

## CHAPTER 165

# ZONING REGULATIONS

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**165.01 DEFINITIONS.** For the purpose of this chapter, the words “used” and “occupied” include the words “intended, designed, or arranged to be used or occupied,” and the word “lot” includes the words “plot or parcel.” The following terms or words used herein shall be interpreted as follows:

1. “Accessory use or structure” means a use or structure subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to use of the principal building.
2. “Alley” means a public way other than a street, 20 feet or less in width, affording secondary means of access to abutting property.
3. “Basement” means a story having more than one-half of its height below grade. A basement shall not be counted as a story for the purpose of height regulation.
4. “Block” means that property abutting on one side of a street and lying within the two nearest intercepting or intersecting streets, or lying within the nearest intercepting or intersecting streets and unsubdivided acreage or railroad right-of-way.
5. “Billboard,” as used in this chapter, includes all structures, regardless of the material used in the construction of the same, that are erected, maintained, or used for public display of posters, painted signs, wall signs, whether the structure is placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.
6. “Board” means the Board of Adjustment.
7. “Boarding house” means a building other than a hotel where, for compensation, meals and lodging are provided for four or more persons.
8. “Building, height of” means the vertical distance from the average natural grade at the building line to the highest point of the roof of a flat roof, or to deck line or a mansard roof or to the mean height level (between eaves and ridge) for gable, hip and gambrel roofs.
9. “Building line” means the line of the outside wall of the building or any enclosed projections thereof nearest the street.
10. “Bulk stations” means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied

petroleum products, where the aggregate capacity of all storage tanks is more than 12,000 gallons.

11. "Court" means an open, unobstructed and unoccupied space other than a yard, which is bounded on two or more sides by a building on the same lot.

12. "District" means a section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

13. "Dwelling" means any building or portion thereof which is designated or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.

14. "Dwelling, multiple-family" (apartment house) means a building designed or constructed to contain three or more families in individual dwelling units independent of one another, and includes multi-family condominium dwellings and apartment house condominiums wherein the fee title to each dwelling unit is held independently of the others.

15. "Dwelling, single-family" means a building designed for or occupied exclusively for residence purposes by one family.

16. "Dwelling, two-family" (duplex) means a detached building designed or constructed to contain two families residing in individual dwelling units independently of one another, and includes duplex condominium dwellings wherein the fee title to each dwelling unit is held independently of the other.

17. "Family" means one or more persons living together and sharing common living, sleeping, cooking, and eating facilities within a single dwelling unit, no more than four of whom may be unrelated. The following persons shall be considered related for the purpose of this chapter:

- A. Persons related by blood, marriage, or adoption.
- B. Persons residing with a family for the purpose of adoption.
- C. Persons living with a family at the direction of a court.

18. "Family home" means a community-based residential home which is licensed as a residential care facility under Chapter 135C of the *Code of Iowa* or as a child foster care facility under Chapter 237 of the *Code of Iowa* to provide room and board, personal care, rehabilitation services, and supervision in a family environment exclusively for not more than eight persons with a developmental disability or brain injury and any necessary support personnel.

19. "Farm" means an area of 10 acres or more which is used for the growing of the usual farm products, such as vegetables, fruits, trees and grain, and their storage on the area as well as for the raising thereon of the usual farm poultry and farm animals. The term "farming" includes the operating of such an area for one or more of the above uses including the necessary accessory uses for treating or storing the produce; provided, however, the operation of such accessory uses shall be secondary to that of the normal farming activities and provided further that farming does not include the feeding of garbage or offal to swine or other animals.

20. "Garage, private" means an accessory building housing motor driven vehicles of the residents of the premises; but not more than one vehicle per family shall be used for business purposes.

21. "Fence, sight-obscuring" means a fence or a planting arranged in such a way as to obstruct vision.
22. "Garage, public" means any building or premises other than a private garage, used for equipping, refueling, servicing, repairing, hiring, selling or storing motor-driven vehicles.
23. "Grade" means the average elevation of the finished ground at the exterior walls of the main building.
24. "Home occupation" means any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwelling purposes and which does not change the character thereof; and provided that no article is sold or offered for sale except such as may be produced on the premises by members of the immediate family residing on the premises. The following, but not limited to the following, shall not be deemed home occupations: clinics, doctor's offices, hospitals, barber shops, beauty parlors, dress shops, real estate offices, millinery shops, tea rooms, tourist or nursing homes, animal hospitals and kennels.
25. "Hotel" means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests in contradistinction to a boarding house or lodging house.
26. "Junk yard" means any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.
27. "Lodging house" means a building where lodging or boarding is provided for compensation for five or more, but not exceeding 20 persons not members of the family there residing.
28. "Lot," for zoning purposes, as covered by this chapter, means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a dedicated or private street and may consist of:
  - A. A single lot of record or portion of a lot of record.
  - B. A combination of complete lots of record and/or portions of lots on record.
  - C. A parcel of land described by metes and bounds; provided that in no case of subdivision shall any residual lot or parcel be created which does not meet the requirements of this chapter.
29. "Lot line" means the property line bounding a lot.
30. "Lot measurement" means:
  - A. Depth - the mean horizontal distance between the front and rear lot lines.
  - B. Width - the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the minimum building setback line.

31. "Lot of record" means a lot which is part of a subdivision which is recorded in the office of the County Recorder or a lot or parcel described by metes and bounds, the deed to which has been so recorded.
32. "Lot types" are as follows:
- A. "Corner lot" means a lot located at the intersection of two or more streets.
  - B. "Interior lot" means a lot other than a corner lot with only one frontage on a street other than an alley.
  - C. "Double frontage lot" means a lot other than a corner lot with frontage on more than one street other than an alley. Lots with frontage on two non-intersecting streets may be referred to as "through lots."
  - D. "Reversed corner lot" means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.
33. "Manufactured home" means a factory-built structure, which is manufactured or constructed under authority of 42 U.S.C. Section 5403, is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976. If a manufactured home is placed in a mobile home park, the home must be titled.
34. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; and also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is not built to a mandatory building code, contains no State or federal seals, and was built before June 15, 1976.  
*(Code of Iowa, Sec. 435.1)*
35. "Mobile home park" means any site, lot, field or other tract of land under common ownership upon which two or more occupied mobile homes, manufactured homes, or modular homes, or a combination of any of these homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.
36. "Modular home" means a factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation; is constructed to comply with the Iowa State Building Code for modular factory-built structures, and must display the seal issued by the State Building Code Commission. All residence structures shall be placed on a foundation system that is provided for by the *Uniform Building Code*, 1997, or is recommended by the manufacturer, and which make a dwelling permanently attached to the side.
37. "Motel, motor lodge" means a building or group of attached or detached buildings containing individual sleeping or living units with separate entrances, without cooking facilities, for rental to transients with garage attached or parking facilities conveniently located to each such unit.
38. "Nonconforming use" means any building or land lawfully occupied by a use at the time passage of this Zoning Ordinance (or any amendment thereto) which does

not conform after the passage of the Zoning Ordinance (or amendment thereto) with the use regulations of the district in which it is situated.

39. "Nursing or convalescent homes" means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent or physically disabled persons not including insane and other mental cases, inebriate or contagious cases.

40. "Parking space" means a surfaced area, enclosed or unenclosed, of not less than 250 square feet, either within a structure or in the open, exclusive of driveway or access drives for the parking of motor vehicle.

41. "Permitted use" means the purpose for which land, a building or structure thereon is, under the provisions of this ordinance, authorized to be occupied or maintained.

42. "Planning Commission" or "Commission" means the Planning and Zoning Commission of Tabor, Iowa.

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

44. "Special exception use" means a reasonable use that will not impair the public health, safety, or welfare in a zone but does not conform with the character of the zone in which it is located. Certain restrictions on such a use may be imposed by the Board of Adjustment.

