

## CHAPTER 100

### ZONING

#### Sections:

100.1	General Provisions.
100.2	Definitions.
100.3	Districts and Boundaries Established.
100.4	General Regulations.
100.5	A-1 Agricultural District.
100.6	R-1 Residential District.
100.6A	R-1A Residential District.
100.7	R-2 Residential District.
100.8	R-3 Multiple Family Residential District.
100.9	R-4 Multiple Family Residential -Transitional District
100.10	R-FBH Planned Factory Built Home District.
100.11	S-1 Shopping Center District.
100.12	C-1 Commercial District.
100.13	C-2 Commercial District.
100.13A	C-2A Commercial District.
100.14	C-3 Commercial (Central Business) District.
100.15	M-1 Light Industrial District.
100.16	M-2 Heavy Industrial District.
100.17	PD Planned Development District.
100.18	U-1 Environmentally Sensitive Protected District.
100.19	Off-Street Parking and Loading Zones.
100.20	Filling Stations, Public Garages, and Parking Lots.
100.21	Exceptions and Modifications.
100.22	Occupancy Permits.
100.23	Plat Specifications.
100.24	Amendments.
100.25	Violation and Penalties.
100.26	Sign Regulations
100.27	Home Occupations
100.28	Alternative Energy System Requirements

#### Section 100.1 General Provisions

**SEC. 100.1.01 TITLE.** This chapter shall be known and may be cited as the "Zoning Code" for the city.

**SEC. 100.1.02 PURPOSE.** The purpose of this chapter shall be to promote the public health, safety, morals, order, convenience, prosperity and general welfare; to conserve and protect the value of property throughout the city and to encourage the most appropriate use of land; to lessen congestion in the streets; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate services, including transportation, community protection and utility services.

**SEC. 100.1.03 JURISDICTION.** All property located within the boundaries of the city plus a two (2) mile area surrounding the boundaries of the city shall be subject to the provisions of this chapter.

**SEC. 100.1.04 AMENDMENTS.** Any amendment to this chapter shall be made pursuant to procedures established within this code.

**SEC. 100.1.05 PENALTIES.** Any person violating a provision of this chapter shall be fined not more than one hundred (\$100) dollars or imprisoned for not more than thirty (30) days, for each offense. Each day that a violation is permitted to continue shall constitute a separate offense.

**SEC. 100.1.06 INJUNCTION.** Any facility, structure or improvement or any part of such facility, structure or improvement which has been constructed, erected or installed on property in violation of a provision in this chapter shall be vacated and removed at the owner's expense, unless the city, pursuant to procedures established in the building code, of this code, grants retroactive approval of the construction, erection or installation.

**SEC. 100.1.07 MINIMUM REQUIREMENTS.** All requirements established pursuant to this chapter shall be considered as minimum requirements which may be exceeded, provided that all other applicable requirements of the code have not been violated.

**SEC. 100.1.08 SUMMARY.** Except as otherwise provided in this chapter, the use of premises and structures in the city shall be in accordance with the minimum standards hereinafter established:

1. Height Limits. No structure shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the zone in which the structure is located.
2. Use Limits. No use shall be established nor shall any structure be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area regulations for the zone in which the building is located.
3. Yard Limits. No structure shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the yard regulations for the zone in which the building is located.
4. Parking Limits. No use shall be established or enlarged, reconstructed, or structurally altered except in conformity with the off-street parking regulations for the zone in which the use or structure is located.
5. Transfer Prohibited. The requirements for yards, parking spaces or lot areas established for a structure or use within a district described in this division, cannot be used to meet the requirements for yards, parking spaces or lot areas established for a structure or use within another district described in this chapter.

**SEC. 100.1.09 WAIVER.**

1. Authority. The city may waive any procedural requirement, including any provision of this chapter which requires that, before the city may rezone proposed property, a term or condition shall be included as a part of any plan or statement, provided that good cause exists to waive any such procedural requirement.

2. Affect. The granting of any waiver, pursuant to provisions of this chapter, shall not nullify the intent and purpose of any provision in this chapter. In no case shall any waiver constitute more than a minimum easing of the requirement to ensure the elimination of an unnecessary hardship on the owner or developer of the proposed property. No waiver shall be granted without good cause showing that the provision sought to be waived imposes such a hardship.
3. Procedure. The procedure governing the granting of any waiver described in this section shall be established in this code.

