paper and felt (including asphalt and composition);
- (bb) Sawmill (including cooperage stock mill);
- (cc) Shell grinding;
- (dd) Smelting of tin, copper, zinc or iron ores;
- (ee) Soap and soap products;

- (ff) Storage of processing raw hides or fur;
- (gg) Stock yards or slaughter of animals;
- (hh) Tar products (except distillation);
- (ii) Wall board manufacturing;
- (jj) Wood preserving treatment;
- (kk) Wool pulling or scouring;
- (ll) Other uses similar to the above when approved by the Zoning Board of Adjustment as provided in § 159.080; and
- (mm) Recycling processing facility.

(B) *Height and area requirements.* The height and area requirements provided for and applicable to the M-2 Industrial (Heavy) District, shall apply to the height and area use in the M-3 Industrial (Park) District, as set forth in §§ 159.045 and 159.046 and shall be so observed.

(C) *Parking and loading requirements.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses as set forth in § 159.065, and where reference therein is made to the M-2 Industrial (Heavy) District, the same shall apply to the M-3 Industrial (Park) District.

(D) *Signs.* Signs are permitted according to the provisions of § 159.048.

(1999 Code, § 165.19) (Ord. 2247, passed 10-9-2001; Ord. 2352, passed 7-24-2007) Penalty, see § 159.999

## ZONING REGULATIONS

### § 159.045 HEIGHT AND AREA REQUIREMENTS.

The height and area requirements shall apply to all districts unless a particular district or overlay district requires special regulations. The following general requirements shall apply.

- (A) In residential areas, minimum lot area shown is for one housing unit.
- (B) All permitted uses must comply with floodplain requirements.
- (C) Minimum dwelling unit size for efficiency apartments is 400 square feet; for two-family and multi-family apartments the minimum is 525 square feet.
- (D) In single-family districts, number of stories may be increased to three and the building height may be increased to 45 feet if the side yard is increased to ten feet.
- (E) See § 159.020 for height and area requirements for the MH Manufactured Home District.
- (F) See § 159.017(A)(3) and (B) for height and area requirements for single-family attached dwellings.

<i>Zone</i>	<i>Front Yard (in ft.)</i>	<i>Side Yard (in ft.)</i>	<i>Rear Yard (in ft.)</i>	<i>Minimum Lot Area</i>	<i>Min. Lot Width (in ft.)</i>	<i>Min. Bldg. Height (in ft.)</i>	<i>Max. No. of Stories</i>
A-1	30	7	25	5 acres	70	35	2-1/2
				2 acres (private septic)			



R-1A	30	7	25	system)	70	35	2-1/2
				12,000 sq. ft. (public sanitary system)			
R-1B	30	5	25	2 acres (private septic system)	60	35	2-1/2
				7,200 sq. ft. (public sanitary system)			
R-1C	30	5	25	2 acres (private septic system)	50	35	2-1/2
				6,000 sq. ft. (public sanitary system)			
R-2	25	5	25	3,000 sq. ft. for 1-family	40	45	2-1/2
				6,000 sq. ft. for 2-family			
R-4	25	5	25 ft. for interior lots	5,000 sq. ft. for 1-family	50	45	3
			15 ft. for corner lots	6,000 sq. ft. for 2-family			
				2,500 sq. ft. for multi-family + 1,500 sq. ft. for each unit			
R-5	25	10	25	Same as R-4	50	45	3
		None	15	None			
		5 ft. if abutting	3 ft. high solid				

C-1	20	residential district 3 ft. high solid visual barrier needed	visual barrier required if abutting residential district	For residential, see R-4	None	35	2-1/2
C-2	20	None	15	For residential, see R-4	None	45	3
		5 ft. if abutting residential district 3 ft. high solid visual barrier needed	3 ft. high solid visual barrier required if abutting residential district				
C-2M	20	None	15	None	None	45	3
		5 ft. if abutting residential district 3 ft. high solid visual barrier needed	3 ft. high solid visual barrier required if abutting residential district	Residential not allowed			
C-3	None	None	None	None	None	45	3
		5 ft. if abutting residential district 3 ft. high solid visual barrier needed	15 ft. if abutting residential district with 3 ft. high solid visual barrier	For residential, see R-4			
C-R	20	None	15	None	None	35	2-1/2
		5 ft. if abutting residential	3 ft. high solid visual barrier				

		district 3 ft. high solid visual barrier needed	required if abutting residential district	For residential, see R-4			
C-4	20	Same as C- 2	Same as C-2	Same as C-2	None	45	3
M-1	20	None	None	None	None	45	3
		10 ft. if abutting residential district  with 3 ft. high solid visual barrier	20 ft. if abutting residential district  with 3 ft. high solid visual barrier				
M-2	20	None	None	None	None	100	8
		10 ft. if abutting residential district  with 3 ft. high solid visual barrier	20 ft. if abutting residential district  with 3 ft. high solid visual barrier				
M-3	20	Same as M- 2	Same as M-2	None	None	100	8

(1999 Code, § 165.21) (Ord. 2247, passed 10-9-2001; Ord. 2296, passed 6-28-2005) Penalty, see § 159.999

#### § 159.046 SUPPLEMENTAL REGULATIONS.

The regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter or in effect after February 8, 1965.

(A) *Height regulations.*

(1) Schools, public buildings and institutions may be erected to a height not exceeding 85 feet in any district in which they are permitted, provided front and rear yards are increased in width one foot for each foot of height that the building exceeds the height regulations of the district in which it is located.

(2) The height regulations prescribed herein shall not apply to grain elevators, television and radio towers, church spires, belfries,

monuments, tanks, water and fire towers, stage towers, scenery lofts, ornamental towers and spires, chimney, elevator bulkheads, smoke stacks, conveyors, flag poles and heating, ventilation and air conditioning systems or wind energy conversions systems (as permitted under § 159.049(D)(24) below.

(3) The limitation on the number of stories shall not apply to buildings used exclusively for storage purposes, provided that the buildings do not exceed the height in feet permitted in the district in which they are located.

(B) *General area exceptions and modifications.*

(1) *Required yard.* Every part of a required yard shall be open to the sky, unobstructed by a building, except for accessory buildings in a rear yard and except for the ordinary projection or sills, eaves, soffits, belt courses, cornices and ornamental features not to exceed two feet unless yard requirements are adjusted proportionately.

(2) *Fire escapes.* Open or lattice enclosed fire escapes, required by law, projecting into a yard not to exceed five feet and the ordinary projection of chimneys and pilasters shall be permitted by the Building and Neighborhood Services Director or his or her designee when placed so as not to obstruct light and ventilation.

(3) *Awnings, canopies, bay windows, solar energy collectors and heat storage units.* Awnings, canopies, bay windows, solar energy collectors and heat storage units may encroach into a required yard a distance not exceeding three feet unless yard requirements are adjusted proportionately. If located in a required side yard, these projections must be at least two feet from an adjacent side lot line.

(4) *Educational, institutional, motel, hotel, commercial or industrial purposes.* Where a lot or tract is used for educational, institutional, motel, hotel, commercial or industrial purposes, more than one main building may be located upon the lot or tract but only when the buildings conform to all open space requirements around the lot or tract where located.

(5) *Open space.* Where an open space is more than 50% surrounded by a building, the minimum width of the open space shall be at least 20 feet for one story buildings, 30 feet for two-story buildings and 40 feet for buildings three or more stories in height.

(6) *Land, farm outbuildings, farm barns or other buildings.* The following height and area requirements shall apply to land, farm outbuildings, farm barns or other buildings or structures used for agricultural purposes:

Maximum number of stories of a building	3 stories
Maximum height of building	100 feet
Minimum depth of front yard	30 feet
Minimum depth of side yard	5 feet
Minimum depth of rear yard	25 feet

(7) *Vacant lots.* In residential districts, no fence, garage, shed or any other accessory structure may be constructed on a vacant lot. No vacant lot in a residential district may be used for storage or as a parking lot.

(8) *Visual clearance zones.* In all zoning districts, nothing shall be erected, placed, planted or allowed to grow on a corner lot in a manner as to significantly impede vision between a height of two and one-half feet and ten feet above the centerline street grade of an area described as follows: that triangular shaped area bounded by the street or road right-of-way lines of a corner lot or tract and a straight line joining points on the right-of-way that are 20 feet from the point of intersection of the right-of-way lines.

(9) *Signs.* Where signs are permitted by the regulations established in § 159.048, allowable ground signs, directional signs and projecting signs may occupy required yard areas.

(C) *Front yards.* The front yards heretofore established shall be adjusted in the following cases.

(1) Where 40% or more of the frontage on the same side of the street between two intersecting streets is developed with buildings which have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings.

(2) Where 40% or more of the frontage on the same side of a street between two intersecting streets is developed with buildings

that do not have a front yard as described above, then:

(a) Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of adjacent buildings, including open porches on each side;

(b) Where a building is to be erected on a parcel of land that is within 100 feet of any existing building on one side only, the building may be erected as close to the street as the existing adjacent building; or

(c) Where a building is to be erected on a parcel of land that is more than 100 feet from any building on either side, a front yard having a depth of not less than 25 feet shall be provided.

(3) Interior lots fronting on two non-intersecting streets shall provide the required front yard on both streets.

(4) Building setback lines in approved subdivisions shall apply along the frontage in place of any other setback requirements unless specified yard requirements in this chapter require a greater setback.

(5) On corner lots, a front yard shall be provided on each street. For lots of record approved prior to February 8, 1965, a ten-foot side yard adjacent to the side street is observed except if the main building is closer than ten feet, in which case any addition can be in line with the existing building. All accessory buildings/uses must also follow these requirements.

(6) Filling station pumps and pump islands may be located within a required yard provided they are not less than 15 feet from any street line and not less than 50 feet from any residential district. Awnings and canopies that provide shelter for fuel pumps may encroach into required yards no closer than five feet from the lot line. On corner lots, all structures shall adhere to the requirements of visual clearance zones.

(D) *Side yards.* The side yard regulations heretofore established shall be adjusted in the following cases.

(1) Commercial or industrial buildings used in part for dwelling purposes shall provide side yards of not less than five feet in width unless every dwelling room opens directly upon a front yard, rear yard or court.

(2) For the purpose of side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as one building occupying one lot.

(3) Whenever a lot of record approved prior to February 8, 1965, has a width of less than 50 feet, the side yard on each side of a building may be reduced to a width of not less than 10% of the width of the lot, but in no instance shall it be less than four feet.

(4) Side yards on corner lots shall follow the requirements for front yards on corner lots.

(5) A drive through roof structure, carport or canopy may project into a required side yard, provided every part of the roof structure, carport or canopy is unenclosed except for the necessary structural supports and is not less than five feet from any side lot line.

(E) *Rear yards.* The rear yard regulations heretofore established shall be adjusted in the following cases.

(1) Where a lot abuts upon an alley, one-half of the alley width may be considered as part of the required rear yard when determining area requirements for accessory buildings.

(2) On corner lots, the minimum required rear yard may be reduced to ten feet in the case of a building fronting on the long side of a lot, provided there is a minimum side yard of 25 feet on the side of the building not fronting a street.

(F) *Lot area per family.* Where a lot of record approved prior to February 8, 1965, or a lot in a subdivision which the Council has officially approved and has agreed to accept from February 8, 1965, has less area or width than therein required in the district in which it is located, the lot may nonetheless be used for a one family dwelling or for any other non-dwelling use permitted in the district in which it is located, with the approval of the Zoning Board of Adjustment as provided in §§ 159.049 and 159.080. In residential districts where two or more contiguous lots have a width and area less than that herein required and are under common ownership, and are of the size as together constitute a conforming lot, the lots or portions thereof shall be joined, developed and used for the purposes of forming an effective and conforming lot or lots.

(G) *Accessory buildings.* The regulations set forth in this division regulate all accessory buildings.

(1) Accessory buildings must be in a rear or side yard and shall not occupy more than 30% of a rear yard. In all R Districts, the aggregate ground cover of all accessory buildings shall not exceed 1,000 square feet in floor area. In addition, one yard shed, not exceeding 160 square feet in floor area, is allowed. All accessory buildings, except yard sheds, shall be constructed of materials that are the same or similar to the principle building. Modifications to the maximum square footage requirement are as follows.

(a) In the A-1 and R-1A Districts, on parcels containing five or more acres, the aggregate ground cover of all accessory buildings shall not exceed 2,000 square feet.

(b) In the R-4 and R-5 Districts, the aggregate ground cover of all accessory buildings shall not exceed 2,000 square feet in floor area if included in site plan approved by the City Council.

(c) Yard sheds, not exceeding 160 square feet total floor area, are not included in the aggregate ground cover restriction.

(2) On existing lots of record approved after February 8, 1965, detached accessory building shall follow all front yard regulations for corner lots. All others shall be set back from any adjacent street right-of-way line in accordance with the minimum distance required for a principal building on the same lot.

(3) If an accessory building in a residential district is located closer than ten feet to the main building, it shall be regarded as part of the main building for the purpose of determining side and rear yard requirements. If the accessory building is farther than ten feet from the main building, it shall not be closer than three feet from any side or rear property line. Storage sheds less than 60 square feet are excluded from this requirement.

(4) If a garage is entered into from an alley, and the garage door is parallel to the alley, it shall not be located closer than five feet from the property line abutting the alley right-of-way.

(5) No accessory building in a residential district shall exceed 15 feet in height. However, in the A-1 or R-1A Districts, properties with five or more acres, accessory buildings may be constructed to a height of 18 feet.

(6) No accessory building shall be constructed upon a lot until the construction of the main building has actually been commenced and no accessory building shall be used unless the main building on a lot is completed and used.

(7) No accessory building shall be used for dwelling purposes.

(8) In all residential districts, except for properties containing five or more acres in the A-1 and R-1A districts, all accessory buildings shall be constructed of materials that are the same or similar to the principle building or an approved residential siding material.

(H) *Swimming pools.* The regulations set forth in this division regulate the location of swimming pools.

(1) Swimming pools are described as any structure intended for swimming, recreational bathing or wading that contains water over 24 inches deep. This includes in-ground, above-ground and on-ground pools, hot tubs, spas and fixed-in-place wading pools.

(2) Swimming pools are not allowed to be located in any front yard.

(3) For in-ground, above-ground and on-ground swimming pools, hot tubs, spas and fixed-in place wading pool, including any attached decks, may not be closer than two feet to any side or rear property line.

(4) Except in the case of corner lots, when the swimming pool, hot tub, spa or fixed-in place wade pool is located ten feet or less from the main building, it can be in line with the existing building line. If it is located more than ten feet from the main building, it must be a minimum of ten feet from the corner street side property line. A ten-foot visual clearance zone must be observed when a corner front or side property line abuts an alley.

(I) *Fences, walls and hedges.* The regulations set forth in this division regulate the placement of fences in all districts.

(1) (a) Fences shall be constructed of material commonly used for landscape fencing, such as masonry block, lumber, plastic, chain link or natural plantings, but shall not include barbed wire, salvage material or be electrified. Electrified fences and barbed wire may be used for permitted livestock containment and horse stables.

(b) In all zoning districts, the smooth, finished, nonstructural or dressed side of the fence, if any, shall be directed toward the neighboring property or properties.

(2) Fences, walls or screen plantings may be located on a residential property in any rear or side yard from the front building line to the rear property line not to exceed six feet. In the front yard from the front building line to the front property line, a fence that provides openings of at least 75% in area of the vertical surface to permit the transmission of light, air or vision through the vertical surface at a right angle may be constructed to a height not to exceed four feet. Fences not providing openings of at least 75% may not exceed a height of three feet.

(3) On corner lots, both yards that abut a street must follow the requirements for fences in front yards, except that fences not providing openings of at least 75% may not exceed a height of three feet and must provide a 20-foot visual clearance zone at all street

intersections and a ten-foot visual clearance zone when a corner lot front or side property line abuts an alley. Fences not meeting the height standards must be located ten feet from the side and rear property line on the corner side.

(4) In the C-2, C2-M, M-1, M-2 and M-3 commercial and industrial districts, nonresidential fences may be up to eight feet in height in the rear and side yards and up to six feet in height in a front yard, provided that all fences located in a front yard are constructed of see-through material. If barbed wire is needed for security reasons, the fence may be extended another foot to a maximum height of nine feet in rear and side yards and seven feet in front yards. Barbed wire may not be closer than six feet to the ground and may not overhang any public right-of-way. Any fence higher than this maximum height or constructed of material other than see-through material in front yards must be approved by the Board of Adjustment. Visual clearance zones shall also apply.

