

## CHAPTER 165

# ZONING REGULATIONS

165.01 Title	165.14 Exceptions and Modifications
165.02 Interpretation of Standards	165.15 Off-street Loading Spaces
165.03 Definitions	165.16 Off-street Parking Area
165.04 Establishment of Districts and Boundaries	165.17 Landscape, Planting and Screening
165.05 Application of District Regulations	165.18 Wireless Telecommunications Towers & Antennas
165.06 General Regulations	165.19 Special Permits
165.07 Nonconforming Uses	165.20 Administration Waiver
165.08 Agricultural Zoning District Regulations	165.21 Board of Adjustment
165.09 Residential Zoning District Regulations	165.22 Occupancy Permits
165.10 Commercial Zoning District Regulations	165.23 Plats
165.11 Industrial Zoning District Regulations	165.24 Amendments
165.12 Public Utility District Regulations	165.25 Zoning Enforcement Officer
165.13 Planned Unit Development District Regulations	165.26 Violation and Penalties
165.13A Government Facility District	165.27 Enforcement
165.13B Floodplain Overlay District Regulations	165.28 Special Events

**165.01 TITLE.** This chapter establishes comprehensive zoning regulations for the City of Polk City, Iowa, and provides for the administration, enforcement and amendment thereof. This chapter shall be known and may be cited and referred to as the “Zoning Code” of the City.

**165.02 INTERPRETATION OF STANDARDS.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this chapter shall control.

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

1. “Accessory use or structure” means a use or structure on the same lot with and of a nature subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to use of the principal building.
2. “Adult entertainment business” means and includes any of the following:
  - A. “Adult amusement or entertainment” means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to “sex act” or “specified anatomical areas,” as defined herein, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.
  - B. “Adult bookstore” means an establishment having as a significant portion of its stock in trade books, films, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by an emphasis on matter depicting or describing “sex act” or “specified anatomical areas.”
  - C. “Adult hotel or motel” means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein material is presented which is distinguished or

characterized by an emphasis on depicting or describing “sex act” or “specified anatomical areas” for observation by the individuals therein.

D. “Adult motion picture arcade” means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing “sex act” or “specified anatomical areas.”

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

F. “Adult photo studio” means an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing “specified anatomical areas” or “sex acts” as defined herein.

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

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

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

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

3. “Alley” means a public way, other than a street, twenty (20) feet or less in width, affording secondary means of access to abutting property.

4. “Apartment” means a room or suite of room in a multiple dwelling intended or designed for use as a residency by a single family.

5. “Attic” means a space under a gable, hip or gambrel, or other roof, the finished floor of which is, or would be, at or entirely above the level of the wall plates

of at least two (2) exterior walls, and the height of which, from the floor level to the highest point of the roof, does not exceed ten (10) feet.

6. “Basement” means a story having part but no more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulation. When a story has more than one-half of its height below grade, the story constitutes a cellar and shall not be counted as a story for the purpose of height regulation.

7. “Bed and Breakfast” means a facility providing temporary lodging other than a hotel, motel or boarding house and which are classified as follows:

A. Residential B & B which is owner occupied and has less than three (3) rental units.

B. B & B Inn which may be owner occupied and has up to and including twelve (12) rental units.

C. B & B Hotel which may be owner occupied and has more than twelve (12) rental units.

8. “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, railroad right-of-way or water.

9. “Board” means the Board of Adjustment.

10. “Boarding house” or “Rooming house” means a building other than a hotel where, for compensation, meals and lodging are provided for up to two (2) persons and only as an accessory use to the principal single-family residence and no more than 50% transient occupancy.

11. “Building” means any structure having a roof supported by walls or by columns designed or intended for enclosure, shelter or housing of persons, animals or property. When any portion thereof is separated by party walls without window, door or other openings, each portion so separated shall be deemed a separate building.

12. “Building frontage” means that wall or side of a building which is adjacent and most nearly parallel to a street.

13. “Building, height of” means the vertical distance from the average natural grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level (between eaves and ridge) for gable, hip, and gambrel roofs.

14. “Building line” means the line of the outside wall of the building or any enclosed projection thereof nearest the street.

15. “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 twelve thousand (12,000) gallons.

16. “Carport” means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For the purposes of this chapter, a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.

17. "Cellar" means that portion of a building having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.
18. "Center" or "complex" means a building or group of buildings which are designed to use common facilities such as parking or sidewalk.
19. "Channel" means a natural or artificial watercourse of perceptible extent, with a definite bed and definite banks to confine and to conduct continuously or periodically flowing water.
20. "Clinic, medical or dental" means a building or buildings in which physicians, dentists, or physicians and dentists, and allied professional assistants are associated for the purpose of carrying on their profession.
21. "Convenience store" means an establishment for retail sale of petroleum products and other supplies for motor vehicles, as well as for the retail sale of a variety of other items typically sold in grocery stores.
22. "Court" means an open, unobstructed and unoccupied space other than a yard, which is bounded on two (2) or more sides by a building on the same lot.
23. "Day nursery" or "nursery school" means any private agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than lodging overnight, for six (6) or more unrelated children of preschool age, for compensation.
24. "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.
25. "Duplex" means a residential two-family dwelling with a common wall.
26. "Dwelling" means any stationary, permanent building or portion thereof which is designed or used exclusively for residential purposes, but not including a cabin or camping trailer.
27. "Dwelling, single-family, detached" means a residence designed for or occupied by one family only, entirely surrounded by yard on the same lot.
28. "Dwelling, single-family, bi-attached" or "semi-detached" means a dwelling designed for or occupied by one family only, which is erected on a separate lot and is joined to another such residence on one side only by wall located on the lot line and which has yards on the remaining sides.
29. "Dwelling, duplex" or "two-family" means a residence designed for or converted for occupancy by two (2) families only, with separate housekeeping and cooking facilities for each dwelling.
30. "Dwelling, multiple" means a residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.
31. "Dwelling, condominium" means a multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the others and where the general common elements of the structure, as defined under the Code of Iowa, is shared by one or more persons, corporations or other legal entities capable of holding or owning an interest in real property.

32. “Dwelling, row” means any one of three or more residences designed for or occupied only by one family within a townhome development which are attached and in a continuous row. Each dwelling is designed and erected as a unit on a separate lot with an individual entrance. All dwelling units must be separated horizontally from each other dwelling by a dividing wall, but may not be separated vertically from each other by a dividing floor or ceiling. No more than six units shall be permitted in a single structure.
33. “Dwelling, garden home” means a building containing only one dwelling unit on a separate lot and designed for and occupied exclusively for residence purposes by only one family within a townhome development.
34. “Dwelling, townhome” means a row dwelling or garden home as defined herein which is characterized by common elements which are specified in or determined under the rules and regulations set forth by recorded covenants. Said covenants shall establish the guidelines for maintenance of common elements and permit free movement through common areas by members of the homeowners association to assure access to the structure exterior of each townhome unit by the individual unit owner.
35. “Dwelling, group home” means a dwelling shared by four (4) or more handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which the staff provide care, education, and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible.
36. “Dwelling unit” means a room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.
37. “Family” means one or more persons each related to the other by blood, marriage, adoption, legal guardianship or as foster parent-children who are living together in a single dwelling and maintaining a common household. Not more than two persons not so related, living together on the premises as a common household, may constitute a “family” in a single-family residential district. A “family” may include domestic servants residing with said “family.”
38. “Farm” means an area of ten (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.
39. “Flood” means a temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.
40. “Flood plain” means the land adjacent to a body of water that has been or may be hereafter covered by flood water, including but not limited to the 100-year flood.
41. “Floodway” means the channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and to discharge the flood water

or flood flows of any river or stream, including but not limited to flood flows associated with the 100-year flood.

42. “Floor area ratio” means the gross floor area of all buildings on a lot divided by the lot area on which the building or buildings are located.

43. “Garage, private” means an enclosed structure intended for and used for the housing of motor-driven vehicles of the residents of the premises.

44. “Garage, public” means any building or premises other than a private garage used for the equipping, refueling, servicing, repairing, hiring, selling or storing motor-driven vehicles.

45. “Gas station” means any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such product as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories and other items customarily associated with the sale of such products; for the rendering of services and making of adjustments and replacements to motor vehicles, and the washing, waxing and polishing of motor vehicles, as incidental to other services rendered; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are: spray painting, body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or re-treading of tires. No service operations are permitted outside a fully enclosed building. No outdoor storage of parts and/or vehicles in the process of being repaired is permitted. Truck stops are specifically excluded from this definition.

46. “Height” means the vertical distance from the average level of ground grade to the highest portion of the structure.

47. “Home occupation” means any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for 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, are NOT deemed home occupations: clinics, doctors’ offices, hospitals, barber shops, beauty parlors, dress shops, real estate offices, millinery shops, tea rooms, tourist or nursing homes, animal hospitals and kennels.

48. “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.

49. “Inoperable motor vehicle” means any motor vehicle which lacks (1) current registration, or (2) two or more wheels or other component parts, the absence of which renders the vehicle totally unfit for legal use of highways.

50. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old rope, rags, batteries, paper trash, rubber debris, waste; dismantled or inoperable vehicles, machinery and appliances, or parts of such vehicles, machinery or appliances; iron, steel, or other old or scrap ferrous material; old discarded glass, tinware, plastic, or old discarded household goods or hardware.

51. “Junk yard” means any place not fully enclosed in a building, used in whole or in part for the storage, salvage or deposit of junk, used lumber or salvaged wood, whether in connection with a business or not, which encompasses an area of two hundred square feet or more, or any place where more than two inoperable motor vehicles or used parts and materials thereof, when taken together equal the bulk of two motor vehicles, are stored or deposited. For the purpose of this chapter, “junk yard” includes salvage yard, wrecking yard, used lumber yard and places for storage of salvage wood.
52. “Kennel, dog” means any premises on which four (4) or more dogs, six months old or older, are kept.
53. “Lodging house” means a building where lodging or boarding is provided for compensation for five (5) or more, but not exceeding twenty (20) persons not members of the family therein residing.
54. “Lot” means, for zoning purposes as covered by this chapter, 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 a portion of a lot of record;
  - B. A combination of complete lots of record and/or portions of lots of 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.
55. “Lot line” means the property line bounding a lot.
56. “Lot measurements” means:
- A. “Depth” means the mean horizontal distance between the front and rear lot lines.
  - B. “Width” means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the minimum building setback line.
57. “Lot of record” means a lot which is part of a subdivision or a lot or parcel described by metes and bounds, the deed to which is recorded in the office of the Polk County Recorder.
58. “Lot types” means:
- 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. “Reverse 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.

59. “Manufactured home,” as used in this chapter, means a factory-built structure, which is manufactured or constructed under the authority of 42 USC §5403 and which is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A “mobile home” is not considered to be a manufactured home, unless it has been converted to real property as provided in the Code of Iowa, and shall be taxed as a site-built dwelling.

60. “Mini warehouse” means a building or group of buildings not more than one (1) story and twenty (20) feet in height and not having any other dimension greater than one hundred fifty (150) feet per building, containing varying sizes of individualized, compartmentalized and controlled access stalls or lockers for the dead storage of customers’ goods or wares, excluding junk explosives or flammable materials, and other noxious or dangerous materials, including, if any, caretaker or supervisors’ quarters as an accessory use. No business activities other than rental or storage units shall be conducted on the premises.

61. “Mobile home” means any vehicle which has been designed and constructed to be towed or driven upon the public highway or waterways, and may be used as a place for human habitation or sleeping place for one or more persons, which has not been converted to real property under the provisions of the Code of Iowa.

62. “Mobile home, independent” means a mobile home which has a water closet and a bath tub or shower.

63. “Mobile home service building” means a building housing toilet and bathing facilities for men or women and a “slop-water sink.”

64. “Mobile home space, independent” means a mobile home space which has individual water and sewer connections available.

65. “Mobile home park” means any site, lot or portion of a lot upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such mobile home park.

66. “Motel,” “motor lodge,” “auto court,” etc. means a building or group of attached or detached buildings containing individual sleeping or living units for nonresidents or transients with garage attached or parking facilities conveniently located to each such unit.

67. “Nonconforming use” means any building or land lawfully occupied by a use at the time of passage of this Zoning Code (or any amendment thereto) which does not conform after the passage of the Zoning Code (or amendment thereto) with the use regulations of the district in which it is situated.

68. “Nursing or convalescent home” means a building or structure having accommodations where care is provided for invalid, infirm, aged, convalescent or physically disabled persons, including insane and other mental cases, and inebriate, but not including contagious cases.

69. “Occupant frontage” means that side or wall of a building in which the main public entrance to the premises is located.

70. “One hundred (100) year flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year as determined by the Iowa Natural Resources Council.
71. “Principal use” means the main use of land or structures as distinguished from an accessory use.
72. “Parking space” means a permanently surfaced area which includes the parking stall plus the maneuvering space required for the parking of motor vehicles. Space for maneuvering, incidental to parking, shall not encroach upon any public right-of-way.
73. “Porch, unenclosed” means a roofed projection which has no more than fifty percent (50%) of each outside wall area enclosed by a building or siding material, other than meshed screens.
74. “Recreational vehicle” means any camping-type vehicle, boat trailer, All-Terrain vehicle trailer, snowmobile trailer or utility trailer used or so constructed as to permit its frequent use as a conveyance upon the public streets or highways and duly licensable as such, and includes self-propelled and nonself-propelled vehicles. For the purposes of this Chapter, recreational vehicles shall not include boats, ATVs, or snowmobiles.
75. “Restaurant” means a business where the dispensing and the consumption at indoor tables of edible foodstuff and/or beverage is the principal business, including a café, cafeteria, coffee shop, delicatessen, lunchroom, tearoom, dining room, bar, cocktail lounge or tavern. The total seating area located within the enclosed portion of the premises is more than fifty (50) percent of the total floor area.
76. “Restaurant, drive-in/carry-out” means an auto-oriented use whose principal operation is the dispensing of edible foodstuff and/or beverage for consumption in automobiles, at indoor or outdoor tables, at standup counters or to be carried off the premises. The total seating area, if provided, is less than fifty (50) percent of the floor area.
77. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling of roof next above it.
78. “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 (4) feet above the top floor level. A half story containing independent apartments or living quarters shall be counted as a full story.
79. “Street” means a public or private thoroughfare which affords the principal means of access to abutting property.
80. “Street line” means a dividing line between a lot, tract, or parcel of land and a contiguous street.
81. “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.
82. “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, “structure” includes buildings, walls, fences, billboards and poster panels.

83. “Truck stop” means any large gas station facility containing more than ten (10) pump dispensers or any gas station designed to accommodate the regular fueling or servicing of semi-trucks.

84. “Vehicle service station” or “Automotive service station” or “lube shop” means any building or premises used for the rendering of minor services and making of adjustments and replacements to motor vehicles, such as oil changes and replacement of filters, and the washing, waxing and polishing of motor vehicles, as incidental to other services rendered.; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are: spray painting, body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or re-treading of tires. No service operations are permitted outside a fully enclosed building. No outdoor storage of parts and/or vehicles in the process of being repaired is permitted.

85. “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, except as otherwise provided herein.

86. “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.

87. “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 principal building, excluding steps, decks, unenclosed balconies and porches. On corner lots, the rear yard is the yard opposite the narrowest front yard.

88. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building.

**165.04 ESTABLISHMENT OF DISTRICTS AND BOUNDARIES.** For the purpose of this Zoning Code, the 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 Code.

A-1	Agricultural District
R-1	Single Family Detached Residential District
R-1A	Single Family Residential District
R-2	One and Two-Family Residential District
R-2A	Townhome Residential District
R-3	Multiple-Family Residential District
R-4	Mobile Home Park Residential District
C-TS	Town Square Business District
C-1	Central Business District
C-2	Commercial District
C-3	Office Park Commercial District
C-4	Neighborhood Friendly Commercial District
M-1	Light Industrial District
M-2	Heavy Industrial District
U-1	Public Utility District
PUD	Planned Unit Development District
GF	Government Facility District
FP	Floodplain Overlay 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 Zoning Code of the City of Polk City, Iowa, adopted on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.” If, in accordance with the provisions of this chapter, changes are made in district boundaries or other matter portrayed 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 Council.<sup>†</sup> Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made, the Official Zoning Map referred to herein shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City. 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. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of use, the Council may by ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Code or any subsequent amendment thereto. 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 Official Zoning Map adopted on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, as part of the City’s Zoning Code.”

**165.05 APPLICATION OF DISTRICT REGULATIONS.** The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

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<sup>†</sup> **EDITOR’S NOTE:** (See table at the end of this chapter for ordinances amending the zoning map.)

1. 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.
2. 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 except as approved by the Planning and Zoning Commission and Council as a non-conforming use of land;
  - 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.
  - E. Which increases its non-conformity.
3. 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.
4. Yards or lots existing at the time of passage of this chapter shall not be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.
5. All new residential structures shall meet the minimum square footage requirements as specified in the various zoning districts. The minimum dimension of new residential structures shall be 20 feet in width and length.

#### **165.06 GENERAL REGULATIONS.**

1. Fences, Walls and Vision Clearance.
  - A. On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of two and one-half (2½) and ten (10) feet above the centerline grades of the area described as follows: that area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five (25) feet from the point of intersection of said right-of-way lines.
  - B. No fence shall be constructed without prior approval of a building permit in accordance with Chapter 156 of this Code of Ordinances. All permit fees shall be in accordance with the fee schedules as established by resolution of the Council.
  - C. In any residential district, a fence or wall not exceeding forty-two (42) inches in height and not greater than 50% opaque is permitted within the limits of front yards or street side yards.
  - D. In any district, fences and walls not exceeding six (6) feet in height are permitted within the limits of interior side and rear yards, with the exception of double frontage lots. Fences and walls in required rear yards of double frontage lots and in the street side yards of corner lots shall not exceed

forty-two (42) inches in height, shall be no greater than 50% opaque, and may encroach a maximum distance of 15 feet into the required rear or street side yard, provided said encroachment does not intrude into a required buffer.

E. In any industrial district, a fence not exceeding eight (8) feet in height is permitted within the limits of rear yards and interior side yards.

F. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment. (This provision does not apply to nursing homes or convalescent homes as herein defined.)

G. Acceptable materials for fences in all yards shall include wrought iron and similar decorative steel, wood, vinyl, polymer, decorative masonry components as approved by the Building Official, or other material approved by the Council. Additional acceptable materials for fences in rear yards and interior side yards only shall also include chain link and vinyl-clad chain link. Unacceptable materials shall include woven wire, barbed wire and electrical fencing.