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

46. "Variance" means a relaxation of the terms of the zoning regulations which will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the zoning ordinance would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

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

48. "Structural alterations" means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.

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

50. "Tourist home" means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers.

51. "Yard" means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, excepting as otherwise provided herein.

52. "Yard front" means a yard extending across the full width of the lot and measured using the least distance between the front lot line and the building or any projection thereof other than the projection of the usual steps or unenclosed porches. The narrow frontage on a corner lot is considered the front lot line, regardless of where the building entrance is located.

53. "Yard rear" means a yard extending across the full width of the lot and measured, using the least distance, between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as adjoining the street upon which the lot has its greater dimension. On both corner lots and interior lots, the opposite end of the lot from the front yard.

54. "Yard side" means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building.

55. "Zoning Administrator" means the Planning and Zoning Commission of Tabor, Iowa. It is the intent of this chapter that all interpretation and enforcement shall be first presented to the administrative officer and that such questions shall be presented to the Zoning board only on appeal of the decision of the administrative officer, and that recourse from the decisions of the Zoning Board shall be to the Board of Adjustment and then to the courts as provided by law. The City Council will appoint all officers of the Commission.

**165.02 DISTRICTS ESTABLISHED; ZONING MAP.** For the purpose of this chapter, the following four classes of districts are hereby established within the City as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter:

A – Agricultural District

R – Residence District

C – Commercial District

M – Industrial District

The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk under the following words:

*This is to certify that this is the Official Zoning Map referred to in the Ordinance of the City of Tabor, Iowa, adopted on \_\_\_\_\_.*

1. Zoning Map; Change in District Boundaries. If, in accordance with the provisions of this chapter and Chapter 414, *Code of Iowa*, changes are made in district boundaries on the Official Zoning Map, copies of such changes shall be filed with the Official Zoning Map promptly after the amendment has been approved by the City Council.

2. Zoning Map; Final Authority. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City of Tabor.

3. Zoning Map; Interpretation. Where there is uncertainty as to the boundaries of districts as shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries.

4. Zoning Map; Procedure for Replacement. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of use, the City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, under the following words: *This is to certify that this Official Zoning Map supersedes and replaces the prior Official Zoning Map adopted as part of Ordinance No. \_\_\_\_\_ of the City of Tabor, Iowa.*

**165.03 APPLICATION OF DISTRICT REGULATIONS.** The regulations set by this chapter within each district shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other rules, regulations, or ordinances, the provisions of this chapter shall control. The regulations shall apply uniformly to each class or kind of structure or land, except as herein after provided:

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

- A. To exceed the height limit herein established;
- B. To accommodate or house a greater number of families;
- C. To occupy a greater percentage of lot area;
- D. To have narrower or smaller rear yards, front yards, side yards, or other open spaces;

or in any other manner be contrary to the provisions of this chapter.

2. Yards; Open Space; and Off-Street Parking; Shared Use Prohibited. Yards or parts of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall not be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

3. Yards or Lots Not to Be Reduced. Yards or lots existing at the time of passage of the zoning ordinance shall not be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the zoning ordinance shall meet at least the minimum requirements established by this chapter.

**165.04 NONCONFORMING USES.**

1. **Authority to Continue.** Any building, structure or use lawfully established and existing on the effective date of the zoning ordinance, which does not conform to all of the regulations of the district in which it is located, may be continued subject to the provisions of this chapter. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the zoning ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.
2. **Repairs and Alterations.** Repairs and alterations may be made to a nonconforming building, provided that no structural alterations shall be made to a building which is designed or intended for a use not permitted in the district in which it is located, except that structural alterations may be made if they are required by law or are necessary to make the building and use thereof conform to the regulations of the district.
3. **Additions and Expansions.** A nonconforming building which is nonconforming as to size, height, or setbacks, or substantially all of which is designed or intended for a use not permitted in the district in which it is located, shall not be added to, expanded or enlarged unless such addition, expansion or enlargement conforms to all the regulations of the district in which it is located and unless the entire building thereafter conforms to all of the regulations of the district as to size. A nonconforming use of land shall not be expanded or extended beyond the area it occupies at the date of the adoption of the zoning ordinance.
4. **Discontinuation of a Nonconforming Building or Use.** A building, substantially all of which is designed or intended for a use which is not permitted in the district in which it is located, which is or hereafter becomes vacant and remains unoccupied or is not used for a period of two years, shall not thereafter be occupied or used except in a manner which conforms to the use regulations of the district in which it is located. If a nonconforming use of land only is discontinued for a period of six months, such use shall not thereafter be renewed, and any subsequent use of the land shall conform to the regulations of the district in which it is located.
5. **Restoration of a Damaged Nonconforming Building.** A building designed or intended for a use which is not permitted in the district in which it is located, which is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restorations shall exceed 60 percent of the cost of replacement of the entire building, shall not be restored unless such building and use thereof shall conform to all the regulations of the district in which it is located. If the cost of restoration of such damaged building does not exceed 60 percent of the cost of replacement of the entire building, no repairs or reconstruction shall be made unless such restoration is commenced within one year from the date of the fire or other casualty or act of God and is diligently pursued until completion.

6. Uses under Special Permit Uses. Any use for which a special exception is permitted as provided in Section 165.13(7) shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use.

#### 165.05 GENERAL REGULATIONS.

1. Street Frontage Required. Lots containing any building used in whole or in part for residence purposes shall abut for at least 40 feet on at least one street, or have an exclusive unobstructed private easement of access or right-of-way of at least 20 feet wide to a street; and there shall be only one single-family dwelling for such frontage or easement.

2. Accessory Buildings and Garages. Accessory buildings shall be erected in any yard other than a front yard as provided hereinafter. Accessory buildings shall be distant at least two feet from all lot lines, and on a corner lot they shall conform to the setback regulations on the side street. Accessory buildings, except buildings housing animals or fowl, may be erected as a part of the principal building, or may be connected thereto by a breezeway or similar structure; provided said buildings comply with all yard requirements for a principal building. An accessory building which is not a part of the main building may occupy a maximum of 30 percent of the rear yard, but shall not exceed 18 feet in height and shall be distant at least 10 feet from other separate buildings on the lot. In the R District, a private garage is permitted in the rear yard on the same lot with a dwelling, either as a separate building or in a separate room within, or attached to the dwelling, provided that space for not more than three motor vehicles is permitted on one lot. When wholly or partially within the limits of the side yard and attached to a principal building, such garage shall be considered as a part of such principal building and shall conform to all yard and space requirements as specified in this ordinance for principal buildings.

3. Corner Lots. For corner lots platted after the effective date of the zoning ordinance, the street side yard shall be equal in width to the setback regulation of the lots to the rear having frontage on the intersecting street. On corner lots platted and of record at the time of the effective date of the zoning ordinance, the side yard regulation shall apply to the longer street side of the lot except in the case of reverse frontage where the corner lot faces an intersecting street. In this case, there shall be side yard on the longer street side of the corner lot or not less than 50 percent of the setback required on the lots to the rear of such corner lot, and no accessory building on said corner lot shall project beyond the setback line of the lots in the rear; provided further, this regulation shall not be interpreted as to reduce the buildable width of the corner lot facing an intersecting street and of record or as shown by existing contract of purchase at the time of the effective date of the zoning ordinance to less than 28 feet or to prohibit the erection of an accessory building.

4. Home Occupations. Home occupations can be conducted entirely within a dwelling and carried on by the inhabitants thereof; provided that any such activity shall not occupy more than 50 percent of the floor area of one story of such buildings; provided further, only the proprietor and one additional person shall be regularly employed; provided further, there may be a small non-illuminated sign not exceeding two square feet in area; provided further, there is no mechanical equipment except such as is normally used for domestic or household purposes.

5. Building Lines on Approved Plats. Whenever the plat of a land subdivision approved by the Planning and Zoning Commission and on record in the Office of the

County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this ordinance unless specific yard requirements in this chapter require a greater setback.