(a) Chain link fencing for public parks and recreational areas and school facilities may be erected to a height of six feet.

(b) In all zoning districts, public and nonpublic buildings and facilities essential to the physical welfare of an area, such as electrical distribution substations, pipeline pumping stations, gas regulators, water storage facilities and similar uses may be surrounded by a fence having a height above ground of not more than ten feet.

(5) Fences located outside of property lines on public rights-of-way are allowed only if approved by the Public Works Director or authorized with respect to a sidewalk café pursuant to § 97.042. If so approved or authorized, the abutting property owner must assume responsibility for maintaining the fence. If the property is needed by the city, the owner is responsible for removing the fence. With the exception of authorized fences enclosing a sidewalk café, fences placed in the right-of-way may not be closer than 18 inches from a public sidewalk.

(J) *Decks, porches and ramps.* The regulations set forth in this division regulate all decks, porches, ramps or similar additions.

(1) All unenclosed porches in existence prior to July 10, 1979, may be enclosed after obtaining a building permit. All porches constructed after this date will be required to adhere to all required yard requirements unless otherwise allowed in this section.

(2) Open decks or porches, but not including permanently roofed-over or enclosed decks or porches, may extend no more than 15 feet into a required front yard or rear yard. However, the encroachment shall maintain a minimum distance of ten feet from a public right-of-way. The following deck and porch encroachments into yards will be allowed as long as the deck or porch remains uncovered:

(a) In front yards, the floor of an open deck located in a required front yard shall not exceed three feet in height above the average ground level. The total height of the deck (measured from the ground to the top rail) cannot exceed six feet. Also, the vertical surface of the area above the floor of the deck must provide openings of not less than 50% in area in order to permit the transmission of light, air and vision through the vertical surface at the right angle.

(b) In rear yards, all new, unenclosed decks and porches must maintain a minimum distance of five feet from any accessory building.

(c) In side yards, all new, unenclosed decks and porches may extend three feet into a required side yard but shall not be closer than two feet from any side property line.

(3) Steps or ramps which are necessary to provide access to a lawful building or for access to a lot from a street or alley may encroach into a required yard.

(K) *Adult entertainment establishments.* Because of their special characteristics, adult entertainment establishments are recognized as having potential deleterious impacts on surrounding establishments and areas, thereby contributing to the creation of blight and decline of neighborhoods. The following regulations apply to all adult entertainment establishments.

(1) Adult entertainment establishments are allowed only in the M-3 Zoning District.

(2) No adult entertainment establishment shall be located within 1,000 feet of any other establishment.

(3) No adult entertainment establishment shall be located within 1,000 feet of any school, church or residential zoning district. To determine minimum separation distances, measurements shall be taken on a direct line from the closest customer entrance of the establishment to the nearest property line of any other establishment, school, church or residential zoning district.

(L) *Screening requirements.* The regulations set forth in this division shall regulate screening requirements in all zoning districts.

(1) *Solid waste containment.* Solid waste containers, including recyclable and scrap material containers, used for commercial, industrial and multi-family apartment uses, shall not be permitted unless completely screened from all public rights-of-way and residential zoning districts. Screening shall provide a solid visual barrier and shall not exceed the height requirements for fences. In existing developed areas, where yard space may not be available or accessibility may be difficult, the Zoning Board of Adjustment may

provide an exemption from these requirements.

(2) *Storage yards.* All outdoor storage yards or storage lots shall be suitably screened from all public rights-of-way. Screening material shall provide a solid visual barrier and shall not exceed the height requirements for fences.

(M) *Home occupations.* Regulations pertaining to home occupations are designed to protect and maintain the residential character of a neighborhood while permitting certain limited commercial activities.

(1) *Restrictions on home occupations.* The following requirements must be met for an activity or occupation to qualify as a home occupation.

(a) The occupation or activity must be clearly incidental and secondary to the use of the premises as a dwelling. The occupation or activity shall not occupy more than 25% of the floor area of a building, not to exceed 400 square feet.

(b) The occupation or activity must be carried on wholly within a main building or approved accessory building.

(c) The occupation or activity must be carried on by a member of the family residing on the premises. No person not a resident on the premises shall be employed. No person not a member of the family shall be employed.

(d) No stock in trade or food or commodities may be sold on the premises as a primary source of income.

(e) No external alterations or special construction of the premises can be done. No exterior indication, except for the permitted sign, that the building is being used for any purpose other than a dwelling shall exist.

(f) No occupations or activities are permitted which are noxious, offensive or hazardous by reason of pedestrian or vehicular traffic or by creation of noise, odor, refuse, heat, vibration, smoke, dust, glare, radiation or other objectionable emissions or by interference with television or radio reception.

(g) No substantial volumes of vehicular traffic or parking demand shall be created.

(h) No advertising sign shall be displayed except for an unlighted name plate flat against the building not exceeding two square feet in area, stating only the resident's name and occupation.

(i) There shall be no off-premises signs, radio, television, newspaper, handbill or similar advertisement linking the premises with the home occupation. The advertisement of the home occupation within a telephone directory, excluding the address, is permitted. Also permitted is the advertisement of the resident's name, home occupation and phone number only within a newspaper.

(j) The activity shall not involve any outside storage nor in any way create, outside the building, any external evidence of the operation.

(2) *Activities permitted.* Permitted home occupations include, but are not limited to the following list of activities; provided, however, that each permitted home occupation is subject to the limitations in the preceding division and to all other applicable regulations to the district in which it is located.

(a) Studio of an artist, photographer, craftsman, writer or composer;

(b) A family day care facility operating under the provisions of the Iowa Code Chapter 237A. An exception is hereby established in the case of family day care facilities under the Iowa Code Chapter 237A. The exception pertains to the restriction that only resident members of the family can be employed on the premises. Where Iowa Code Chapter 237A requires additional employees, those employees may be nonresidential, non-members of the family, provided a member or members of the family are the licensed or registered party and are in charge of the family day care facility. Inspection by the Fire Marshal of all family day care facilities is required;

(c) Domestic service activities such as sewing, tailoring and laundering;

(d) Pet clipping;

(e) Barber shop and beauty shop;

(f) Carpentry shop, cabinet making, upholstering, furniture repair, refinishing, sign making or other similar occupations;

(g) Home-based businesses where the service is provided off-premises;

(h) Sale of real estate and/or insurance;



- (i) Office of a physician or dentist for consultation or emergency treatment, but not for general professional practice;
- (j) Teaching, limited to not more than six pupils at one time;
- (k) Telemarketing, computer programming and repair and services provided over the internet; and
- (l) Mail order businesses where products are shipped directly from the supplier to the customer.

(3) *Activities prohibited.* Prohibited commercial activities in the home include, but are not limited to, the following. These activities and other similar activities are not classified as home occupations and will not be permitted in a residential area.

- (a) Motor repair service or auto body repair service;
- (b) Junk yard, salvage yard or welding activity;
- (c) Restaurants or taverns;
- (d) Convalescent homes;
- (e) Rooming and boarding house;
- (f) Gift, craft or antique shops;
- (g) Animal husbandry, kennels or commercial horse stables;
- (h) Tattooing, body piercing, fortune telling or massage services;
- (i) Business or store of any kind with stock for trade or sale; and
- (j) Warehousing or storage of materials or merchandise.
- (k) Taxicab and vehicle for hire business, including business office, stand dispatch or vehicle storage.

(4) *Parking.* Off-street parking, other than in a front yard, shall be provided for all home occupations. At least four off-street parking spaces are required for barber shops and beauty shops; all other uses shall comply with the parking requirements found in § 159.065.

(5) *Variance.* Variances from the requirements under this section shall be heard by the Zoning Board of Adjustment.

(N) *Permitted uses.* The regulations set forth in this division shall regulate allowable uses within a zoning district. Uses permitted by right shall be allowed if they comply with all applicable regulations. Uses included are based on the common meaning of the terms and not the name that an owner or operator might give to a use. Permitted uses are as follows.

(1) *Residential uses.* Residential uses include group living quarters, single- and two-family dwellings, rooming and boarding houses, manufactured homes and multi-family dwellings.

(2) *Short-term lodging.* Facilities offering transient lodging accommodations to the general public where the average length of stay is less than 60 days. Uses include bed and breakfast, hotels and motels.

(3) *Office use.*

(a) Activities conducted in an office setting and primarily focusing on administrative, business, governmental, professional, medical or financial services. Contractors and others who perform services off-site and no equipment or materials are stored on the site, are also included in this category.

(b) Examples include: banking and bank-related services, data processing, government offices and facilities, telemarketing, insurance services, lending credit services, public utility offices, real estate, medical/dental/chiropractic clinics, radio and television studios and offices of architects, engineers and lawyers.

(4) *Motor vehicle sales.* Retail sales or leasing of automobiles, light and medium trucks, motorcycles, recreational vehicles, marine craft and accessories. Vehicle repair, including painting, are permitted when conducted as a secondary activity to the sale of vehicles.

(5) *Motor vehicle service and repair.* Motor vehicle servicing, repairing, painting, detailing, bodywork, finishing and accessories for automobiles, motorcycles and light trucks. Premises may not be used for vehicle wrecking or salvaging.

(6) *Entertainment, restaurant and recreation trade.*

(a) Facilities providing entertainment or recreation services and eating and drinking establishments. Definition excludes adult entertainment establishments.

(b) Examples include: bars and taverns, banquet halls, bowling alleys, exhibiting and meeting halls, health clubs, game arcades, lodges and social clubs, movie theaters, pool halls, restaurants, cafes and delicatessens.

(7) *Retail sales and service.*

(a) Uses involve the sale, lease or rental of new or used consumer products, including prepared foods, to the general public and uses providing services involving predominately personal or business services, including repair of consumer and business goods. Does not include vehicle repairs. Lumber yards and other building material facilities selling primarily to contractors and not the general public are classified as a wholesale establishment. Sale, rental or leasing of heavy trucks and equipment are classified as a wholesale establishment.

(b) Retail sales example include antiques, appliances, art supplies, automobile supplies, bakeries, candy, clothing, convenience stores, computers, delicatessens, electronics, fabric, furniture, garden supplies, groceries, hardware, home improvements, jewelry, office supply, pharmacy, plants, flowers, shoes, sporting goods, stationary, toys and videos.

(c) Retail personal, business and repair service examples include animal grooming, printing services, barber and beauty shops, business schools, dance or music studios, dry cleaning, employment services, equipment rental and leasing, medical care services, kennels, laundromats, photography studios, sign making, tailors, television, bicycle, shoe, gun, appliance and office equipment repair, upholsterers, veterinarian offices.

(8) *Wholesale trade.*

(a) Uses that involve the sale, lease or rental of products primarily intended for industrial, institutional or commercial businesses. Business may or may not be open to the general public, but sales to the general public are limited.

(b) Examples include: mail order houses, electrical supplies, heating and plumbing equipment, equipment, machine parts, restaurant equipment, special trade tools, store fixtures, welding supplies, auto parts, alcoholic beverages, food.

(9) *Industrial services.*

(a) Uses that involve the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products, but not including consumer goods service or repair. Does not include salvage yards.

(b) Examples include: building, heating or electric contractors, electric motor repair, exterminators, fuel oil dispensers, heavy machinery sales including repair and storage, buses and heavy truck servicing and repair, machine shops, tool repair, towing and vehicle storage, truck stops, welding shops.

(10) *Manufacturing and processing.*

(a) Uses that involve the manufacturing, processing, fabrication, packaging or assembly of goods, excluding special uses listed in § 159.032(A). Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales.

(b) Examples include: apparel, textile, chemicals, rubber, leather, clay plastic, stone and glass materials manufacturing, concrete batching and asphalt mixing, energy production, food and related products manufacturing, furniture and fixture manufacturing, lumber and wood products manufacturing, metal and metal products manufacturing, including enameling and galvanizing, machinery and electrical equipment, manufactured homes and prefabrication manufacturing, printing and publishing, woodworking, including cabinetry.

(11) *Warehousing and freight handling.*

(a) Uses that involve the storage or movement of goods. Does not include the storage of sand, gravel, grain or mini-storage facilities. No on-site sales.

(b) Examples include: freight storage, inter-modal transfer facilities, warehousing, truck and rail freight terminals, warehouses used by retail stores, wholesale distribution centers.

(12) *Waste processing, storage and transfer.*

(a) Uses that receive solid or liquid waste from other uses for disposal, storage or treatment on-site or for transfer to another location; uses that collect sanitary wastes; uses that treat contaminated material; uses that process materials for recycling; and uses that manufacture or produce goods or energy from the composting of organic material.

(b) Examples include: recycling operations, treatment plants, waste composting, waste incineration, solid waste disposal facility, medical waste handling, storage and incineration, waste transfer station, hazardous waste handling, storage and incineration.

(13) *Salvage yards, including auto salvage.* A facility or area for storing, keeping, selling, dismantling, shredding, compressing or salvaging scrap or discarded material or equipment. Scrap or discarded material includes, but is not limited to, metal, paper rags, tires bottles, motor vehicles and parts thereof, machinery structural steel, equipment and appliances.

(14) *Adult entertainment establishments.* Adult entertainment establishment means a building or use having a substantial or significant portion of its business by the offering of entertainment, stock in trade of materials, scenes or other presentations characterized by emphasis on depiction or description of specific sexual activities including nude and semi-nude dancing. The uses include but are not limited to: adult book stores, adult massage parlors, adult modeling studios, adult mini motion picture theaters, adult motion picture theaters, adult theaters, adult sexual encounter centers and licensed beer and liquor establishments offering nude and semi-nude performances for entertainment.

(15) *Other uses not identified.* Uses specifically identified with a particular district will be identified separately in the district regulations. Uses not listed and the specific category cannot not be determined will be referred to the Zoning Board of Adjustment for final determination.

(O) *Building appearance standards.* All buildings, except single-family homes and residential accessory buildings, fronting on a public roadway in any C-1, C-2, C-2M, C-3, C-4 or C-R Commercial Zoning District, shall follow the requirements this division.

(1) (a) In order that buildings, structures and landscaping elements will be in harmony with other structures and improvements in the city, the following building standards shall apply to all new construction.

(b) For all new construction, the preferred exterior building materials shall include, but are not limited to brick or other suitable clay masonry material, stone veneer, granite, cast in place concrete panels, finished faced precast concrete, ceramic tile, decorative concrete block and tinted glass.

(2) (a) New construction not meeting the requirements of division (O)(1)(b) above shall have the front exterior meet the following standards.

(b) The front exterior of a new building shall have as a facing material on a minimum of 30% of the gross wall area from the eave or coping line down to grade line one of the preferred materials listed in division (O)(1)(b), glazed tile, wood, glass or an approved equivalent.

(3) Buildings on corner lots shall follow these requirements for both street frontages.

(4) Material guidelines:

(a) Material used shall be selected for suitability to the type of building or design in which they are used.

(b) Materials shall have good architectural quality and character.

(5) Exceptions. Buildings completely screened by other buildings from a public street or not clearly visible from a public street shall be exempt from these requirements.

(6) In the event that a dispute arises as to which wall constitutes the front of a building, the decision shall be made solely by the Zoning Committee of the City Plan Commission by considering what the general public would regard as the front of the building. The Zoning Committee will also determine alternative facing material than those specified in this section.

(P) *Outdoor service areas (OSA).* All outdoor service areas that are contiguous with a bar/tavern that is regulated by a city liquor license, must meet the following requirements to operate within the city limits of the city. Special events centers are exempt from this division. Outdoor service areas must be approved as a special use permit through the Zoning Board of Adjustment and must comply with these listed requirements at all times during the duration of the special use permit. The OSA will be inspected annually by the Fire Marshal and/or the Building Official during the regularly scheduled liquor license inspection. Violations of this division may be cause for suspension or revocation of the OSA permit. All violations will be cited under the zoning regulations, § 159.999.

(1) Definitions.

**ENCLOSED.** A predominantly indoor area covered with a fixed structural roof and generally closed off from the outside.

**NON-ENCLOSED.** A predominately outdoor area that does not meet the definition of enclosed, including but not limited to patios, outdoor dining areas and outdoor service areas.