H. No fences shall be placed in or across easements or in such a manner as to restrict drainage. Fences may be permitted within required buffers if specifically approved by the Building Official.

I. Temporary snow fences shall be permitted from November 1 through April 1 of each year without a permit.

J. On residentially-zoned lots 3.0 acres in size or greater and having a minimum of 200 linear feet of frontage to a public street and no more than one residential building on said lot, residential estate fences shall be permitted within the limits of front yards or street side yards subject to the following:

(1) Residential estate fences shall be a maximum of eight (8) feet tall with the exception of decorative individual posts or columns which shall be a maximum of nine (9) feet tall.

(2) Residential estate fences shall maintain a consistency of 50% open space for the full length of said fence. This calculation shall be provided by the applicant in conjunction with the building permit and shall consider all materials including posts, columns, structural supports and fabric.

(3) Residential estate fence fabric material shall be wrought iron, powder-coated steel or similar decorative metal. Chain link fences of any type are prohibited.

(4) Residential estate fence columns or posts shall be no closer than eight (8) feet on center. Said columns or posts shall be of permanent construction materials, such as brick or stone; or shall be of wrought iron, powder-coated steel or similar decorative metal to match fence fabric. Concrete block or cast-in-place concrete may be used for structural purposes only.

(5) Residential estate fences shall not be constructed within the vision triangle bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five (25) feet from the point of intersection of said right-of-way lines.

(6) All columns, posts, footings and appurtenances shall be entirely located on private property.

(7) Upon the platting or replatting of a lot, the newly platted lot(s) will be required to meet the then current fence ordinance.

K. On agriculturally-zoned parcels 10.0 acres in size or greater, farm fences shall be permitted within the limits of front yards or street side yards subject to the following:

(1) Farm estate fences shall be a maximum of four (4) feet tall.

(2) Farm fences shall maintain a consistency of 50% open space for the full length of said fence. This calculation shall be provided by the applicant in conjunction with the Building Permit and shall consider all materials including posts, columns, structural supports and fabric.

(3) Acceptable materials for only farm fences shall be woven wire, barbed wire (no more than 3 strands per section), electric fence (no more than 1 strand per section), chain link, vinyl-clad chain link, wrought iron and similar decorative steel, wood, vinyl, polymer, decorative masonry components as approve by the Building Official, or other material approved by Council.

(4) Farm fences shall not be constructed within the vision triangle bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five (25) feet from the point of intersection of said right-of-way lines.

(5) All columns, posts, footings and appurtenances shall be entirely located on private property.

(6) Upon the platting or replatting of a parcel, the newly platted lot(s) will be required to meet the then current fence ordinance.

2. Street Frontage Required. Except as may be permitted herein, no lot shall contain any building used for single-family dwelling purposes unless the lot abuts for at least twenty (20) feet on a public street, and no lot shall contain any building used for duplex or multiple-family dwelling purposes unless the lot abuts for at least forty (40) feet on a public street. On plats filed after January 1, 2003, the minimum frontage distance for single-family dwellings shall increase to forty (40) feet.

3. Accessory Buildings and Structures. No accessory building shall be erected in any required yard other than a side or rear yard, except as provided herein. Accessory buildings shall be setback at least five (5) feet from rear lot lines and alley lines, and at least three (3) feet from lot lines of adjoining lots, and on a corner lot they shall conform to the setback regulations on the side street as described in paragraph 4 of this subsection. Accessory buildings may be erected as a part of the principal building or may be connected thereto by a breeze-way or similar structure, provided all yard requirements for a principal building are complied with. An accessory building which is not a part of the principal building shall not occupy more than thirty percent (30%) of the required rear yard and shall not exceed sixteen (16) feet in height; however, this regulation shall not be interpreted to prohibit the construction of a garage up to four hundred forty (440) square feet in size on any rear yard that meets the minimum setbacks for the principal structure. No accessory

building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.

3a. Mechanical Units. In any residential district, air conditioning compressor-condensers or other mechanical units may be located in any side yard and in any rear yard, provided that: (i) in any side yard adjacent to a street, they shall not be placed more than five (5) feet from the principal structure and shall be screened from the street by a solid fence or plantings; and (ii) in any permitted yard other than a side yard adjacent to a street, the compressor-condenser for any unit of five (5) ton capacity or more shall not be located within twenty-five (25) feet of any lot line and a compressor-condenser with less than five (5) ton capacity shall not be located within five (5) feet of any lot line unless screened therefrom by a solid fence or plantings. In any commercial or industrial district, air conditioning compressor-condensers may be located in any yard adjoining a street if screened therefrom by a solid fence or plantings. Air conditioning compressor-condensers may be located in any side yard which does not adjoin a street and any rear yard, unless the adjoining lot is located in a residential district in which case the residence district regulations shall apply. The bottom edge of required screening in any district shall be no more than six (6) inches above the ground, and the upper edge shall extend not less than one (1) foot above the top of the compressor-condenser.

*(Ord. 2013-100 – April 13 Supp.)*

A. In the “R” districts, a private garage is permitted in the side or rear yard on the same lot with a dwelling. The said garage maybe a separate building, or a separate room within, or attached to the dwelling. 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 chapter. The following regulations and interpretations also apply to this paragraph:

- (1) Each detached private garage or accessory building shall be at least three (3) feet from a party lot line and five (5) feet from the alley line.
- (2) No detached garage or accessory building is permitted within the limits of a front yard.
- (3) A detached garage or accessory building is permitted within the limits of a rear or side yard.
- (4) Detached garages or accessory buildings shall not be placed in any rear yard or any side yard so that any part of such building is nearer a street line than is permitted for a wall of a principal building on the same lot.

B. Public garages providing storage capacity for more than five (5) motor vehicles or in which motor vehicles are repaired for compensation shall not have an entrance or exit for motor vehicles within fifty (50) feet of any “R” district, or within one hundred (100) feet of the entrance or exit of any previously existing public or private school, playground, public library, church, hospital or children’s institutions.

4. Yards. 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 the ordinary projections of sky-lights, sills, belt courses, fireplace doghouses, cornices and ornamental features projecting not to exceed twelve (12) inches. Steps may encroach into any yard; however decks, unenclosed balconies and porches may encroach into rear yards only. Where drainage, slope, or soil conditions necessitate the need for a restrictive easement on a plat the City Council, upon recommendation of the Planning and Zoning Commission or City Engineer, may require rear or side yards on said plat to be established based on a measurement from the easement line rather than the property line.

5. Corner Lots. For corner lots or reverse corner lots, the street side yard shall be equal in width to the front yard setback or to the setback regulation of the adjoining lots to the rear having frontage on the intersecting side street, whichever is less. Exceptions to these requirements, if any, are as stipulated in Section 165.14.

6. Double Frontage Lots. Building on through lots extending through from street to street shall provide the required front yard on both streets. Exceptions to these requirements, if any, are as stipulated in Section 165.14.

7. Mixed-Use Yard Requirements. In instances where buildings are erected containing two or more uses housed vertically, the required side yards for the first floor use shall control.

8. Home Occupations.

A. Purpose. The regulations of this chapter dealing with home occupations are designed to protect and maintain the residential character of the neighborhood, while permitting certain limited commercial activities which have traditionally been carried out in a residential dwelling. The use of the dwelling unit for a home occupation shall be clearly incidental to and subordinate to its use for residential purposes by its occupants.

B. Definition of Home Occupation; Representative Activities. Permitted home occupations include, but are not limited to, the following lists of activities; provided, however, each permitted home occupation shall be subject to the limitations hereinafter set forth, and to all other regulations applicable to the district in which it is located:

(1) Facilities used by a physician, surgeon, dentist, lawyer, clergyman, or other professional person, for emergency consultation or treatment, but not for the general practice of such person's profession.

(2) Providing instruction to no more than four (4) students at a time.

(3) Daycare or babysitting of no more than five (5) nonresident children.

(4) Studio of an artist, photographer, craftsman, writer or composer.

(5) Renting of rooms by a resident owner to no more than two (2) roomers.

(6) Millinery, dressmaking, tailoring, canning, laundering, and similar domestic service activities.

C. Limitation on Home Occupation Activities. Wherever, in this chapter, home occupation activities are authorized in any zoning district, such activity may only be undertaken subject to the following limitations, unless otherwise specified:

(1) No person who is not a member of the immediate family and residing on the premises shall be employed in the activity on the premises.

(2) The activity shall be conducted entirely within the principal dwelling unit or in a permitted accessory building.

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

(4) No alteration of a building shall be made which changes the character and appearance thereof as a residential building.

(5) No more than twenty-five percent (25%) of floor area of the principal building shall be devoted to the home occupation.

(6) No mechanical, electrical, or other equipment shall be used except of a type normally used on a residential premise.

(7) No activity shall be permitted which is noxious, offensive, or hazardous by reason of pedestrian or vehicular traffic, or by creation of noise, odor, refuse, heat vibration, smoke, radiation, or any other objectionable emissions, or by interference with televisions, or radio reception.

9. Building Lines on Approved Plats. Whenever the plat of a land subdivision approved by the 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, rear yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.

10. Open Space. Yards or other open space provided around 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. In addition, the minimum total land area devoted to open space in the R-3, R-4, C-1, C-2, C-3, C-4, M-1 and M-2 zoning districts only shall not be less than fifteen percent (15%) of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped areas, interior or exterior malls, pedestrian walks and ornamental structures, when part of the landscaping theme. Open space shall not include structures or buildings, off-street parking areas, loading areas and access drive. Any owner subject to the requirements of this subsection may make application to the Planning and Zoning Commission for a variance from the same. The Commission shall consider and make recommendation to the Council on the application and variances will be granted only if the owner demonstrates to the

satisfaction of the Commission and Council that application of the open space requirements set forth in this subsection work a peculiar hardship on the owner. A “peculiar hardship” means that the owner’s property is so situated that an insufficient amount of land is available to accommodate the open space requirements given the nature of the proposed development and which makes the proposed development unfeasible. No peculiar hardship will be determined to exist where the proposed use of the property could accommodate the open space requirements when compared to the space required or actually used in connection with other similar uses in the Des Moines Metropolitan area.

11. Temporary Buildings. Temporary buildings, camping trailers, tents, portable or potentially portable structures shall not be used for dwelling purposes in any district. Camping trailers for overnight use are excluded from the above requirement. All temporary buildings require a building permit and shall be inspected. Temporary buildings shall not be utilized for a period exceeding six (6) months. The Council may approve exceptions for public use.

12. Lots of Record. Any lot of record prior to March 25, 1996 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, and that the owner of such lot did not directly or indirectly have legal title to or enjoy the beneficial interest in the lot or lots contiguous thereto on the effective date of this chapter. No building permit shall be issued for construction on any substandard lot, which lot was of record prior to March 26, 1996, if said lot is adjacent and contiguous to another lot which at the time of the adoption of this chapter was in the same ownership or whose ownership had beneficial interest in said lot, unless said lots are combined into one lot meeting the requirements of the zoning district which is applicable.

13. Merchandising in Front Yard. No merchandise shall be offered for sale or rent or be displayed or stored in the required front yard in any commercial or industrial district, provided, however, that dispensing devices for motor fuel, air and water shall be permitted if they are set back at least twelve (12) feet from the property line.

14. Manufactured or Modular Homes. Notwithstanding any other provision in this chapter, the plans and specifications of a proposed residential structure shall not be denied solely because the proposed structure is a manufactured or modular home. However, the manufactured or modular home shall be located and installed according to the same standards which would apply to a site-built single-family dwelling on the same lot. This would include, but not be limited to, a foundation system, setback, and minimum square footage.

15. Recreational Vehicles. Recreational vehicles shall not be used for human occupancy in any district for more than seventy-two (72) hours unless occupied continuously for three months prior to January 1, 2003. Recreational vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any lot other than in completely enclosed buildings.

#### **165.07 NONCONFORMING USES.**

1. Authority to Continue. Any building, structure or use lawfully established and existing on the effective date of this chapter 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 on the effective date thereof, but which does not conform to any subsequent amendment thereof, may also be continued thereafter subject to the provisions of this chapter.

2. Repairs and Alterations. Repairs and alterations may be made to a nonconforming building, provided that no structural alterations shall be made in or to a building, all or substantially all of 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 all 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 which would make it more nonconforming at the date of the adoption of this chapter.

4. Discontinuation. A building, all or 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 one year, 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 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 restoration shall exceed sixty percent (60%) 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 sixty percent (60%) of the cost of replacement of the entire building, repairs or reconstruction shall be commenced within one year from the date of the fire or other casualty or act of God and diligently pursued until completion.

6. Uses Under "Special Permit Uses." Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use by special permit.

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**165.08 AGRICULTURAL ZONING DISTRICT REGULATIONS. (A-1)** Agricultural Districts are intended and designed to preserve agricultural areas, primarily located on the fringe of the developed areas, until such time as these areas are rezoned in conformance with the Comprehensive Plan for development. In addition, land designated as conservation reserve or open space on the Comprehensive Plan should be retained in the A-1 District to prevent premature or inappropriate development. It is intended that the district shall not be used indiscriminately to permit any use that could potentially be detrimental to the public health, welfare, and safety of the community. No temporary buildings, trailers, tents, portable or potentially portable structures shall be used for dwelling purposes.

1. Agricultural Districts.
  - A. A-1 Agricultural District. The A-1 District is intended and designed to provide and preserve the agricultural and rural use of land until such time as these areas are rezoned in conformance with the Comprehensive Plan for development.
2. Principal Permitted Uses. Principal permitted uses for agricultural districts are as follows:

<b>PRINCIPAL PERMITTED USE</b>	<b>A-1</b>
Agricultural - animal production of domesticated animals such as poultry and livestock, including feed lots but excluding confinements.	PR
Agricultural - animal raising (personal), provided no building in which animals are quartered shall be closer than 200 feet to the property line.	P
Agricultural - crop production for growing of the usual farm products such as vegetables, fruits, trees and grain and their storage on site provided such storage is secondary to that of the normal farming operation.	P
Agricultural - roadside stands for sale of produce only, livestock sales are not permitted.	PR
Cemeteries	P
Civic - public parks, playgrounds, or community centers and similar uses.	P
Civic - public sports complexes, tennis courts and similar recreational uses.	P
Hotels - residential bed and breakfast.	P
Religious institutions.	P
Residential - boarding houses.	P
Residential - single-family detached dwellings, no more than one per parcel.	P
Other uses equivalent to the permitted uses listed above as determined by P & Z and approved by Council. Criteria for equivalency include but are not limited to traffic, odors, noise, and lighting levels.	PR
Notes: P = Permitted Use PR = Permitted Use With Restrictions Blank = Use Not Permitted	

3. Restrictions for Principal Permitted Uses: The following restrictions shall apply to the appropriate Permitted Use With Restrictions (“PR”) in agricultural zoning districts:
  - A. Animal Production:
    - (1) Animal feedlots are permitted for concentrated feeding of animals within a confined area.

(2) No more than 1 animal will be permitted for every three acres of property that is available for animal production, up to a maximum of 200 total head of animals.

(3) No animals, animal feedlots or buildings quartering animals shall be located within 1000 feet of any residential or commercial zoning district.

(4) No feedlots or building in which animals are quartered shall be located closer than 200 feet to any pre-existing dwelling, church, school or place of business on abutting property.

(5) No feeding of garbage or offal to swine or other animals shall be permitted.

B. Roadside Stands:

(1) Roadside stands are seasonal structures that are temporary in nature and are less than 200 square feet in size. Nurseries and garden centers are not considered roadside stands.

(2) Roadside stands may have one non-lighted sign on the premises not to exceed 48 square feet in area. The sign shall not be placed in public right-of-way.

(3) Roadside stands shall require P & Z and Council approval of a temporary site plan.

(4) Roadside stands shall require a peddler's permit, if applicable.

4. Accessory Uses. The following accessory uses are permitted in agricultural zoning districts:

A. Customary accessory uses and structures incidental to the permitted principal uses.

B. Agricultural accessory buildings and structures to house agricultural equipment or permitted livestock, excluding buildings and structures used for animal confinement, subject to the following:

(1) Minimum setback for any agricultural accessory building or structure shall be at least 25 feet from all property lines.

(2) Pole buildings are permitted for agricultural accessory buildings.

C. Private garage or carport.

D. The home office of a physician, dentist, artist, attorney, architect, engineer, teacher or other member of a recognized profession, in said person's bona fide and primary residence; provided that not more than one assistant shall be regularly employed therein and no colleagues or associates shall use such office and not more than one half the area of one floor shall be used for such office. It is not the intention of this paragraph to include dance studios, music studios, beauty parlors or barber shops, or uses usually referred to as customary home occupations.

- E. The taking of boarders or the leasing of rooms by a resident family, provided the total number of boarders and roomers does not exceed two per building.
  - F. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
5. Accessory Structures. Accessory structures may be constructed in agricultural lots as permitted in Section 165.06 of this chapter.
6. Site Development Regulations.

<b>Regulator</b>	<b>A-1</b>
Minimum Lot Area	10 acres
Minimum Lot Width	200 feet
Minimum Front Yard	75 feet
Minimum Rear Yard	75 feet
Minimum Side Yard	50 feet
Building Height Limit – principal use	2-1/2 stories or 35 feet
Building Height Limit – agricultural accessory uses	3 stories or 40 feet
Building Height Limit – other accessory uses	1 story or 16 feet

7. Platting.
- A. Plats of Subdivision shall not be approved in the A-1 zoning district.
  - B. Plats of Survey submitted in accordance with Chapter 170 may be approved provided there shall be no more than one split of land, whether said splits are simultaneous or consecutive. Further splitting of land shall require a Plat of Subdivision and are not permitted in the A-1 District.
8. Off-Street Parking. Off-Street parking shall be provided as required by Section 165.16 for all agricultural districts.
9. Site Plans. Site plans shall be required for all uses in all agricultural districts except single family and two-family residential dwellings and agricultural uses,. See Chapter 157 for Site Plan requirements.
10. All territory which is annexed to the City shall be considered as lying within the A-1 Agricultural District until such classification has been changed by amendment in accordance with the provisions of this Zoning Ordinance.
11. Exceptions. See Section 165.14 for exceptions to the agricultural zoning district regulations.