6. **Front Yards; Exceptions.** In areas where some lots are developed with a front yard that is less than the minimum required for the district by this chapter, or where some lots have been developed with a front yard greater than required by this chapter, the following rule shall apply. The front yard depth for a principal building located on a lot within 250 feet measured along the street line from the nearest corner of the lot under consideration, to any portion of two or more lots in the same block and which lots are occupied by dwellings that front on the same street as the proposed principal dwelling, shall be the average front yard depth of such existing dwellings.
  - A. Buildings located entirely on the rear half of a lot shall not be counted.
  - B. Buildings shall not be required to have a front yard greater than 50 feet or less than that required in the Zoning District in which it is located.
  - C. If no building exists on one side of a lot within 250 feet of the lot in question, the minimum front yard shall be the same as the building on the other side.
7. **Open Space.** Yards or other open space provided about any building for the purpose of complying with the provisions of this chapter shall not be considered as providing a yard or open space for any other building. The lot area per family shall not be reduced in any manner except in conformity with the area regulations herein established for the district in which such building is located.
8. **Mobile Homes.** Mobile homes, as defined in this chapter, shall not be used for dwelling purposes in any district, except when located within a mobile home park.
9. **Lots of Record.** Any lot of record on the effective date of the zoning ordinance which is located in any Residence District and which does not comply in area and/or minimum dimensions with the requirements of the district in which it is located may be used for a single-family structure, provided that all setback and other requirements of this chapter are complied with.
10. **Visibility at Intersections.** In each quadrant of every street intersection there shall be designed a vision clearance triangle, bounded by the inner street lines and a line connecting them 25 feet from their intersection. Within this triangle no site obstructing object shall be allowed between the height of three feet and 10 feet above the elevation of the streets.
11. **Fences and Walls.** Fences and walls may be up to the lot or property line. Fences and walls may extend not over six feet in height above the natural grade in side yards, and eight feet above the natural grade in rear yards, and not over four feet in height above the natural grade in the front yard. See Subsection 10 of this section for corner lots. All fences and retaining walls within a front yard shall be a minimum of two feet from any property line abutting frontage to a public street. All fences located between the front property line and the front yard building setback, shall be designed with a minimum open space of 30 percent. Fences shall also comply with Section 41.10 of the Code of Ordinances.

*(Ord. 197 - Nov. 21 Supp.)*

**165.06 A - AGRICULTURAL DISTRICT.** In A Districts, the following regulations shall apply, except as otherwise provided herein:

1. Permitted Uses.
  - A. Agriculture, crop and tree farming, truck farming.
  - B. One and two-family dwellings including manufactured homes subject to the following standards:
    - (1) For all building permits issued after June 6, 1985, the principal structure shall have a floor area of not less than 640 square feet and a minimum width for any building elevation of not less than 20 feet.
    - (2) All principal structures shall be roofed in the gable or hip styles and shall include an overhang of at least 12 inches.
    - (3) All principal structures shall be sided with material other than flat or corrugated sheet metal. Siding shall extend to within six inches of the ground adjacent to the structure.
    - (4) All principal structures shall be placed on a foundation system that is provided for by Code, or is recommended by the manufacturer, and which makes a dwelling permanently attached to the site.
  - C. Family homes, provided only one dwelling is contained in any one given City block.
  - D. Plant nurseries and greenhouses.
  - E. Public and private schools and education institutions of academic instruction.
  - F. Public museums, libraries, parks, playgrounds, or community centers and similar uses.
  - G. Golf courses, country clubs, tennis courts, and similar recreational uses, provided that such use is not operated primarily for commercial gain.
  - H. Churches and accessory buildings.
  - I. Hospitals, nursing homes, and charitable institutions (not to include penal or correctional institutions).
  - J. Nursery schools and child care centers.
  - K. Cemeteries of 10 acres or more in size.
2. Special Exception Uses. The following special exception uses shall be permitted when authorized in accordance with Section 165.13(7):
  - A. Private playgrounds, golf courses and recreational uses; located not less than 200 feet from an R District.
  - B. Public utility structures and equipment necessary for the operation thereof.
  - C. Private campground facilities.
  - D. Energy-promoting, energy-generating or energy-conserving structures.

- E. Airports.
  - F. Sand, gravel, rock quarries.
  - G. Sewage treatment facilities.
  - H. Sanitary landfills in accordance with county and State regulations, except that no sanitary landfill shall be operated within 1,320 feet of any R District.
3. Accessory Uses.
- A. Home occupations. (See Section 165.07(3)(B) for signs.)
  - B. Customary accessory uses incidental to the permitted use.
  - C. Signs, On-Site. One only sign not exceeding 80 square feet in area pertaining to the lease, hire, or sale of the building or premises on which such sign is located. Outdoor identification signs or bulletin boards for hospitals, churches and schools and other public buildings.
  - D. Private garage, subject to Section 165.05(2).
  - E. Fences, subject to Section 165.05(10) and (11).
  - F. Roadside stands located not less than 20 feet from street right-of-way line.
4. Space Requirements.
- A. Building Height Limit: two and one-half stories or 35 feet maximum.
  - B. Minimum Area and Yards:
    - (1) Lot: 20,000 square feet, exclusive of road right-of-way.
    - (2) Width: 100 feet.
    - (3) Front Yard Depth: 35 feet from proposed right-of-way line.
    - (4) Side Yard Width: 10 feet; 15 feet for any other principal building.
    - (5) Rear Yard Width: 35 feet; 45 feet for any other principal building.
5. Exceptions. For provisions on exceptions see Section 165.10.

**165.07 R - RESIDENCE DISTRICT.** In the R District, the following regulations shall apply except as otherwise provided herein:

1. Permitted Uses.
  - A. One- and two-family dwellings, subject to the following standards:
    - (1) For all building permits issued after June 6, 1985, the principal structure shall have a floor area of not less than 640 square feet and a minimum width for any building elevation of not less than 20 feet.
    - (2) All principal structures shall be roofed in the gable or hip styles and shall include an overhang of at least 12 inches.
    - (3) All principal structures shall be sided with material other than flat or corrugated sheet metal. Siding shall extend to within six inches of the ground adjacent to the structure.
    - (4) All principal structures shall be placed on a foundation system that is provided for by Code, or is recommended by the manufacturer, and which make a dwelling permanently attached to the site.
  - B. Family homes, provided only one dwelling is contained in any one City block.
  - C. Multi-family dwellings.
  - D. Churches and accessory buildings.
  - E. Public museums, libraries, parks, playgrounds or community centers and similar uses.
  - F. Golf courses, country clubs, tennis courts and similar recreational uses, provided that any such use not be operated primarily for commercial gain.
  - G. Swimming pools, public and private.
  - H. Hospitals.
  - I. Public and private schools and educational institutions of academic instruction.
  - J. Nursery schools and child care centers.
  - K. Boarding and/or lodging houses, provided that there be no conspicuous advertising signs.
  - L. Governmental buildings, except maintenance and storage buildings.
  - M. Clinics, sanitariums, dispensaries, home for the aged, nursing homes, educational, religious, philanthropic or charitable nature.
  - N. Funeral homes.
2. Special Exception Uses. The following special exception uses shall be permitted when authorized in accordance with Section 165.13(7):
  - A. Water reservoirs.
  - B. Telephone transmission equipment buildings.
  - C. All other uses of similar character as may be determined by the Board of Adjustment.