**OUTDOOR SERVICE AREAS.** Any non-enclosed area where one or more persons wait for or receive goods or services including but not limited to patios, outdoor dining areas and outdoor service areas.

**PERMANENT OSA.** An outdoor service area that is in existence for more than seven days and is contiguous with a building/establishment currently in operation as a restaurant, tavern/bar or other similar business.

**RESIDENTIAL DISTRICT.** An area that is prescribed to be residential according to the zoning regulations of the city.

**SPECIAL EVENT CENTERS.** Banquet and reception halls that are not open to the general public and are privately rented out for receptions, parties and or dinners.

**TEMPORARY OSA.** An outdoor service area that is in existence for less than seven days, and, is associated with a festival, fair, carnival or other similar temporary event.

(2) The OSA permit is for permanent outdoor service areas for bars, taverns and/or restaurants with bars that are not temporary in nature.

(3) All OSAs must comply with these requirements by April, 2009. Each OSA will be inspected annually by the Fire Marshal and/or the Building Official as part of the annual liquor license inspection.

(4) The OSA will not be located within 100 feet of a residential district.

(5) The OSA will not impair/impede an adequate amount of air and light to the adjacent properties.

(6) The OSA will not unreasonably increase the congestion in public streets or alleys.

(7) The OSA will not in any way impair the public health, comfort, safety and welfare of the inhabitants of the city.

(8) The OSA will not in any other respects impair the public health, comfort, safety or welfare of the inhabitants of the city.

(9) The OSA must have at least one 30-gallon trash receptacle or a proportionate number of receptacles to meet this requirement.

(10) The OSA will not increase the danger of fire, or of the public safety, and it will meet all current Fire Code regulations. (All aspects of the OSA must meet the requirements of the Fire Marshal and the Building Official.)

(11) The OSA will not use any type of amplified music or loudspeakers that will violate the noise regulations of the city.

(12) The OSA will not have any advertising, signs or graffiti-like markings on the exterior of the wall/fence, and the wall/fence must be maintained with proper maintenance so as not to be a nuisance.

(13) Each OSA must have an exit from the outdoor area. The exit must be alarmed and only be accessible from the inside of the OSA.

(14) Each OSA that is entered through a required egress from the establishment must provide a clear path for emergency exiting to the OSA exit.

(15) The exit gate/door from the OSA must swing in the direction of the egress with panic hardware.

(16) The OSA egress must be illuminated at all times while the area is in use.

(17) The occupant load for the establishment that installs an OSA will be based on the current occupancy load of the inside of the establishment, and may not increase the occupancy load.

(18) A portable fire extinguisher must be located inside the establishment within ten feet of the OSA entrance (unless a portable fire extinguisher is kept in the OSA).

(19) The OSA will have a six-foot solid visual barrier wall or fence enclosure on all sides, built to the ground, provided that this provision shall not apply to OSA's located within a sidewalk café authorized pursuant to § 97.042 .

(20) The OSA is in a side or rear yard area; or in a sidewalk café authorized pursuant to § 97.042 , wherever located; and complies with all zoning regulations in the district in which the use is to be located.

(21) The OSA will be contiguous with a part of the main building and will not be closer than ten feet to any residential unit.

(22) The OSA will not have an entrance to the walled/fenced area except through the bar/restaurant establishment.

(23) The OSA must have a non-combustible floor surface and have sufficient lighting to illuminate the entire OSA, and it must have a solid, level floor that will not cause a tripping/falling hazard to occupants and employees.

(24) The OSA will not have a roof or roof covering over more than 50% of the walled/fenced area.

(25) The OSA must provide non-combustible ash trays and containers for removal of ashes and cigarette butts.

(Q) *Temporary Outdoor Service Area (TOSA)*. These regulations apply to all temporary outdoor service areas that are contiguous with a bar, tavern or restaurant that is regulated by a city/state liquor license and are in existence for less than seven days at a time.

(1) These regulations do not apply to special event centers, fairs, carnivals, festivals or similar events located on public property.

(2) These regulations shall not contradict or repeal any current ordinance, resolution or law in effect upon the enactment by ordinance or resolution of this document.

(3) The TOSA permit is for temporary outdoor service areas for bars, taverns, and/or restaurants that are contiguous with a bar, tavern, or restaurant that exists and that has a current liquor license with the city and the State of Iowa and is valid for the requested and approved time period only.

(4) The application must be filed with the City Clerk at least 45 days before the event is to take place to ensure that all departments have sufficient time to consider approval for the event.

(5) Each application will be reviewed by the Fire Marshal, the Building Official and the Police Chief or their designated representative. An inspection is also required by the Building Official to verify compliance with these regulations.

(6) The temporary event will not impair/impede an adequate amount of air and light to the adjacent properties and will not create excessive light that adversely affects neighboring properties including residential neighborhoods and properties. The area must have sufficient illumination for the duration of the event.

(7) The area/event will not cause any congestion in public streets or alleys.

(8) The area/event will not in any way impair the public health, comfort, safety and welfare of the inhabitants of the city.

(9) The area must have sufficient trash receptacles to ensure that trash, garbage and debris are kept inside containers and will not litter the grounds or surrounding properties. All trash, garbage and debris will be collected and contained at all times during the event including all parking areas and public right-of-ways.

(10) The area/event will not increase the danger of fire or of the public safety, and it will meet all current city ordinances and will not decrease the required amount of parking spaces and it will not adversely affect the surrounding neighborhoods.

(11) Those TOSAs that affect the normal parking areas must provide a written plan for parking for the event(s).

(12) The owner of the establishment or the liquor license will regulate any type of amplified music or loudspeakers to ensure that the noise does not violate the city noise ordinance, Chapter 93 of this code.

(13) Each application must provide a plan for portable restroom facilities, based upon the expected attendance of the event.

(14) Each area/event must have its entire area enclosed with temporary fencing to ensure security and enforcement of all requirements and laws concerning the liquor license and TOSA permit, and must have the entrance staffed with sufficient employees to ensure safety, security and enforcement of all requirements and laws concerning the liquor license and the TOSA permit.

(15) The occupant load for the establishment that installs a TOSA will be based on the current occupancy load of the inside of the establishment, and may not increase the occupancy load of the inside of the establishment by more than 10%, according to the Life Safety Code.

(16) The area/event will be contiguous with a part of the main building and will not be closer than ten feet to any residential unit.

(17) The establishment must provide non-combustible ash trays and containers for removal of ashes and cigarette butts and must have a non-combustible floor.

(18) Any violation of these requirements during the event may result in the immediate revocation of this temporary permit by the City Police Department, Fire Department or Community Development Department, and may be used as evidence to deny future similar events to the owner of the liquor license and/or the owner of the establishment. Any costs associated with a violation where any city department is forced to respond during the event shall be paid by the liquor license holder or the building owner.

(19) A copy of each application and the regulations will be placed on file with the Building Official, the Fire Marshal and the Police Chief, as well as the City Clerk, for purposes of enforcement during the event.

(1999 Code, § 165.22) (Ord. 2119, passed 8-8-2000; Ord. 2247, passed 10-9-2001; Ord. 2256, passed 6-25-2002; Ord. 2296, passed 6-28-2005; Ord. 2326, passed 6-13-2006; Ord. 2352, passed 7-24-2007; Ord. 2368, passed 5-27-2008; Ord. 2391, passed 10-28-2008; Ord. 2403, passed 4-14-2009; Ord. 2411, passed 4-27-2010; Ord. 2425, passed 9-14-2010; Ord. 2508, passed 6-24-2014) Penalty, see § 159.999

## **§ 159.047 NONCONFORMING USES.**

(A) The use of land which does not conform to the provisions of this chapter, at the time of its effective date, may be continued until a time as a structure is erected thereon and thereafter the use of the land and the building must conform with the provisions of this chapter.

(B) The lawful use of a building existing at the time of the effective date of this chapter may be continued although the use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be continued as the same nonconforming use to a more restricted classification or to a conforming use, but the use shall not thereafter be changed to a less restricted use.

(C) In the event a nonconforming use of any building or premises is discontinued for a period of one year, the use of the same shall thereafter conform to the use regulations of the district, except that a legal nonconforming use for a two-family dwelling can be reinstated, regardless of the length of time that it was discontinued, provided all other conditions of the zoning regulations and all other ordinances were met.

(D) No nonconforming use, except when required to do so by law or ordinance, shall be enlarged, extended, reconstructed or structurally altered unless the use is changed to a use permitted in the district. The provisions of this division shall not apply to existing residences in the M-1, M-2 or M-3 Districts. One or two-car garages, in connection therewith, may be constructed.

(E) Direction or name signs or signs pertaining to or advertising products sold on the premises of a nonconforming building or use may be continued only when the nonconforming use is permitted to continue and any signs shall not be expanded in area, height, number or illumination. New signs, not to exceed 36 square feet in aggregate area, may be erected only after all other signs existing at the time of the adoption of this chapter are removed. New signs in conformity with the above regulations may have illumination not to exceed 60 watts on one face of the sign, but flashing, intermittent or moving illumination signs are not permitted.

(F) The adoption of this section shall not create any new nonconforming uses or validate any existing nonconforming uses unless any existing zoning districts are amended.

(G) If a nonconforming building or structure is damaged by more than 50% of its assessed value by fire, wind, tornado or other natural disaster, it cannot be rebuilt. If less than 50% damaged, it may be rebuilt provided the rebuilding does not increase the intensity of use or floor area of the nonconformity.

(1999 Code, § 165.25) (Ord. 2247, passed 10-9-2001) Penalty, see § 159.999

## **§ 159.048 SIGNS.**

The regulations contained in this section apply to and regulate all signs in all districts. No new or existing signs, awnings or other advertising device, including signs painted on the vertical surface of a structure, shall be located, replaced, erected or maintained except in compliance with the regulations contained herein.

(A) Building permits are required for all new signs and all existing signs if there is a change in location or in the total area of the sign. Portable signs are allowed only under the provisions of divisions (T)(3)(f) and (V) below. Portable signs in existence at the time of the adoption of these regulations (adoption date) have two years to bring the sign in conformance with the provisions of this section.

(B) Signs shall contain only the name of the business establishment or the principal business conducted on the premises and may

include any motto, slogan, insignia or combination thereof.

(C) When a sign is illuminated, the light or lights shall be shaded or concealed so that they will not interfere with the vision of motor vehicle operators or shine directly on residential property located in any residential property.

(D) All signs and sign structures shall be erected and maintained in a safe condition. It is the responsibility of the sign owner, property owner or proprietor of the premises to keep all signs thereon properly maintained. The area around the base of the sign shall be kept free and clear of any weeds, sign material, debris, trash and other refuse.

(E) When a business closes or if a sign is considered a hazard, the owner is to remove the sign. If the owner refuses or neglects to repair or remove the sign, the city, after proper notification, will remove the dangerous or abandoned sign.

(F) Unless otherwise provided, all signs shall be contained upon private property.

(G) Signs located within 20 feet of a corner street lot line intersection shall be so erected and maintained that an unobscured visual sight area is provided for vehicle operators. The unobscured area, at a minimum, shall extend from a distance of two and one-half feet above finished street grade to ten feet above the grade. No more than two poles or post supports of no more than ten inches in diameter shall be permitted within the unobscured area.

(H) Unless otherwise permitted in this section, no part of any sign which projects into or over a public right-of-way or other access way shall have a minimum height of less than the following:

(1) Vehicular way, 16 feet

(2) Pedestrian way, ten feet

(I) A sign may be located in a required yard unless specifically restricted therefrom.

(J) No sign or sign structure other than an official traffic, street or other sign approved by the city shall be placed on any public right-of-way.

(K) No sign or sign structure shall be erected at any location where it may be, by reason of its size, shape, design, location, content, color or manner of illumination, constitute a traffic hazard by obstructing the vision of drivers or by obscuring or otherwise physically interfering with a traffic control device.

(L) No sign or sign structure, unless otherwise provided in this section, shall be erected on or overhang any public right-of-way.

(M) No signs or poles which contain or consist of reflectors or lights which flash, strobe or resemble emergency lights shall be permitted. No lights simulating movement shall be permitted exceeding 11 watts. This prohibition does not exclude all electronic message boards. No sign may be lighted in a manner which impairs the vision of any driver of any motor vehicle.

(N) No sign shall be attached to or placed on any vehicle or trailer parked on public or private property that is visible from a public right-of-way. This prohibition does not prohibit the identification of a firm or its principal products on a vehicle operating during the normal course of business or being taken home.

(O) No sign shall be erected so as to prevent free ingress or egress from any door, window or any other exit way required by the Fire Prevention Code of the city or any other ordinances.

(P) No sign may imitate or resemble an official traffic control sign, signal or device.

(Q) No sign that revolves or that utilizes movement or apparent movement to attract attention shall be permitted.

(R) Only the signs listed in this division are permitted in R-1A, R-1B, R-1C and R-2 Districts and are subject to the regulations set forth.

(1) *Home occupations.* Unlighted name plate flat against the building not exceeding two square feet in area, stating only the resident's name and occupation.

(2) *Identification signs for other than residential use.* Permitted nonresidential uses, but not including home occupations and legal nonconforming uses, shall be permitted one non-illuminated identification sign per establishment with a surface area not exceeding 12 square feet, denoting only the name and address of the premises and name of management, and shall be placed flat against the building. In addition, one bulletin board ground sign shall be permitted for a church, school or other similar institution for the purpose of displaying its name and activities or services. The signs shall not exceed 36 square feet and may be lighted with indirect lighting only. Signs must be located on the same lot as the building.

(3) *Temporary signs.* The following temporary signs may be installed without applying for a building permit.

(a) Temporary signs pertaining to the lease, hire or sale of a building or premises. The signs shall not exceed ten square feet in area and shall be located not less than ten feet from any property line.

(b) Temporary signs identifying construction or improvements taking place on the property. Signs shall not exceed 36 square feet in area and must be removed within five days after completion of the work.

(c) Temporary real estate signs not exceeding 12 square feet in area. The signs must be removed within ten days after closing the sale.

(d) Temporary signs identifying vacant lots for sale in a subdivision shall not exceed 48 square feet.

(e) Special events message signs as provided for in division (V) below of this section.

(4) *Parking areas.* Signs designating accessory parking area entrances and exits are limited to one sign for each exit or entrance and a maximum surface area of two square feet for each sign. One sign per parking area, designating the condition of use or identity of the parking area and limited to a maximum area of nine square feet shall be permitted for each street frontage. The signs shall not be located or constructed in a manner which would constitute a safety hazard to vehicular or pedestrian traffic by causing visual interference. Maximum height of the signs shall not exceed 12 feet.

(5) *Subdivisions or estate identifying signs.* Signs identifying subdivisions or estate identifying signs are limited to 36 square feet in area and shall not be higher than 12 feet. One sign is permitted for each entrance to the subdivision or estate. Signs can be illuminated with indirect lighting only.

(S) Only the signs listed hereinafter are permitted in the R-4 and R-5 Districts and are subject to the regulations set forth herein.

(1) Any sign permitted in division (R) above.

(2) Multi-family unit signs indicating only the name and/or address of the building, the name and location of the management thereof or allied information. Signs shall not exceed 36 square feet or be higher than 12 feet and must be at least 20 feet from property lines abutting single-family residential districts.

(T) Signs listed in this division are permitted in C Commercial or M Industrial Districts and are subject to the regulations/limitations set forth herein.

(1) Subject to the limitations set forth in this division, the maximum area of all permitted signs is as follows:

(a) In the C-1, C-3 and C-R Districts, the maximum area of all permitted signs on interior lots shall not exceed 300 square feet and on corner lots shall not exceed 400 square feet; and

(b) In the C-2, C-2M, C-4 and all M Districts, the maximum area of permitted signs on interior lots shall not exceed 400 square feet and on corner lots shall not exceed 600 square feet. The total maximum sign area may be increased by 200 square feet for buildings 50,000 square feet or larger.

(2) Each developed parcel having frontage on a public right-of-way is permitted to have one fascia sign and one projecting sign along that public street or the projecting sign may exist instead of but not in addition to a freestanding ground sign or a roof sign.

(3) Subject to these provisions and division (W) below, the following signs are permitted:

(a) Signs as permitted in divisions (R) and (S) above.

(b) One freestanding ground sign for each developed parcel having frontage on a public right-of-way, not to exceed two square feet of sign area for each linear foot of street frontage abutting the portion of the parcel or premises. The maximum sign area shall not exceed 200 square feet. In the C-1, C-3 and C-R Districts, the height shall not exceed 25 feet. In all other C and M Districts, the height shall not exceed 35 feet.