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**165.09 RESIDENTIAL ZONING DISTRICT REGULATIONS.** (R-1, R-1A, R-2, R-2A, R-3, R-4) The residentially zoned districts are intended to provide for residential areas of various densities, to promote neighborhood quality of life, and to provide for those areas in a manner consistent with the comprehensive plan. It is intended that the district shall not be used indiscriminately to permit any use that could potentially be detrimental to the public health, welfare, and safety of the community. Not temporary buildings, trailers, tents, portable or potentially portable structures shall be used for dwelling purposes.

1. Residential Districts.
  - A. R-1 Single Family Detached Residential District. The R-1 District is intended to provide for the development or redevelopment of low-density residential areas of the City with one-family detached dwellings on individual platted lots.
  - B. R-1A Single Family Residential District. The R-1A District is intended to provide for the development or redevelopment of low-density residential areas of the City with single family dwellings on smaller individual platted lots.
  - C. R-2 One and Two-family Residential District. The R-2 District is intended to provide for the development or redevelopment of low-density residential areas of the City with one and two-family dwellings on platted lots.
  - D. R-2A Townhome Residential District. The R-2A District is intended to provide for development or redevelopment of medium-density residential areas of the City with townhome dwellings having at least two and no more than six dwelling units in one structure.
  - E. R-3 Multiple-Family Residential District. The R-3 District is intended to provide for redevelopment of higher-density residential areas now developed with one-family, two-family, multiple-family dwellings and condominiums and for development of areas where similar residential development seems likely to occur.
  - F. R-4 Mobile Home Park Residential District. The R-4 District is intended to provide for the development of certain medium density residential areas, which by reason of their design and location are compatible with surrounding residential areas, with mobile home parks.
2. Principal Permitted Uses. Principal permitted uses for residential districts are as follows:

<b>RESIDENTIAL ZONING DISTRICTS</b>						
<b>PRINCIPAL PERMITTED USE</b>	<b>R-1</b>	<b>R-1A</b>	<b>R-2</b>	<b>R-2A</b>	<b>R-3</b>	<b>R-4</b>
Agricultural - crop production only for growing of farm products such as vegetables, fruits, trees and grain but excluding crop storage, animal production or raising or roadside stands.	P	P	P	P	P	P
Civic - private clubs, lodges or veterans organizations, excepting those holding a beer permit or liquor license.					P	
Civic - public museums, libraries, or community centers and similar uses.	P	P	P		P	
Civic - public or private parks and playgrounds.	P	P	P	P	P	P
Education - child care, including daycares and preschools which are operated as an accessory use to a church or primary school.	P		P		P	
Education - child care, including daycares and preschools which are operated as an accessory use to a single family detached residential use.	P	P	P	P	P	
Education - colleges and universities, including classrooms, administration buildings and athletic facilities but excluding commercial trade schools and business colleges.					P	
Education - primary and secondary schools, public & private, excluding boarding schools.	P	P	P		P	
Education - residential housing including dormitories, fraternities and sororities if recognized by the local college or university.					P	
Hotels – residential bed & breakfast (less than 3 units).		P	P		P	
Hotels - bed & breakfast inn (up to 12 units)				P	P	
Religious institutions.	P	P	P			
Residential - boarding houses.	P		P		P	
Residential - mobile home parks.						PR
Residential - multiple-family dwellings (up to 6 dwelling units per building) including apartments, townhomes and condominiums.				P	P	
Residential - multiple-family dwellings (more than 6 dwelling units per building) including apartments, townhomes and condominiums.					P	
Residential - nursing homes, Assisted Care facilities, Independent Care facilities, and group homes.					P	
Residential - single-family, bi-attached and duplexes.			P		P	
Residential - single-family, detached.	P	P	P	P	P	
Residential - single-family garden homes in townhome regime		P	P	P	P	
Residential - townhomes, attached or detached (up to 6 units per building).				P	P	
Residential - two-family dwellings.			P		P	
<p><b>Key:</b>                      P = Permitted Use                      PR = Permitted Use With Restrictions provided said use is permitted as determined by P&amp;Z and approved by City Council                      Blank = Use Not Permitted</p>						

3. Restrictions for Principal Permitted Uses
  - A. Child Care, Daycares and Preschools, are subject to the following restrictions:
    - (1) The building used for such purposes is located not less than twenty (20) feet from any other lot in any residential district.
    - (2) There shall be provided for each child a minimum of thirty-five (35) square feet of usable floor space, exclusive of wash rooms, toilets, kitchens and hallways.
    - (3) There shall be provided for each child a minimum of one hundred (100) square feet of usable outdoor play space, which space shall be confined to the rear yard of the property and be completely enclosed by a fence.
  - B. Mobile Home Parks are subject to the following restrictions:
    - (1) A Master Plan and Development Agreement shall be required for all mobile home parks in conformance with Chapter 171. Master Plans shall be submitted in conjunction with the petition for rezoning and shall be approved prior to rezoning any property to R-4.
    - (2) No mobile home park, or any initial stage thereof, shall contain less than fifty (50) mobile home spaces.
    - (3) At least one storm shelter shall be constructed in each mobile home park which is acceptable to the City Council as to size, location and construction materials and shall be constructed and maintained as shown on the approved Site Plan.
    - (4) Parking shall be permitted on only one side of any public or private street within or adjoining the mobile home park. No parking shall be permitted on the south and/or east side of the street unless otherwise designated on the approved Site Plan.
    - (5) The parking and/or storage of recreational vehicles including boats, campers, snowmobiles, four-wheelers and travel trailers shall not be permitted except in a paved parking lot designated on the approved Site Plan for such use.
    - (6) Every mobile home shall be supported and set, and tie-downs or anchors provided, as specified in the manufacturer's instructions or, in their absence, according to the minimum requirements as specified in Division VI, Part 2 of the Iowa State Building Code.
    - (7) Only independent mobile homes shall be used for residential purposes which:
      - a. Are designed for long-term occupancy and contains a flush toilet, a tub or shower, and kitchen facilities;
      - b. Require a connection to outside sewer and water systems because a waste holding tank and water storage tank are not integral parts of the mobile home;
      - c. Are at least thirty-two (32) feet in body length exclusive of trailer hitch when factory equipped for the roads;

- d. Are not built on a self-propelled motor chassis;
- e. Are not identified as a recreational vehicle, such as a camping trailer or motor home, by the manufacturer.

(8) Skirting of permanent type material and construction sufficient to provide substantial resistance to high winds shall be installed within ninety (90) days after the placement of the mobile home to enclose the open space between the bottom of the mobile home floor and the grade level of the mobile home stand. The skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and the appearance of the mobile home park.

(9) Temporary mobile home storage may be permitted prior to permanent placement on the mobile home stand but shall not exceed sixty (60) days.

4. Accessory Uses. Uses not permitted as a principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted in this subsection. The following accessory uses are permitted in residential zoning districts:

A. Customary accessory uses and structures incidental to the permitted principal uses.

B. Private garage or carport.

C. The home office of a physician, dentist, artist, attorney, architect, engineer, teacher or other member of a recognized profession, in said person's bona fide and primary single-family detached residence; provided that: not more than one assistant shall be regularly employed therein and no colleagues or associates shall use such office and not more than one-half the area of one floor shall be used for such office. It is not the intention of this paragraph to include dance studios, music studios, beauty parlors or barber shops, or uses usually referred to as customary home occupations.

D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

E. Temporary use of a dwelling structure within a new subdivision for use as a job office and real estate office for the subject subdivision, which use shall terminate upon substantial completion (75% of the lots or units have been sold by the developer) or abandonment of the project (lots, units or homes are not available for sale by developer).

F. In the R-3 district, developed as a Independent Living or Assisted Living Facility, an accessory management office, retail convenience or service shop may be permitted provided that such complex be under one management or similar control and contains more than 30 permanent dwelling units and provided that:

- (1) Such shops are located on the first floor or lower and there is no entrance to such place of business except from the inside of the building or internal courtyard.

(2) Display of any stock, goods or advertising is so arranged that it cannot be viewed from outside the building.

(3) No advertising sign shall be permitted that exceeds one (1) square foot in area.

G. Club houses within a residential subdivision where ownership is maintained under a homeowners association. Clubhouses shall be constructed of materials similar to the principal structures within the development and shall meet all site development regulations specified herein. Parking shall be provided at a rate of five (5) stalls per 1, 000 square feet of gross floor area.

H. In the R-4 District, management offices, service buildings, maintenance buildings, storm shelters, recreation buildings, vending and/or food services including groceries, coin operated laundry facilities and mini-storage units, may be permitted if approved by Council on a Site plan as subordinate use to the mobile home park.

5. Accessory Structures. See Section 165.06.

6. Site Development Regulations. Dimensional requirements for residential districts are as follows:

SITE DEVELOPMENT REGULATIONS FOR RESIDENTIAL DISTRICTS						
Regulator	R-1	R-1A	R-2	R-2A	R-3	R-4
Minimum Lot Area <sup>2</sup> (square feet)	10,000	6,400	8,000 -SF 10,000 -2F <sup>8</sup> 4,000 -BI	9,000	7,500 -SF 8,750 -2F 4,375 -BI 12,500 -MF	20 acres
Lot Area per Dwelling Unit <sup>4</sup> (square feet)				3,000	2,500	5,000 <sup>7</sup>
Minimum Lot Width <sup>2</sup> (linear feet):	80 <sup>2</sup>	65	65 -SF 85 -2F <sup>8</sup> 38 -BI	85 <sup>5</sup> -TH 100 -MF	65 -SF 75 -2F 38 -BI 85 <sup>5</sup> -TH 100 -MF	
Min. Front Yard Depth (feet)	35	30	30	30	30	50
<u>Min. Rear Yard Depth<sup>6</sup></u> (feet)						
Dwellings	35	20	35	35	40	50
Other Principal Structures	45	20	35	35		
<u>Min. Side Yard Depth<sup>1,6</sup></u> (feet)						
One or Two Family Detached	8 <sup>3</sup>	8	8 <sup>3</sup>		8	50
Other Principal Structures	20	20	15	12.5	12.5	
<u>Building Height Limit</u>						
Principal Structure (stories)	2 ½	2 ½	2½	3	3	1
Principal Structure (feet)	35	35	35	40	45	20
Accessory Structure (feet)	16	16	16	16	16	16
<u>Key:</u>	SF = Single Family		2F = Duplex, Two-family			
	BI = Single-family Bi-attached		TH = Townhome			
	MF = Multiple-family					

**Notes:**

1. On corner lots, street side yard shall equal front yard depth except for lots of record prior to January 1, 2003.
2. Except where water and/or sewer is not available, the minimum lot area shall be 40,000 square feet and the minimum lot width shall be 150 feet
3. Except for lots of record prior to December 19, 1991 having a lot width of less than 75 feet, the side yards may be reduced for single-family dwellings only as follows: (a) Each side yard may be reduced to not less than ten percent of the lot width; and (b) on corner lots, only the interior side yard may be reduced below 8 feet.
4. If the development maintains common areas under single management or control, the total required lot area for all dwelling units may be provided through a combination of private lots and common outlots.
5. Minimum lot width is for three (3) dwelling units in one townhome structure, additional interior units shall have 25 feet of lot width for each additional unit.
6. Except where rear or side demising wall is a permitted common wall between dwelling units.
7. Each mobile home space shall have a 25 feet front yard measured from edge of private street to closest face of mobile home, a 15 feet rear yard measured from rear space line to closest face of mobile home, and a 20 feet side yard separation between mobile homes. All accessory structures shall have a 25 feet yard on all sides except garages which shall have the same yard requirements for mobile homes.
8. Except for Lots of Record created in an R-2 district prior to January 14, 2013, which shall require a minimum lot area of 8,000 square feet and a minimum width of 75 feet for two-family dwellings.

7. Off-Street Parking. Off-street parking shall be provided as required by Section 165.16 for all residential districts. In addition, the following requirements shall apply:

A. All dwelling units constructed after the adoption of this ordinance located within any permitted zoning district shall have a minimum two-car, enclosed garage, except for apartment dwellings having less than three (3) bedrooms per unit.

B. All apartment dwelling units having less than three (3) bedrooms constructed after the adoption of this ordinance located within any permitted zoning district shall have a minimum one-car, enclosed garage area per unit.

C. Carports shall not be considered as an acceptable enclosed garage or garage area.

8. Site Plans. Site plans shall be required for all uses in all residential districts except single family and duplex family residential dwellings. See Chapter 157 for Site Plan requirements.

9. Division of Single-family lots of record. In any residential district, single-family lots previously platted in a subdivision of similarly sized single-family residential lots shall not be further subdivided or split by a Plat of Survey or by Specific Quantity Description. No building permits shall be issued for either parcel on any such lot so split.

10. Architectural Design Standards. Architectural Standards shall be required in conformance with the provisions of Section 157.09 of this ordinance.

11. Open Space Requirements. Open space requirements shall be required in conformance with Section 165.06, subsection 10, of this chapter.

12. Landscape, Planting and Screening. Open space planting, parking area landscaping buffer screening with easements shall be required in accordance with Section 165.17 of this chapter.

13. Exceptions and Modifications. See Section 165.14 for exceptions to the R-1, R-2 and R-3 district regulations. However, there shall be no exceptions to the requirements of the R-1A, R-2A or R-4 zoning district regulations and the provisions of Section 165.14 and the provisions of Section 165.06, subsections 5 and 12 shall not apply to said districts.

[The next page is 835]

**165.10 COMMERCIAL ZONING DISTRICT REGULATIONS.** (C-TS, C-1, C-2, C-3, C-4) The commercially zoned districts are intended to provide for high quality area of various densities and intensities in an effort to promote quality of life, health and general welfare of citizens and visitors while providing a large variety of services and shopping, all consistent with the Comprehensive Plan. It shall be generally recognized that the type of use is not so important as the manner in which the use is accomplished. It is intended that these districts shall not be used indiscriminately to permit any use that could potentially be detrimental to the intent of the Zoning Ordinance.

1. Commercial Districts.
  - A. C-TS Town Square Business District. The C-TS District is intended to provide appropriate development regulations around the historic Town Square. A variety of commercial uses are permitted, with ground level retail and office uses and upper level office or residential uses. This grouping of uses is designed to strengthen the town square's role as a center for trade, service and civic life.
  - B. C-1 Central Business District. The C-1 District recognizes the unique mixed use character of the area surrounding the town square. The development regulations are intended to provide for one- and two- family residential uses interspersed with a variety of commercial uses in a harmonious manner.
  - C. C-2 Commercial District. The C-2 District is intended and designed to provide for general uses and activities of a retail business, service industry or professional office character that, by nature of their business, provide service and commodities that benefit the community at large. These uses may create land use conflicts with adjacent residential areas, requiring sensitivity in design. This district is most appropriately located along arterial streets or in areas that can be adequately buffered from residential districts.
  - D. C-3 Office Park Commercial District. The C-3 District is intended and designed to provide for the development of business, professional, and public service offices and office buildings. Auxiliary uses, such as restaurants, will be allowed primarily to serve the needs of existing office uses within the same C-3 district
  - E. C-4 Neighborhood Friendly Commercial District. The C-4 District is intended and designed to provide for personal services for nearby residences and convenience shopping of the locally travelling public. Uses are intended to be low-intensity businesses that are wholly contained within the buildings. The design of buildings in the district is encouraged to be residential in character, with pitched roofs and landscaping, to blend with nearby neighborhoods.
2. Principal Permitted Uses. Principal permitted uses for commercial districts are as follows:

<b>COMMERCIAL ZONING DISTRICTS</b>					
<b>PRINCIPAL PERMITTED USE</b>	<b>C-TS</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>
Animal boarding and kennels, domesticated only.	PR	PR	PR		
Animal hospitals and Veterinary Clinics.			P		
Auditoriums, Movie Theaters.	P	P	P		
Automotive - automobile, truck & equipment sales & service.			P		
Automotive - service and repairs, including tire sales & repair and small engine repair.			P		
Automotive - Truck or trailer rental establishments.			P		
Automotive - vehicle wash.		P	P		
Automotive Supply (retail).	P	P	P		
Banks and Financial Institutions, including ATM machines and drive-thru teller lanes.	P	P	P	A	PR
Business and Professional Offices and Agencies.	P	P	P	P	P
Cemetery Services - Funeral Homes, Mortuaries.	PR	PR	P		
Civic - Libraries, Museums and similar institutions of an educational or philanthropic nature.	P	P	P		P
Civic - Private Clubs, lodges, youth centers or veterans organizations, except those holding a beer permit or liquor license.	PR	PR	P	A	P
Civic - Public parks and playgrounds.	P				
Civic - Town Square, Farmer's Market.	P				
Commercial Entertainment - (indoors) including fitness centers and amusement centers except Studios and Adult Entertainment.		PR	P	A	
Commercial Entertainment - Adult Entertainment.			PR		
Commercial Recreation (primarily outdoors) including private playgrounds, parks and golf courses; and amusement enterprises.	PR		PR		
Convenience Stores, Gas Stations.		P	P	A	
Drinking Establishments, Billiard Halls.	PR	PR	PR	A	
Education - Colleges and Universities; including classrooms, administration buildings and athletic facilities.					P
Education - Child Care, including Daycares and Pre-schools.	P	P	P	A	P
Education - Commercial Trade Schools and Business Colleges.			P	A	
Education - Primary and Secondary schools, public & private.					P
Education - Residential Housing including dormitories, Fraternities and Sororities if recognized by the local college or university.					P
Hotels - Bed & Breakfast / B&B (up to 3 units) and Bed & Breakfast Inns (up to 12 units).	P	P	P		P
Hotels - hotels, motels, B&B Hotels (more than 12 units), and lodging houses.	PR		P		
Laundry - dry cleaning operations occupying more than 6000 square feet of gross floor area.	PR	PR	PR		
Laundry - laundrettes, coin-operated - pressing, repair, dry cleaning pickup and dry cleaning operations occupying less than 6000 square feet of gross floor area.	P	P	P		PR

<b>PRINCIPAL PERMITTED USE</b>	<b>C-TS</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>
Medical Hospitals.			P	P	
Medical Offices, Health Clinics.	P	P	P		P
Nurseries and Greenhouses.			P		
Post Office Substations.	P	P	P		
Printing and publishing houses.			P		
Religious Institutions.	PR	PR	PR		PR
Residential - Apartments located only on second floor and above.	P	P			P
Residential - Boarding Houses.					P
Residential - Multiple-family apartments and condominiums; and townhomes, either attached or detached.					P
Residential - Nursing homes, Assisted Care Facilities, Independent Care Facilities, and group homes.					PR
Residential - Single-family and two-family dwellings.		P			
Restaurants - coffee shops with drive-through.	PR	PR	PR	A	PR
Restaurants - Delicatessens, ice cream parlors, and Fast Food including carry-out.	P	P	P	A	P
Restaurants - Fast Food drive-through.	PR	PR	PR	A	
Restaurants - Full service sit-down.	P	P	P	A	P
Retail bakeries and dairy stores.	P	P	P	A	P
Retail grocery stores, supermarkets; drug stores.	PR	PR	P		
Retail Hardware & Lumber Yards, building material sales yards, millwork.			PR		
Retail Hardware stores; Home Improvement stores excluding outdoor sales yards.	P	P	P		
Retail shops (less than 6000 sf).	P	P	P	A	P
Retail stores (6000 sf and larger).		P	P		
Retail stores with associated manufacturing such as pottery shops with kilns.	PR	PR	PR		
Retail stores with incidental repairs (appliance, bicycle, jewelry).	P	P	P		
Salons - Hair, nail.	P	P	P		P
Studios - Music, Photographic, Dance, and Fitness Centers, all less than 6000 sf in size.	P	P	P	A	
Warehouse - Locker storage & retail sales only.		P			
Other retail business or service establishments equivalent to the permitted uses listed above.	PR	PR	PR	PR	PR
<p><b>Key:</b>                      P = Permitted Use                      PR = Permitted Use With Restrictions provided said use is permitted as determined by P&amp;Z and approved by City Council                      A = Auxiliary Use With Restrictions, provided said use is permitted as determined by P&amp;Z and approved by City Council                      Blank = Use Not Permitted</p>					

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate Permitted Use with Restrictions

A. Outdoor storage of materials or equipment is not permitted in the C-2, C-3 or C-4 Districts except and specifically approved by Council on a Site

Plan. Said storage shall be limited to areas designated on the site plan and shall be maintained and screened in conformance to the site plan.