- D. Governmental buildings used for maintenance and/or storage.
- 3. Accessory Uses.
  - A. Customary accessory uses and structures incidental to the permitted principal uses.
  - B. Signs, On-Site. One only sign not exceeding eight square feet in area, appertaining only to the lease, hire or sale of the building or premises on which such sign is located, and one only sign, appurtenant to a home occupation or a permitted use, not exceeding two square feet in area, provided that no such sign or nameplate shall emit any flickering, flashing or glaring light, provided that these signs shall conform to the setback line required of any principal building. Also, outdoor signs or bulletin boards for churches, schools and other public buildings not exceeding 16 square feet and not erected within 25 feet of a street line.
  - C. Private garage. (See Section 165.05(2).)
  - D. Home occupations. (See paragraph B of this subsection.)
  - E. Fences, subject to 165.05(10) and (11).
- 4. Building Height Regulation. Building height shall be two and one-half stories, but not exceeding 35 feet in height and no accessory structure shall exceed one story or 18 feet in height.
- 5. Minimum Lot Area.

	One-Family	Two-Family	Multi-Family
Water or public sewer	10,000 square feet	20,000 square feet	10,000 square feet each
Water but no sewer	10,000 square feet	10,000 square feet	6,000 square feet each
Water and sewer available	8,500 square feet	8,500 square feet	4,000 square feet each*
* Minimum three units. Add 2,000 square feet for each one- or two-family maximum occupancy unit over three and 4,000 square feet for each three-family and above maximum occupancy unit over the first three multi-family dwelling units permitted.			

6. Minimum Lot Width.

Water or public sewer	100 feet	100 feet	100 feet
Water but no sewer	80 feet	80 feet	80 feet
Water and sewer available	60 feet	65 feet	75 feet**
** Add 15 feet for each additional unit over the first three dwelling units permitted.			

- 7. Minimum Front Yard Depth. Minimum depth is 30 feet. Front yard measurements begin 63 feet from the center of the road.
- 8. Minimum Side Yard Width.
  - A. Eight feet on each side for a dwelling.

- B. 20 feet on each side for any other principal building.
  - C. On lots of record at the time of adoption or amendment of this zoning ordinance having a width less than 60 feet, the side yards may be reduced for single-family dwellings only as follows:
    - (1) Each side yard may be reduced to not less than 10 percent of the lot width.
    - (2) On corner lots, only the interior side yard may be reduced below eight feet.
9. Minimum Rear Yard Depth.
- A. Minimum depth is 35 feet for a dwelling and 45 feet for any other building.
  - B. Alley width is 20 feet or less and setback is 20 feet from the center of the alley.
10. Exceptions. See Section 165.10.

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**165.08 C - COMMERCIAL DISTRICT.**

## 1. Permitted Uses.

A. Uses permitted in the R District.

B. Any local retail business or service establishment such as the following:

- Animal hospital, veterinary clinic or kennel
- Antique shop
- Automobile, truck, farm implement and mobile home sales and repair
- Baby store
- Barber shop or beauty parlor
- Ballrooms and dance halls
- Bars and taverns
- Bicycle and motorcycle shop - sales and repair
- Billboards
- Billiard parlors and pool halls
- Bookbinding
- Bowling alleys
- Candy shops
- Clothes dry cleaning
- Cocktail lounges
- Contractor's shop and warehouse
- Commercial parking lots
- Dairy store - retail
- Dance and/or music studio
- Drive-in eating and drinking establishment
- Drugstore
- Electric substations
- Florist shop
- Fruit and vegetable market
- Furniture store
- Garages, public
- Gasoline service stations
- Golf-driving range and miniature golf course
- Gift shop
- Grocery and delicatessen
- Hardware store
- Hobby shop
- Hotel, motel or motor lodge
- Household appliance, equipment, sales and repair
- Ice storage and distributing station of not more than five-ton capacity
- Jewelry shop
- Launderette and similar businesses
- Laundry
- Lawn mower repair shop
- Locker plants
- Monument sales and engraving
- Office building
- Packaging of candy, confections and/or frozen foods
- Paint and wallpaper store
- Photographic studios
- Post office substation
- Printing and/or publishing business
- Radio and television - sales and repair

Real estate office  
 Restaurant, cafe and soda fountain  
 Sheet metal shop  
 Shoe repair shop  
 Sign painting shop  
 Sporting goods and camping equipment  
 Storage warehouse  
 Tailor shop  
 Tire repair shops  
 Truck terminals  
 Variety store

- C. Business or professional offices, supplying commodities or performing services.
2. Special Exception Uses. The following special exception uses shall be permitted when authorized in accordance with Section 165.13(7):
- A. Any special exception use permitted in an R District.
  - B. Automobile painting and upholstering.
  - C. Business, technical, and trade schools.
  - D. Caretakers quarters.
  - E. Railway passenger stations.
  - F. All other uses of similar character, as may be determined by the Board of Adjustment.
3. Accessory Uses.
- A. Accessory uses as permitted in the R District.
  - B. Accessory uses and structures customarily incidental to any permitted principal uses.
4. Building Height Limits. Height limit is three stories, but not exceeding 45 feet in height.
5. Minimum Lot Area. For single-family dwelling, same as in the R District. No requirement for any other building except where living facilities are erected or altered above stores or other commercial uses, there shall be provided a lot area of not less than 1,000 square feet per dwelling unit.
6. Minimum Lot Width. For a dwelling and any building containing any dwelling units, same as in the R District. No requirement for any other buildings.
7. Minimum Front Yard Depth. Minimum depth is 25 feet. When fronting on the right-of-way of a major thoroughfare shown on the Official Major Thoroughfare Plan, the front yard shall be measured from the proposed right-of-way line.
8. Minimum Side Yard Width. None required except as follows:
- A. Side yards shall be required for a dwelling and any building containing any dwelling units as required in the R District.
  - B. A side yard of not less than eight feet shall be required on that side of a lot which adjoins the R District.

9. Minimum Rear Yard Depth. Minimum depth is 35 feet. For each foot that the front yard is increased over 25 feet, the rear yard may be decreased proportionately, except that where the rear yard adjoins the side lot line of a lot in the R District, there shall be a minimum rear yard of eight feet required adjacent to said lot line.
10. Restriction of Residential Use In Commercial District. The purpose of this subsection is to preserve and maintain the commercial and retail character of the Business District of the City and to prevent further loss of the availability of property suitable and intended for commercial and retail use.
  - A. Business District Defined. For the purpose of this subsection "Business District" is defined as Main Street between Elm Avenue and Orange Avenue.
  - B. Residential Use Prohibited. No ground floor residential or apartment dwelling or use shall be allowed in any building or property in the Business District facing or fronting on Main Street.
  - C. Present Use Excepted. Any building or property used for residential or apartment purposes on the effective date of the adoption of this Code of Ordinances may continue to be so used. Provided, however, that any such building or property converted to commercial, business, or retail use shall not thereafter be reconverted to residential or apartment use.
11. Exceptions. See Section 165.10.

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**165.09 M - INDUSTRIAL DISTRICT.** In the M District, the following regulations shall apply except as otherwise provided herein:

1. Permitted Uses.
  - A. Uses permitted in the C District, provided that no dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them.
  - B. Any of the following uses:
    - Grain elevators, feed mixing, and grinding.
    - Automobile assembly and major repair.
    - Creamery bottling, ice manufacturing, and cold storage plant.
    - Manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceutical and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils.
    - Manufacturing, compounding, assembling or treatment of articles of merchandise from previously prepared materials such as bone or cloth, cork, fiber, leather, paper plastics, metals or stones, tobacco, wax, yarns, and wood.
    - Manufacture of musical instruments, novelties, and molded rubber products.
    - Manufacture or assembly of electrical appliances, instruments, and devices.
    - Manufacture of pottery or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
    - Laboratories - experimental, film, or testing.
    - Manufacture and repair of electric signs, advertising structures, light sheet metal products, including heating and ventilating equipment.
    - Blacksmith, welding, or other metal shop.
    - Foundry.
    - Bag, carpet and rug cleaning; provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.
    - Enameling, lacquering, or japanning.
    - Crematory - if located not less than 200 feet from the R District.
    - Concrete mixing plants, gravel, sand and concrete storage and sales, concrete products manufacture.
    - Sawmill, planing mill; including manufacture of wood products not involving chemical treatment. Building material sales yards, lumber yard, contractor's equipment storage yard or plant or rental of equipment commonly used by contractors and storage yards for vehicles of a delivery or drying service.
    - Inflammable liquids.
    - Truck terminal or yard, including repair.
    - Milk processing and canning factories.
    - Hatcheries of all kinds.
2. Other Uses. Any other use not otherwise prohibited by law; provided, however, the following uses shall be permitted subject to approval by the City Council after public hearing and after report by the Planning and Zoning Commission:
  - A. Meat processing plant.
  - B. Acid manufacture.
  - C. Cement, lime, gypsum, or plaster of Paris manufacture.
  - D. Correctional institutions.