(c) One wall or fascia sign for each occupancy within a developed parcel, not to exceed a total copy area of two square feet for each linear foot of building occupancy. If the occupancy is on a corner, one wall or fascia sign will be permitted for each street frontage. If the building includes a canopy, each occupancy will be permitted one under-canopy sign. For buildings with a floor area of 50,000 square feet or more, the total copy area may be increased to two and one-half square feet for each linear foot of building occupancy.

(d) One roof sign shall be permitted for each developed parcel. The sign shall not exceed three square feet of copy area for



each linear foot of building frontage which is parallel to the sign placement direction or 200 square feet total, whichever is less.

(e) One projecting sign is permitted within a developed parcel for each street lot frontage and it shall not exceed a total area of two square feet for each linear foot of building occupancy. The projecting sign may not extend more than ten feet horizontally from the building to which it is attached.

(f) Portable signs may be used to display a business name or products sold on the premises during business hours. Signs must be removed during nonbusiness hours.

(g) One directional sign is permitted for each exit and entrance for each street frontage. Each sign shall not exceed two square feet in area and shall not be considered as part of the total allowable sign area permitted. The maximum permitted height for the signs is 12 feet above the street grade.

(h) Signs on awnings, canopies and marquees shall be affixed flat to the surface thereof and shall not be illuminated. These types of signs shall be exempted from the limitations applied to projecting signs.

(i) In addition to permitted signs, one additional name sign or sign advertising products sold on the premises may be installed provided the sign does not exceed 50 feet in area and contains no flashing, moving or intermittent illumination. Signs shall not exceed six feet in height.

(U) The following signs are only permitted in the C-2 District and all M Districts:

- (1) Primary highway signs (division (X) below); and
- (2) Off-premises advertising signs (division (Y) below).

(V) Special event signs are defined as portable signs placed on private property for the purpose of informing the public of upcoming events, open houses, grand openings or special sale events. Although building permits are not required, placement of special event signs is subject to the requirements of this chapter.

(1) Special events sponsored by non-profit entities that are open to the general public including, but not limited to, fairs, festivals, dinners, special days and commemorative celebrations. These signs shall not contain any advertisement for a product or service offered for sale. These signs may be placed in any district on private property, but not earlier than 21 days preceding the event and shall be removed not later than seven days following the end of the event.

(2) Special sale and grand opening signs shall be permitted only in commercial and industrial districts and may be displayed no more than 15 consecutive days prior to the event for every two months. Signs must be removed immediately upon termination of the sale or event they advertise.

(3) Portable sign. Any sign not permanently fixed can be used as a special event sign subject to the restrictions of this section.

(W) Signs in public right-of-way. In addition to the sign regulations herein, all signs in public rights-of-way shall also meet the following regulations.

(1) No sign shall overhang any public right-of-way or public property except in compliance with the regulations contained herein.

(2) The owner of any sign referred to in this division shall deposit with the Clerk a public liability policy of insurance issued by a company authorized to transact business in the state for a principal sum of not less than \$100,000 liability to any one person, and shall carry an endorsement protecting the city, as its interests may appear, as the result of any accident or injury for which it might become in any manner liable. Should the insurance be terminated for any reason or should the same not be kept in force at any time, the building permit for the sign shall be revoked and the sign removed at once.

(3) No sign or part of a sign shall be placed on or overhang the traveled portion of any public street or alleyway.

(4) No sign, except as provided for in this division, shall be erected on or overhang any public right-of-way. Wall or facia signs (division (T)(3)(c) above), projecting signs (division (T)(3)(e) above) and signs on awnings, canopies and marquees (division (T)(3)(h) above) may overhang a public right-of-way, excluding the traveled portion of a public street or alleyway.

(5) No sign, awning, canopy or other similar structure may extend over any public property without Council approval more than ten feet or beyond a vertical plane two feet from the curb line on the property side.

(6) When awnings, canopies or similar structures are attached to a building and project over a public right-of-way, it shall be approved by the Fire Marshal and the framework shall not be less than eight and one-half feet above the right-of-way. All support posts shall be placed on private property.

(a) Canopy and marquee signs shall maintain a vertical clearance of not less than ten feet above grade.

(b) Awning signs shall maintain a vertical clearance of not less than eight feet above grade.

(7) The total area of a projecting sign shall not exceed one and one-half feet for each linear foot of building frontage facing the right-of-way or a maximum of 150 square feet.

(8) All overhanging signs shall meet or exceed the following specifications:

(a) No sign shall have a greater weight than 2,000 pounds.

(b) When a sign is erected on a metal supporting post, the support post must be placed on private property.

(X) Signs along primary highways. All signs located along primary highways within the city must comply with the standards in the Iowa Code Chapter 306C. Within the city, Highways 30, 67 and 136 are designated primary highways. Signs are subject to control under this law if they are visible from the highway. The following regulations provide a summary of the regulations contained in the Iowa Code Chapter 306C. These regulations are in addition to the requirements of the city.

(1) *Regulated signs.* Signs regulated by Iowa Code Chapter 306C include:

(a) *On-premises signs.* Signs advertising the principal products sold or the activity conducted on the property at the sign site;

(b) *Off-premises signs.* Signs displaying message of general advertisement about products or services available at locations other than at the sign site;

(c) *Municipal recognition signs.* Signs displaying a message of "Welcome" or a similar community-spirited message; and

(d) *Church or service club signs.* Signs displaying a message to the facility location, services or meetings.

(2) *State permit required.* State approval is required for all signs located along a primary highway except for on-premises signs.

(3) *Off-premises sign control.* Any off-premises signs must conform to the permit, zoning, size, lighting and spacing criteria of the state and the city.

(a) The display area of all off-premises advertising signs shall not exceed 400 square feet.

(b) A maximum of two faces may be oriented in the same direction.

(c) New signs must be a minimum of 800 feet from any other off-premises sign facing in the same direction.

(d) An outdoor advertising permit must be obtained prior to the installation of any new off-premises sign.

(e) No off-premises sign shall be permitted within 100 feet of a residential district boundary unless the sign is completely screened from vision from the residential district.

(f) No off-premises sign shall exceed 35 feet in height.

(Y) Off-premises signs not on a primary highway. All off-premises signs not located on a primary highway must conform to the permit, zoning, size, lighting and spacing criteria of the city.

(1) In the C District, the display area shall not exceed 200 square feet. In any M District, the display area shall not exceed 300 square feet.

(2) New signs must be a minimum of 800 feet from any other off-premises sign.

(3) No off-premises sign shall be permitted within 200 feet of a residential boundary unless the sign is completely screened from vision from the residential district.

(4) No off-premises sign shall exceed 35 feet in height.

(5) No off-premises sign located on the side of a building shall exceed 25 feet in height from the street grade.

(Z) The following sections have special sign regulations. Consult the specific section or sign requirements.

(1) Section 159.027, SP Special Purpose Commercial and Historical Overlay District; and

(2) Section 159.025, PWC Parkway Commercial District.

## § 159.049 SPECIAL USE REGULATIONS.

(A) *Generally.* Special uses are those uses having some special or unique characteristic which require a careful review of their location, design, configuration and special impact to determine the desirability of permitting their establishment on any given site. They are uses which may or may not be appropriate in a particular location depending upon consideration in each case of the public need and benefit and the local impact and all within the context of the intent and purpose of this chapter. Subject to the provisions of divisions (B) and (C) below of this section, the Zoning Board of Adjustment, by a majority vote, may, by resolution, grant a special use permit for the special uses enumerated in division (D) below of this section. These special uses are allowed in any district unless their location is restricted by district regulations or the special use is specifically restricted to a particular district.

### (B) *Appeals for special use permits.*

(1) Applications to permit new construction, extensions or alteration of existing uses and uses authorized by this section, with site plans and the necessary descriptive material relating to the intensity and extent of use shall be made to the Zoning Board of Adjustment to investigate as to the effect of the building or use upon the comprehensive plan, traffic and fire hazards, the character of the neighborhood and the general welfare of the community. A public hearing shall be held in relation to the plan before the Zoning Board of Adjustment, notice and publication of the item and place for which shall conform to the procedure prescribed in § 159.052.

(2) The Zoning Board of Adjustment shall determine whether the building or use will:

- (a) Substantially increase traffic hazards or congestion;
- (b) Substantially increase fire hazards;
- (c) Adversely affect the character of the neighborhood;
- (d) Adversely affect the general welfare of the community;
- (e) Overtax public utilities; and
- (f) Be in conflict with the comprehensive plan.

(3) If the Board's findings appear to be negative as to all subjects referred to in divisions (B)(2)(a) through (f) listed above, then the application shall be granted. If the findings are affirmative as to any subject, then the permit shall be denied.

(C) *Proposed special use.* Any proposed special use shall otherwise comply with all of the regulations set forth in this chapter for the district in which the use is located, except that the Zoning Board of Adjustment may permit hospitals and institutions to exceed the height limitation of any district.

(D) *Special uses.* If a special use is listed with a zoning district in parentheses, the special use is restricted to that district.

- (1) Airport landing field or landing strip for all forms of aircraft;
- (2) Amusement park, but not within 300 feet of any residential district;
- (3) Cemetery, crematorium or mausoleum;
- (4) Circus or carnival grounds, but not within 300 feet of any residential district;
- (5) Commercial, recreational or amusement development for temporary or seasonal periods;
- (6) Hospital or institution, provided that any hospital or institution permitted in any residential district shall be located on a site of not less than five acres, shall not occupy more than 10% of the total lot area and shall be set back from all yard lines at least two feet for each foot of building height. These regulations shall not apply to the presently existing hospitals: Mercy Medical;
- (7) Marina;
- (8) Medical/dental clinics, health care facilities and nursing, rest or convalescent homes in residential districts;
- (9) Office building of a civic, religious or charitable organization, conducting activities primarily by mail and not handling

merchandise or rendering services on the premises, but only within the R-4 district;

(10) Privately operated community building or recreation field;

(11) Any public or government building not permitted in a particular district;

(12) Commercial stables as well as noncommercial stables on less than five acres;

(13) Any structure that is intended for transmitting or receiving radio, television or telephone communications, excluding those used exclusively for dispatch communications;

(14) Waste processing, storage and transfer. All new and existing facilities must meet the special use requirements for salvage yards;

(15) The extraction of sand, gravel and other raw materials requiring the removal of an overburden above the deposit, provided, however, any bulk storage of extracted materials or overburden and any processing or extraction machinery or the open face of any outcrop shall be at least 500 feet from any residential structure, street or place. The owner/operator of a facility must provide an operation/restoration plan before a permit can be issued;

(16) Parking lots on land within 300 feet from any commercial, business or industrial district, provided the following standards are met:

(a) Ingress and egress to the lot shall be from a major street or from a street directly serving the commercial or business district;

(b) No business involving the repair or service of vehicles or the sale or display thereof shall be conducted from or upon the parking areas;

(c) No structures shall be erected or remain on any portion of the lot except as provided for under division (D)(16)(g) below;

(d) No signs shall be erected on the parking area except as approved by the Zoning Board of Adjustment;

(e) Parking areas shall be used for parking patrons' passenger vehicles only and no charge shall be made for parking within the premises;

(f) The parking shall be set back in conformity with the established or required yards for residential uses and where a parking area adjoins a residential use, it shall have a minimum side yard of ten feet; and

(g) The parking area shall be suitably screened or fenced, paved and drained, lighted properly and maintained free of debris.

(17) Salvage yards, used vehicle parts dealer and vehicle salvager. All new and existing facilities must be maintained according to the requirements of this division and the requirements established in the Iowa Code § 306C.2 for junk yards. In addition, used parts dealers and vehicle salvagers must also meet the requirements of the Iowa Code § 321H. Salvage yards, used parts dealer and vehicle salvage are restricted to the M-3 Industrial (Park) District.

(a) No facility shall be located so as to seriously expose adjoining or adjacent properties.

(b) The burning of wrecked or dismantled vehicles or any parts thereof, salvage or waste materials is prohibited.

(c) Handling and storage of large quantities of waste paper, rags or other combustible material shall not be in a building of wood frame or ordinary construction unless the building is sprinkled. Vertical openings shall be enclosed in an approved manner.

(d) Picking rooms shall be separated from storage rooms by construction having a fire resistance rating of not less than one hour, with each door opening provided with an approved, self closing fire door. Picking rooms shall be enclosed with exhaust systems of sufficient capacity to adequately remove dust and lint.

(e) Where acetylene or other types of torches are used for cutting operations, a suitable fire extinguisher must be available.

(f) The property used for these purposes must be screened with a six-foot high solid visual barrier.

(g) At least ten off-street parking spaces must be provided.

(h) One off-street loading space not less than ten feet in width and 25 feet in length must be provided.

(18) Special uses listed in district use regulations;

- (19) Bed and breakfast inn and bed and breakfast home in any residential district provided the following conditions are met:
- (a) Shall be located only on properties that are single-family, owner occupied;
  - (b) Special use permits are not transferable to subsequent owners or to other properties unless a new special use permit is issued;
  - (c) Only short-term (less than 14 nights) lodging is permitted;
  - (d) Occupancy for a bed and breakfast inn shall be limited to no more than ten guest rooms. A bed and breakfast home shall be limited to no more than three guest rooms;
  - (e) No cooking facilities are permitted in guest rooms;
  - (f) One off-street parking space for each guest room;
  - (g) One freestanding ground sign not exceeding six square feet in area and no higher than 6 feet in height is permitted. Signs shall only be illuminated with direct light. One wall mounted sign may exist instead of but not in addition to a freestanding ground sign. The wall mounted sign may not exceed 6 square feet in area, may not be internally illuminated, and with direct lighting only; and
  - (h) Be subject to all applicable state and local codes.
- (20) Office uses without limitation to the number of employees allowed in any commercial district.
- (21) Vehicle rebuilder. All new and existing vehicle rebuilders must follow the requirements of the Iowa Department of Transportation pursuant to the Iowa Code Chapter 321H and the following regulations.
- (a) All repairs/rebuilding are conducted within a completely enclosed building.
  - (b) All outdoor storage areas for vehicles and vehicle parts must be completely screened with a six foot solid visual barrier.
  - (c) No more than seven vehicles waiting repair/rebuilding may be stored.
  - (d) No vehicles waiting repair/rebuilding may be located outside the motor vehicle storage yard.
  - (e) Vehicle rebuilding will only be allowed in the C-2 and M Districts.
- (22) Recycling processing center. All new and existing recycling processing centers shall meet the requirements of division (D) (17)(a) through (h) above.
- (23) Pet crematorium in the R-1A One-Family Residential District provided the following conditions are met:
- (a) Minimum lot size of one acre;
  - (b) Limited to pets which weigh no more than 200 pounds;
  - (c) The crematory shall be within an enclosed building;
  - (d) All remains of the cremation shall be returned to the pet owner or disposed of in a sanitary landfill;
  - (e) The cremation process shall emit no odor that is objectionable to surrounding property owners;
  - (f) All pets shall be cremated within 24 hours after being received or stored in freezers to prevent odor or decomposition;
  - (g) The crematory shall operate in compliance with all local and state regulations;
  - (h) Minimum of two off-street parking spaces shall be provided;
  - (i) A permit for a pet crematory is not transferable to subsequent owners or to other properties unless a new permit is issued; and
  - (j) No advertising sign shall be displayed except for an unlighted business name sign flat against the building not exceeding two square feet in area. No advertisement shall list the address of the business.
- (24) (a) It is the intent of these regulations to ensure the proper design, siting, and installation of wind energy conversion systems in order to protect the public health, safety and welfare of surrounding property owners and the community.

(b) The city recognizes the importance of reducing dependence on non-renewable sources of energy by promoting alternative energy sources. The city also recognizes wind energy is an abundant and non-polluting energy resource available to the city. As such, the city understands wind energy conversion systems have the potential to adversely affect surrounding properties in terms of noise, aesthetic issues, shadow flickers, fall zone damage, etc. if not sited and regulated properly.

1. *Definitions.* For the purposes of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COMMERCIAL WIND ENERGY CONVERSION SYSTEM.** A wind energy conversion system (horizontal or vertical axis) intended to produce electricity for sale to a rate regulated or non-regulated utility or for use off site.