#### **SEC. 100.1.10 VARIANCE.**

1. Authority. If the city can be shown that strict compliance with any provision of this chapter, requiring that the proposed property be classified within a district, would result in extraordinary hardship to the owner or developer of such property, because of the property's topography or the existence of unusual conditions affecting the property, the city may vary, modify or waive the standard, provided that substantial justice should be done and the public interest is secured.
2. Affect. The granting of any variance, pursuant to the provisions of this chapter, shall not nullify the intent and purpose of any provision in this chapter. In no case shall any variance constitute more than a minimum easing of the requirement to ensure the elimination of an unjust and unnecessary hardship. Upon granting a variance, the city may impose any additional requirements or conditions that are deemed necessary to substantially secure the objectives of the varied requirement.
3. Procedure. The procedure governing the granting of any variance described in this section shall be established in this code.

**SEC. 100.1.11 CONFLICTS.** Any irreconcilable conflict between a minimum requirement established pursuant to this chapter and a minimum requirement or standard established pursuant to the subdivision code or the building code, shall be resolved by applying the most restrictive applicable standard or requirement.

#### **Section 100.2 Definitions**

**SEC. 100.2.01 DEFINITIONS GENERALLY.** For the purpose of this chapter certain terms and words are defined. Words used in the present tense shall include the future, the singular number shall include the plural and the plural number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual; the words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

**SEC. 100.2.02 ABUT.** The term "abut" or "abutting" shall mean being contiguous; having a boundary, wall or property line in common.

**SEC. 100.2.03 ACCESS.** The term "access" shall mean the place, means or way by which pedestrians or vehicles shall have ingress and egress to a property or parking area.

**SEC. 100.2.04 ADDITION.** The term "addition" shall mean an extension or increase in floor area or height of a structure, including any building.

**SEC. 100.2.05 ADMINISTRATIVE OFFICER.** "Administrative officer" means the Zoning Manager and/or Building Official, the individual designated by this chapter to administer the zoning code and responsible for the enforcement of the regulations imposed by said chapter. He may also be referred to as the zoning administrator.

**SEC. 100.2.06 AGED.** The term "aged" shall mean any person who is eligible because of age to receive old age insurance benefits under Title II of the Social Security Act.

**SEC. 100.2.07 AGRICULTURE.** The term "agriculture" shall mean the use of land for the following purposes:

1. Farming. All farming, feedlot, dairying and ranching operations, including the production of grain, the raising or breeding of animals, including livestock, fish or poultry, the stabling of animals, pasturage, animal husbandry, the horticulture, floriculture, or viticulture.
2. Accessory. All accessory uses and structures necessary to shelter and care for animals, including livestock, fish or poultry, or necessary to pack, treat or store meat or produce.
3. Natural Areas. To preserve natural areas, including the natural habitat of nondomesticated animals.

**SEC. 100.2.08 AISLE.** The term "aisle" shall mean any permanent dust free surface, including asphalt or concrete, which is connected directly to a parking or loading space and designated to permit ingress or egress of a vehicle to or from the parking or loading space, provided such surface is not a drive.

**SEC. 100.2.09 ALLEY.** The term "alley" shall mean an open public way, other than a street, which is designed for use as a secondary means of vehicular access to abutting property.

**SEC. 100.2.10 ALTER.** The term "alter" or "alteration" shall mean the moving of a structure, or any change, enlargement or remodeling of a structure, including its bearing walls, partitions, columns, beams, or girders.

**SEC. 100.2.11 APARTMENT HOUSE.** See "multifamily dwelling."

**SEC. 100.2.12 ASSESSED VALUE.** The term "assessed value" shall mean the value of real property, as established by the city, or by a higher authority upon appeal, which is the value upon which the next fiscal year's real estate taxes are based.

**SEC. 100.2.13 BALCONY.** The term "balcony" shall mean a covered or uncovered platform area projecting from the wall of a building, enclosed by a railing accessible from above grade, and not attached to the ground.

**SEC. 100.2.14 BASEMENT.**

1. Defined. The term "basement" shall mean a part of a building located partially underground, provided that not more than fifty (50) percent of its height exists below the average grade of land abutting such property.
2. Story. The basement of any building shall be considered a story for the purposes of this chapter.

**SEC. 100.2.15 BLOCK.** The term "block" shall mean an area of land which is entirely bounded by streets or by a combination of throughways, not including alleys or sidewalks, or by a combination of such throughways and a public place or designated physical barrier.