B. Automobile, truck and equipment sales and service shall be permitted provided that all outside storage, display and parking areas shall be used and maintained in conformance with an approved site plan and the parking, display and storage of vehicles for hire, rental or sale shall be limited to the area designated for such use in the site plan. All storage shall be on paved surfaces.

C. No uses shall be permitted to be established or maintained in any District which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.

D. Permitted uses with restrictions shall demonstrate said use will not have any detrimental impact on existing neighboring uses due to traffic congestion or parking needs, particularly in the C-TS, C-1 and C-4 districts.

E. Adult Entertainment Business uses shall be subject to the following restrictions:

(1) These uses shall not be located within 1,500 feet of any other adult entertainment use; within 1, 500 feet of any public, parochial or private school, licensed daycare facility, regular school bus stop, church, public park, supermarket, convenience store or restaurant catering to family trade; or within 1,500 feet of any residential or agricultural zoning district or residentially-used or agriculturally-used property. Said distances shall be measured from property line to property line.

(2) All building openings, entries, exits, windows and the like shall be covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area. For new construction, and whenever else it is considered feasible by the Zoning Enforcement Officer, the building shall be oriented so as to minimize any possibility of viewing the interior from public or semi-public areas.

(3) Advertisement, displays, signs or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks, trails, or other public or semi-public areas.

(4) Notwithstanding anything to the contrary otherwise set forth in this chapter, adult entertainment businesses shall be permitted only in the C-2 zoning district and then only in compliance with the other restrictions set forth herein. It is the intent of this provision to permit the location of adult entertainment businesses solely in areas zoned C-2 and not in any other district including but not limited to agricultural, residential or industrial districts.

- F. Religious Institutions shall be subject to the following restrictions:
- (1) Religious Institutions that have not received Site Plan approval by the City Council as of the effective date of this Ordinance shall not be permitted in the C-2 Commercial District.
  - (2) Religious Institutions for which a Site Plan has been approved by City Council as of the effective date of this Ordinance shall be considered a permitted use in the C-2 Commercial District. Subsequent amendments to the Site Plan for improvements including but not limited to additional parking areas, access roads, and building additions, may be considered for approval by City Council.  
(*Ord. 2015-600 – Jan. 16 Supp.*)

4. Auxiliary Uses. An auxiliary use shall mean a conditional use consisting of certain low-intensity commercial establishments which are primarily intended, designed and utilized to serve the proven needs of the principal permitted uses within the same zoning district. Possible auxiliary uses are noted with an “A” in the Permitted Principal Uses table for commercial districts. Auxiliary uses shall only be approved within a C-3 District in conjunction with a Site Plan and only provided the following conditions are satisfied:

- A. The auxiliary uses shall primarily serve the needs of the principal permitted uses within the same C-3 district that are either in existence or will be constructed at or about the same time as the auxiliary use.
- B. The design, aesthetics, location and character of the auxiliary structure or use shall be compatible with the principal permitted uses with the C-3 District.
- C. The auxiliary use shall not adversely affect the setting and quality of development for the principal permitted uses within the C-3 District due to over concentration or over saturation of auxiliary uses with the same district.
- D. The auxiliary use shall not generate substantial additional traffic nor create traffic congestion beyond that which would occur if any principal permitted use was to locate on the same site.
- E. The auxiliary use shall not be hazardous, detrimental, or disturbing to principal permitted uses, nor to adjoining or abutting properties due to dust, glare, noise, smoke, odor, fumes, vibration or other effects not consistent with the principal permitted uses within the C-3 District.

5. Accessory Uses. Uses not permitted as a Principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted in this subsection. The following accessory uses are permitted in commercial zoning districts:

- A. Customary accessory uses and structures incidental to the permitted principal uses.
- B. Private garage or carport in association with a permitted residential use.
- C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

6. Accessory Structures. Accessory structures may be constructed on commercial properties as permitted in Section 165.06.

7. Site Development Regulations. Dimensional requirements for commercial districts are as follows:

<b>SITE DEVELOPMENT REGULATIONS FOR COMMERCIAL DISTRICTS</b>					
<b>Regulator</b>	<b>C-TS</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>
Building Height Limit	3 Stories or 45 feet	3 Stories or 45 feet	4 Stories or 60 feet	None	2 Stories or 35 feet
Minimum Lot Area	None <sup>4</sup>	None <sup>4</sup>	None	None	None <sup>4</sup>
Minimum Lot Width	None	None	None	None	None
Minimum Front Yard Depth	None	None <sup>5</sup>	25 feet	25 feet	25 feet
Minimum Side Yard Depth	None	None <sup>2</sup>	None <sup>1</sup>	None <sup>1</sup>	None <sup>2</sup>
Minimum Rear Yard Depth	None <sup>1</sup>	None <sup>2</sup>	35 feet <sup>1,3</sup>	35 feet <sup>3</sup>	35 feet <sup>3</sup>

**Notes:**

1. Except 20 feet where adjacent to “R” residential districts or the width of the required buffer easement, whichever is greater.
2. Except 20 feet where adjacent to “R” residential districts or the width of the required buffer easement, whichever is greater, and except for structures building containing dwelling units which shall have sides of 8 feet minimum and rear yards of 15 feet minimum.
3. 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 an “R” District, there shall be a minimum rear yard of 20 feet required adjacent to said lot line or the width of the required buffer easement whichever is greater.
4. Except where residential uses are permitted, lot area shall be 1000 square feet minimum per dwelling unit.
5. For one- and two-family dwellings, the front yard shall be the average of the existing established building setbacks of all similar dwellings within 250 feet of the property as measured along right-of-way line(s).
6. Permitted single-family detached dwellings in the C-1 District must meet the minimum lot area and lot width requirements of the R-1A district.
7. Permitted two-family dwellings in the C-1 District must meet the minimum lot area and lot width requirements of the R-2 district.

*(Ord. 2013-100 – April 13 Supp.)*

8. Off-Street Loading. Off-street loading shall be provided as required by Section 165.15 for all commercial districts with the exception of C-TS zoning district.

9. Off-Street Parking. Off-street parking shall be provided for all uses in all commercial districts with the exception of retail shops, offices, restaurants (except fast food restaurants) and similar low-intensity uses in the C-TS zoning district. See Section 165.16 for off-street parking requirements. In addition, each dwelling unit constructed after the adoption of this ordinance located within a C-1 district shall have a minimum two-car garage with the exception of apartment units with less than three bedrooms which shall have a minimum one-car garage.

10. Site Plans. Site plans shall be required for all uses in all commercial districts except single family and duplex family residential buildings in the C-1 zoning district. See Chapter 157 for Site Plan requirements.
11. Architectural Design Standards. Architectural Standards shall be required for all uses in all commercial districts consistent with the provisions of Section 157.09.
12. Open Space Requirements. Open space requirements shall be required for all commercial zoning districts, with the exception of the C-TS District, in conformance with Section 165.06, subsection 10, of this chapter.
13. Landscape, Planting and Screening. Open space planting, parking area landscaping buffer screening with easements shall be required in accordance with Section 165.17 of this chapter.
14. Signs. All signage including, but not limited to, building and wall signs, monument and pole signs, shall be in conformance with Chapter 166.
15. Exceptions and Modifications. See Section 165.14 for exceptions to the commercial zoning district regulations.

[The next page is 845]

**165.11 INDUSTRIAL ZONING DISTRICT REGULATIONS.** (M-1, M-2) The industrially zoned districts are intended to provide for manufacturing processes of various intensities needed on a local, State or national level while promoting the quality of life, health, and general welfare desired by the citizens of the City, all consistent with the Comprehensive Plan. It is intended that these districts shall not be used indiscriminately to permit any use that could potentially be detrimental to the intent of the Zoning Ordinance.

1. Industrial Districts.
  - A. M-1 Light Industrial District. The M-1 district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development while assuring that facilities are served with adequate parking and loading facilities and buffered from less intensive uses.
  - B. M-2 Heavy Industrial District. The M-2 district is intended to accommodate a wide variety of industrial uses, some of which may have significant external effects. These uses may have operating characteristics that create conflicts with lower-intensity surrounding land uses. The district provides the reservation of land for these activities and includes buffering requirements to reduce incompatibility.
2. Principal Permitted Uses. Principal permitted uses for industrial districts are as follows:

<b>INDUSTRIAL ZONING DISTRICTS</b>		
<b>PRINCIPAL PERMITTED USE</b>	<b>M-1</b>	<b>M-2</b>
Animal boarding and kennels, domesticated only.	P	P
Animal hospitals and Veterinary Clinics.	P	P
Animal Livery stable or riding academy.		P
Auditoriums, Movie Theaters.	P	P
Automotive - automobile, truck & equipment sales & service.	P	P
Automotive - service and repairs, including tire sales & repair and small engine repair.	P	P
Automotive - assembly or major repairs, machine shops.	P	P
Automotive - body and fender repair shop, but not including automobile wrecking or used parts yards, or outside storage of automobile component parts.	P	P
Automotive - Tire vulcanizing, re-treading and recapping.		P
Automotive - Truck or trailer rental establishments.	P	P
Automotive - truck stop, , including repairs.	P	P
Automotive - vehicle wash.	P	P
Automotive Supply (retail).	P	P
Banks and Financial Institutions, including ATM machines and drive-thru teller lanes.	P	P
Business - Business and Professional Offices and Agencies.	P	P
Business – Technology business related to manufacturing, research and distribution.	P	P
Cemetery Services - Funeral Homes, Mortuaries.	P	P
Cemetery Services - Cemeteries.		
Cemetery Services - Crematories, if not less than 200 feet from any "R" district.	P	P

<b>PRINCIPAL PERMITTED USE</b>	<b>M-1</b>	<b>M-2</b>
Cemetery Services - Monument Sales and engraving.	P	P
Civic - Libraries, Museums and similar institutions of an educational or philanthropic nature.	P	P
Civic - Public parks and playgrounds.		
Commercial Entertainment - (indoors) including fitness centers and amusement centers except Studios and Adult Entertainment.	PR	PR
Commercial Recreation (primarily outdoors) including private playgrounds, parks and golf courses; and amusement enterprises.	PR	PR
Convenience Stores, Gas Stations.	P	P
Drinking Establishments, Billiard Halls.	P	P
Education - Child Care, including Daycares and Pre-schools.	P	P
Education - Commercial Trade Schools and Business Colleges.	P	P
Education - Primary and Secondary schools, public & private.		
Education - Residential Housing including dormitories, Fraternities and Sororities if recognized by the local college or university.	P	P
Laboratories - film, testing, experimental.	P	P
Laundry - Bag, carpet and rug cleaning.	P	P
Laundry - dry cleaning operations occupying more than 6000 sf of gross floor area.	P	P
Laundry - launderettes, coin-operated - pressing, repair, dry cleaning pickup and dry cleaning operations occupying less than 6000 square feet of gross floor area.	P	P
Manufacture and repair of electric signs, advertising structures, light sheet metal products, and heating & ventilating equipment.	P	P
Manufacture of musical instruments, novelties and molded rubber products.	P	P
Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or natural gas.	P	P
Manufacture or assembly of electrical appliances, instruments and devices.	P	P
Manufacturing creameries, bottle works, wholesale ice and ice cream plants, cold storage warehousing and distribution stations.	P	P
Manufacturing, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastics, metals or stones, tobacco, wax, yarns and wood.	P	P
Manufacturing, distribution, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals, and food products, except fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour, and the rendering or refining of fats and oils.		P
Medical Hospitals.	P	P
Metals - Blacksmith, welding, cooperage works or other metal shop including enameling, lacquering or painting with controlled emissions not causing noxious fumes or odors.	PR	P
Metals - Foundry casting lightweight non-ferrous metals or electric foundry, not causing noxious fumes or odors.		P
Mineral Extraction, sand & gravel pits, and smelting of ores.		P
Nurseries and Greenhouses.	P	P
Post Office Substations.	P	P
Printing and publishing houses.	P	P
Public Transportation terminals, including bus stations, airports and landing fields.	PR	PR
Religious Institutions.	P	P

<b>PRINCIPAL PERMITTED USE</b>	<b>M-1</b>	<b>M-2</b>
Restaurants - coffee shops with drive-through.	PR	PR
Restaurants - Delicatessens, ice cream parlors, and Fast Food including carry-out.	P	P
Restaurants - Fast Food drive-through.	PR	PR
Restaurants - Full service sit-down.	P	P
Retail bakeries and dairy stores.	P	P
Retail Farm Machinery and Mobile/Modular Home sales and repair.	P	P
Retail grocery stores, supermarkets; drug stores.	P	P
Retail Hardware & Lumber Yards, building material sales yards, millwork.	P	P
Retail Hardware stores; Home Improvement stores excluding outdoor sales yards.	P	P
Retail shops (less than 6000 sf).	P	P
Retail stores (6000 sf and larger).	P	P
Retail stores with associated manufacturing such as pottery shops with kilns.	P	P
Retail stores with incidental repairs (appliance, bicycle, jewelry).	P	P
Salons - Hair, nail.	P	P
Sawmill, planing mill, and manufacture of wood products not involving chemical treatment.	P	P
Studios - Music, Photographic, Dance, and Fitness Centers, all less than 6000 sf in size.	P	P
Tannery.		P
Warehouse - Locker storage & retail sales only.	P	P
Warehouse - Mini-storage, RV storage, Boat Storage.	P	P
Warehouse storage & distribution of explosives, liquid fertilizer or coal.		PR
Warehouse storage & distribution of non-flammable, non-explosive and non-perishable goods.	P	P
Wholesale - Bakeries.	P	P
Wholesale storage or refining of petroleum, ethanol or products thereof including asphalt plants.		SP
Yards - Circus, carnival or similar transient enterprise, provided such structures or buildings shall be at least two hundred (200) feet from any "R" District.		P
Yards - Concrete mixing, concrete product manufacture.		P
Yards - Contractors' equipment storage yard or plant, including hauling services, or rental of equipment commonly used by contractors.	PR	P
Yards - junk, iron, rag, waste paper; including storage or bailing if completely obscured.		PR
Yards - livestock feed sales and storage provided dust is effectively controlled.	PR	PR
Yards - Sanitary Landfill or transfer station.		PR
Yards - truck terminal yards		PR
Other manufacturing or service establishments equivalent to the permitted uses listed above.	PR	PR
<b>Key:</b> P = Permitted Use PR = Permitted Use With Restrictions provided said use is permitted as determined by P&Z and approved by City Council Blank = Use Not Permitted		

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate Permitted Use with Restrictions:

- A. Outdoor storage of materials or equipment is not permitted in the M-1 or M-2 Districts except and specifically approved by Council on a Site Plan. Said storage shall be limited to areas designated on the site plan and shall be maintained and screened in conformance to the site plan.
  - B. Automobile, truck and equipment sales and service shall be permitted provided that all outside storage, display and parking areas shall be used and maintained in conformance with an approved site plan and the parking, display and storage of vehicles for hire, rental or sale shall be limited to the area designated for such use in the site plan. All storage shall be on paved surfaces.
  - C. No uses shall be permitted to be established or maintained in any District which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.
4. Accessory Uses. Uses not permitted as a Principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted herein. The following accessory uses are permitted in industrial zoning districts:
- A. Customary accessory uses and structures incidental to permitted principal uses.
  - B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
5. Accessory Structures. Accessory structures may be constructed on commercial properties as permitted in Section 165.06.
6. Site Development Regulations. Dimensional requirements for industrial districts are as follows:

<b>SITE DEVELOPMENT REGULATIONS FOR INDUSTRIAL DISTRICTS</b>		
<b>Regulator</b>	<b>M-1</b>	<b>M-2</b>
Building Height Limit	4 Stories or 75 feet	4 Stories or 75 feet
Minimum Lot Area	None	1 acre
Minimum Lot Width	None	150 feet
Minimum Front Yard Depth	30 feet	30 feet
Minimum Side Yard Depth	None <sup>1</sup>	None <sup>2</sup>
Minimum Rear Yard Depth	40 feet <sup>3</sup>	40 feet <sup>3</sup>
<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>1. Except 30 feet where adjacent to “R” residential districts.</li> <li>2. Except 200 feet where adjacent to “R” residential districts and except 100’ where adjacent to commercial districts.</li> <li>3. Where rear lot line is adjacent to a railroad right-of-way, no setback is required.</li> </ul>		

7. Required Conditions. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.
8. Off-Street Loading. Off-street loading shall be provided as required by Section 165.15 for all industrial districts.
9. Off-Street Parking. Off-street parking shall be provided as required by Section 165.16 for all industrial districts.
10. Site Plans. Site plans shall be required for all uses in all industrial districts. See Chapter 157 for Site Plan requirements.
11. Architectural Design Standards. Architectural Standards shall be required for all uses in all industrial districts consistent with the provisions of Section 157.09.
12. Open Space Requirements. Open space requirements shall be required for all industrial zoning districts in conformance with Section 165.06, subsection 10, of this chapter.
13. Landscape, Planting and Screening. Open space planting, parking area landscaping buffer screening with easements shall be required in accordance with Section 165.17 of this chapter.
14. Exceptions and Modifications. See Section 165.14 for exceptions to the industrial zoning district regulations.