- E. Distillation of bones, coal, tar, petroleum, refuse, grain or wood.
  - F. Drilling for or removal of oil, gas, or other hydro-carbon substance.
  - G. Fat rendering.
  - H. Fertilizer manufacture.
  - I. Glue manufacturer.
  - J. Gas manufacturer.
  - K. Mineral extraction, including sand and gravel.
  - L. Petroleum or petroleum products refining.
  - M. Rubber goods manufacture.
  - N. Salvage yards, including auto wrecking and salvage, used parts sales and junk, iron or rags, storage or bailing. No portion of the front yard is to be used for the conduct of business in any manner whatsoever except for parking of customer or employee vehicles. Any premises on which such activities are carried on shall be wholly enclosed within a building or by a wooden, metal or masonry fence or wall not less than six feet in height and so constructed that it completely obscures the view of the operations on the premises from surrounding streets or private property.
  - O. Smelting of ores.
  - P. Stockyard or slaughter of animals, except poultry or rabbits.
  - Q. Tannery; livestock buying stations.
  - R. Any other use which is objectionable by reason of emission of odor, dust, smoke, gas, vibration or noise or may impose hazard to health or property.
3. Required Conditions.
- A. The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance shall be employed.
  - B. All principal buildings and all accessory buildings or structures, including loading and unloading facilities shall be located at least 100 feet from an R District boundary, except where adjoining a railroad right-of-way.
4. Building Height Limit. Three stories but not more than 50 feet.
5. Minimum Lot Area. No minimum.
6. Minimum Lot Width. No minimum.
7. Minimum Front Yard Depth. Minimum depth is 30 feet. When fronting on the right-of-way of a major thoroughfare the front yard shall be measured from the proposed right-of-way line.
8. Minimum Side Yard. None required except adjacent to the R District, in which case, not less than 100 feet, except where adjoining a railroad right-of-way.
9. Minimum Rear Yard Depth. Minimum depth 40 feet, unless the rear lot line adjoins a railroad right-of-way, in which case, none is required.
10. Exceptions. See Section 165.10.

**165.10 EXCEPTIONS; INTERPRETATION.**

1. Structures Permitted above Height Limit. The building height limitations of this chapter shall be modified as follows:
  - A. Chimneys, cooling towers, fire towers, grain elevators, monuments, pent houses, stacks, stage towers or scenery lofts, tanks, silos, water towers, ornamental towers, and spires, radio or television towers or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances.
  - B. Public, semi-public or public service buildings, hospital, sanitariums, or schools, when permitted in a district, may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line at least one foot, in addition to the minimum yard requirements for each two feet of additional building height above the height limit otherwise provided in the district in which the building is constructed.
2. Double Frontage Lots. Buildings on double frontage lots extending through from street to street shall provide the required front yard on both streets.
3. Rear Yards Adjacent to Alleys. In computing the depth of a rear yard where the rear yard opens on an alley, one-half of the alley width may be included as a portion of the rear yard.
4. Other Exceptions to Yard Requirements. Every part of a required yard shall be open to the sky unobstructed with any building or structure except for a permitted accessory building in a rear yard and except for ordinary projections not to exceed 24 inches, including roof overhang.

**165.11 BUILDING PERMITS.**

1. Building Permits Required. Buildings or other structures shall not be erected, moved, added to, or structurally altered without a permit therefor. Building permits shall be issued in conformance with the provisions of this chapter, or upon written order from the Board of Adjustment. Fees for building permits shall be as provided by City ordinance.
2. Application for Permit. All applications for building permits shall be accompanied by a plan showing the actual dimensions and shape of the lot to be built upon and the location and dimensions of the existing or proposed building or alteration. The application shall include existing or proposed building or alteration; existing or proposed uses of the building and land, the number of families, housekeeping units or rental units the building is designed to accommodate, conditions existing on the lot and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter.
3. Certificates of Zoning Compliance for Newly Altered or Nonconforming Uses.
  - A. It is unlawful to use or occupy or permit the use of occupancy of any building or premises or both or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the administrative officer stating that the proposed use of the building or land conforms to the requirements of this chapter.

- B. Certificates of zoning compliance shall be applied for coincidentally with the application for a building permit and shall be issued within 10 days after the lawful erection or alteration of the building is completed in conformity with the provisions of this chapter.
  - C. A temporary certification of zoning compliance may be issued by the administrative officer for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.
  - D. The administrative officer shall maintain a record of all certificates of zoning compliance and copies shall be furnished upon request to any person.
  - E. Failure to obtain a certificate of zoning compliance shall be a violation of this chapter and punishable under Section 165.17 of this chapter.
4. Construction and Use to Be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance. Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the City Council authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided by Section 165.17.

#### 165.12 SPECIAL PERMITS.

1. Special Permit Uses. The City Council may, by special permit, after public hearing, authorize the location of any of the following buildings or uses in any district from which they are otherwise prohibited by this chapter. Notice of time and place of hearing shall be given to all affected property owners at least 10 days in advance of the hearing by placing notices in the United States mail.
- A. Any public building erected and used by any department of the City, Township, County, State, or Federal Government for maintenance or storage.
  - B. Airport or landing field.
  - C. Homes for the aged, nursing homes, nonprofit fraternal institutions provided they are used solely for fraternal purposes, and institutions of an educational, religious, philanthropic or charitable character; provided, that the building shall be set back from all property lines a distance of not less than two feet for each foot of building height but not less than the yard requirements for the district in which located.
  - D. Mobile home parks, subject to the minimum development requirements as follows:
    - (1) Park:
      - a. Front Yard (to be measured from all streets on which park abuts): 50 feet.
      - b. Side Yard: 35 feet.
      - c. Rear Yard: 35 feet.
      - d. Area: two acres.

e. Drives: 25 feet in width surfaced with asphaltic or Portland cement concrete.

f. Sanitary Facilities: Connection with the municipal sewer system or adequate private sewage disposal facilities.

(2) Home Spaces:

a. Space Size: 50 feet by 8 feet.

b. Space Area: 4,000 square feet.

c. Off-Drive Parking: One parking space for each home space.

d. Front Yard: 15 feet.

e. Rear Yard: 10 feet.

f. Side Yard: 5 feet.

g. Multiple dwellings, except in the M District, containing three or more dwelling units, provided the minimum lot area per dwelling unit shall be as follows:

- With Public Sewer and Water - 4,000 square feet per dwelling unit;
- With Public Water and Septic Tank - 6,000 square feet per dwelling unit;
- With Private Well and Septic Tank - 10,000 square feet per dwelling unit;

E. Preschools.

F. Public Cemetery.

2. Report from Planning and Zoning Commission. Before issuance of any special permit for any of the buildings or uses listed in this section, the City Council shall refer the proposed application to the Planning and Zoning Commission, which commission shall be given 45 days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities, and other matters pertaining to the general welfare of the public. No action shall be taken upon any application for a proposed building or use referred to in this section until and unless the report of the Planning and Zoning Commission has been filed; provided, however, that if no report is received from the Planning and Zoning Commission within 45 days, it shall be assumed that approval of the application has been given by the Commission.