**FAA.** The Federal Aviation Administration of the United States Department of Transportation.

**FALL ZONE.** The area, defined as the furthest distance from the tower base, in which a wind energy conversion system will collapse in the event of a structural failure.

**GUY WIRE.** Any wire extending from a wind energy conversion system for the purpose of supporting the structure.

**HEIGHT, TOTAL SYSTEM.** The height above grade of the system, or above the roofline if roof-mounted, including the wind generator and the highest vertical extension of any blade or rotor.

**MET (METEOROLOGICAL) TOWER.** A tower with an aggregation of parts including any anchor, base, base plate, boom, cable, electrical or electronic equipment, guy wire, hardware, indicator, instrument, telemetry device, vane, or wiring used to collect or transmit meteorological data, including wind speed and wind flow information, in order to monitor or characterize wind resources at or near a wind energy conversion system.

**NON-COMMERCIAL WIND ENERGY CONVERSION SYSTEM.** A wind energy conversion system (horizontal or vertical axis) which has a rated capacity of up to 100 kilowatts and which is incidental and subordinate to a permitted use on the same parcel. A system is considered a non-commercial wind energy conversion system only if it supplies electrical power solely for on site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on site use may be used by the utility company in accordance with I.A.C. Section 199, Chapter 15.11(5). Any wind energy conversion system not falling under this definition shall be treated as a commercial wind energy conversion system.

**SHADOW FLICKER.** Any alternating change in light intensity caused by the rotating blades of a wind energy conversion system casting shadows on the ground or a stationary object.

**TOWER.** The vertical component of a wind energy conversion system that elevates the wind generator above the ground.

**USE TERMINATION.** The point in time at which a wind energy conversion system owner provides notice to the city that the wind energy conversion system is no longer used to produce electricity unless due to a temporary shutdown for repairs. The notice of use termination shall occur no less than 30 days after actual use termination.

**WIND ENERGY CONVERSION SYSTEM (WECS).** An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g., wind charger, windmill or wind turbine.

**WIND ENERGY CONVERSION SYSTEM (WECS), ABANDONED.** Any wind energy conversion system which remains non-functional or inoperative for a period of one year.

**WIND GENERATOR.** The blades and associated mechanical and electrical conversion components mounted on the top of the tower.

2. *General regulations.*

a. *General.*

i. Wind energy conversion systems shall be allowed as a special use accessory to a permitted use in all zoning districts.

ii. MET towers are subject to all regulations and restrictions set for wind energy conversion systems set forth in division (D)(24).

b. *Prohibited.* Commercial wind energy conversion systems are prohibited within the city.

c. *Number of systems per property.* No property shall contain more than one wind energy conversion system. The Zoning Board of Adjustment may permit additional wind energy conversion systems if the property owner can demonstrate a need for the extra system(s) in order to further reduce on-site energy consumption and help satisfy the intent of the ordinance. However, the Zoning Board of Adjustment shall consider the potential adverse impacts resulting from visual clutter and noise. Under no circumstances shall the combination of all wind energy conversion systems on a lot exceed a total rated output capacity of 100 kW.

d. *Permit required.* All wind energy conversion systems require a special use permit to be obtained from the Zoning Board of Adjustment prior to site grading and installation in any zoning district. The Zoning Board of Adjustment can revoke a special use permit at any time if the requirements set forth in this ordinance and/or any conditions imposed by the Zoning Board of Adjustment are not met. The Zoning Board of Adjustment will revoke the special use permit of an abandoned wind energy conversion system.

e. *Insurance.* The owner/operator of a wind energy conversion system must demonstrate adequate liability insurance.

f. *FAA regulations.* Wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. The applicant has the responsibility of determining applicable FAA regulations and must provide evidence of securing the necessary approvals.

g. *Maintenance.* All wind energy conversion systems shall be properly maintained in operational condition at all times, subject to reasonable maintenance and repair outages. The owner of any wind energy conversion system deemed unsafe by the building official or his/her designee shall repair the structure to meet all federal, state and local safety standards or remove it within six months.

h. *Nonconforming.* Properly maintained wind energy conversion systems constructed prior to the effective date of this Section shall not be required to meet the requirements of this section; provided, however, that any such pre-existing wind energy conversion system which does not provide energy for a continuous period of 12 months shall meet the requirements of this section prior to recommencing production of energy. However, no modification or alteration to an existing wind energy conversion system, other than routine maintenance, shall be allowed unless in compliance with this section.

### 3. *Bulk regulations.*

a. *Setbacks.* The minimum distance between a wind energy conversion system and any property line shall be no less than a distance equivalent to 110% of the total system height. The setback shall be measured from the center of the tower's base. Associated guy wires, if applicable, must be set back a distance of ten feet from all property lines. The Zoning Board of Adjustment may authorize lesser setback distances if a registered engineer licensed by the State of Iowa specifies in writing that the collapse of the system will occur within a lesser distance under all foreseeable circumstances.

#### b. *Maximum total system height.*

i. The maximum height for a wind energy conversion system is 80 feet.

ii. The maximum height for a roof-mounted wind energy conversion system is 15 feet above the maximum building height allowed in the zoning district in which it is located.

### 4. *Location.*

a. No wind energy conversion system shall be located over any public road right-of-way unless the governmental entity with jurisdiction over the road provides written permission.

b. No wind energy conversion system shall be located over any adjacent properties unless the affected land owner(s) provides written permission. This permission shall come in the form of a recorded easement or other recorded instrument.

c. No wind energy conversion system shall be located within or over any drainage, utility or other established easements.

d. Wind energy conversion systems shall be located entirely within the rear yard of a property unless mounted on a roof.

### 5. *Design and technical standards.*

a. *Tower.* Wind generators must be attached to a freestanding or guy wired monopole tower or mounted on a roof. Lattice towers are prohibited.

b. *Color.* Wind energy conversion systems shall be white, grey or another non-obtrusive color unless other color patterns or colors are required by state or federal regulations. Blades may be black to facilitate de-icing. Finishes shall be non-reflective or

matte.

c. *Lighting.* Minimum lighting necessary for safety and security purposes shall be permitted. Security lighting shall be directed downward and shaded or concealed so as to not shine directly on adjacent properties. No other lighting is allowed unless required to meet state or federal regulations.

d. *Signage permitted.* Wind energy conversion systems shall include warning signage, not to exceed four square feet, highlighting the risk of electrical shock, high voltage, harm from revolving machinery, hazard from falling ice and the name and emergency contact telephone number of the system's owner. Required signage must be placed on the tower at a height of five feet. In addition, a system or tower's manufacturer's logo may be displayed on a wind energy conversion system in an un-obstructive manner. Permitted signage shall not be considered as part of a property's total allowable sign area permitted. All other signs are prohibited.

e. *Climbing apparatus.* Climbing apparatuses must be located 12 feet from the ground and the tower must be designed to prevent climbing within the first 12 feet. Roof-mounted wind energy conversion systems are exempt from this requirement as long as roof access is restricted.

f. *Fencing.* All wind energy conversion systems and associated guy wire anchor points shall be enclosed by a six-foot high fence with a securely locked gate to limit uncontrolled access and reduce safety hazards. Roof-mounted wind energy conversion systems are exempt from this requirement.

g. *Electrical wires.* All electrical wires associated with a wind energy conversion system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.

h. *Noise.* Wind energy conversion systems shall not exceed 65 decibels (dBA), except during short-term events such as severe wind storms and utility outages, as measured under test procedures established by § 93.10 of the code of ordinances. Maximum sound pressures will be measured from the closest point on the closest property line.

i. *Blade clearance.* No wind energy conversion system shall have any portion of a blade extend within 20 feet of the ground.

j. *Automatic overspeed controls.* All wind energy conversion systems shall be equipped with manual and automatic overspeed controls to limit the blade rotation speed to within the design limits of the wind energy conversion system.

k. *Electromagnetic interference.* No wind energy conversion system shall produce electromagnetic interference so as to disrupt transmissions such as those from radio, television or microwave towers.

l. *Waste disposal.* Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

m. *Ice shedding.* Wind energy conversion system owners shall ensure that ice from the rotor blades does not impact any off-site properties.

n. *Shadow flicker.* Wind energy conversion systems shall not cause a shadow flicker upon any off-site properties or traveled roadways.

## 6. *Abandonment and removal procedure.*

a. All wind energy conversion systems shall be removed from the site within six months of use termination notice to the city by the owner of the facility or within three months of a special use permit revocation by the Zoning Board of Adjustment.

b. The site shall be stabilized, graded and cleared of any debris by the property owner.

c. Any foundation shall be removed to a minimum depth of four feet below grade, or to the level of the bedrock if less than four feet below grade.

d. If the removal of the wind energy conversion system is required, the city will assess the costs of removal against the property upon which the wind energy conversion system is located for collection in the same manner as a property tax.

7. *Application and approval requirements.* Applications for a special use permit shall be submitted with the following information:



- a. A properly completed and signed application.
- b. A statement from the applicant that the wind energy conversion system will be installed in compliance with manufacturer's specifications, and a copy of the manufacturer's specifications.
- c. A statement indicating what hazardous materials will be used or stored on the site and how those materials will be stored.
- d. Documentation demonstrating adequate liability insurance for the wind energy conversion system.
- e. A description of the wind energy conversion system's height and design, including a cross section, elevation, and diagram of how the wind energy conversion system will be anchored to the ground or attached to the roof, prepared by a professional engineer licensed in the State of Iowa.
- f. A site plan including the following information:
  - i. Legal description of the property;
  - ii. Parcel boundaries ;
  - iii. Existing buildings;
  - iv. Easements;
  - v. Fencing;
  - vi. Proposed location of wind energy conversion system;
  - vii. Setbacks;
  - viii. Travel ways;
  - ix. Overhead utility lines;
  - x. Contour map with contours at intervals of two feet, if the general slope is less than 10%, and at vertical intervals of five feet if the general slope is greater than 10%;
  - xi. If connection to the publicly regulated utility grid is proposed, a copy of the contract between applicant and utility verifying that the proposed connection is acceptable, and/or other evidence making clear that the utility is aware of the proposed connection and finds it acceptable.

(E) *Temporary buildings.* Temporary buildings may be used in conjunction with construction only and may be permitted in any district during the period that the construction work is in progress, and the temporary buildings shall be removed upon completion of the construction work.

(1999 Code, § 165.28) (Ord. 2247, passed 10-9-2001; Ord. 2255, passed 5-20-2002; Ord. 2352, passed 7-24-2007; Ord. 2360, passed 2-12-2008; Ord. 2403, passed 4-14-2009; Ord. 2404, passed 6-14-2009) Penalty, see § 159.999

## **§ 159.050 CERTIFICATES OF OCCUPANCY.**

(A) No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

(B) Certificates of occupancy shall be required for any of the following.

(1) *Certificates of occupancy for nonconforming uses.*

(a) A certificate of occupancy shall be required for all lawful nonconforming uses of land or buildings created by the adoption of this Chapter. It shall be the duty of the Building and Neighborhood Services Director or his or her designee to issue a certificate of occupancy for a lawful nonconforming use.

(b) Failure to receive the certificate of occupancy for a nonconforming use or refusal of the Building and Neighborhood

Services Director or his or her designee to issue a certificate of occupancy for the nonconforming use shall be prima facie evidence that the nonconforming use was either illegal or did not lawfully exist at the effective date of this chapter.

(2) *Any change in the use of a nonconforming use.* No occupancy, use or change of use shall take place until a certificate of occupancy therefore shall have been issued by the Building and Neighborhood Services Director or his or her designee.

(C) Certificates of occupancy are not required for fences, accessory buildings or signs, but the Planning Department is to be notified when these improvements are completed.

(1999 Code, § 165.29) (Ord. 2368, passed 5-27-2008) Penalty, see § 159.999

## **§ 159.051 PLANS.**

(A) All applications for zoning permits shall be accompanied by accurate site plans, showing the size and location of new construction and existing structures on the site and distances from lot lines. Applications for zoning permits will be inspected within three business days of application.

(B) All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on the actual survey, if available, but the permit applicant is responsible to know the location of all property lines and is responsible for any error in calculating lot lines. The lot shall be staked out on the ground before construction is started on any new project.

(1999 Code, § 165.30) (Ord. 2247, passed 10-9-2001; Ord. 2368, passed 5-27-2008) Penalty, see § 159.999

## **§ 159.052 AMENDMENTS.**

(A) For the manner in which the boundaries of the districts shall be determined, established and enforced and from time to time amended, supplemented or changed. However, no regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which time all interested parties and citizens shall have an opportunity to be heard. At least seven days notice of the time and place of the hearing shall be published in a paper of general circulation in the city. However, in case of a protest against the change, signed by the owners of 20% or more either of the area of the lots included in the proposed change or of owners of property located within 200 feet of the exterior boundaries of the property (excluding street or alley rights-of-way) for which the change is proposed, the change shall not become effective except by the favorable vote of at least three-fourths of all of the members of the Council.

(B) A property owner, lessee, developer or option holder may petition the Council for an amendment to the text or district map of this chapter, provided that before any action shall be taken as provided in this section, the party or parties petitioning for an amendment shall deposit with the Clerk a zoning amendment filing fee in an amount established by Council resolution. Once the petition is received for an amendment, supplement, change or modification to the zoning regulations, it shall be forwarded to the Building and Neighborhood Services Director or his or her designee for scheduling of a hearing before the Plan Commission and recorded as a referred item at the following Council meeting. The filing fee or any part thereof shall not be refunded for failure of the proposed amendment to be enacted into law. A party shall not initiate action for a zoning amendment affecting the same land more often than once every 12 months, unless approved by the Council.

(C) If more than one petitioner is included, each petitioner or parcel should not be combined as one rezoning request or one petition or if the Plan Commission feels the combining of the changes would affect the surrounding area as defined under the comprehensive plan.

(D) Site development plan. Any request for an amendment to the zoning district map shall be accompanied by a site development plan. Zoning map amendments involving a change to a single-family residential classification (R-1A, R-1B and R-1C) are excluded from these requirements.

(1) *Sketch plan.* The Building and Neighborhood Services Director or his or her designee may require the property owner or developer to submit a sketch plan before submitting a final site plan showing all significant features of the development to determine compliance with the requirements of this section.

(2) *Site development plan requirements.* With each petition to rezone a property or properties, the following information must be provided:

(a) *Written petition.* A signed petition shall include the following information:

1. Applicant name, address and legal interest in the subject property;
2. Title holder's name and address, if different than the applicant, and evidence of consent to filing of the petition;
3. Existing and proposed zoning classification;
4. Complete legal description;
5. List of all proposed land uses; and
6. Proposed construction schedule.

(b) *Site development plan.*

1. One complete site development plans must be submitted and must include the following information:

- a. Property dimensions;
- b. Location and dimensions of all present and proposed buildings, structures, streets, driveways, pedestrian walkways and parking lots;
- c. General nature, location and size of all significant natural land features including trees, waterways, drainage areas and floodplain areas;
- d. Landscaping plans;
- e. Signage plans;
- f. Stormwater detention/erosion control plans;
- g. Utility locations;
- h. Architectural renderings of all sides of each building/structure, including accessory buildings;
- i. Location map; and
- j. Proposed land uses.

2. Site development plans shall be legibly drawn to scale of one inch to 100 feet or less. Sheet size shall not exceed 24 inches by 36 inches. If CAD is available, one 8-1/2 inches by 11 inches may also be submitted.

(3) *Plan Commission review.*

(a) In addition to reviewing the zoning map amendment, the Plan Commission shall also review all site development plans. The Plan Commission shall consider the following in making its recommendations to the City Council:

1. Relationship to future land use plans;
2. A characteristic of the general area including any changing conditions;
3. Effect on and compatibility with the neighborhood;
4. The suitability of the property for all uses permitted in the proposed district; and
5. Adequacy of streets and utilities.

(b) The Plan Commission may place conditions on the plans that the Commission deems necessary to carry out the intent and purpose of this section. The conditions may include, but are not limited to increases in lot or yard sizes, number and location of vehicular access points, limitations on signs, limitations to coverage and height of buildings situated on the property to protect adjacent properties and screening/landscaping where necessary to reduce noise and glare.