[The next page is 855]

**165.12 PUBLIC UTILITY DISTRICT REGULATIONS.** (U-1) The public utility district zoned districts are intended to provide for publicly-owned and maintained open space and the development or redevelopment of major public utility facilities as needed on a city, state or national level, while promoting the quality of life, health, and general welfare desired by the citizens of the City, all consistent with the Comprehensive Plan. It is intended that these districts shall not be used indiscriminately to permit any use that could potentially be detrimental to the intent of the Zoning Ordinance.

1. Public Utility Districts.
  - A. U-1 Public Utility District. The U-1 district is intended to reserve open space including wildlife refuges, reservoirs and storm water management facilities, and the development or redevelopment of major public utility facilities, maintenance facilities or franchise utility facilities
2. Principal Permitted Uses. Principal permitted uses for public utility districts are as follows:

<b>PUBLIC UTILITY ZONING DISTRICTS</b>	
<b>PRINCIPAL PERMITTED USE</b>	<b>U-1</b>
Animal Livery stable or riding academy.	P
Cemetery Services - Funeral Homes, Mortuaries.	P
Cemetery Services - Cemeteries.	P
Civic - Libraries, Museums and similar institutions of an educational or philanthropic nature.	P
Civic - Public parks and playgrounds.	P
Education - Primary and Secondary schools, public & private.	P
Public Transportation terminals, including bus stations, airports and landing fields.	PR
Public uses maintained by any agency of Federal, State or local government and or public or franchise utility structures and equipment	P
Religious Institutions.	P
Other public uses equivalent to the permitted uses listed above.	P
<p><b>Key:</b>                      P = Permitted Use                      PR = Permitted Use With Restrictions provided said use is permitted as determined by P&amp;Z and approved by City Council                      Blank = Use Not Permitted</p>	

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate Permitted Use with Restrictions:
  - A. Public transportation terminals are not permitted in the U-1 District except and specifically approved by Council on a Plat of Subdivision and the necessary public improvements and easements have been provided to support such use.
4. Accessory Uses. Uses not permitted as a Principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted herein. The following accessory uses are permitted in industrial zoning districts:

- A. Customary accessory uses and structures incidental to permitted principal uses.
  - B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
5. Accessory Structures. Accessory structures may be constructed on commercial properties as permitted in Section 165.06.
6. Site Development Regulations. Dimensional requirements for public utility districts are as follows:

<b>SITE DEVELOPMENT REGULATIONS FOR PUBLIC UTILITY DISTRICTS</b>	
<b>Regulator</b>	<b>U-1</b>
Building Height Limit	2 ½ stories or 35 feet
Minimum Lot Area	None
Minimum Lot Width	None
Minimum Front Yard Depth	50 feet <sup>1</sup>
Minimum Side Yard Depth	50 feet <sup>1</sup>
Minimum Rear Yard Depth	50 feet <sup>1</sup>
<b>Notes:</b>	
1. Building setback requirements for publicly owned lands may be reduced or waived by City Council, after notice and public hearing.	

7. Off-Street Loading. Off-street loading shall be provided as required by Section 165.15 for all public utility districts.
8. Off-Street Parking. Off-street parking shall be provided as required by Section 165.16 for all public utility districts.
9. Site Plans. Site plans shall be required for all uses in all public utility districts except for improvements located on federally-owned lands. See Chapter 157 for Site Plan requirements.
10. Exceptions and Modifications. See Section 165.14.

[The next page is 865]

**165.13 PLANNED UNIT DEVELOPMENT DISTRICT REGULATIONS. (PUD)**

1. The planned unit development district is intended and designed to promote and encourage development or redevelopment of tracts of land on a planned, unified basis by allowing greater flexibility for those developments that propose a creative and innovative design whose layout is not achievable under the standards of other zoning districts. A planned unit development shall consist of an arrangement and selection of land uses in groupings that are organized and designed as an integrated unit rather than a collection of independent building and sites. The integrated design shall include a holistic presentation of elements such as building orientation and materials, utilities, parking areas, traffic circulation, sidewalks, trails, landscaping and open spaces that satisfy the individual site needs while achieving greater value for the entire development area. The planned unit development district shall be reserved for only those developments, which meet one or more of the following criteria:

A. Developments that provide for varying land uses to coexist within the same development so that the growing demands of the population may be met by greater variety in type, design, and layout.

B. Developments which encourage a more efficient use of land through the incorporation of public/private spaces or uses which enhance the community at large.

C. Developments that provide both public and private open spaces that accent and enhance both the architectural and natural features of the development and provide for the protection and preservation of existing vegetative and water resources.

D. Developments that present a common and unified theme through the use of architecturally compatible detailing to form a part of a larger composition rather than separate land uses designed in isolation of one another.

2. Principal Permitted Uses. Principal permitted uses for planned unit development zoned property may consist of residential uses, neighborhood commercial uses, neighborhood office uses and any combinations thereof. If it is determined by the Zoning Enforcement Officer that a proposed use is not compatible and consistent with the proposed planned unit development, the property owner shall have the right to appeal the decision to the Planning & Zoning Commission and City Council pursuant to the regulations for amendments as expressed in Section 165.24 of this Chapter.

A. Residential uses shall be defined as single-family residential, attached dwellings, multiple family residential, assisted and independent living facilities and nursing homes.

B. Neighborhood Commercial uses shall be defined as those uses which normally and customarily service the surrounding residential properties. Neighborhood Commercial uses may include, but not be limited to, dry cleaners, delis, coffee shops, markets, and small retail establishments.

C. Neighborhood Office uses shall be defined as those office uses which normally and customarily service the surrounding residential properties. Neighborhood Commercial uses shall include, but not be limited to, small medical clinics, veterinarians, and banks.

3. Accessory Uses. The following accessory uses are permitted in PUD districts:
  - A. Customary accessory uses and structures incidental to permitted principal uses.
  - B. Private garage or carport in association with a permitted residential use.
  - C. Golf courses, parks, playgrounds, aquatic centers and similar amenities, whether public or private, that benefit the neighborhood and/or the community at large.
  - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Site Development Regulations.

Regulator	PUD District
Minimum Area of PUD District	10 acres, unless specifically waived by City Council based on site constraints.
<i>Note: A PUD District may include one or more contiguous tracts of land, whether or not they are under the same ownership, provided all tracts of land are included in one overall Master Plan and all property owners sign a Development Agreement.</i>	

5. Accessory Structures. Accessory structures may be constructed on properties as permitted in Section 165.06. Where the planned unit development is not specifically mentioned, the requirements shall be consistent with the residential district requirements where the principal use of the property is residential and the commercial district requirements where the principal use of the property is commercial.
6. Site Development Regulations. Dimensional requirements, density, setbacks and height requirements shall be clearly specified within the Development Plan and Development Agreement. The minimum setbacks along the perimeter of the project, abutting adjoining properties, shall meet the minimum requirements of the zoning in place before the property is rezoned to PUD or of the adjacent zoning district, whichever is greater.
7. Platting Required. Prior to development of any property within a PUD, the entire tract of land within the PUD shall be platted in accordance with Chapter 170 of the Polk City Code of Ordinances prior to approval of any site plans or issuance of any building permits. Parcels of land with said tract that are set aside for future development shall be platted as outlots.
8. Common Elements. Covenants shall be provided and recorded with any plat or site plan within a PUD. Said covenants shall enumerate all common elements within said plat and establish the guidelines for maintenance of said common elements. Common elements may include, but are not limited to, items such as private streets, parking lots, sidewalks, trails, sanitary sewers, water lines, storm sewers, detention facilities, landscaping, and multi-tenant signs.

9. Off-Street Parking. Adequate parking shall be provided within the planned unit development based upon the proposed uses. Shared parking for varying uses shall be strongly encouraged. Congestion on adjacent public streets shall be minimized.
10. Traffic. Traffic circulation within the planned unit development shall be designed to minimize congestion both on adjacent public streets and within the development. Traffic Impact studies may be required for review by the City Engineer. Turning lanes shall be provided as needed.
11. Pedestrian and Recreational Circulation. Sidewalks shall be designed within a planned unit development to encourage pedestrian circulation throughout residential and commercial areas and to link the varying uses. Recreational trails shall be provided to connect to existing and future trail systems and to promote alternate modes of transportation.
12. Signs. Signage within a planned unit development shall serve as a unifying element while creating measured and consistent identification of the various land uses within the planned unit development. Monument and wall sign area and height limitations as well as lighting and architectural style shall be clearly indicated on the Development Plan and Development Agreement.
13. Architectural Design Standards. Buildings within a planned unit development shall be designed to be architecturally compatible with each other and should be seen as a larger composition as opposed to individual buildings. Buildings shall be designed to promote quality architecture and design elements along all four building elevations. The uses of similar colors, materials, façade projections and recesses, articulated roof lines, enhanced entrances, lighting, windows and architectural features such as awnings are encouraged to make the development architecturally compatible as a whole.
14. Open Space and Landscaping Requirements. Open space requirements within a planned unit development shall consist of both public and private landscape areas, natural areas, plazas and courtyards designed to enhance the architectural and natural features of the development
15. Buffer Screening. The Planned Unit Development shall consider compatibility of uses. Landscaping shall be incorporated into the overall design and transitional uses considered in order to minimize the need for buffer easements and/or fences to screen neighboring uses.
16. Master Plan and Development Agreement. A Master Plan and Development Agreement shall be required for all planned unit development districts. The Master Plan shall cover the entire parcel to be zoned as PUD. The Master Plan shall have a unique name and include a narrative section that identifies the primary objectives of the development as well as providing specific guidelines and design standards related to the development including but not limited to size, location and uses of buildings, bulk regulations, parking configurations and requirements, architectural standards, landscaping, open space design, signage design and location, pedestrian access, and utilities. In addition to the Development Plan, a Development Agreement shall be required of the developer, which shall acknowledge the developers commitment to develop the property in accordance with the Development Plan.
  - A. Master Plans shall be required for all new Planned Unit Developments in conformance with Chapter 171. Master Plans shall be

submitted in conjunction with the petition for rezoning and shall be approved prior to the third reading of the ordinance rezoning the property to PUD.

B. For Planned Unit Developments approved prior to the adoption of this ordinance, a Master Plan in conformance with Chapter 171 shall be required prior to platting or further development of any portion of the PUD-zoned land if an approved Master Plan is not on file with the City Clerk.

17. The following Ordinances and Resolutions have been adopted establishing Planned Unit Developments within the City of Polk City, Iowa:

A. Lakeview Acres Planned Unit Development

(1) Ordinance 86-102 adopted June 9, 1986, voided August 28, 2006

(2) Resolution 2006-73 approved August 28, 2006 (Phase 1)

B. Tournament Club of Iowa Planned Unit Development

(1) Ordinance 2002-300 adopted March 11, 2002

(2) Ordinance 2002-500 adopted October 14, 2002

(3) Ordinance 2002-700 adopted November 11, 2002 (Wolf Creek TH)

[The next page is 871]

**165.13A. GOVERNMENT FACILITY DISTRICT REGULATIONS.** (GF) The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the (GF) Government Facility District.

1. Statement of Intent. The GF District is intended to support and coordinate the continued development and expansion of major public facilities which are owned by the State of Iowa and the Government of the United States. This district recognizes that the City has no jurisdiction over land owned by these governmental entities.
2. Principal Permitted Uses. Any uses of buildings and structures on this land shall be permitted in the GF District.

*(Ord. 2013-500 – Jan. 14 Supp.)*

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**165.13B. FLOODPLAIN OVERLAY DISTRICT REGULATIONS.** (FP) The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the FP, Floodplain Overlay District.

1. Statement of Intent. The FP District is intended to identify the general location of areas within the floodway, floodplain and/or having special flood hazards.

A. Polk City has adopted the regulations and flood maps of the Federal Emergency Management Agency (FEMA) in accordance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973. The floodplain regulations are stipulated in Chapter 162 - Floodplain Management Ordinance of the Polk City Code of Ordinances.

B. Additional regulations are imposed upon properties within the FP Floodplain overlay districts for the protection of life and property from losses and hazards caused by the occupancy and use of the floodplain by buildings, structures or activities that may increase the effects of flooding.

C. No structure or land shall be used and no structure or wastewater treatment facility (including septic systems) shall be located, extended, converted or structurally altered in any designated FP Flood Plain Overlay District without full compliance with the terms of Chapter 162 - Floodplain Management Ordinance, including but not limited to the requirement for a Flood Plain Development Permit.

D. If there are any discrepancies between the flood plain as may be depicted on the Official Zoning Map and the flood hazard areas as depicted on the Flood Insurance Rate Map, the Flood Insurance Rate Map shall govern.

E. All parcels and uses of property shall be in accordance with the district regulations of the underlying zoning district, except as limited by Chapter 162- Floodplain Management Ordinance.

*(Ord. 2014-1800 – Jan. 15 Supp.)*

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**165.14 EXCEPTIONS AND MODIFICATIONS.** The regulations specified in this chapter shall be subject to the following exceptions and interpretations:

1. Use of Existing Lots of Record. In any district where dwellings are permitted, a single-family detached dwelling may be located on any lot or plot of official record as of March 25, 1996, irrespective of its area or width; provided, however, in all districts other than the “R-1 Single-Family Detached Residential District”, if two or more such lots or plots, or parts thereof with continuous frontage are combined into single ownership, such lots or plots or parts thereof shall be considered buildable only if they have a total combined minimum width of fifty (50) feet. In the “R-1 Single-Family Detached Residential District”, if two or more such lots or plots or parts thereof with continuous frontage are combined into single ownership, such lots or plots or parts thereof shall be considered buildable only if they have a total combined minimum width of eighty (80) feet.

A. The sum of the side yard widths of any such lot or plot shall not be less than thirty percent (30%) of the width of the lot, but in no case less than ten percent (10%) of the width of the lot for any one side yard.

B. The depth of the rear yard of any such lot need not exceed twenty percent (20%) of the depth of the lots, but in no case less than ten (10) feet.

2. Structures Permitted Above the Height Limit. The building height limitations of this chapter shall be modified as follows:

A. Chimneys, cooling towers, cell towers, small wind energy conversion systems, elevator bulk-heads, fire towers, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers and spires, radio or television towers or necessary mechanical appurtenances may be erected to a height in accordance with a special use permit subject to the provisions contained herein and elsewhere within this City Code and further provided that a fall zone setback equal to 150% of the total system height has been met unless said fall zone setback requirement has been waived by City Council.

B. Public, semi-public or public service buildings, hospitals, sanatoriums, schools, business colleges and related structures, churches and temples, when permitted in a district, may be erected to a height not exceeding one hundred twenty-five (125) feet, if the building is set back from each property line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is located.

C. Single-family dwellings and two-family dwellings in the residence districts may be increased in height but not more than ten (10) feet when two (2) side yards of not less than fifteen (15) feet each are provided, but they shall not exceed three (3) stories in height. Single-family semi-detached dwellings in residence districts may be increased in height by not more than ten (10) feet when one (1) side yard of not less than fifteen (15) feet is provided, but they shall not exceed three (3) stories in height.

D. Notwithstanding the provisions of Section 165.10 and Section 165.11, principal buildings in any “C-2” or “M” zoning district may be erected to a height not exceeding one hundred twenty-five (125) feet and the otherwise applicable maximum story limitation waived if the portion of the building in

excess of one story in height is set back from the applicable front, side and rear yard at least three-fourths (3/4) of one (1) foot for each one (1) foot of additional building height above the height limit otherwise provided for in the zoning district in which the building is located.

3. Exceptions to Yard Requirements.

A. Yards Adjacent to Alleys. In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens on an alley, one-half (1/2) of the alley width may be included as a portion of the rear or side yard as the case may be.

B. Minor Obstructions. 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 as specified in Section 165.06. However, in a "C-2" Commercial District, an "M-1" Light Industrial District or and "M-2" Heavy Industrial District, one (1) sidewalk arcade, canopy or similar architectural feature may be established and maintained in the front yard of an interior lot or in the front yard or street side yard of a corner lot; provided, the roof area occupied by such feature shall not exceed six hundred (600) square feet. In any "C-2", "M-1" or "M-2" District, one such feature, not to exceed six hundred (600) square feet of roof area, may be established and may be maintained in the front yard of any interior lot, and two such features, not to exceed six hundred (600) square feet of roof area each, may be established and may be maintained in the front yard or street side yard of a corner lot.

C. Atypical Setbacks. In residential 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 (nursing and convalescent homes excluded) located on a lot within two hundred fifty (250) feet of any portion of two (2) or more lots in the same block 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. The distance shall be measured along the street line from the nearest corner of the lot under consideration.

(1) Buildings located entirely on the rear half of a lot shall be counted.

(2) Buildings shall not be required to have a front yard greater than fifty (50) feet or less than that required in the zoning district in which it is located.

(3) If no buildings exists on one (1) side of a lot within two hundred fifty (250) feet of the lot in question, the minimum front yard shall be the same as the building on the other side.

[The next page is 881]

**165.15 OFF-STREET LOADING SPACES.** In all districts except the “C-TS” Town Square Business District, in connection with every building or part thereof hereafter erected having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods, display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space for each twenty thousand (20,000) square feet, or major fraction thereof, of gross floor area so used in excess of ten thousand (10,000) square feet.