### 165.13 BOARD OF ADJUSTMENT.

1. Board Created. A Board of Adjustment is hereby established which shall consist of five members. The term of office of the members of the Board and the manner of their appointment shall be as provided by Section 414.8, *Code of Iowa*.

2. Meetings. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or the acting Chairperson may administer oaths and compel the attendance of witness. All meetings of the Board shall be open to the public. The Board shall keep minutes of its

proceedings showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Office of the Board and shall be a public record. The presence of three members shall be necessary to constitute a quorum.

3. Appeals. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within 10 days by filing with the administrative officer and with the Board, a notice of appeal specifying the grounds thereof. The administrative officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative officer certifies to the Board after notice of appeal shall have been filed with such officer, that by no reason of facts stated in the certificate a stay would in the opinion of such officer cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the administrative officer and on due cause shown.
4. Fee for Appeal. Fee for appeal is \$5.00, which will be returned if sustained by the City.
5. Hearings; Notice. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney.
6. Powers; Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative officer in the enforcement of this chapter.
7. Powers; Special Exceptions. The Board may permit the following exceptions to the district regulations set forth in this chapter, subject to the requirements of this section:
  - A. To permit erection and use of a building or the use of premises or vary the height and the regulations in any location for a public service corporation for public utility purposes or for purposes of public communication, which the Board determines is reasonably necessary for the public convenience or welfare.
  - B. To permit the extension of a use into a district where it would be otherwise prohibited in a case where a district boundary line is so located that a lot or plot is in more than one district.
  - C. To hear and decide only such other special exceptions as the Board is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board unless and until:

- (1) A written application for special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.
- (2) Notice of time and place of the Board's meeting and of the purpose shall be given in advance of the public hearing. The owner of the property for which the special exception is sought, or his agent, and any other affected property owners shall be notified by mail. Notice of the hearing may also be posted on the property for which the special exception is sought.
- (3) The public hearing shall be held. Any party may appear in person, or by agent or attorney.
- (4) The Board shall make a finding that it is empowered under the Section of this ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which special exception is granted, shall be deemed a violation of this chapter and punishable under Section 165.17 of this chapter. The Board may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set, shall void the special exception.

8. Powers; Variances. The Board shall authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board unless and until:

- A. A written application for variance is submitted demonstrating:
  - (1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or building in the same district.
  - (2) That literal interpretation of the provisions of this chapter would deprive the applicant rights commonly enjoyed by other properties in the same district under the terms of this chapter.
  - (3) That the special conditions and circumstances do not result from the actions of the applicant.
  - (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- B. Notice of public hearing shall be given in advance of the public hearing. The owner of the property for which the variance is sought, or his agent, and any other affected property owners shall be notified by mail.

- C. The public hearing shall be held. Any party may appear in person or by agent or by attorney.
- D. The Board shall make findings that the requirements of this section have been met by the applicant for a variance.
- E. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance.
- F. The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 165.17 of this chapter. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

9. Decisions of the Board of Adjustment. In exercising the above mentioned powers, the Board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have powers of the administrative officer from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to affect any variation in the application of this chapter.

10. Judicial Review of Decision. Any taxpayer, or any officer, department, board, or bureau of the City, or any persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole, or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

#### 165.14 APPEALS.

1. Appeal Order Established. It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the administrative officer and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the administrative officer, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law.

2. City Council Authority. It is further the intent of this chapter that the duties of the City Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in the previous section of this chapter. Under this chapter, the City Council shall have only the duties of:

- A. Considering and adopting or rejecting proposed amendments or the repeal of this chapter as provided by law; and
- B. Considering applications for special permits as specified in Section 165.12; and
- C. Considering applications for uses listed in the M - Industrial District.

#### **165.15 CHANGES AND AMENDMENTS.**

1. Council Authority; Petitions. The City Council may on its own motion or on petition after public notice and hearing as provided by law and after report by the Planning and Zoning Commission amend, supplement or change the boundaries or regulations herein or subsequently established. Any owner or owners of property may present a petition duly signed and verified, requesting an amendment, supplement, or change in the regulations prescribed for a district or part thereof. Such petition shall be signed by the owners of at least 50 percent of the area included in such proposed change and by the owners of 50 percent of the property within 300 feet therefrom, and said petition shall be filed with the Planning and Zoning Commission.

2. Planning and Zoning Commission Report; Council May Override. The Planning and Zoning Commission shall make a report to the City Council within 60 days from the date of receipt of such petition, in case the proposed amendment, supplement, or change be disapproved by the Planning and Zoning Commission, or in case of a protest against any proposed amendment or change signed by the owners of 20 percent or more either of the area of lots included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths of all the members of the City Council.

#### **165.16 FEE FOR CERTIFICATE OF ZONING COMPLIANCE.** The fee for certificate of zoning compliance shall be as follows:

- 1. New Structure – \$1.00 per \$1,000.00 or any part thereof valuation, with a minimum of \$5.00 for a building permit. The building permit fee shall include the certificate of zoning compliance.
- 2. Change of Use – The fee for a change of use shall be \$2.50 for residential uses and \$5.00 for any other use.

#### **165.17 ADMINISTRATION AND ENFORCEMENT.**

1. Permits and Licenses to Be Issued to Conforming Uses Only. All departments, officials, and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure, or purpose if the same would not conform to the provisions of this chapter.

2. Penalties for Violation.

A. Administration and Enforcement Authority.

(1) The provisions of this chapter shall be enforced and administered by the administrative officer.

(2) If the administrative officer finds that any of the provisions of this chapter are being violated, said officer shall notify in writing by

mail or personal service the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.

B. Complaints Regarding Violations. Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the administrative officer. Said officer shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

C. Permits and Licenses to Be Issued to Conforming Uses Only. All departments, officials, and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure or purpose if the same would not conform to the provisions of this chapter.

D. Penalties for Violation.

(1) Violation of the provisions of this chapter, or failure to comply with any of its requirements, shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense.

(2) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

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## CHAPTER 170

# SUBDIVISION REGULATIONS

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**170.01 TITLE.** This chapter shall be known and may be cited as “The City of Tabor, Iowa, Subdivision Control Ordinance.”

**170.02 JURISDICTION.** In accordance with and subject to the provisions of Chapters 354 and 355 of the *Code of Iowa*, this chapter shall govern division of all lands within the corporate limits of the City and subdivision and resubdivision of all land within the corporate limits of the City and within two miles of the corporate limits.

**170.03 PURPOSE.** The purpose of this chapter is to provide minimum standards for the design, development, and improvement of all new subdivisions and resubdivisions of lands within the corporate limits so that existing developments will be protected, and nonconforming uses are not created, so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, but with flexibility permitting adjustment of the general arrangement and layout of subdivisions to a wide variety of circumstances. However, a developer should utilize standards consistent with the site conditions as will assure an economically pleasant and durable neighborhood and will promote the public health, safety and general welfare of the citizens of the City and of the residents of such subdivision.

*(Code of Iowa, Sec. 354.1 and 364.1)*

**170.04 SUBDIVISIONS WITHIN TWO MILES.** Subdivisions of land within two miles of the corporate limits of the City shall be subject to the standards, conditions and procedures for review and approval prescribed by this chapter pursuant to the authority of Section 354.9 of the *Code of Iowa* and subject to the stipulation of subsection two of that section.

**170.05 APPROVAL OF PLATS OF SUBDIVISIONS.** Final approval of subdivision plats shall not be granted by the Council unless the subdivision plats conform to Sections 354.6, 354.11 and 355.8 of the *Code of Iowa*. The Council shall before issuing final approval of a subdivision plat determine whether the subdivision conforms to its Comprehensive Plan and shall give consideration to the possible burden on public improvements and to a balance of interests between the proprietor, future purchasers and the public interest when reviewing the

proposed subdivision and when requiring the installation of public improvements in conjunction with approval of a subdivision.