(4) *Site development plan.* Any request for an amendment to the zoning district map shall be accompanied by a site development plan. Zoning map amendments involving a change to a single-family residential district (R-1A, R-1B and R-1C) may submit a detailed description in lieu of the requirements of a site development plan. City Council approval of site development plans. Site development plans must be approved, by City Council resolution, before any rezoning is approved or any building permits can be issued. If the improvements identified in the site development plan have not been completed within five years from the date of City Council approval, the site development plan shall be void unless an extension of time has been granted prior to the expiration date. The

City Council may grant a two-year extension.

(5) *Plan amendments or revisions.*

(a) If at any time, the owner/developer of land included in an approved site development plan desires to amend, change or modify the plan, the proposed change must be submitted to the city to determine if the change is major or substantial. If major or substantial, the plan must be resubmitted and considered in the same manner as originally considered. Examples of major or substantial change include, but are not limited to:

1. Land use changes;
2. Building locations;
3. Densities;
4. Street alignments;
5. Parking lot arrangements;
6. Screening and signage standards;
7. Building design elements; and
8. Traffic circulation.

(b) If the amendment or revision is considered not to be major or substantial, the Building and Neighborhood Services Director or his or her designee can approve the change.

(E) Moratorium on property rezoning in the Camanche Avenue Corridor.

(1) The City Council shall not give final approval to any reclassification (rezoning) request for property in the Camanche Avenue Corridor that lies within the corporate limits of the city, as described as follows below.

Commencing as a point of reference at a point on the centerline of South Fourteenth Street and Camanche Avenue; thence northeasterly on the centerline of Camanche Avenue to the centerline of Eleventh Avenue South; thence easterly on the centerline of Eleventh Avenue South to centerline of South Fourth Street; thence southerly on the centerline of South Fourth Street to the northern boundary on the right-of-way line of the Union Pacific Railroad property (formally the Chicago and Northwestern Railroad); thence southwesterly on the northern boundary of the Union Pacific Railroad property to the centerline of South Fourteenth Street, thence northeasterly on the centerline of South Fourteenth Street to the centerline of Camanche Avenue (being the point of beginning) all within the city until March 31, 2009, except where a vested right to the issuance of the approval accrued to any person, firm or corporation as a matter of law prior to the effective date of this section.

(2) Exceptions. Any person, firm or corporation so aggrieved by or adversely affected by the Planning/Community Development Director's refusal to issue a permit pursuant to this moratorium shall appeal therefrom to the City Council. The City Council may direct the Planning/Community Development Director to issue a permit during the moratorium for any work in the Camanche Avenue Corridor which the City Council determines would not negatively impact the redevelopment plan, upon showing good cause by the person, firm or corporation. This moratorium shall not apply to any required repairs that pose a health or safety hazard to the occupants or the general public or to any repair or replacement of any lawful sign as long as the repair or replacement does not change the size, shape or location of the sign. The moratorium shall not apply to any new wall signs placed on existing buildings or any fence.

(1999 Code, § 165.31) (Ord. 2107, passed 1-11-2000; Ord. 2234, passed 4-10-2001; Ord. 2264, passed 2-25-2003; Ord. 2275, passed 3-9-2004; Ord. 2296, passed 6-28-2005; Ord. 2317, passed 2-28-2006) Penalty, see § 159.999

### **§ 159.053 INTERPRETATION, PURPOSE AND CONFLICT.**

In their interpretation and application, the provisions of this chapter shall be construed to be the minimum requirements for the promotion of public health, safety, convenience, comfort and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any other resolution or rules, regulations or permits previously adopted or issued or which shall be adopted or issued, not in conflict with any of the provisions of this chapter except ordinances and/or regulations specifically repealed by this chapter to interfere with or abrogate or annul any easements, covenants or agreements between parties, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the area than that imposed or required by other resolutions, easements, covenants or agreements, the provisions of this chapter shall control. This chapter should be reviewed

periodically to assure the use of good practical principles of planning, dealing with zoning and land use.

(1999 Code, § 165.32)

#### **§ 159.054 ZONING PERMITS AND INSPECTIONS.**

(A) It shall be necessary to obtain a zoning permit for all prefabricated, freestanding carports, sheds (measuring from 60 square feet to 120 square feet), fences up to six feet in height, retaining walls up to four feet (measured from the bottom of the footing up to the top of the wall) unless supporting a surcharge, awnings with less than 54-inch projection and handicapped ramps.

(B) Application for a zoning permit shall be submitted in a form as the Planning/Community Development Director may prescribe and on forms supplied by the city. Application shall be made by the owner or his or her duly authorized representative. The application shall contain the full name and address of the owner and the applicant.

(C) The application must briefly describe the proposed work, the use and occupancy of the building and the grounds and shall give additional information as may be required by the Planning/Community Development Director for an intelligent understanding of the proposed work.

(D) All applications for zoning permits shall be accompanied by a plan as defined under § 159.051, showing the actual dimensions of the lot to be built upon, the size of the building or buildings to be erected, distances to lot lines from buildings and any other information as may be necessary to furnish for the enforcement of these regulations. A careful record of the application and plats shall be kept in the office of the Planning/Community Development Director. No court, yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall again be used as a yard, court or other open space for another building.

(E) It shall be the duty of the Planning/Community Development Director to inspect applications for zoning permits within three business days after receipt of the application. If, after examination, he or she finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto, he or she shall approve the application and issue a zoning permit for the proposed work as soon as practical. If his or her examination reveals otherwise, he or she will reject the application, noting his or her findings in a report to be attached to the application and delivering a copy to the applicant. The applicant shall have the right of appeal from the Building and Neighborhood Services Director or his or her designee's decision to the Zoning Board of Adjustment; any appeal must be submitted within 15 business days from the date of application.

(F) All work performed under a zoning permit issued by the Planning/Community Development Director shall conform to the approved application and approved amendments thereto. The location of all new construction, as shown on the approved plat or an approved amendment thereof, shall be strictly adhered to.

(G) It is unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a zoning permit unless a revised plot diagram, showing the proposed change in condition, shall have been filed and approved, provided, however, that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvements.

(H) The Planning/Community Development Director shall be given at least three business days notice of the starting of work under the zoning permit. Construction pursuant to the permit must begin within 90 days from the application date. The permit will expire at the end of one year from the application date.

(I) It shall be the duty of the Planning/Community Development Director or his or her designated representative to inspect the layout of the proposed work within three business days after receipt of the application. He or she shall satisfy himself or herself that the proposed work is conforming to the plot plan submitted with the application for a zoning permit. If work started does not conform to the plot, diagram or other information given in the application he or she is hereby granted authority to stop work until the provisions of the permit are complied with.

(J) The Planning/Community Development Director may revoke a zoning permit or approval issued under the provisions of this chapter in case there have been any false statements or misrepresentation as to a material part in the application or drawings on which the permit or approval was based.

(K) A permanent record shall be kept of all applications for zoning permits and it shall be unlawful to change the use or occupancy of a building or land to a use or occupancy other than that described in the application. If it is desired to change to another conforming use or occupancy, a new application must be submitted and approved.

(L) Fees for zoning permits and Zoning Board of Adjustment appeals, permits or amendments for work shall be in amounts established by resolution, from time to time, by the Council. The fees shall be paid at the time of zoning application is approved. If construction has commenced prior to the issuance of a permit, the fee for the permit shall be twice the amount of the actual zoning permit fee.

(M) The property owner is responsible for compliance with any private subdivision covenant.

(N) Zoning permits will not be required for dog houses, dog pens less than 60 square feet in area, sheds less than 60 square feet in area, yard ornaments, play equipment, playhouses, fencing for gardens and flower beds, ornamental fencing less than ten feet in length and prefabricated and/or inflatable swimming pools that are not permanently installed.

(O) (1) Moratorium on building permits in the Camanche Avenue Corridor as described in § 159.052. The Planning/Community Development Director shall not issue any building permits for any new construction or remodeling work which changes the size, outline, area, location on lot, height of structure or yard requirements until March 31, 2004, except where a vested right to the issuance of the approval accrued to any person, firm or corporation as a matter of law prior to the effective date of this section.

(2) Exceptions. Any person, firm or corporation so aggrieved by or adversely affected by the Planning/Community Development Director's refusal to issue a permit pursuant to this moratorium shall appeal therefrom to the City Council. The City Council may direct the Planning/Community Development Director to issue a permit during the moratorium for any work in the Camanche Avenue Corridor which the City Council determines would not negatively impact the redevelopment plan, upon good showing cause by the person, firm or corporation. This moratorium shall not apply to any required repairs that pose a health or safety hazard to the occupants or the general public or to any repair or replacement of any lawful sign as long as the repair or replacement does not change the size, shape or location of the sign. The moratorium shall not apply to any new wall signs placed on existing buildings or any fence.

(1999 Code, § 165.33) (Ord. 2234, passed 4-10-2001; Ord. 2247, passed 10-9-2001; Ord. 2264, passed 2-25-2003; Ord. 2352, passed 7-24-2007; Ord. 2368, passed 5-27-2008)

## **OFF-STREET PARKING AND LOADING**

### **§ 159.065 OFF-STREET PARKING REQUIREMENTS.**

(A) All new or expanded off-street parking areas shall follow the parking requirements established by the Americans with Disabilities Act of 1990 (42 U.S.C. § 1281).

(B) Landscaping of all off-street parking areas is required within all districts in order to protect and preserve the appearance, character and value of surrounding neighborhoods and to reduce noise and glare. Special fencing requirements also apply to parking areas in or abutting residential districts.

(1) All new parking areas or existing parking lots adding ten or more parking spaces in or abutting a residential zoning district or intervening alley shall be suitably screened on each side that abuts a residential district with fencing or suitable plantings that provide at a minimum a three-foot high solid visual barrier except those areas that abut a street right-of-way. Landscaping material such as trees or shrubs may be used instead of solid visual barriers for screening along these street rights-of-way. If located on a corner lot, corner visual clearance zone requirements must be followed. The Board of Adjustment may waive screening requirements if the parking area is at least 100 feet from the nearest residential property line.

(2) No off-street parking area of 25 or more parking spaces shall be constructed or enlarged until a landscaping plan has been approved by the city. Landscaping plans shall include dimensions and distances, and clearly delineate the existing and proposed parking spaces or other vehicle use areas, access aisle, driveways and the location, size and description of all landscape material.

(3) Landscaping standards. All off-street parking areas measuring one acre or larger in size shall be required to landscape the interior and outside perimeter of the off-street parking area. Not less than 5% of the parking area shall be landscaped with trees, shrubs or other acceptable landscape material. Off-street parking areas measuring less than one acre shall have the option of providing either interior or peripheral landscaping.

(C) In all districts except the C-3 Central Business District, there shall be provided, at any time any building or structure is erected or structurally altered (except as otherwise provided in this chapter), off-street parking spaces, to be maintained by the owner or lessee if used under an agreement in accordance with the following requirements:

<i>Residential</i>	
Rooming and boarding house	1 space/sleeping room
One- and two-family dwelling	2 spaces/dwelling unit
Apartment dwelling	
Efficiency apartment	1 space/dwelling unit
One bedroom apartment	1 space/dwelling unit
Two or more bedroom apartment	2 spaces/dwelling unit
Mobile home	2 spaces/home space
Elderly and handicap apartment	1 space/dwelling unit
Nursing and convalescent home	1 space/4 beds
College and university housing	1 space/2 beds
Hotel and motel	1 space/2 beds 1 space/guest room plus 6 spaces/1,000 sq. ft. of ballroom, meeting room, bar and restaurant areas; 1 additional space/2 employees on largest shift
Office	
Medical and dental	1 space/150 sq. ft.
Other office	1 space/250 sq. ft.
Sales and Service Establishments	
Bowling alley	5 spaces/lane
Carwash	2 spaces plus 3 spaces/wash bay
Day care	2 spaces plus 1 space/employee
Financial institution	1 space/250 sq. ft. plus 3 spaces for each drive-in window
Fuel sales and convenience store	1 space/200 sq. ft.(spaces at pumps can be counted towards this requirement)
Furniture and appliance	1 space/500 sq. ft. display area
Grocery store	1 space/200 sq. ft.

Mortuary and funeral home	1 space/500 sq. ft. of funeral service area
Motor vehicle sales and service	2 spaces plus 1 space/500 sq. ft. over 1,000 sq. ft. in showroom plus 2 spaces/service bay
Motor vehicle service and repair	3 spaces plus 2 spaces/service bay
Recreation and health facility	1 space/1,000 sq. ft.
Restaurant, tavern and entertainment	1 space/100 sq. ft. plus 4 spaces for each drive-in window
Retail sales and service-general	1 space/200 sq. ft.; other than ground level; 1 space/250 sq. ft.
Tennis, handball, racquetball courts, (enclosed) and the like	4 spaces/court plus 1 space/200 sq. ft. for rest of building
Wholesale	1 space/500 sq. ft.
Industrial	
Industrial service, manufacturing and production	1 space/500 sq. ft. plus 1sq. ft. plus 1 space/company vehicle
Warehouse	1 space/2,000 sq. ft. plus 1 space/employee
Institutional and Miscellaneous	
Athletic fields	1 space/5,000 sq. ft.
Auditoriums, theaters stadiums and arenas	Greater of 1 space/5 seats or 10 spaces/1,000 sq. ft. with 20 spaces minimum
Hospital	1 space/4 beds plus 1 space/2 employees
Place of worship	1 space/4 seats within worship area; other than worship area: 1 space/1,000 sq. ft.
Private club, libraries, museums, community buildings and the like	1 space/200 sq. ft.
Schools, high schools and college	Greater of 1-space/2 students or 10 spaces/classroom or 1 space/4 seats in auditorium



Schools primarily serving children younger than age 16	Greater of 2 spaces/classroom or 1 space/4 seats in auditorium
For uses not listed, parking space determination shall be based on similar uses	

(D) In computing the number of parking spaces required, the following rules shall govern:

(1) **FLOOR AREA** means the floor space within the outside line of walls, and includes the total of all floors of a building. It does not include porches, garages or space in a basement or cellar when the space is used for storage or incidental uses.

(2) Where fractional spaces result, the parking spaces required shall be figured to the nearest whole number.

(3) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of a similar nature, as determined by the Building and Neighborhood Services Director or his or her designee.

(4) Whenever a building or use constructed or established after the effective date of this section is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need for an increase of 10% or more in the number of existing parking spaces, the spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this section is enlarged to the extent of 50% or more in floor area or in the area used, the building or use shall then and thereafter comply with the parking requirements set forth herein.

(5) In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

(E) All parking spaces required herein shall be located on the same lot with the building or use served except that where an increase in the number of spaces is required by a change or where the spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from an institution or other nonresidential building served. All parking lots will be maintained free of snow or debris and will be accessible at all times.

(1) Up to 50% of the parking spaces required for theatres, public auditoriums, bowling alleys, dance halls, night clubs or cafes and up to 100% of the parking spaces required for a church or school auditorium may be provided and used jointly by two banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those businesses listed above, provided, however, that a written agreement thereto is properly executed and filed as specified below.

(2) In any case where the required parking spaces are not located on the same lot with the building or use served, or where the parking spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for those purposes, shall be properly drawn and executed by the parties concerned, approved as to form and executed by the City Attorney and shall be filed with the application for a building permit.

(3) Off-street parking spaces may be located within a front yard in a C or M District if it is located on a hard surfaced lot and is reserved for patrons and employees of a business located on the property. Off-street parking is allowed in the front yard of an R District if located on an approved driveway providing access to a garage, carport or side yard parking area for a dwelling.

(1999 Code, § 165.23) (Ord. 2247, passed 10-9-2001; Ord. 2352, passed 7-24-2007) Penalty, see § 159.999

**§ 159.066 OFF-STREET LOADING REQUIREMENTS.**

All nonresidential structures containing more than 10,000 square feet of gross floor area shall provide at least one off-street loading space that meets the following requirements:

(A) There shall be provided, at the time any building is erected or altered, in any district, having a gross floor area of 10,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry or other uses similarly requiring the receipt or distribution by vehicle of material or merchandise, there shall be provided and maintained on the same lot with the building, at least one off-street loading space plus one additional loading space for each 20,000 square feet or major fraction thereof of gross floor area so used in excess of 10,000 square feet.

(B) Each loading space shall be not less than ten feet in width, 25 feet in length.

(C) No loading space shall be located in a required front yard except when parking is permitted therein.

(D) All off-street loading spaces which are within or abut a residential district or intervening street or alley shall be completely screened therefrom by a six-foot high solid visual barrier. If the loading area is located on a corner lot, corner visual clearance requirements must be followed.