1. Each loading space shall be not less than ten (10) feet in width and at least twenty-five (25) feet in length.

2. Such space may occupy all or any part of any required yard or court space, except where adjoining an “R” District, it shall be set back five (5) feet and an opaque screen of six (6) feet in height shall be installed and shall be maintained along all “R” District boundaries. In addition, except at designated access points, wheel barriers shall be installed along the outside boundaries of any parking area. The wheel barriers shall be installed in such a manner as to prevent a parked vehicle from encroaching into any required setback. The screen shall be in line with the front of any adjoining residential structure in any adjoining “R” District or the front of the proposed commercial structure, whichever is the lesser front yard setback. However, if the adjoining “R” District property is vacant, the front yard setback for the “R” District shall apply. A six (6) foot high opaque screen shall not be required along adjoining streets or adjoining alleys. An opaque screen of three (3) feet shall be installed and maintained along each street side lot line of a corner lot where the premises is across from any “R” District. The opaque screen shall not extend closer than twenty-five (25) feet to the front property line. An opaque screen of three (3) feet shall be installed and maintained along each alley line where the premises is across from any “R” District. The opaque screen need not extend beyond the opaque screen installed along the street side lot line. Where there is a difference in elevation on opposite sides of the screen, the height shall consist of one or any combination of the following:

A. Wood or masonry walls or fences when constructed of materials which provide openings of less than fifty percent (50%) in area of the vertical surface of the wall or fence.

B. Berms constructed of earthen materials and landscaped.

C. Plant materials when used as a screen shall consist of compact evergreen plants. They shall be of a kind or used in such a manner so as to provide their screening function within eighteen (18) months after initial planting. The Zoning Enforcement Officer shall require that either A or B above shall be installed if, after eighteen (18) months after planting, plant materials have not formed an opaque screen or if an opaque screen is not maintained. A wall or fence may be combined with the plant materials. However, if such a wall or fence is constructed of materials which provide openings of more than fifty percent (50%) in area of the vertical surface of the wall or fence, it shall not be considered a part of the opaque screen and it shall be located on the parking area side of the plant materials.

D. When the finished elevation of the property is lower at the boundary line or within five (5) feet inside the boundary line than an abutting property

elevation, such change in elevation may be used in lieu of or in combination with additional screening to satisfy the screening requirements for this district.

[The next page is 891]

**165.16 OFF-STREET PARKING AREA.**

1. In all districts except the “C-TS” Town Square Business District in connection with every industrial commercial, business, trade, institutional, recreational, or dwelling use, and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule. Required off-street parking facilities shall be primarily for the parking of private passenger automobiles of occupants, patrons, or employees of the principal use served.

A. The presumptions established by this section are that: (i) a development must comply with the parking standards set forth in the parking table, and (ii) any development that does meet these standards is in compliance.

B. In determining the number of parking spaces required by the table of parking requirements, if a fractional space results, any fraction less than one-half may be disregarded while fractions in excess of one-half shall be counted as one parking space.

C. The Council recognizes that the table of parking requirements set forth in this section cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Public Works Director is authorized to determine the parking requirements using this table as a guide. In accordance with the Comprehensive Plan, wherever possible parking will be established in the rear or side yard with the building orientation to the front sidewalk.

D. Table of Parking Requirements.

USE	PARKING REQUIREMENT
<b>RESIDENTIAL:</b>	
Single-family	2 spaces for each dwelling unit plus one space per room rented out, exclusive of garage
Two-family	2 spaces for each dwelling unit, exclusive of garage
Multi-family, One bedroom (townhomes & apartments)	1 space per dwelling unit, exclusive of garage, plus 1 visitor space per 5 dwelling units
Multi-family, Two bedrooms or more (townhomes & apartments)	2 spaces per dwelling unit, exclusive of garage, plus 1 visitor space per 5 dwelling units
Independent Living Facilities	1.25 spaces per dwelling unit, exclusive of garage, plus 1 visitor space per 5 dwelling units
Assisted Living Facilities.	1 space per two dwelling units plus 1 space per each on-duty staff member
<b>MISCELLANEOUS ROOMS-FOR-RENT SITUATIONS:</b>	
Homes emphasizing special services, treatment or supervision	3 spaces for every five beds except for uses exclusively serving children under 16, in which case 1 space for every 3 beds is required
Boarding houses	1 space for each bedroom
Hotels, motels and similar businesses or institutions providing over-night accommodations	1.25 spaces for each room to be rented plus additional space (in accordance with other sections of this table) for restaurant or other facilities
Home occupations	Demand established by particular home occupation authorized
<i>(Ord. 2013-100 – April 13 Supp.)</i>	

USE	PARKING REQUIREMENT
<b>SALES AND RENTAL OF GOODS, MERCHANDISE AND EQUIPMENT:</b> (No storage or display of goods outside fully enclosed building.)	
Storage – miscellaneous	1 space per 200 square feet of gross floor area
Convenience store	1 space per 150 square feet of gross floor area
Low-volume traffic*	1 space per 400 square feet of gross floor area
Wholesale sales	1 space per 400 square feet of gross floor area
Storage and display of goods outside fully enclosed building:	
High-volume traffic generation*	1 space per 200 square feet of gross floor area
Low-volume traffic generation*	1 space per 400 square feet of gross floor area
Wholesale sales	1 space per 400 square feet of gross floor area
*As determined by the City Engineer and/or IDOT traffic studies or other acceptable evaluations and data.	
<b>OFFICE, CLERICAL, RESEARCH AND SERVICES NOT PRIMARILY RELATED TO GOODS OR MERCHANDISE:</b> (All operations conducted within fully enclosed building.)	
Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys, physicians, other professions, insurance and stock brokers, travel agents, government office buildings, etc.	1 space per 200 square feet of gross floor area
Operations designed for little or not customer or client traffic other than employees of the entity operating the principal use	1 space per 400 square feet of gross floor area
Office or clinics of physicians or dentists with no more than 10,000 square feet of gross floor area	1 space per 150 square feet of gross floor area
Operations conducted within or outside fully enclosed building:	
Operations designed to attract and serve customers or clients on the premises	1 space per 200 square feet of gross floor area
Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use	1 space per 400 square feet of gross floor area
Banks with drive-up windows	1 space per 200 square feet of area within main building plus reservoir land capacity equal to 5 spaces per window (10 spaces if window serves two stations)
<b>MANUFACTURING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLY OF GOODS, MERCHANDISE AND EQUIPMENT</b> (All operations conducted entirely within a fully enclosed building.)	
Majority of dollar volume of business done with walk-in trade	1 space per 400 square feet of gross floor area
Majority of dollar volume of business not done with walk-in trade	1 space for every two employees on the maximum shift, except that if permissible in the commercial districts, such uses may provide 1 space per 200 square feet of gross floor area
Operations conducted within or outside fully enclosed building	1 space for every two employees on the maximum shift except that if permissible in the commercial districts, such uses may provide 1 space per 200 square feet of gross floor area

USE	PARKING REQUIREMENT
<b>EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, FRATERNAL USES:</b>	
Elementary and secondary (including associated grounds and other facilities)	1.75 spaces per classroom in elementary schools, 10 spaces per classroom in high schools
Trade or vocation schools	1 space per 100 square feet of gross floor area
College, universities, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.)	1 space per 150 square feet of gross floor area
Churches, synagogues, temples	1 space for every 80 square feet of worship area plus one space for every two employees with sufficient space for safe and convenient loading and unloading
Libraries, museums, art galleries, art centers and similar uses (including associated educational and instructional activities)	1 space per 300 square feet of gross floor area
Social, fraternal clubs and lodges, union halls and similar uses	1 space per 300 square feet of gross floor area
<b>RECREATION, AMUSEMENT, ENTERTAINMENT: (Activity conducted entirely within building or substantial structure.)</b>	
Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities and similar uses	1 space for every three persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion; for example, tennis courts or bowling alleys) plus 1 space per 200 square feet of gross floor area used in a manner not susceptible to such calculation
Movie theaters	1 space for every four seats
Coliseums, stadiums, and all other facilities listed in the 6.100 classification designed to seat or accommodate simultaneously more than 1,000 people	1 space for every four seats
<b>RECREATION, AMUSEMENT, ENTERTAINMENT: (Activity conducted primarily outside enclosed buildings or structures.)</b>	
Privately owned recreational facilities such as golf and country clubs, swimming or tennis clubs, etc., not construction of some residential development	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every 3 persons that outdoor facilities are designed to accommodate when used to the maximum capacity
Publicly owned recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, etc., not constructed pursuant to a permit authorizing the construction of another use such as a school	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every 3 persons that outdoor facilities are designed to accommodate when used to the maximum capacity
Miniature golf course, skateboard park, water slide and similar	1 space per 300 square feet of area plus 1 space per 200 square feet of building gross floor area
Drive Range	1 space per tee plus 1 space per 200 square feet of building gross floor area
Par Three Course	2 spaces per golf hole plus 1 space per 200 square feet of building gross floor area
Horseback riding stables (not constructed pursuant to permit authorizing residential development)	1 space per horse that could be kept at the stable when occupied to maximum capacity
Automobile and motorcycle racing tracks	1 space for every three seats
Drive-in movie theaters	1 space per speaker outlet

USE	PARKING REQUIREMENT
<b>INSTITUTIONAL RESIDENCE OR CARE OR CONFINEMENT FACILITIES:</b>	
Hospitals, clinics, other medical (including mental health) treatment facilities in excess of 10,000 square feet of floor area	2 spaces per bed or 1 space per 150 square feet of gross floor area, whichever is greater
Nursing care institutions, intermediate care institutions, institutions for infirm persons or persons with disabilities, child care institutions	3 spaces for every five beds. Multi-family units developed or sponsored by a public or nonprofit agency for limited income families or the elderly require only 1 space per unit
Institutions (other than halfway houses where mentally ill persons are confined)	1 space for every two employees on maximum shift
Penal and correctional facilities	1 space for every two employees on maximum shift
<b>RESTAURANTS, BARS, NIGHTCLUBS:</b>	
No substantial carry-out or delivery service, no drive-in service, no service or consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area
No substantial carry-out or delivery service; no drive-in service, service or consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area plus 1 space for every four outside seats
Carry-out and delivery service, no drive-in service, consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area plus 1 space for every four outside seats
Carry-out and delivery service, drive-in service, service or consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area plus 1 space for every four outside seats plus reservoir lane capacity equal to 5 spaces per drive-in window
<i>(Ord. 2013-100 – April 13 Supp.)</i>	
<b>MOTOR VEHICLE RELATED SALES AND SERVICE OPERATIONS:</b>	
Motor vehicle sales or rental; mobile homes sales	1 space per 200 square feet of gross floor area
Sales with installation of motor vehicle parts or accessories (e.g., tires, mufflers, etc.) fully enclosed structure allowed	1 space per 200 square feet of gross floor area
Motor vehicle repair and maintenance, not including substantial body work	1 space per 200 square feet of gross floor area
Motor vehicle painting and body work	1 space per 200 square feet of gross floor area
Gas sales	1 space per 150 square feet of gross floor area of building, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces
Car Wash conveyor type	1 space for every three employees on the maximum shift plus reservoir capacity equal to 5 times the capacity of the washing operation
Car Wash self-service type	2 spaces for drying and cleaning purposes per stall plus two reservoir spaces in front of each stall
<b>STORAGE AND PARKING:</b>	
<i>(Storage of goods not related to sale or use of those goods on the same lot where they are stored)</i>	
All storage within completely enclosed structures	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside)
Storage inside or outside completely enclosed structures	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside)

USE	PARKING REQUIREMENT
<b>OTHER:</b>	
Scrap materials, salvage yards, junk yard, automobile graveyards	1 space per 200 square feet of gross floor area
Service and enterprises related to animals	1 space per 200 square feet of gross floor area
Emergency services	1 space per 200 square feet of gross floor area
Agricultural, silvicultural, mining, quarry operations	1 space per 2 employees on maximum shift
Miscellaneous public and semi-public facilities:	
Airport	1 space per 200 square feet of gross floor area
Sanitary landfill	1 space for every two employees on maximum shift
Dry cleaner, Laundromat	1 space per 200 square feet of gross floor area
Open air markets and horticultural sales	1 space per 1,000 square feet of lot area used for storage, display or sales
Funeral Home	1 space per 100 square feet of gross floor area
Cemetery	No requirement
Nursery schools; day care centers	1 space per employee plus 1 space per 200 square feet of gross floor area
Bus station, train station	1 space per 200 square feet of gross floor area
Commercial greenhouse operations area	1 space per 200 square feet of gross floor area

2. In case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply.

3. Where a parking lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than eight (8) feet in width in case of a dwelling and not less than sixteen (16) feet in width in all other cases leading to the loading or unloading spaces and to secure the most appropriate development of the property in question, provided however, such easement of access or access drive shall not be located in any residence district, except where serving a permitted use in a residence district.

4. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

A. No part of any parking space shall be closer than five (5) feet to any established street right-of-way or alley line. In the case the parking area adjoins an “R” District, it shall be set back at least five (5) feet from the “R” District boundary and an opaque screen of six (6) feet in height shall be installed and shall be maintained along all “R” District boundaries. In addition, except at designated access points, wheel barriers shall be installed along the outside boundaries of any parking area. The wheel barriers shall be installed in such a manner as to prevent a parked vehicle from encroaching into any required setback. The screen shall be in line with the front of any adjoining “R” District or the front of the proposed commercial structure, whichever is the lesser front yard setback. However, if the adjoining “R” District property is vacant, the front yard setback for the “R” District shall apply. A six (6) foot high opaque screen shall not be required along streets or along alleys. An opaque screen of three (3) feet shall be installed and maintained along each street side lot line of a corner lot where the premises is across from any “R” District. The opaque screen shall not extend closer than twenty-five (25) feet to the front property line. An opaque screen of three (3) feet shall be installed and maintained along each alley line where the premises is across from any “R” District. The opaque screen need not extend beyond

the opaque screen installed along the street side lot line. Where there is a difference in elevation on opposite sides of the screen, the height shall be measured from the highest elevation. An opaque screen shall consist of one, or any combination of, the following:

- (1) Wood or masonry walls or fences when constructed of materials which provide openings of less than fifty percent (50%) in area of the vertical surface of the wall or fence.
- (2) Berms constructed of earthen materials and landscaped.
- (3) Plant materials when used as a screen shall consist of compact evergreen plants that meet the approval of Section 165.17, Landscape, Planting and Screening and Urban Design Standards, Chapter 12, Section 5. They shall be of a kind or used in such a manner so as to provide their screening function within eighteen (18) months after initial planting. The Zoning Enforcement Officer shall require that either (1) or (2) above be installed if, after 18 months after planting, plant materials have not formed an opaque screen or if an opaque screen is not maintained. A wall or fence may be combined with the plant materials. However, if such a wall or fence is constructed of materials which provide openings of more than fifty percent (50%) in area of the vertical surface of the wall or fence, it shall not be considered a part of the opaque screen and it shall be located on the parking area side of the plant materials.
- (4) When the finished elevation of the property is lower at the boundary line or within five (5) feet inside the boundary line than an abutting property elevation, such change in elevation may be used in lieu of or in combination with additional screening to satisfy the screening requirements for this district.

B. In all zoning districts, all off-street parking areas and driveways shall be surfaced with an asphaltic or portland cement binder pavement or such other surfaces as shall be approved by the City Engineer and the Building Inspector so as to provide a durable and dustless surface, shall be so graded and drained as to dispose of all surface water accumulation within the area and shall be so arranged and marked as to provide for orderly and safe loading and unloading and parking and storage of self-propelled vehicles. Such surfacing shall be required to be installed at the time of site improvement construction in conjunction with Site Plan approval when such approval is required and issuance of building permits and shall be considered a required improvement to be installed prior to issuance of occupancy permits; provided however, the Council may, in its discretion, by resolution, authorize an extension of time for the installation of the required surfacing and allow issuance of the occupancy permit prior to installation of the required surfacing. The Council may consider an extension of time only if a petition signed by the owner or duly authorized representative requesting a time extension including a statement of reasons therefor, is presented to the Council. The length of time granted for the extension shall be determined and at the discretion of the Council, but in no event longer than three (3) years. Should a time extension be granted by resolution of the Council, the owner shall provide to the City a performance bond in the form as prescribed by the

Subdivision Regulations, Chapter 170 of this Code of Ordinances, and in the amount recommended by the City Engineer and approved by the Council and for the duration of the time stipulated in such grant. The Council may, in its discretion, by resolution rescind the granted extension of time by reason of such facility becoming a nuisance to surrounding property owners. In such instance, the required surfacing shall be installed by the owner within six months from the date of such resolution or the performance bond concerning surfacing shall be forfeited and the surfacing installed by order of the City.

C. Vehicles, recreational vehicles, boats, all-terrain vehicles (ATVs) or snowmobiles shall not be parked or stored within the front yard or street side yard of a residential lot in any zoning district unless situated on a paved driveway or parking lot. In the case of an existing residential driveway that was unpaved at the time of the passage of this Ordinance; vehicles, recreational vehicles, boats, ATVs and snowmobiles shall be permitted to be parked or stored on such unpaved driveway until such time as site improvements are made which require the driveway to be paved. Recreational vehicles, boats, ATVs, and snowmobiles may be parked or stored within the interior side yard or rear yard of a residential lot or within an enclosed garage. Recreational vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any lot other than in completely enclosed buildings.

D. Any lighting used to illuminate any off-street parking area including any commercial parking lots shall be so arranged as to reflect the light away from adjoining premises in any "R" District. Such lighting shall be downcast lighting with a maximum of 1 foot-candle at the property line.

5. Off-street parking areas shall be provided on the same lot with the principal use, except as provided in subsection 6 below.

6. Subject to the requirements herein, off-street parking areas may be established in any "R" District that immediately adjoins a "C" or "M" District, or is directly across an alley from a "C" or "M" District, provided that:

A. Such parking shall be accessory to and for use of one or more permitted uses in the adjoining "C" or "M" District and shall not include trucks.

B. Such parking areas shall not extend more than one hundred (100) feet from the boundary of the less restricted district. In no case shall said areas extend closer than ten (10) feet to the street right-of-way line. The yard between said parking areas and the adjoining streets shall be screen planted and landscaped as provided in C below.