**SEC. 100.2.16 BOARD OF ADJUSTMENT.** The term "board of adjustment" shall mean an administrative hearing board created by Chapter 414 of the current Code of Iowa, as amended, which is authorized to hear appeals from decisions of the administrator and to grant variances.

**SEC. 100.2.17 BOARDING HOUSE.** The term "boarding house" shall mean a residential building where, in addition to lodging, meals are furnished to three or more tenants, provided such house does not regularly furnish meals to the public. No building defined pursuant to this chapter as a hotel shall be considered a boarding house.

**SEC. 100.2.18 BUILD.** The term "build" shall mean to construct, assemble, or structurally alter a structure, including a building.

**SEC. 100.2.19 BUILDABLE AREA.** The term "buildable area" shall mean the area remaining on a lot after the minimum open space requirement for yards has been met.

**SEC. 100.2.20 BUILDING.**

1. General. The term "building" shall mean any structure having a roof and designed or intended for the support, enclosure, shelter or protection of persons, animals or property.
2. Building Area. See "ground area."
3. Building Coverage. The term "building coverage" shall mean the amount of land covered or permitted to be covered by a building, usually measured in terms of percentage of a lot.
4. Building Height.
  - a. General. The term "building height" shall mean the vertical distance, measured in a straight line through the center of the front of the measured building.
  - b. Measurement. The line measuring such height shall be from the grade to the highest point where the beams are located in a building with a flat roof. Such line shall be from the grade to the average height of the roof where the building has a pitched roof.
  - c. Exception. Where a building is located on a corner lot and more than one (1) grade exists on such lot, the measurement shall be made from the main entrance elevation.

- d. Signs. No sign, including any exterior roof sign, shall be used to calculate building height.
5. Accessory Building. The term "accessory building" shall mean any building which is an "accessory structure" as defined in this chapter.
6. Principal Building. The term "principal building" shall mean any building which is a "principal structure" as defined in this chapter.

**SEC. 100.2.21 BUILDING PERMIT.** Certification. The term "building permit" shall mean an official certification which constitutes the following:

1. Construction. Approval before any new construction, or alteration or addition to an existing structure may commence.
2. Evidence. Evidence that a design for a proposed improvement substantially complies with the provisions of this chapter and all other applicable provisions of this code, including the building code and subdivision code.

**SEC. 100.2.22 BUSINESS.** The term "business" or "business establishment" shall mean a "commercial establishment" as defined in this chapter.

**SEC. 100.2.23 CARPORT.**

1. General. The term "carport" shall mean a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides.
2. Principal Building. For 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 applicable to the principal building.

**SEC. 100.2.24 CELLAR.**

1. General. The term "cellar" shall mean a portion of a building located partially or wholly underground, provided that fifty (50) percent of its height shall exist below the average grade of land abutting such property.
2. Story. No cellar shall be considered a story for purposes of this chapter.

**SEC. 100.2.25 CHILD CARE FACILITY.** The term "child care facility" shall mean any state licensed or registered facility where children are temporarily left in the care of an attendant.

**SEC. 100.2.26 CLINIC.** The term "clinic" shall mean a building or part of a building occupied by any member of a health care profession, physicians, dentists, osteopaths, chiropractors, providing out-patient service.

**SEC. 100.2.27 CLUB.**

1. General. The term "club" shall mean property on which meetings are held by any association with access to such property restricted to the general public and controlled by its members, provided that the property is owned, leased or held in common for the benefit of its members.
2. Fraternities. For the purposes of this chapter, the definition of the term "club" does not include a fraternity or sorority house.

**SEC. 100.2.28 COMMERCIAL ESTABLISHMENT.** The term "commercial establishment" shall mean a business enterprise, located on any premises within the jurisdictional limits of the city, which provides any material, product or service for a charge, and which includes the following:

1. Business Service Establishments. The term "business service establishments shall mean an establishment primarily engaged in rendering services to business establishments on a fee or contract basis.
2. Recreational Service Establishment. The term "recreational service establishment" shall mean any commercial establishment which provides facilities, located principally in a building, which are used primarily for physical exercise or to test physical skills or endurance.
3. Personal Service Establishment. The term "personal service establishment" shall mean any commercial establishment primarily engaged in providing services generally involving the appearance of a person or the care of such person's apparel.
4. Professional Service Establishments. The term "professional service establishments" shall mean any commercial establishment primarily engaged in providing services which generally involve the advising and counseling of clients in confidence concerning personal, financial or medical affairs.
5. Retail Establishment. The term "retail establishment" shall mean any commercial establishment primarily engaged in selling merchandise for personal, business or household consumption, and rendering services incidental to the sale of goods, which must be identified by the following characteristics.
  - a. Business. It is usually a place open to the public and is engaged in activities to attract the general public to buy available merchandise.
  - b. Inventory. It builds an inventory of stock to sell, or buys or receives merchandise to sell to the public, or processes its products to sell to the public, provided such processing is incidental or subordinate to such selling.
  - c. Retail. It is considered as retail in the trade to which it is classified.
6. The term "Row Commercial Unit" shall mean a maximum of two (2) units which are attached provided that each such unit is designed and erected as a commercial unit, that no such unit shares its lot with a similar designed and erected commercial unit and that each commercial unit is separated from another designed and erected commercial unit by a wall or walls.

**SEC. 100.2.29 COMMISSION.** The term "commission" shall mean the planning and zoning commission for the city.

**SEC. 100.2.30 CONVERSION.** The term "conversion" shall mean any change of one (1) principal use to another principal use.

**SEC. 100.2.31 COURT.** The term "court" shall mean 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.

**SEC. 100.2.32 CURB LEVEL.** The term "curb level" shall mean the main level of the curb or the established curb grade in front of any lot.

**SEC. 100.2.33 DECK.** The term "deck" shall mean a covered or uncovered platform area projecting from the wall of a building, accessible at or from above grade, and attached to the ground.

**SEC. 100.2.34 DENSITY.** The term "density" shall refer to the number of dwelling units per area of land, and usually expressed as dwelling units per acre.

**SEC. 100.2.35 DEVELOPMENT.** The term "development" shall mean any man-made change to improved or unimproved property, including building, mining, dredging, filling, grading, paving, excavating or drilling operations.

**SEC. 100.2.36 DEVELOPMENTALLY DISABLED.** The term "developmentally disabled" shall mean any person who has a disability which substantially impairs the person, is expected to be long continued and of indefinite duration, and is attributable but not limited to either of the following:

1. Neurological Condition. Any medically recognized neurological condition, including mental retardation, cerebral palsy, epilepsy, or autism.
2. Nervous Condition. Any medically recognized dyslexia resulting from an above disability; or a mental or nervous disorder which disability originates before such individual sustains age eighteen (18), and which constitutes a substantial impairment expected to be long continued and of indefinite duration.

**SEC. 100.2.37 DISCONTINUANCE.** The term "discontinuance" shall refer to the abandonment, cessation or termination of a nonconforming use.

**SEC. 100.2.38 DISTRICT.** The term "district" shall mean any division of the city within which certain uniform regulations and requirements governing the use of land and the construction of structures and the installation of improvements are uniform.

**SEC. 100.2.39 DOWNZONING.** The term "downzoning" shall mean any change in the zoning classification of property to a classification permitting development, which is more restrictive, or less intensive or dense.

**SEC. 100.2.40 DRIVE.** The term "drive" shall mean a permanent dust free surface, including asphalt and concrete, which is designed to provide vehicular access to a parking area.



**SEC. 100.2.41 DRINKING ESTABLISHMENT.** The term "drinking establishment" shall mean a commercial establishment, including any bar, beer hall, beer parlor, nightclub, or tavern, which serves alcoholic beverages for consumption on the premises of the establishment as a predominant part of its business.