(E) Loading areas shall be designed with appropriate means of vehicular access to a street or alley which least interferes with traffic movements.

(F) No building or part thereof shall be enlarged or altered unless off-street loading spaces are provided in accordance with this chapter.

(1999 Code, § 165.24) Penalty, see § 159.999

## ZONING BOARD OF ADJUSTMENT

### § 159.080 ZONING BOARD OF ADJUSTMENT.

(A) *Creation and membership.* A Zoning Board of Adjustment is established. The Zoning Board of Adjustment shall consist of five members who are residents of the city, appointed by the Mayor, subject to the approval of the Council. Each member shall be appointed for a term of five years. The terms of office shall be staggered. Each term of office shall expire on June 30. Members of the Zoning Board of Adjustment shall not be reappointed if they have served two consecutive full terms. A majority of the members of the Zoning Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing and selling real estate.

(B) *Vacancies.* The Mayor shall appoint, subject to the approval of the Council, persons to fill all vacancies as they occur.

(C) *Meetings.* All meetings of the Board shall be held at the call of the Chairperson and at times as the Board may determine. All hearings conducted by the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating the fact, and the Board shall also keep records of its hearings and other official actions. Findings of fact shall be included in the minutes of each case of a requested variation and the reasons for recommending or denying the variation shall be specified. Each decision or determination of the Board shall be filed immediately in the office of the Board and shall be a public record. The Board shall adopt its own rules of procedure not in conflict with this chapter or with the Iowa statutes in the case made and provided, and may select or appoint the officers as it deems necessary.

(D) *Appeals.* An appeal may be taken to the Zoning Board of Adjustment by any person, firm, corporation, or any officer, department, board or bureau affected by a decision of the administrative officer, but the appeal may be taken only when the action involves a subject or instance upon which the Board is authorized to act. The appeal shall be taken within the time as prescribed by the Zoning Board of Adjustment general rules, by filing with the officer from whom the appeal is taken and with the Zoning Board of Adjustment a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken. The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appeal and testify at the hearing, either in person or by duly authorized agent or attorney. Fees for Zoning Board of Adjustment appeals, variances and special use permits shall be in amounts established by resolution, from time to time, by the Council. The fees shall be paid at the time of filing.

(E) *Governmental jurisdiction.* The Zoning Board of Adjustment shall have the following powers:

(1) All special use permits.

(2) To hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision or determination made by the Building and Neighborhood Services Director or his or her designated representative in the enforcement of this chapter.

(3) In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

(a) Permit the extension of a district where the boundary line of a district divides a lot or tract under a single ownership at the time of passage of this section;

(b) Interpret the provisions of this section in such a way as to carry out the intent and purpose of the plan, as shown upon the

maps fixing the several districts, accompanying and made a part of this chapter where the street layout actually on the ground varies from the street layouts as shown on the maps aforesaid;

(c) To permit the erection and use of a building or use of premises in any location for a public service corporation for public utility purposes which the Board deems reasonably necessary for the public convenience or welfare;

(d) All reconstruction of the structural components because of fire or an act of God on a nonconforming building is to be approved by the Zoning Board of Adjustment where the Board finds some compelling reason to continue the nonconforming use;

(e) Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where the regulations would impose an unreasonable hardship upon the use of a lot as contrasted with merely granting an advantage or a convenience;

(f) Permit land within 200 feet of a multiple dwelling to be improved for the parking spaces required in connection with a multiple dwelling but only when there is positive assurance that the land will be used for the purpose during the existence of the multiple dwelling; and

(g) Add more uses to the list of those permitted in the C-2, M-1, M-2 and M-3 Districts, provided that the uses are comparable, in general character, as those listed insofar as the emission of odor, dust, noise, gas or smoke is concerned.

(4) The Board shall have the authority to grant the following variations:

(a) Permit a variation in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided that the variation will not seriously affect any adjoining property or the general welfare.

(b) Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this chapter relating to the use, construction or alterations of buildings or structures, or the use of land will impose an unusual and practical difficulty or particular hardship, and that the variations of the strict application of the terms of this section are in harmony with its general purpose and intent, but only when the Board is satisfied that the granting of a variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variation from the comprehensive plan as established by this section and at the same time, the surrounding property will be properly protected.

(5) The Board shall have the power to grant an exemption from screening requirements for solid waste containment if located within a developed area of the city where there is no yard space. Public notice and public hearing requirements will not be needed for this exemption appeal.

(6) In considering all appeals and all proposed exception or variations to this chapter, the Board shall, before making any exceptions or variations from this chapter in a specific case, first determine that it will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city.

(7) The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building and Neighborhood Services Director or his or her designee or to decide in favor of the applicant upon any matter upon which it is authorized, by this chapter, to render a decision.

(8) Nothing contained herein shall be construed to give or grant to the Zoning Board of Adjustment the power of authority to alter or to change the Zoning Ordinance or the district map, the power and authority being reserved for the Council in the manner provided in § 159.052. No member shall participate in any action of the Board if the member has a financial interest in the property being considered or is related to any of the parties or has any connection whatsoever with the property in question or the parties involved.

(F) *Notice.* The Board shall make no recommendation except in a specific case and after a public hearing conducted by the Board. A notice of the time and place of a public hearing shall be published in a Clinton publication of general circulation not less than four days nor more than 20 days of the meeting date.

(G) *Notification.* The applicant for any appeal, variance or special use permit shall notify all adjacent property owners of the purpose of the application.

(H) *Relief.* Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, board or bureau of the city shall have recourse to the relief as it is provided by statute.

## **WIRELESS COMMUNICATION FACILITIES**

### **§ 159.095 PURPOSE.**

- (A) The city desires to encourage the orderly development of wireless communication technologies for the benefit of the community and its citizens.
- (B) As a matter of public policy the city encourages the delivery of new wireless technologies throughout the community while controlling the proliferation of communication towers. The development activities will promote and protect the health, safety, prosperity and general welfare of persons living in the city.
- (C) Specifically, this wireless communication facility telecommunications overlay districts is designed to achieve the following:
- (1) Provide a range of locations for wireless communications facilities in various zoning districts;
  - (2) Encourage the location of wireless communications facilities onto existing structures to reduce the number of new communication towers needed within the city;
  - (3) Encourage collocation and site sharing of new and existing wireless communications facilities;
  - (4) Control the type of tower facility constructed, when towers are permitted;
  - (5) Establish adequate development and design criteria to enhance the ability of providers of telecommunications services to provide service to the community quickly, effectively and efficiently;
  - (6) Protect residential, historic preservation areas and scenic corridors from the uncontrolled development of wireless communications facilities by requiring reasonable siting conditions;
  - (7) Promote the use of suitable sites (public and private) for the location of wireless antennae, towers and/or wireless communication facilities;
  - (8) Ensure the harmonious, orderly and efficient growth and development of the city;
  - (9) Stabilize the economy of the city through the continued use of the city's public resources;
  - (10) Provide overlay districts in which the zoning regulations permit the development of wireless communication facilities which are consistent with the requirements of the Telecommunications Act of 1996 and in the best interest of the future of the city;
  - (11) Provide clear performance standards addressing the siting of wireless communications facilities; and
  - (12) Streamline and expedite the permitting procedures to effect compliance with the Federal Telecommunications Act of 1996.

(Ord. 2097, passed 6-22-1999; Ord. 2367, passed 5-27-2008)

### **§ 159.096 CERTAIN USES NOT COVERED BY THIS SUBCHAPTER.**

Nothing in this subchapter shall reduce any of the permitted uses of any zoned property within the city. Nothing in this subchapter shall affect the right of a property owner to use or develop his, her or its property consistent with existing zoning regulations. Nothing in the subchapter shall affect the right of a property owner to continue any legal non conforming use.

(Ord. 2097, passed 6-22-1999; Ord. 2367, passed 5-27-2008)

### **§ 159.097 INTERPRETATION AND DEFINITIONS.**

(A) *Construction of other ordinances.* To the extent this subchapter conflicts with the zoning regulations or any other ordinance of the city, this subchapter shall control.

(B) *Rules for words and phrases.* For the purposes of this subchapter, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word **SHALL** is mandatory; the word **MAY** is permissive; the word **USED** includes designed and intended or arranged to be used or occupied; and the word **PERSON** includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual.

(C) *Definitions.* For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The Building and Neighborhood Services Director or his or her designee shall define any word, phrase or term not defined herein. The interpretation shall be based upon its common and ordinary usage in the region. For the purpose of this subchapter, all definitions defined herein are in addition to all definitions in the zoning regulations.

**ANTENNA ARRAY.** One or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The **ANTENNA ARRAY** does not include the support structure.

**ATTACHED WIRELESS COMMUNICATION FACILITY.** An antenna array that is attached to an existing building or structure (attachment structure), which structures shall include but not be limited to utility poles, signs, water towers, rooftops, towers with any accompanying pole or device (attachment device) which attaches the antenna array to the existing building or structure and associated connection cables, and an equipment facility which may be located either inside or outside of the attachment structure.

**BUILDING AND NEIGHBORHOOD SERVICES DIRECTOR.** The Building and Neighborhood Services Director or his or her designee.

**COLLOCATION/SITE SHARING.** Use of a common wireless communication facility or common site by more than one wireless communication license holder or by one wireless license holder for more than one type of communications technology and/or placement of a wireless communication facility on a structure owned or operated by a utility or other public entity.

**EQUIPMENT FACILITY.** Any structure used to contain ancillary equipment for a wireless communication facility which includes cabinets, shelters, a build-out of an existing structure, pedestals and other similar structures.

**FAA.** Federal Aviation Administration.

**FCC.** Federal Communications Commission.

**FTA.** Federal Telecommunications Act of 1996.

**HEIGHT.** The distance measured from ground level to the highest point on the wireless communication facility, excluding the antenna array.

**SETBACK.** The required distance from the property line of the parcel on which the wireless communication facility is located to the base of the support structure and equipment shelter or cabinet where applicable, or, in the case of guy-wire supports, the guy anchors.

**SUPPORT STRUCTURE.** A structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting (lattice) tower, guy-wire-support tower and other similar structures. Any device (attachment device) which is used to attach an attached wireless communication facility to an existing building or structure (attachment structure) shall be excluded from the definition of and regulations applicable to support structures.

**TEMPORARY WIRELESS COMMUNICATION FACILITY (TEMPORARY WIRELESS COMMUNICATION FACILITY).** A wireless communication facility to be placed in use for 90 or fewer days.

**TOWER USE PERMIT (TUP).** A permit issued by the city specifically for the location, construction and use of a wireless communication facility subject to an approved site plan and any special conditions determined by the Building and Neighborhood Services Director or his or her designee to be appropriate under the provision of this subchapter.

**WIRELESS COMMUNICATIONS.** Any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist.

**WIRELESS COMMUNICATION FACILITY (WIRELESS COMMUNICATION FACILITY).** Any unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an antenna array, connection cables, an equipment facility and a support structure to achieve the necessary elevation.

(Ord. 2097, passed 6-22-1999; Ord. 2367, passed 5-27-2008)

### **§ 159.098 DESIGNATION AND APPLICABILITY.**

(A) *Generally.* The city shall be divided into two wireless communication facility overlay districts. The districts shall include all lands situated within the city.

(B) *Wireless Communication Facility Overlay District 1.* Wireless Communication Facility Overlay District 1 shall include only those areas described in Appendix A hereto and any areas subsequently added thereto less any areas subsequently deleted therefrom. Attached wireless communications facilities with support structure shall be permitted as provided herein in Wireless Communication Facility Overlay District 1.

(C) *Wireless Communication Facility Overlay District 2.* Wireless Communication Facility Overlay District 2 shall consist of all lands which are located within the city. Attached wireless communications facilities shall be permitted as set out herein in Wireless Communication Facility Overlay District 2. Wireless communications facilities with support structure shall not be permitted under this subchapter in Wireless Communication Facility Overlay District 2 except as approved by the Commission hereunder.

(D) *Permit required.* No person, firm or corporation shall install or construct any wireless communication facility unless and until a tower use permit (TUP) has been issued pursuant to the requirements of this subchapter.

(E) *Pre-existing wireless communications facility.* Wireless communications facilities for which a permit has been issued prior to the effective date of this subchapter shall be considered a nonconforming and shall not be required to meet the requirements of this subchapter.

(F) *Amateur radio exclusion.* This subchapter shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator used for noncommercial purposes or is used exclusively for receive only antennas. The installations shall comply with any other applicable provisions of the zoning regulations.

(G) *Relationship to other ordinances.* This subchapter shall supersede all conflicting requirements of other ordinances regarding the locating and permitting of wireless communications facilities.

(H) *Airport zoning.* Any wireless communication facility located or proposed to be located in airport areas governed by the Federal Aviation Administration shall also comply with the provisions of all applicable local, state and federal airport regulations.

(I) *Building Codes.* Construction of all wireless communications facilities shall comply with the requirements of the Fire Protection Code (Chapter 151) in addition to the requirements of this subchapter.

(Ord. 2097, passed 6-22-1999; Ord. 2367, passed 5-27-2008) Penalty, see § 159.999

### **§ 159.099 ALLOWABLE USES/DEVELOPMENT CRITERIA.**

Allowable uses, subject to the limitations within each overlay district, will include the underlying zoning district plus wireless communications facilities in compliance with the following development criteria.

(A) *Height standards.* The following height standards shall apply to all wireless communications facility installations.

(1) *Attached wireless communications facilities.* Attached wireless communications facilities shall not add more than 20 feet to the height of the existing building or structure to which it is attached (attachment structure). However, antenna attachments to existing communication towers shall not increase the height of tower above the maximum permitted height of that tower.

(2) *Wireless communications facilities with support structures.* Wireless communications facilities with support structures shall have a maximum height of 190 feet. Variances to this maximum height restriction may be granted by City Council resolution.

(B) *Setback standards.* The following setback standards shall apply to all wireless communication facility installations.

(1) *Attached wireless communications facilities.* Attached wireless communications facilities are shall meet the setback provisions of the zoning district in which they are located. However, an attached wireless communication facility antenna array may extend up to 30 inches horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.

(2) *Wireless communications facilities with support structures.* Wireless communications facilities with support structure shall meet the setback requirements for principle structures of the underlying zoning district in which they are located, as setback is defined in § 159.097.

(C) *Landscaping.* The following landscaping requirements shall apply to all wireless communications facility installations.

(1) *New construction.* New wireless communications facilities with support structures and attached wireless communications facilities with new building construction shall be landscaped in accordance with the applicable provisions of the landscape ordinance that may now or hereafter be adopted.

(2) *Existing vegetation.* Existing vegetation on a wireless communication facility site may be used in lieu of required landscaping where approved by the Building and Neighborhood Services Director or his or her designee. Existing mature tree growth on the site shall be preserved where feasible.

(D) *Aesthetics, placement, materials and colors.* Wireless communications facilities shall be designed so as to be compatible with the existing structures and surroundings to the extent feasible, including placement in a location which is consistent with proper functioning of the wireless communications facility, the use of compatible or neutral colors, camouflage technology or opaque fencing.

(E) *Lighting and signage.* The following lighting and signage requirements shall apply to all wireless communications facility installations.

(1) *Artificial illumination.* Wireless communications facilities shall not be artificially illuminated, directly or indirectly, except for:

(a) Security and safety lighting of equipment buildings if the lighting is appropriately down shielded to keep light within the boundaries of the site;

(b) The illumination of the wireless communications facility as may be required by the FAA or other applicable authority installed in a manner to minimize impacts on adjacent residences; and

(c) Unless otherwise required by the FAA or other applicable authority, the required light shall be red and shielded upward.

(2) *Signage.* Wireless communications facilities shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial nature, except for a small message containing provider identification and emergency telephone numbers and other information as may be required by local, state or federal regulations governing wireless communications facilities.

(F) *Fencing.* Wireless communications facilities with support structures shall be enclosed by a fence not more than six feet in height. If needed for security, an additional one foot of barb wire may be added to the top of the fence. Security features may be incorporated into the buffer and landscaping requirements for the site. Nothing herein shall prevent fencing that is necessary to meet requirements of state or federal agencies.

(G) *Radio frequency emissions/sound.* The following radio frequency emissions standards shall apply to all wireless communications facility installations.