**170.06 RECORDING OF PLAT.** Upon approval of the final plat by the Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law.

**170.07 RECORDING OF ORDINANCE.** A certified copy of the ordinance codified in this chapter shall be filed with the Fremont and Mills County Auditors.

**170.08 TERMS DEFINED.** For the purposes of this chapter, certain words herein shall be defined as and interpreted as follows.

1. "Acquisition plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

*(Code of Iowa, Sec. 354.2[1])*

2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.

*(Code of Iowa, Sec. 354.2[2])*

3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

4. "Auditor's Plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the Auditor.

*(Code of Iowa, Sec. 354.2[3])*

5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.

6. "Building lines" means a line on a plat between which line and public right-of-way no building or structures may be erected.

7. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the Council or other hiring authority.

8. "Comprehensive Plan" means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the Council. Such Comprehensive Plan shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

9. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.

*(Code of Iowa, Sec. 354.2[4])*

10. "Cul-de-sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turnaround.

11. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.  
*(Code of Iowa, Sec. 354.2[5] and 355.1[2])*
12. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.
13. "Flood hazard area" means any area subject to flooding by a one percent probability flood, otherwise referred to as a 100-year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.
14. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a 100-year flood without cumulatively raising the waterway surface elevation more than one foot.
15. "Forty-acre aliquot part" means one-quarter of one-quarter of a section.  
*(Code of Iowa, Sec. 354.2[6])*
16. "Government lot" means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.  
*(Code of Iowa, Sec. 354.2[8] and 355.1[3])*
17. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walkways, water mains, sewers, drainageways, and other public works and appurtenances.
18. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.  
*(Code of Iowa, Sec. 354.2[9])*
19. "Lot, corner" means a lot situated at the intersection of two streets.
20. "Lot, double frontage" means any lot that is not a corner lot that abuts two streets.
21. "Metes and bounds description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.  
*(Code of Iowa, Sec. 354.2[10])*
22. "Official Plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.  
*(Code of Iowa, Sec. 354.2[11])*
23. "Original parcel" means 40 acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before the effective date of the ordinance codified in this chapter.
24. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
25. "Parcel" means a part of a tract of land.  
*(Code of Iowa, Sec. 354.2[12])*

26. "Performance bond" means a surety bond or cash deposit made out to the City, in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.
27. "Permanent real estate index number" means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.  
(*Code of Iowa, Sec. 354.2[13]*)
28. "Commission" means the Planning and Zoning Commission.
29. "Plat" means a map drawing, or chart on which a subdivider's plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.
30. "Plats officer" means the individual assigned the duty to administer this chapter by the Council or other appointing authority.
31. "Plat of survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.  
(*Code of Iowa, Sec. 354.2[14] and 355.1[9]*)
32. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.  
(*Code of Iowa, Sec. 354.2[15]*)
33. "Resubdivision" means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
34. "Street" means public property, not an alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
35. "Street, arterial" means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.
36. "Street, collector" means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.
37. "Street, local" means a street primarily designed to provide access to abutting property.
38. "Subdivider" means the owner of the property being subdivided, or such other person or entity empowered to act on the owner's behalf.
39. "Subdivision" means the accumulative effect of dividing an original lot, tract, or parcel of land, into three or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a resubdivision or re-platting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided. Any person not in compliance with the provisions of the subdivision definition at the time of its effective date, shall not be required to comply

with such provisions unless or until a new division, re-subdivision or re-platting occurs following that effective date.

*(Code of Iowa, Sec. 354.2[16] and 355.1[10])*

40. "Subdivision plat" means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and succinct name or title that is unique for the county where the land is located.

*(Code of Iowa, Sec. 354.2[17] and 355.1[11])*

41. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the *Code of Iowa*.

*(Code of Iowa, Sec. 354.2[18] and 355.1[12])*

42. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

*(Code of Iowa, Sec. 354.2[19])*

43. "Utilities" means systems for the distribution or collection of water, gas, electricity, wastewater, and storm water.

**170.09 DIVISIONS.** A division of a lot, tract or parcel of land within the corporate limits of the City after the effective date of the ordinance codified in this chapter shall be accomplished in accordance with and subject to the following stipulation:

1. A plat thereof and legal descriptions of the divided parcels shall be prepared in accordance with the requirements of Section 454 and 455 of the *Code of Iowa* and submitted to the Council for review as to compliance with statutory requirements and the requirements of this section.
2. No preliminary plat shall be required.
3. Divided tracts resulting therefrom shall be subject to zoning regulations of the District within which situated, including minimum lot size, front yard, rear yard, side yard, setback requirements and all other applicable zoning and subdivision regulations.
4. No division plat shall be approved if the result of the division is to create sublots or parcels, one or both of which have structures thereon which would be violative of zoning and subdivision regulations of constructed thereon after the division, unless the structure or structures are removed or relocated prior to the division.
5. A lot or tract which is the result of a division after the effective date of the ordinance codified in this chapter shall not again be divided without compliance with rules and regulations of this ordinance applicable to approval of plats of subdivisions.
6. If the plat of the division and legal description comply with statutory requirements and the division would not be subject to disapproval under preceding subsections 5 or 6 of this section, the Council shall approve same by resolution. If the division does not comply with the statutory requirements or with the requirements of this section, the Council shall disapprove the plat in writing, pointing out wherein the plat and descriptions do not comply with statutory requirements and/or the requirements of this section. The Council shall either approve or disapprove the plat within 60 days of its submission to the Clerk. Failure to do so shall be deemed an approval. If a subdivision and plat and all matters related to final approval of the subdivision plat conform to the standards and conditions established by this chapter and Chapters 354

and 355 of the *Code of Iowa*, the Council, by resolution, shall approve the plat and certify the resolution which shall be recorded with the plat.

**170.10 IMPROVEMENTS REQUIRED.** The subdivider shall, at said subdivider's expense, install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

**170.11 INSPECTION.** All improvements shall be inspected to insure compliance with the requirements of this chapter. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

**170.12 MINIMUM IMPROVEMENTS.** The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.

*(Code of Iowa, Sec. 364.1)*

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council after receiving the report and recommendations of the City Engineer.
2. Roadways. All roadways shall be surfaced with Portland cement concrete or with asphaltic concrete over a crushed stone base as the Council may require.
3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans With Disabilities Guidelines (ADAAG).
4. Sidewalks. Sidewalks may be required by the Council if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer.
5. Water Lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the Code of Ordinances standards, procedures and supervision.
6. Sewers.
  - A. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Council and the State Department of Health and the construction subject to the supervision of the Superintendent of public utilities.
  - B. Where sanitary sewers are not available, other facilities, as approved by the Council and the State Department of Health must be provided for the adequate disposal of sanitary wastes.
  - C. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Council and to the supervision of the Superintendent of public utilities.

**170.13 COMPLETION OF IMPROVEMENTS.** Before the Council shall approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the Superintendent of Public Works shall report that said improvements meet all City specifications and Ordinances or other City requirements, and the agreements between subdivider and the City.

**170.14 PERFORMANCE BOND.** The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the Council guaranteeing that improvements not completed will be constructed within a period of one year from final acceptance of the plat, but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

**170.15 MINIMUM STANDARDS.** The following standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Relation to Existing Streets.
  - A. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
  - B. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Council to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.
2. Acreage Subdivisions.
  - A. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.
  - B. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
  - C. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
3. Local Streets.
  - A. Local streets shall be so planned as to discourage through traffic.
  - B. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than 500 feet and shall terminate with a turnaround, having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet. The right-of-way width of the straight portion of such streets shall be a minimum of 50 feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than 35 feet.