C. A ten (10) foot yard shall be maintained between said parking area and adjoining lots in an "R" District. In addition, except at designated access points, wheel barriers shall be installed along the outside boundaries of any parking area. The wheel barriers shall be installed in such a manner as to prevent a parked vehicle from encroaching into any required setback. An opaque screen at least six (6) feet in height shall be maintained along all "R" District boundaries. The screen shall be in line with the front of any adjoining residential structure in any adjoining "R" District or the front of the proposed commercial structure, whichever is the lesser front yard setback. However, if

the adjoining “R” District property is vacant, the front yard setback for the “R” District shall apply. A six (6) foot high opaque screen shall not be required along adjoining streets or adjoining alleys. An opaque screen of three (3) feet shall be installed and maintained along each street side lot line of a corner lot where the premises is across from any “R” District. The opaque screen shall not extend closer than twenty-five (25) feet to the front property line. An opaque screen of three (3) feet shall be installed and maintained along each alley line where the premises is across from any “R” District. The opaque screen need not extend beyond the opaque screen installed along the street sides of the screen, the height shall be measured from the highest elevation. An opaque screen shall consist of one or any combination of the following:

- (1) Wood or masonry walls or fences when constructed of materials which provide openings of less than fifty percent (50%) in area of the vertical surface of the wall or fence.
  - (2) Berms constructed of earthen materials and landscaped.
  - (3) Plant materials when used as a screen shall consist of compact evergreen plants. They shall be of a variety or used in such a manner so as to provide adequate screening function. A wall or fence may be combined with the plant materials. A wall or fence may be combined with the plant materials. However, if such a wall or fence is constructed of materials which provide openings of more than fifty percent (50%) in area of the vertical surface of the wall or fence, it shall not be considered a part of the opaque screen and it shall be located on the parking area side of the plant materials.
  - (4) When the finished elevation of the property is lower at the boundary line or within five (5) feet inside the boundary line than an abutting property elevation, such change in elevation may be used in lieu of or in combination with additional screening to satisfy the screening requirements for this district.
- D. All entrances and exits for said parking areas shall be from said adjoining alley for “C” or “M” District.
- E. No such parking area shall be located in any required front yard in a residence district or project in front of the immediately adjoining permitted principal structures.
7. Parking spaces required by subsection 1 and 2 hereof shall be provided in accordance with the Urban Design Standards, Chapter 12, Section 3.
8. Parking spaces required by subsection 1 and 2 hereof shall not be located within any shared or common driveway or ingress/egress easement.

[The next page is 921]

**165.17 LANDSCAPE, PLANTING AND SCREENING.**

1. Open Space Planting. Whenever property is required to include open space pursuant to the provisions of Section 165.06, such open space shall be unencumbered by any structure or off-street parking area. Such open space, except for the portion used as pedestrian walks or courts, shall be landscaped and maintained with grass or other acceptable ground cover and shall include trees and shrubs in the proportions hereinafter set forth. Trees and shrubbery shall be provided at a minimum ratio of two (2) trees and six (6) shrubs per three thousand (3,000) square feet of required open space; provided, however, there shall be a minimum requirement of two (2) trees and six (6) shrubs. Required plantings shall be installed prior to issuance of an occupancy permit. The required number of trees and shrubs shall be determined as follows:

- 3,000 square feet or less of open space = two (2) trees, six (6) shrubs
- More than 3,000 square feet of open space:  
 Trees: (square feet of open space divided by 3,000) x 2 = No. of trees required  
 Shrubs: (square feet of open space divided by 3,000) x 6 = No. of shrubs required

The plantings required hereunder are in addition to and not in substitution of any planting requirements otherwise set forth in this Code of Ordinances. Existing trees and shrubs on site and retained as part of the development may be used to meet the requirements of this section.

2. Parking Area Landscaping. Parking areas required in R-3, R-4, C-1, C-2, C-3, C-4, M-1 and M-2 zoning districts shall provide areas of natural shading, accomplished through the planting of trees, in an amount equal to twenty percent (20%) of the total square feet of drives and parking (Vehicle Pavement Area). Trees used for this purpose shall be presumed to shade a circular area having seven hundred (700) square feet. New trees planted to meet the requirements of this section shall be located so that each is surrounded by at least one hundred ninety (190) square feet of unpaved area. New and existing trees shall be protected from damage by vehicles and shall be promptly replaced if destroyed. Plantings required hereunder shall be installed prior to the issuance of an occupancy permit for the site. The number of trees required hereunder shall be determined as follows:

- Vehicle Pavement Area x 20% = Plant Square Footage
- Plant Square Footage divided by 700 = No. of trees required.

The plantings required under this section are in addition to and not in substitution of any open space or parking lot plantings or screening otherwise required under this Code of Ordinances. Existing trees on a site which are retained as a part of development and which provide shade to parking areas may be used to meet the requirements of this section.

3. Approved Trees. Any trees planted to meet the requirements of this chapter shall be trees of a type included on the approved tree list of the City as determined by the Tree Board.

4. Screens. The intent of the screening regulations hereinafter set forth is to lessen the transmission from one property to another of noise, dust and glare; to lessen visual pollution by creating the impression of separation of spaces or entirely

shielding one land use from another; and/or establishing a sense of privacy from visual or physical intrusion. The Council specifically finds that the provisions of this chapter are necessary to safeguard the public health, safety and welfare.

A. General Screening Standard. Every development shall provide sufficient screening so that neighboring properties are shielded from any adverse external effects of that development; and the development is shielded from the negative impacts of adjacent uses including streets and railroads.

B. Compliance with General Standard. The following “Table of Screening Requirements” (the “Table”), in conjunction with the explanations set forth in subsection 4D concerning types of screens, establishes screening requirements that presumptively satisfy the general standard established in subsection 4A.

C. “Burdened Zoning District” means the zoning classification of the property on which screening must be installed. “Benefited Zoning Classification/Use” means the zoning classification of the property which is benefited or protected by the required screening. The letter designations “A”, “B” and “C” refer to types of screening required and which are described and defined in subsection 4D. The designation “–” means there are no presumptively required screening requirements for abutting properties to which such designation applies under the Table. Where screening is required under the Table, the owner of the property in the burdened district is responsible for the installation of the required screening prior to issuance of an occupancy permit. The burdened zoning district shall be interpreted to mean the zoning district permitting more intensive uses unless otherwise determined by City Council upon recommendation of the Planning and Zoning Commission.

<b>TABLE OF SCREENING REQUIREMENTS</b>									
<b>BENEFITED ZONING DISTRICT</b>									
Burdened Zoning District	R-1 R-1A	R-2 R-2A	R-3	R-4	C-1 C-4	C-2 C-3	M-1 M-2	PUD	U-1
R-1 & R-1A	–	–	A	A	B	B	C	*	–
R-2 & R-2A	–	–	A	A	B	B	C	*	–
R-3	A	A	–	–	B	B	C	*	–
R-4	A	A	–	–	A	B	C	*	–
C-1, C-4	B	B	A	A	–	A	C	*	–
C-2, C-3	B	B	B	B	A	–	C	*	–
M-1, M-2	C	C	C	C	C	C	–	*	–
PUD	*	*	*	*	*	*	*	*	–
U-1	–	–	–	–	–	–	–	–	–

Notes:

1. Screening and Buffer Easements in PUD Districts to be approved by City Council with Master Plan.
2. Additional screening and Buffer Easements for M-2 uses may be required by City Council with Site Plan
3. Where the burdened property lies adjacent to the corporate limits at the time of development, buffer requirements shall be based upon the Future Land Use of the benefited parcel as designated by the Polk City Comprehensive Plan.
4. Where the burdened property lies adjacent to an A-1 zoning district at the time of development, buffer requirements shall be based upon the Future Land Use of the benefited parcel as designated by the Polk City Comprehensive Plan.

D. Description of Screens. The following three basic types of screens are hereby established and are designated “A”, “B” and “C” (corresponding to the designations included in the Table):

(1) Broken screen, type “A”, means a screen composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance by use of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The screen may contain deciduous plants. A type “A” screen shall be located within a buffer easement of sufficient width to accommodate the required broken screen as shown on an approved site plan, but in no case shall it be less than 20 feet wide unless specifically waived by Council on an approved Site Plan. Said easement will be exclusive of parking areas and accessory structures except approved fences or walls.

(2) Semi-opaque screen, Type “B”, means a screen that is opaque from the ground to a height of three (3) feet, with intermittent visual obstruction from above the opaque portion to a height of at least twenty (20) feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance by use of planted vegetative screens or nature vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than 10 feet wide. The zone of intermittent visual obstruction may contain deciduous plants. A type “B” screen shall be located within a buffer easement of sufficient width to accommodate the required semi-opaque screen as shown on an approved site plan, but in no case shall it be less than 30 feet wide unless specifically waived by Council on an approved Site Plan. Said easement will be exclusive of parking areas and accessory structures except approved fences or walls.

(3) Opaque screen, Type “C”, means a screen that is opaque from the ground to a height of a least six (6) feet, with intermittent visual obstructions from the opaque portion to a height of at least twenty (20) feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance by use of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing

vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than 10 feet wide. The portion of intermittent visual obstructions may contain deciduous plants. A type “C” screen shall be located within a buffer easement of sufficient width to accommodate the required opaque screen as shown on an approved site plan, but in no case shall it be less than 50 feet wide unless specifically waived by Council on an approved Site Plan. Said easement will be exclusive of parking areas and accessory structures except approved fences or walls.

E. Where commercial and/or industrial uses abut residential uses, the developer of the commercial and/or industrial property shall construct all required screens adjacent to said residential properties as part of the initial phase of development of their property.

5. Buffer Easements Adjacent to U.S. Army Corps of Engineers Land. Parcels of land being developed that abut land owned by the United States of America shall provide a thirty-five foot (35') wide Buffer Easement across the developer's property adjacent to said public lands prior to approval of a Final Plat or Site Plan for the developer's property. The Buffer Easement shall prohibit construction of principal or accessory structures within said easement, except approved fences or walls. The Buffer Easement shall also restrict construction of streets within said easement except where it is deemed necessary to cross said easement to maintain continuity of the street system. The buffer easement shall not restrict construction of trails.

6. Storage Areas. The outdoor storage of materials, equipment or supplies, when permitted in any commercial or industrial district, shall be located or screened, fenced or landscaped so as to effectively prevent visibility of such storage from all abutting residential zoning districts or abutting existing residential uses. Such screening shall be sufficient if it prevents visibility of such storage area by persons traveling on public right of ways or standing at level on the side or rear lot lines of such property. Such screening shall comply with the standard for an opaque screen Type C.

[The next page is 935]

**165.18 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS.**

1. Purpose. The purpose of this section is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this section are to:
  - A. Protect residential areas and land uses from potential adverse impacts of towers and antenna;
  - B. Encourage the location of towers in non-residential areas;
  - C. Minimize the total number of towers throughout the community;
  - D. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
  - E. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
  - F. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
  - G. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
  - H. Consider the public health and safety of communication towers; and
  - I. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City shall give due consideration to the City's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.
2. Definitions. As used in this section, the following terms shall have the meanings set forth below:
  - A. "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
  - B. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
  - C. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
  - D. "FAA" means the Federal Aviation Administration.
  - E. "FCC" means the Federal Communications Commission.

F. "Height" means, when referring to a tower or other structure, the distance measure from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

G. "Preexisting towers and preexisting antennas" means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

H. "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

3. Applicability.

A. New Towers and Antennas. All new towers or antennas in the City shall be subject to these regulations, except as provided in subsections B through D, inclusive.

B. Amateur Radio Station Operators/Receive Only Antennas. This section shall not govern any tower, or the installation of any antenna, that is under seventy (70') feet in height and is owned and operated by a federal-licensed amateur radio station operator or is used exclusively for receive only antennas.

C. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of subsections 4(F) and 4(G).

D. AM Array. For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

4. General Requirements.

A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

B. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

C. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Enforcement Officer an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are

either within the jurisdiction of the City or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Enforcement Officer may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the City, provided, however that the Zoning Enforcement Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

D. Aesthetics. Towers and antennas shall meet the following requirements:

(1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

(2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

(3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(4) The alternative tower structure will be given preference for approval over a typical tower.

E. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

F. State of Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

G. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty

(30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

H. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City irrespective of municipal and county jurisdictional boundaries.

I. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.

J. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City have been obtained and shall file a copy of all required franchises with the Zoning Enforcement Officer.

K. Public Notice. For purposes of this section, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Table 2 of subsection 7, in addition to any notice otherwise required by this chapter.

L. Signs. No signs shall be allowed on an antenna or tower.

M. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of subsection 8.

N. Multiple Antenna/Tower Plan. The City encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

5. Permitted Uses.

A. General. The uses listed in this subsection are deemed to be permitted uses and shall not require administrative approval or a special use permit.

B. Permitted Uses. The following uses are specifically permitted:

(1) Antennas or towers located on property owned, leased, or otherwise controlled by the City provided a license or lease authorizing such antenna or tower has been approved by the City.

6. Administratively Approved Uses.

A. General. The following provisions shall govern the issuance of administrative approvals for towers and antennas.

(1) The Zoning Enforcement Officer and City Engineer must approve the uses listed in this subsection.

(2) Each applicant for administrative approval shall apply to the Zoning Enforcement Officer providing the information set forth in subsections 7 (B) (1) and 7 (B) (3) of this section and a nonrefundable

fee as established by resolution of the Council to reimburse the City for the costs of reviewing the application.

(3) The Zoning Enforcement Officer and City Engineer shall review the application for administrative and technical approval and determine if the proposed use complies with subsections 4, 7 (B) (4) and 7 (B) (5) of this section. Applicant will pay all fees associated with the review process.

(4) The Zoning Enforcement Officer shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application.

(5) In connection with any such administrative approval, the Zoning Enforcement Officer may, in order to encourage shared use, administratively waive any zoning district setback requirements in subsection 7 (B) (4) or separation distances between towers in subsection 7 (B) (5) by up to fifty percent (50%).

(6) In connection with any such administrative approval, the Zoning Enforcement Officer may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

(7) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to subsection 7 prior to filing any appeal that may be available under this chapter.

B. List of Administratively Approved Uses. The following uses may be approved by the Zoning Enforcement Officer after conducting an administrative review:

(1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or heavy commercial zoning district.

(2) Locating antennas on existing structures or towers consistent with the terms of subsections (a) and (b) below.

a. Antennas On Existing Structures. Any antenna which is not attached to a tower may be approved by the Zoning Enforcement Officer as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided;

(i) The antenna does not extend more than thirty (30) feet above the highest point of the structure;

(ii) The antenna complies with all applicable FCC and FAA regulations; and

(iii) The antenna complies with all applicable building codes.

b. Antennas On Existing Towers. An antenna which is attached to an existing tower may be approved by the Zoning Enforcement Officer and, to minimize adverse visual impacts

associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Enforcement Officer allows reconstruction as a monopole.

(ii) Height.

(a) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.

(b) The height change referred to in subsection (iii) (a) may only occur one time per communication tower.

(c) The additional height referred to in subsection (iii) (a) shall not require an additional distance separation as set forth in subsection 7. The tower's premodification height shall be used to calculate such distance separations.

(iii) Onsite Location.

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

(b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

(c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to subsection 7 (B) (5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of subsection 7 (B) (5).

(d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in subsection 7 (B) (5) shall only be permitted when approved by the Zoning Enforcement Officer.

(3) New Towers In Non-Residential Zoning Districts. Locating any new tower in a non-residential zoning district other than industrial or heavy commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Enforcement Officer concludes the tower is in conformity with the goals set forth in subsection 1 and the requirements of subsection 4; the tower meets the setback requirements in subsection 7 (B) (4) and separation distances in subsection 7 (B) (5); and the tower meets the following height and usage criteria:

- a. for a single user, up to ninety (90) feet in height;
- b. for two users, up to one hundred twenty (120) feet in height; and
- c. for three or more users, up to one hundred fifty (150) feet in height.
- d. Notwithstanding anything contained elsewhere in this Section, a tower of up to two hundred seventy (270) feet in height may be approved by the Council upon a showing that the tower will be used for at least three users and that the site best addresses the needs and concerns of the City.

(4) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the Zoning Enforcement Officer is in conformity with the goals set forth in subsection 1.

(5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

7. Special Use Permits.

A. The following provisions shall govern the issuance of special use permits for towers or antennas by the Board of Adjustment:

(1) If the tower or antenna is not a permitted use under subsection 5 of this section or is not approved administratively pursuant to subsection 6 of this section, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

(2) Applications for special use permits under this subsection shall be subject to the procedures and requirements of Section 165.19 of this chapter, except as modified in this subsection.

(3) In granting a special use permit, the Board of Adjustment may impose conditions to the extent the Board of Adjustment concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

(4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by

a licensed professional engineer and also reviewed by the City Engineer.

(5) An applicant for a special use permit shall submit the information described in this subsection and a non-refundable fee as established by resolution of the Council to reimburse the City for the costs of reviewing the application.

B. Towers.

(1) Information Required. In addition to any information required for applications for special use permits pursuant to Section 165.19 of this chapter, applicants for a special use permit for a tower shall submit the following information:

a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in subsection 7 (B) (5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Enforcement Officer to be necessary to assess compliance with this section.

b. Legal description of the parent tract and leased parcel (if applicable).

c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection 4 (C) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing towers(s), if known.

e. A landscape plan showing specific landscape materials.

f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

g. A description of compliance with subsections 4 (C), (D), (E), (F), (G), (J), (L), and (M), 7 (B) (4), 7 (B) (5) and all applicable federal, state or local laws.

h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

i. Identification of the entities providing the backhaul network for the tower(s) described in the application and

other cellular sites owned or operated by the applicant in the City.

j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

k. A description of the feasible location(s) of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(2) Factors Considered In Granting Special Use Permits For Towers. In addition to any standards for consideration of special use permit applications pursuant to Section 165.19 of this chapter, the Board of Adjustment shall consider the following factors in determining whether to issue a special use permit, although the Board of Adjustment may waive or reduce the burden on the applicant of one or more of these criteria if the Board of Adjustment concludes that the goals of this section are better served thereby;

- a. Height of the proposed tower;
- b. Proximity of the tower to residential structures and residential district boundaries;
- c. Nature of uses on adjacent and nearby properties;
- d. Surrounding topography;
- e. Surrounding tree coverage and foliage;
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress; and
- h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in subsection 7 (B) (3) of this section.

(3) Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Adjustment that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Board of Adjustment related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(4) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Board of Adjustment may reduce the standard setback requirements if the goals of this subsection would be better served thereby:

- a. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
- b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(5) Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Board of Adjustment may reduce the standard separation requirements if the goals of this section would be better served thereby.

- a. Separation From Off-Site Uses/Designated Areas.
  - (i) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
  - (ii) Separation requirements for towers shall comply with the minimum standards established in Table 1.

**Table 1:  
Off-Site Use/Designated Area Separation Distance**

Single-family or duplex residential units <sup>1</sup>	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower <sup>2</sup> whichever is greater
Vacant unplatted residentially zoned lands <sup>3</sup>	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

<sup>1</sup> Includes modular homes and mobile homes used for living purposes.