(1) *Radio frequency impact.* The FTA gives the FCC jurisdiction of the regulation of radio frequency (RF) emissions, and wireless communications facilities that do not exceed the FCC standards shall not be conditioned or denied on the basis of RF impact.

(2) *FCC compliance.* In order to provide information to its citizens, copies of ongoing FCC information concerning wireless communications facilities and RF emissions standards may be requested by the city. Applicants for wireless communications facilities shall state on the application that RF emissions meet FCC standards. Complaints or conflicts regarding RF emissions shall be referred to the FCC for investigation.

(3) *Sound prohibited.* No objectionable sound emissions such as alarms, bells, buzzers or the like are permitted.

(H) *Structural integrity.* Wireless communications facilities with support structures shall be constructed to the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled *Structural Standards for Steel Antennas Towers and Antenna Support Structures* (or equivalent), as it may be updated and amended. Each support structure shall be capable of supporting multiple antenna arrays.

(I) *Collocation agreement.* All applicants for wireless communications facilities are required to submit a statement with the application agreeing to allow and reasonably market collocation opportunities to other wireless communications facility users. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers. The collocation agreement shall be considered a condition of issuance of a TUP (tower use permit). A TUP shall not be issued unless the applicant complies with the collocation policy outlined in § 159.102 of

this subchapter.

(Ord. 2097, passed 6-22-1999; Ord. 2248, passed 10-9-2001; Ord. 2367, passed 5-27-2008) Penalty, see § 159.999

### **§ 159.100 REVIEW PROCESS.**

(A) *Applicable development criteria.* The applicable development criteria referred to herein are those set forth in § 159.099 of this subchapter.

(B) *Permitting procedures.*

(1) Attached wireless communications facilities with or without new building construction that meet the development criteria as specified in § 159.099 may be permitted by administrative review in all zoning districts except as hereinafter specified. All monopole type (or other tower type, if any, as specified on Appendix A) wireless communications facilities with support structures that meet the development criteria and that are located on properties in Wireless Communication Facility Overlay District 1 (listed in Appendix A) may be permitted by administrative review except hereinafter specified. All others, regardless of type or location shall be subject to the City Plan Commission (hereafter referred to a Commission) hearing process and may not be approved by the administrative review process.

(2) Any wireless communications facility (attached or with a support structure), regardless of type, to be located within an established historic area, historic district or other designated overlay district will be subject to review by the Clinton Historic Preservation Commission and the Commission. All wireless communications facility applications that do not conform to the development criteria or are otherwise not eligible for administrative review shall be subject to the City Plan Commission review process.

(C) *Wireless communications facilities as a part of a coordinated development approval.* Wireless communications facilities as part of a proposed residential or nonresidential subdivision, planned unit development, site plan, conditional rezoning, or other coordinated development approval shall be reviewed and approved through those processes.

(D) *Wireless communications facilities for temporary term.* Temporary wireless communications facilities may be permitted by administrative approval for a term not to exceed 90 days. Once granted, a temporary wireless communications facility permit may be extended for an additional 90 days upon evidence of need by the applicant. In case of emergency (e.g., storm damage to an existing tower or other circumstances resulting in the interruption of existing service) the administrative review shall be expedited to the extent feasible.

(Ord. 2097, passed 6-22-1999; Ord. 2367, passed 5-27-2008) Penalty, see § 159.999

### **§ 159.101 APPROVAL PROCESS.**

(A) *Application submission.* All requests for a tower use permit, regardless of wireless communication facility type shall submit an application in accordance with the requirements of this section.

(1) *Application contents.* Each applicant requesting a TUP under this subchapter shall submit a sealed complete set of drawings prepared by a licensed architect and engineer that will include a site plan, elevation view and other supporting drawings, calculations and other documentation showing the location and dimensions of the wireless communications facility and all improvements associated therewith, including information concerning specifications, antenna locations, equipment facility and shelters, landscaping, parking, access, fencing and, if relevant as determined by staff, topography, adjacent uses and existing vegetation. Applicants proposing to collocate on an existing wireless communication facility shall include a radio frequency intermodulation study with their application.

(2) *Submission requirements.* Application for a TUP shall be submitted to the Building and Neighborhood Services Department (hereafter referred to as Department) on forms prescribed by the Building and Neighborhood Services Director or his or her designee. The application shall be accompanied by a site plan containing the information described above and a copy of the appropriate FCC license. If Commission review is required, the application and site plan shall be placed on the next available Commission agenda in accordance with the agenda deadlines established by the City Council.

(3) *Application fees.* A plan review fee of \$500 and a radio frequency intermodulation study review fee of \$500 (collocation applicants only) shall accompany each application. These fees may be used by the Department to engage an engineer(s) or other qualified consultant(s) to review the technical aspects of the application and radio frequency intermodulation study (if required).



(4) *Technical assistance.* In the course of its consideration of an application, the Building and Neighborhood Services Director or his or her designee, the Commission or the City Council may deem it necessary, in complex situations, to employ an engineer(s) or other consultant(s) qualified in the design and installation of wireless communication facilities to assist the in the technical aspects of the application. In these cases, any additional reasonable costs incurred by the Department not to exceed \$1,500 for the technical review and recommendation shall be reimbursed by the applicant prior to the final hearing on the TUP.

(B) *Administrative review.* The following administrative review process shall apply to all wireless communications facility applications eligible for administrative review.

(1) *Review authority.* Review of wireless communication facilities under this section shall be conducted by the city's consultant and the Building and Neighborhood Services Director or his or her designee upon filing a wireless communication facility application.

(2) *Review criteria.* Each application shall be reviewed for compliance with the development criteria specified in § 159.099.

(3) *Timing of decision.* The Building and Neighborhood Services Director or his or her designee shall render a decision on the wireless communication facility application by written response to the applicant within 15 business days after receipt of the complete application, except that an extension may be agreed upon by the applicant. Any application that is not reviewed within 15 business days shall be submitted to the Commission for review.

(4) *Deferral.* The Building and Neighborhood Services Director or his or her designee may defer administrative approval of wireless communication facilities for any reason. Deferral of administrative approval shall require submission to the Commission for review.

(5) *Application denial.* If administrative approval is not obtained or is denied due to noncompliance with the development criteria, the applicant may appeal the denial by applying for Commission review.

(6) *Application approval.* If the TUP application is in compliance with the development criteria and otherwise meets the requirements of this section, the Building and Neighborhood Services Director or his or her designee shall issue a tower use permit.

(C) *Plan Commission Review.* The following shall apply to all tower use permit applications requiring submission to the Commission.

(1) *Review authority.* The Commission shall be the review authority for TUP applications not eligible for administrative review or otherwise referred to the Commission.

(2) *Notice.* Notice of the application and the public hearing by the Commission shall be accomplished in the same manner as a special use permit under the zoning regulations.

(3) *Hearing.* The Commission shall review and consider the TUP application at a public hearing. At the hearing, interested persons may appear and offer information in support or opposition to the proposed application. The Commission shall consider the following in reaching a decision.

(a) *Development criteria.* The tower use permit application shall be reviewed for compliance with the development criteria set forth in § 159.099; provided that the applicable development criteria may be amended or waived so long as the approval of the wireless communication facility meets the goals and purposes of the subchapter. The Commission may recommend an alternative development criteria by specific inclusion in a motion for approval.

(b) *Tower siting conditions.* The Commission may impose conditions and restrictions on the application or on the premises benefitted by the TUP as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the wireless communication facility with the surrounding property, in accordance with the purposes and intent of this subchapter. The violation of any condition shall be grounds for revocation of the TUP. The Commission may recommend the conditions in addition to the development criteria upon the following findings:

1. The wireless communication facility would result in significant adverse visual impact on nearby residences;
2. The conditions are based upon the purpose and goals of this subchapter; and
3. The conditions are reasonable and capable of being accomplished.

(c) *Action.* Following the public hearing and presentation of evidence, the Commission shall take one of the following actions:

1. Recommend the application as submitted;
2. Recommend the application with conditions or modifications;

3. Defer the application for additional information or neighborhood input; or

4. Deny the application in writing.

(4) *Findings.* All decisions rendered by the Commission concerning a tower use permit shall be supported by written findings of fact and conclusions of law based upon substantial evidence of record.

(5) *Timing of decision.* The Commission shall render its decision within 60 days or less of the final submission of all required application documents and technical review, however, this time may be increased due to deferrals by either the applicant or the Commission.

(6) *Appeals.* The decision of the Commission may be appealed to the City Council under the following circumstances:

(a) An appeal shall be filed no later than 30 days after the final action by the Building and Neighborhood Services Director or his or her designee or the Commission. Only the applicant and those who registered an objection to the TUP in the record of the Commission shall have standing to appeal;

(b) Only evidence or testimony in support of or opposition to the issuance of the TUP which was provided to the Commission may be presented to the City Council unless the City Council, by majority vote, decides to hear new information; and

(c) Notice of appeal shall be accomplished by the appellant in the same manner as a special use permit under the zoning regulations.

(Ord. 2097, passed 6-22-1999; Ord. 2367, passed 5-27-2008) Penalty, see § 159.999

#### **§ 159.102 SHARED FACILITIES AND COLLOCATION POLICY.**

(A) *Collocation.* All new wireless communication facilities shall be engineered, designed and constructed to be capable of sharing the facility with other providers, to collocate with other existing wireless communication facilities and to accommodate the future collocation of other wireless communication facilities. A TUP shall not be issued until the applicant proposing a new wireless communications facility shall demonstrate that it has made a reasonable good faith attempt to locate its wireless communication facility onto an existing structure. Competitive conflict and excessive financial burden may be considered by the Commission in determining whether a good faith effort has been made by the applicant.

(B) *Support structure.* All wireless communications facilities with support structure up to a height of 150 feet shall be engineered and constructed to accommodate antenna array from at least three separate providers. All wireless communications facilities with support structures up to a height of more than 150 feet shall be engineered and constructed to accommodate antenna arrays from at least four separate providers. The Commission may modify this requirement based on the type of structure used.

(Ord. 2097, passed 6-22-1999) Penalty, see § 159.999

#### **§ 159.103 REMOVAL OF ABANDONED WIRELESS COMMUNICATION FACILITIES.**

Any wireless communication facility that is not operated for a continuous period of 12 months shall be considered abandoned, and the City Council, at its election, may require the wireless communication facility owner to remove the wireless communication facility within 90 days after notice from the city to remove the wireless communication facility. If the abandoned wireless communication facility is not removed within 90 days, the city may remove it and recover its costs from the wireless communication facility owner or by assessing the costs of removal against the property for collection in the same manner as taxes. If there are two or more users of a single wireless communication facility, this provision shall not become effective until all providers cease to use the wireless communication facility. If the owner of an abandoned wireless communication facility cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the wireless communication facility is located. If the landowner fails to remove the wireless communication facility within 90 days after notice from the city to remove it, the city may remove it and assess the costs of removal against the property for collection in the same manner as taxes.

(Ord. 2097, passed 6-22-1999; Ord. 2367, passed 5-27-2008) Penalty, see § 159.999

#### **§ 159.104 NONCONFORMING WIRELESS COMMUNICATIONS FACILITIES.**

(A) A wireless communications facilities in existence on the date of the adoption of this subchapter which do not comply with the requirements of this subchapter (nonconforming wireless communications facility) are subject to the following provisions.

(1) *Expansion.* Nonconforming wireless communication facilities may continue in use for the purpose now used, but may not be expanded without complying with this subchapter except as further provided in this section.

(2) *Additions.* Nonconforming wireless communications facilities may add additional antennas (belonging to the same provider or other providers) subject to administrative review under this subchapter.

(3) *Repairs or reconstruction.* Nonconforming wireless communications facilities which become damaged due to any reason or cause, may be repaired and restored to its former use, location and physical dimensions subject to the provisions of this subchapter. Provided, however, that if the damage to the wireless communication facility exceeds 50% of replacement cost, the wireless communication facility may only be reconstructed or repaired in compliance with this subchapter.

(B) Any wireless communications facility not in use for six months shall be deemed abandoned and all rights as a nonconforming use shall cease.

(Ord. 2097, passed 6-22-1999; Ord. 2367, passed 5-27-2008) Penalty, see § 159.999

### **§ 159.105 REVOCATION OF TOWER USE PERMITS.**

Any tower use permit issued pursuant to this subchapter may be revoked after a hearing as provided hereinafter. If the Building and Neighborhood Services Director or his or her designee finds that any permit holder has violated any provision of this subchapter, or has failed to make good faith reasonable efforts to provide or seek collocation, the Building and Neighborhood Services Director or his or her designee shall notify the permit holder in writing that the TUP is revocable due to the permit holder's non compliance with the conditions of the permit and the Building and Neighborhood Services Director or his or her designee shall convene a meeting with the permit holder no later than 30 days from the date of the letter. The Building and Neighborhood Services Director or his or her designee may require the permit holder to correct the violation within a reasonable amount of time or the Building and Neighborhood Services Director or his or her designee may recommend to the City Council that the tower use permit be revoked. After the a public hearing, with written notification to the permit holder, the City Council may revoke the tower use permit (TUP) upon terms and conditions, if any, that the City Council may determine. Prior to initiation of revocation proceedings, the Building and Neighborhood Services Director or his or her designee shall notify the permit holder, in writing, of the specific areas of noncompliance and specify the date by which the deficiencies must be corrected. The time for correction of deficiencies shall not exceed 60 days. The permit holder shall provide the Building and Neighborhood Services Director or his or her designee with evidence that the required corrective action has been taken. Should the permit holder fail to correct any deficiencies in the time required, the City Council shall convene a public hearing to consider revocation of the tower use permit. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the city not less than ten days prior to the hearing and by written notice to the permit holder. At the hearing, the permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The City Council may impose reasonable restrictions with respect to time and procedure. The proceedings shall be recorded; provided, however, that stenographic services, if desired, shall be provided by the requesting party at that party's expense.

(Ord. 2097, passed 6-22-1999; Ord. 2367, passed 5-27-2008) Penalty, see § 159.999

### **§ 159.999 PENALTY.**

(A) *Generally.* Any person, who is responsible for the violation of any of the provisions of this chapter or who fails to comply therewith or with any part of the requirements thereof or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be deemed guilty of a simple misdemeanor. After notice in writing by the Building and Neighborhood Services Director or his or her designee, each day that a violation is permitted to exist beyond the expiration of time as set out in the notice, a minimum of one day shall constitute a separate offense. The owner or owners of any building or premises or part thereof where anything in violation of this section shall be placed or shall exist, any architect, building contractor, individual or corporation employed in connection therewith who assisted in the Commission of any violation shall be deemed guilty of a separate offense. It shall be the duty of the Building and Neighborhood Services Director or his or her designee to make inspections to determine the existence of violations of this chapter. A complete report of any violations discovered shall be made to the Council for further action and copies of the report shall also be sent to the occupant of the property and, if known, to the owner. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land

is used in violation of this chapter, the Council, in addition to other remedies, may institute any proper action or proceedings in the name of the city to correct the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate the violations to prevent the occupancy of the building, structure or land or to prevent any illegal act, conduct, business or use in or about the premises.

(1999 Code, § 165.34)

(B) *Wireless communication facilities.* The fine or penalty for violating any provisions of §§ 159.095 through 159.105 shall, upon conviction in the magistrate court, not exceed \$500 for any one specified offense or violation further, that if a thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof in violation of §§ 159.095 through 159.105 shall not exceed \$750 for each day that it may be unlawfully continued.

(Ord. 2097, passed 6-22-1999; Ord. 2367, passed 5-27-2008)

**APPENDIX A: WIRELESS COMMUNICATION FACILITIES**

<i>Site Name</i>	<i>Tower Type</i>
Central Fire Station land	Monopole
Chancy Fire Station	Monopole
Chancy Park	Monopole
Clinton High School	Monopole
Courtland Park	Monopole
Eagle Point Park	Monopole
Ericksen Community Center and Park	Monopole
George Morris Park	Monopole
Hawthornee Park Annex	Monopole
Lincoln Alternative High School	Monopole
Lyons Middle School	Monopole
MTA and parking lot	Monopole
Riverview Park	Monopole
Root Park	Monopole
Sewer Treatment Plant	Monopole
Street Department (South Second Street)	Monopole
Street Department (South Third Street)	Monopole

(Ord. 2097, passed 6-22-1999; Ord. 2257, passed 9-24-2002) Penalty, see § 159.999