4. Frontage Streets.
  - A. Where a subdivision abuts or contains an existing or proposed arterial street, the Council may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
  - B. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Council may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
5. Half Streets. Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the Council finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
6. Street Geometries.
  - A. Street jogs with centerline offsets of less than 125 feet shall be avoided.
  - B. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
  - C. When connecting street lines deflect from each other at any one point by more than 10 degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 200 feet for minor and collector streets, and of such greater radii as the Council shall determine for special cases.
7. Intersections.
  - A. Insofar as is practical, acute angles between streets at their intersection are to be avoided.
  - B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 60 degrees.
  - C. Property lines at street intersections shall be rounded with a radius of 10 feet, or of a greater radius where the Council may deem it necessary. The Council may permit comparable cutoffs or chords in place of rounded corners.
8. Street Names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Council.
9. Street Grades.
  - A. Street grades, wherever feasible, shall not exceed five percent, with due allowance for reasonable vertical curves.
  - B. No street grade shall be less than one-half of one percent.

10. Alleys.
  - A. Alleys shall be provided in commercial and industrial districts, except that the Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
  - B. The width of an alley shall be 20 feet.
  - C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.
  - D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead end, as determined by the Council.
11. Blocks.
  - A. No block may be more than 1,320 feet or less than 500 feet in length between the centerlines of intersecting streets, except where, in the opinion of the Council, extraordinary conditions unquestionably justify a departure from these limits.
  - B. In blocks over 700 feet in length, the Council may require at or near the middle of the block a public way or easement of not less than 10 feet in width for use by pedestrians and/or as an easement for public utilities.
12. Lots.
  - A. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
  - B. Minimum lot dimensions and sizes.
    - (1) Residential lots where not served by public sewer shall not be less than 80 feet wide or less than 10,000 square feet in area.
    - (2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
    - (3) Corner lots for residential use shall have an extra 10 feet of width to permit appropriate building setback from and orientation to both streets.
  - C. The subdividing of the land shall be such as to provide, by means of public street, each lot with satisfactory access to an existing public street.
  - D. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

- E. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
13. **Building Lines.** Building lines shall be shown on all lots within the platted area. The Council may require building lines in accordance with the needs of each subdivision.
14. **Easements.**
- A. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 10 feet wide.
  - B. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.
15. **Plat Markers.** Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the Council. The markers shall be of such material, size and length as may be approved by the Council.

**170.16 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS.** In obtaining final approval of a proposed subdivision by the Council, the subdivider and owner shall submit a plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

**170.17 PRE-APPLICATION CONFERENCE.** Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the City Clerk. The conference should be attended by the City Clerk and such other City or utility representatives as is deemed desirable; and by the owner and said owner's engineer and/or planner, as deemed desirable. The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

**170.18 SKETCH PLAN REQUIRED.** For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

**170.19 PRESENTATION TO COMMISSION OR CITY COUNCIL.** The subdivider may present the sketch plan to the Council for review, prior to incurring significant costs preparing the preliminary or final plat.

**170.20 SUBDIVISION CLASSIFIED.** Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. **Minor Subdivision.** A minor subdivision is any subdivision that contains not more than four lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel.
2. **Major Subdivision.** A major subdivision is any subdivision that, in the opinion of the Council, does not for any reason meet the definition of a minor subdivision.

**170.21 PLATS REQUIRED.** In order to secure approval of a proposed subdivision, the owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.

*(Code of Iowa, Sec. 354.6)*

**170.22 REFERRAL OF PRELIMINARY PLAT.** The City Clerk shall forthwith refer two copies of the preliminary plat to the City Engineer, two copies to the Commission, two copies to the Council, and two copies to the County Engineer if the proposed subdivision includes areas outside the area.

**170.23 ACTION BY THE CITY ENGINEER.** The City Engineer shall carefully examine said preliminary plat as to its compliance with Section 354.8 of the *Code of Iowa* and the laws and regulations of the City, the existing street system, and good engineering practices, and shall, as soon as possible, submit the City Engineer's findings in duplicate to the Council together with one copy of the plat received.

*(Code of Iowa, Sec. 354.8)*

**170.24 ACTION BY COMMISSION.** After receiving the City Engineer's report, the Commission shall study the preliminary plat and other material for conformity thereof to these regulations. The Commission shall make recommendations in writing as to approval, rejection or modifications to the plan within 30 days after the date of submission with the Clerk. If the Commission fails to submit its recommendations within the 30 days, the Council shall proceed to act upon the plat and report to the engineer as provided in Section 170.25.

**170.25 ACTION BY THE COUNCIL.** The Council shall, upon receiving the report of the City Engineer, as soon as possible, but not more than 30 days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the Council does not act within 30 days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional 60 days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

**170.26 REQUIREMENTS OF PRELIMINARY PLAT.** The subdivider shall prepare and file with the City Clerk four copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.

7. Present and proposed easements, showing locations, widths, purposes and limitation.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county.
10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
13. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater, unless the City Council waives this requirement.

**170.27 FINAL PLAT.** The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

**170.28 REFERRAL OF FINAL PLAT.** The subdivider shall, within 12 months of the conditional approval of the preliminary plat by the Council prepare and file four copies of the final plat and other required documents with the City Clerk as hereafter set forth, and upon the subdivider's failure to do so within the time specified, the conditional approval of the preliminary plat shall be null and void unless an extension of times is applied for and granted by the Council. Upon receipt of the final plat and other required documents, the City Clerk shall transmit two copies of the final plat to the Council for its recommendations and approval. Except for a final plat for a minor subdivision or an auditor's plat as set forth herein, no final plat shall be considered by the governing body until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. At its discretion the Council may refer the final plat to the City Engineer or the Commission or both for review and comment, but such referrals shall not exceed the time within which action must be taken by the Council. Two copies shall accompany each such referral.

**170.29 REQUIREMENTS OF FINAL PLAT.** The final plat shall conform to the requirements of Chapter 355, *Code of Iowa*, and shall be clearly and legibly drawn to a scale of not more than 100 feet to one inch with permanent ink on a reproducible tracing material. It shall show:

*(Code of Iowa, Sec. 354.8 and 355.8)*

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.

3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City Plan.
4. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.
5. The signature and acknowledgment of the subdivision land owner and the subdivision land owner's spouse.
6. A sealed certification of the accuracy of the plat and that the plat conforms to Section 354.8 of the *Code of Iowa* by the professional engineer or land surveyor who drew the final plat.

**170.30 FINAL PLAT ATTACHMENTS.** The final plat shall have the following attached to it:

1. A correct description of the subdivision land.  
(*Code of Iowa, Sec. 354.6[2]*)
2. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.
3. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.
4. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.
5. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.
6. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
7. A statement by the Auditor approving the name or title on the subdivision plat.
8. A certificate of dedication of streets and other public property.  
(*Code of Iowa, Sec. 354.11[1]*)
9. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a 50 foot horizontal scale and a five foot vertical scale with west or south at the left.

10. A certificate by the City Clerk or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the City Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

11. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, *Code of Iowa*.

*(Code of Iowa, Sec. 354.11[2] and 354.12)*

**170.31 ACTION BY THE COUNCIL.** Upon receipt of the plat, but not more than 60 days following submission of the final plat to the Clerk as stated in Section 170.23 the Council shall either approve or disapprove the final plat.

*(Code of Iowa, Sec. 354.8)*

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.

3. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of Fremont and Mills Counties, Iowa, and shall file satisfactory evidence of such recording before the City shall recognize the plat as being in full force and effect.

**170.32 VARIANCES.** Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this chapter would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secure. Provided, however, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. Such variances and waivers may be granted only by the affirmative vote of three-fourths of the members of the Council.

**170.33 CHAIN SUBDIVIDING.** No more than two building permits for each separate tract existing at the effective date of the ordinance codified in this chapter shall be issued unless the tract has been platted in accordance with this chapter; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by the zoning ordinance or additions or improvements to a main or accessory building already legally located upon said tract.