<sup>2</sup> Separation measured from base of tower to closet building setback line.

<sup>3</sup> Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

- b. Separation Distances Between Towers.
  - (i) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

**Table 2  
Existing Towers – Types**

	<b>Lattice</b>	<b>Guyed</b>	<b>Monopole 75 Ft in Height or Greater</b>	<b>Monopole Less Than 75 Ft in Height</b>
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Ft in Height or Greater	1,500	1,500	1,500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

(6) Security Fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Board of Adjustment may waive such requirements, as it deems appropriate.

(7) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Board of Adjustment may waive such requirements if the goals of this section would be better served thereby.

a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extents possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

8. Buildings or Other Equipment Storage.

A. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

(1) The cabinet or structure shall not contain more than three hundred twenty (320) square feet of gross floor area or be more than eight (8) feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over three hundred twenty (320) square feet of gross floor area or eight (8) feet in height, shall be located on the ground and shall not be located on the roof of the structure.

(2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten (10) percent of the roof area.

(3) Equipment storage buildings or cabinets shall comply with all applicable building codes.

B. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

(1) In residential districts, the equipment cabinet or structure may be located:

- a. In a front or side yard provided the cabinet or structure is no greater than three hundred twenty (320) feet in height or eight (8) square feet of gross floor area and the cabinet/structure is located in compliance with the set back requirements from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.
  - b. In a rear yard, provided the cabinet or structure is no greater than eight (8) feet in height or three hundred twenty (320) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.
- (2) In commercial or industrial districts the equipment cabinet or structure shall be no greater than eight (8) feet in height or three hundred twenty (320) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence eight (8) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.
- C. Antennas Located on Towers. The related unmanned equipment structure shall not contain more than three hundred twenty (320) square feet of gross floor area or be more than eight (8) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
- D. Modification of Building Size Requirements. The requirements of this subsection may be modified by the Zoning Enforcement Officer in the case of administratively approved uses or by the Board of Adjustment in the case of uses permitted by special use to encourage collocation.
- 9. Removal of Abandoned Antennas and Towers.
  - A. Any antenna or tower that is not operated for a continuous period of six (6) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within sixty (60) days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said sixty (60) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
  - B. A written agreement signed by the communication facility owner and property owner to remove the tower, foundation and any other accessory equipment within sixty (60) days after abandonment. As used herein, the term "abandonment" shall mean a communication tower that is not used for its intended and approved purpose for more than one hundred eight (180) days.

10. Nonconforming Uses.
  - A. Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.
  - B. Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.
  - C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding subsection 9, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in subsections 7 (B) (4) and 7 (B) (5). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in subsection 9.

[The next page is 955]

**165.19 SPECIAL PERMITS.** The Board of Adjustment 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 prohibited by this chapter.

1. Any public building erected and used by any department of the City, Township, County, State or Federal government.
2. Airport or landing field.
3. Community building or recreation field.
4. Hospitals, nonprofit fraternal institutions, provided they are used solely for fraternal purposes, and institutions of an educational, religious, philanthropic or eleemosynary character.
5. Preschools.
6. Public cemetery.
7. Private golf courses, country clubs, and tennis or swimming clubs.
8. Bus terminals.
9. Pet cemeteries.
10. Telecommunications towers and antennas.
11. Home occupations.

Before issuing any special permit for any of the above buildings or uses, the Board of Adjustment shall review the conformity of the proposed building or use with the standards of the existing Comprehensive Plan, as amended, and with recognized principles of civic design, land use planning, and landscape architecture. The Board of Adjustment may approve the special permit as submitted or, before approval, may require that the applicant modify, alter, adjust or amend the proposal as the Board of Adjustment deems necessary to the end that it preserve the intent and purpose of this chapter to promote public health, safety, morals and the general welfare. Applications for a special permit under the terms of this chapter shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings, the areas to be developed for parking, the locations of sidewalks and driveways and the points of ingress and egress, including access streets, where required, the location and heights of walls, the location and type of landscaping and the location, size and number of signs. In the event a special permit is granted under the terms of this chapter, any change thereafter in the approved use or site plan shall be resubmitted and considered in the same manner as the original proposal.

**165.20 ADMINISTRATION WAIVER.** This section applies only to Master Plans required herein in conformance with Chapter 171 of this Code and Site Plans required herein in conformance with Chapter 157 of this Code. All major changes to a master plan or to a site plan shall be made in accordance with the procedures in effect at the time of the initial approval. Major changes shall be deemed to be any change not hereinafter listed as a minor change. Minor changes, as hereinafter listed, shall not be made unless the prior approval for such change is obtained from the City Engineer. Such approval shall be in writing and shall be signed by the City Administrator. Upon application, to make a minor change and upon verification that the following conditions have been met, it shall be the duty of the City

Engineer to grant approval to such minor change. Minor changes are deemed to include the following:

1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s). Relocation of building entrances or exits; shortening of building canopies.
2. Changing to a more restrictive use provided there is no reduction in the amount of off-street parking as originally approved.
3. Changing angle of parking or aisle width in accordance with code provisions provided there is no reduction in the amount of off-street parking as originally approved.
4. Moving of ingress and egress drives a distance not more than one hundred (100) feet if required for traffic regulation.
5. Substitute plant species provided a licensed landscape architect, engineer or architect certifies the substituted special is similar in nature.
6. Increase quantities of plant materials or size of landscaped areas.
7. Change type and design of lighting fixtures provided a licensed engineer or architect certifies there will be no change in the intensity of light.
8. Increase peripheral yards.

#### **165.21 BOARD OF ADJUSTMENT.**

1. **Board Established.** A Board of Adjustment is established which shall consist of seven (7) members. The terms of office of the members of the Board of Adjustment shall be for terms of five (5) years of each. The terms of office of the members of the Board of Adjustment shall be for five (5) years on a staggered basis, and their appointment shall be made by the Mayor with the approval of the Council. Any member of the Board who shall thereafter be absent from three (3) meetings of the Board during any one calendar year, without good cause, shall be deemed to have vacated such office on the occasion of such third absence. The Chairperson shall immediately report such vacancy to the Mayor, who shall, with the approval of the Council, fill such vacancy for the unexpired term. The Board shall not carry on its business without having at least four (4) members present. A majority of the members of the Board of Adjustment should not be involved in the business of purchasing or selling real estate.
2. **Meetings.** The meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson, or in the absence of the Chairperson, the acting Chair, may administer oaths and compel the attendance of witnesses. 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 a member is absent or fails 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 four (4) members shall be necessary to constitute a quorum.
3. **Appeal Procedure.**
  - A. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected

by any decision of the Zoning Enforcement Officer. Such appeal shall be taken within ten (10) days by filing with the City Clerk a Notice of Appeal specifying the grounds thereof. The City Clerk 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 Zoning Enforcement Officer certifies to the Board, after Notice of Appeal has been filed with the City Clerk, that by reason of the facts stated in the certificate, a stay would in the opinion of the Zoning Enforcement 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 or notice to the City Clerk and the Zoning Enforcement Officer and on due cause shown.

B. The Board shall fix a reasonable time for the hearing on the appeal, shall give public notice thereof as well as due notice to the parties in interest, and shall decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay a fee in an amount established from time to time by Resolution of the City Council.

4. Powers and Duties. The Board of Adjustment shall have the following powers and duties:

A. To hear and decide appeals where it is alleged there is an error in any order, requirement, rescission or determination made by the Zoning Enforcement Officer in enforcement of this chapter.

B. To grant a variation in the regulations when a property owner can show that his property was acquired in good faith; that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of this chapter actually prohibits the use of this property in the district, and that the Board is satisfied under the evidence before it that a literal enforcement of the provisions of this chapter would result in unnecessary hardship; provided however, all variations granted under this clause shall be in harmony with the intended spirit and purpose of this chapter. In granting any variance, 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 the variance is granted, shall be deemed a violation and punishable under provisions of this Code. 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 its terms in said district.

C. To permit the following exceptions to the district regulations set forth in this chapter, provided that all exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property, shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire or endanger the

public safety, and shall not diminish or impair established property values in surrounding areas:

(1) To permit erections and use of a building or the use of premises, or vary the height, yard or area regulations in any location for a public service corporation for public utility purposes, or for purposes of public communication, including the distribution of newspapers, which the Board determines is reasonably necessary for the public convenience or welfare;

(2) To permit the use of property in residential districts for off-street parking purposes as accessory to permitted residential district uses where said parking lots do not immediately adjoin the permitted residential district use;

(3) To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown on record or by existing contract or purchase at the time of the passage of the Ordinance codified in this chapter, but in no case shall such extension of the district boundary line exceed forty (40) feet in any direction.

D. In no instance may the Board of Adjustment grant a variance to any provisions of the adopted Building Codes.

5. Decisions.

A. In exercising the powers and duties set forth in subsection 4, the Board of Adjustment may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as it believes proper. To that end it shall have all the powers of the Zoning Enforcement Officer. The concurring vote of four (4) of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, provided, however, that the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein, has been filed. Such resolution immediately following the Board's final decision shall be filed in the office of the Board and shall be open to public inspection.

B. Every variation and exception granted or denied by the Board shall be supported by a written testimony or evidence submitted in connection therewith.

C. Any taxpayer, or any officer, department, board or bureau of the City, or any person or persons jointly or severally aggrieved by any decision of the Board, 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 thirty (30) days after the filing of the decision in the office of the Board.

D. The Board of Adjustment shall be permitted to approve, approve with conditions or deny a request for a variance. Each request for a variance shall be consistent with the following criteria:

- (1) Limitations on the use of the property due to physical, topographical and geologic features.
- (2) The grant of the variance will not grant any special privilege to the property owner.
- (3) The applicant can demonstrate that without a variance there can be no reasonable use of the property.
- (4) The grant of the variance is not based solely on economic reasons.
- (5) The necessity for the variance was not created by the property owner.
- (6) The variance requested is the minimum variance necessary to allow reasonable use of the property.
- (7) The grant of the variance will not be injurious to the public health, safety or welfare.
- (8) The property subject to the variance request possesses one or more unique characteristics generally not applicable to similarly situated properties.

**165.22 OCCUPANCY PERMITS.** No land shall be occupied or used and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a certificate is issued by the Zoning Enforcement Officer, stating that the building and use comply with the provisions of this chapter and the building and health provisions of the Code. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefor by the Zoning Enforcement Officer. No permit shall be issued to make a change unless the changes are in conformity with provisions of this chapter. Prior to the issuance of a certificate of occupancy and compliance, the applicant shall pay to the City Treasurer an appropriate sum as established from time to time by resolution of the City Council.

Where applicable, such sums shall be paid to the City Treasurer upon application for a building permit. Nothing in this part shall prevent the continuance of a nonconforming use as heretofore authorized, unless a discontinuance is necessary for the safety of life or property. Certificates of Occupancy and Compliance shall be applied for coincidentally with the application for a building permit and shall be issued within ten (10) days after the lawful erection or alteration of the building is completed. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been made for Certificate of Occupancy and Compliance, and no building or premises shall be occupied until that certificate and permit is issued.

**165.23 PLATS.** Each application for a building permit shall be accompanied by a plat in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, and such other information as may be

necessary to provide for the enforcement of this chapter. A record of applications and plats shall be kept in the office of the Zoning Enforcement Officer.

#### **165.24 AMENDMENTS.**

1. The Council may, from time to time, on its own action or on petition after report by the Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established. However, no such amendment, supplement, restriction, change of boundaries, or regulations shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published as provided in Section 362.3 of the Code of Iowa, except that at least seven (7) days' notice must be given and in no case shall the public hearing be held earlier than the next regularly scheduled Council meeting following the published notice. The notice shall be published in a paper of general circulation in the City. Such amendment, supplement, or change shall not become effective except by a favorable vote of a majority of all of the members of the Council.

2. Whenever any person desires that any amendment or change be made in this Zoning Code, including the text and/or map, as to any property in the City, and there shall be presented to the Council a petition requesting such change or amendment and clearly describing the property and its boundaries as to which the change or amendment is desired, duly signed by the owners of fifty percent (50%) of the area of all real estate included within the boundaries of said tract as described in said petition, and in addition, duly signed by the owners of fifty percent (50%) of the area of all real estate lying outside of said tract but within two hundred fifty (250) feet of the boundaries thereof, it shall be the duty of the Council to vote upon such petition within a reasonable time after the filing of such petition with the Clerk.

3. Where the person desires map to be amended to include the rezoning of property to the Planned Unit Development (PUD) District only, the petition must be duly signed by one-hundred percent (100%) of the area of all real estate included within the boundaries of said tract as described in said petition. Where a person desires to rezone a tract of land to PUD only, the requirement for said petition to be duly signed by any owner of real estate lying outside of said tract may be waived by City Council if Council, upon recommendation by the Planning and Zoning Commission, determines the required Master Plan does not show more intense development of the tract than would be permitted by the existing zoning of said tract.

4. In case the proposed amendment, supplement or change is disapproved by the Zoning Commission, including the text and/or map, or a protest is presented duly signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change or of those immediately adjacent to the rear thereof, extending the depth of one lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of at least four-fifths (4/5) of all members of the Council.

5. Whenever any petition for an amendment, supplement or change of the zoning regulations herein contained or subsequently established shall have been denied by the Council, then no new petition, including the text and/or map, covering the same property and additional property shall be filed with or considered by the Council until one (1) year shall have elapsed from the date of the filing of the first petition. Provided, however, the Council may, in its discretion, by resolution,

authorize the filing of a new petition within one year, upon its showing that an enforcement of this provision would impose an undue hardship upon the owner of such real estate.

6. Filing Fees. Before any action shall be taken as provided in this section, the owner or owners of the property proposed or recommended to be changed in the district regulations or district boundaries shall pay to the Clerk a filing fee in an amount established from time to time by resolution of the City Council. In addition to the fee, applicant shall pay to the Clerk, prior to the Council's final consideration of the proposed ordinance, a sum representing the actual cost of mailing notice to surrounding property owners and/or the cost of the publication of notice, as required by this chapter and the actual cost of engineering services incurred by the City in the examination and review of the proposed zoning amendment. Under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

**165.25 ZONING ENFORCEMENT OFFICER.** There is hereby created the position of Zoning Enforcement Officer who shall be appointed by the Mayor, subject to Council approval, and shall be under the supervision of the Building Inspector. The Zoning Enforcement Officer shall exercise the following powers and duties:

1. The Zoning Enforcement Officer shall have all enforcement powers, including but not limited to the investigation of complaints of zoning violations, issuance of notices to violators, and the preparation and submission to the City Attorney of reports of those zoning violations which continue unabated after exhaustion of reasonable administrative remedies toward their abatement, for such legal action as the facts of each such report may require.
2. In all cases where the City commences court action, the Zoning Enforcement Officer shall cooperate with the City Attorney by performing such additional investigative work as the City Attorney shall require.
3. The Zoning Enforcement Officer shall attend the meetings of the Planning and Zoning Commission and the Board of Adjustment as requested by those bodies, shall investigate and review all cases presented to the Board of Adjustment, and shall advise that body on those cases upon request.
4. In the event the City Attorney, after analysis of the report, institutes legal proceedings, the Zoning Enforcement Officer will cooperate fully with the City Attorney in the perfecting of such proceedings.

**165.26 VIOLATION AND PENALTIES.** Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be in violation of this Code of Ordinances. Each day that a violation is permitted to exist constitutes a separate offense.

**165.27 ENFORCEMENT.** In case any building, structure or sign is erected, constructed, or any building, structure, sign or land is used in violation of this chapter, the City Attorney, in addition to other remedies, shall institute any proper action or proceedings in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

**165.28 SPECIAL EVENTS.** The City recognizes that in certain instances, some flexibility to allow special events out of the confines of a building can be beneficial to business interests, as well as to consumers and the City, provided such events continue to promote public health, safety and general welfare. The following special event applications shall require a fee in an amount determined by resolution of the City Council from time to time.

1. Outdoor sales events, including but not limited to sidewalk sales, shall be permitted for two (2) events per year for a maximum duration of seven (7) days per event, subject to approval of the City Administrator. Outdoor sales events are those sales events that incorporate one of more 24-hour periods and do not involve the sale of dispensing of alcoholic beverages without prior approval from the Council. Outdoor sales shall not create a burden on parking and access facilities. Outdoor sales events shall maintain fire and emergency access at all times. A temporary site plan may be required by the City Administrator to show that the event will not impact the neighboring properties due to noise, congestion, lighting, or additional factors.
2. Seasonal sales events shall be permitted for two (2) events per year for a maximum duration of forty-five (45) days per event subject to approval by the City Administrator. Seasonal sales events shall maintain fire and emergency access at all times. Seasonal sales events are those events that, due to the nature of the product being sold or the time of year that such product is for sale, are best accomplished out of doors. Seasonal sales events do not include the sale or dispensing of alcoholic beverages without prior approval from the Council. A temporary site plan may be required by the City Administrator to show that the event will not impact the neighboring properties due to noise, congestion, lighting, or additional factors.
3. Farmer's market sales events are not permitted except in accordance with subsection 4 of this section.
4. Public special events are permitted, subject to resolution of the Council, and may include (but are not limited to) national golf tournaments.
  - A. Temporary street closures, restricted parking areas, parking restrictions and/or requirements for public special events shall be approved by resolution of Council.
  - B. Temporary structures and/or facilities for such public special events shall be permitted, subject to approval of a Temporary Site Plan by City Council or City staff member designated by the Council.
  - C. Temporary signs for one public special event per year for a maximum duration of ten (10) days per event shall be permitted, subject to approval of the Council.
  - D. Allowance of golf carts on public streets as designated by the Police Chief.
  - E. Restriction on parking without a permit in designated restricted street parking areas.
  - F. Temporary non-paved parking areas for one public special event per year for a maximum duration often (10) days per event unless additional days are approved by the Council shall be permitted as follows:
    - (1) Temporary unpaved parking areas shall be permitted on private property for no more than two (2) vehicles subject to approval of the Police Chief.

(2) Temporary unpaved parking areas for more than two (2) vehicles shall be permitted subject to approval of a Temporary Site Plan by the Planning and Zoning Commission and Council.

5. Temporary site plans for events other than those mentioned above shall be approved by the Planning and Zoning Commission and Council. Such events shall require the appropriate permits and/or licenses, including but not limited to: liquor, transient merchants, and chemical toilets. Temporary site plans shall be submitted with Permit Application form supplied by the City Clerk.