**SEC. 100.2.42 DWELLING.**

1. General. The term "dwelling" shall mean any building which is wholly or partially used or intended to be used for residential occupancy.
2. Dwelling Unit. The term "dwelling unit" shall mean any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating meals.
3. Row Dwelling. The term "row dwelling" shall mean any one (1) of two (2) or more dwellings which are attached in a continuous row, provided that each such dwelling is designed and erected as a dwelling unit, that no such dwelling shares its lot with another dwelling (zero-lot line), and that each dwelling is separated from another similarly designed and erected dwelling by a wall or walls.
4. Efficiency Dwelling. The term "efficiency dwelling" shall mean a dwelling consisting of one principal room, in addition to a bathroom, hallway, and closets which serves as the occupant's living room, bedroom, and in some instances, the kitchen.
5. Single Family Dwelling. The term "single family dwelling" shall mean a building, including a manufactured home, containing one (1) dwelling unit.
6. Two Family Dwelling. The term "two family dwelling" shall mean a building, containing two (2) dwelling units.
7. Multifamily Dwelling. The term "multifamily dwelling" shall mean a building, containing three (3) or more dwelling units.
8. Triplex Dwelling. The term "triplex dwelling" shall mean a multifamily dwelling which contains three (3) dwelling units.
9. Four-Plex Dwelling. The term "four-plex dwelling" shall mean a multifamily dwelling which contains four (4) dwelling units.
10. High-Rise Multifamily Dwelling. The term "high-rise multifamily dwelling" shall mean a multifamily dwelling which exceeds sixty-five (65) feet in height.
11. Low-Rise Multifamily Dwelling. The term "low-rise multifamily dwelling" shall mean a multifamily dwelling which is thirty-five (35) feet or less in height.
12. Special Needs Dwelling. The term "special needs dwelling" shall mean a dwelling especially designed for use and occupancy of persons who are aged or who are handicapped within the meaning of federal law, including the Housing Act of 1959, as amended, the Development Disabilities Services and Facilities Construction Amendments of 1970, or the Social Security Act.

**SEC. 100.2.43 EASEMENT.** The term "easement" shall mean the right to use a specific area of real property for a limited specific use, including to allow access to another property or for the installation of utility facilities, granted by the owner of such property to any person, the government or the general public.

**SEC. 100.2.44 ESSENTIAL SERVICES.** The term "essential services" shall mean the installation, construction, erection, alteration or maintenance by any public utility or governmental agency of an underground or overhead gas, electrical, steam or water transmission or distribution facility, including poles, wires, mains, drains, sewers, pipes, conduits, cables, signals and hydrants, which is necessary to supply adequate service by any utility or government.

**SEC. 100.2.45 EXPANSION.** The term "expansion" shall mean an increase in the volume of a building, an increase in the area of land or building occupied by a use, or an increase in the number of occupants or dwelling units.

**SEC. 100.2.46 FACTORY BUILT HOUSING PARK.** The term "factory built housing park" shall mean a tract of land which has been planned and improved for the placement of manufactured homes, and factory built and modular homes on leased spaces.

**SEC. 100.2.47 FAMILY.** The term "family" shall mean one (1) person or two (2) persons related by blood, marriage, adoption or placement by a governmental or social service agency, occupying a dwelling unit as a single housekeeping organization. A family may also be two (2), but not more than two (2) persons not related by blood, marriage or adoption.

**SEC. 100.2.48 FAMILY CARE HOME.** The term "family care home" shall mean a community based residential home, which is licensed either as a residential care facility under Chapter 135C or as a child foster care facility under Chapter 237 of the current Code of Iowa, as amended, that provides room and board, personal care, habilitation services, and supervision in a family environment by a resident family for not more than eight (8) developmentally disabled person. However a "family care home" is not an individual foster care family home licensed under Chapter 237 of the current Code of Iowa, as amended.

**SEC. 100.2.49 FARM.** The term "farm" shall mean an area of not less than ten (10) acres for which the principal use is the growing for sale of farm products such as vegetables, fruits, and grain and their storage on the land.

**SEC. 100.2.50 FEEDLOT.** The term "feedlot" shall mean a lot, yard, corral or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter. The term does not include areas which are used for the raising of crops or other vegetation and upon which livestock are allowed to graze or feed.

**SEC. 100.2.51 FILL.**

1. General. The term "fill" shall mean the placing, storing or dumping of any material on an area which results in changing the grade or increasing the natural surface elevation of the area.
2. Natural Fill. The term "natural fill" shall mean any material, including earth, clay, sand or rubble, which is not solid waste or a toxic or hazardous material, which is placed or dumped to alter the grade or change the elevation of any area.

**SEC. 100.2.52 FINANCIAL INSTITUTION.** The term "financial institution" shall mean any commercial establishment in the business of receiving, keeping, lending money, and exchanging funds by checks or notes, including banks, savings and loan institutions and credit unions.

**SEC. 100.2.53 FIRST FLOOR.** The term "first floor" shall mean the lowermost floor of a building having its floor to ceiling height at or above the grade.

**SEC. 100.2.54 FLOOD PLAIN.** See Chapter 102.

**SEC. 100.2.55 FLOODWAY.** The term "floodway" shall mean the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.

**SEC. 100.2.56 FLOOR AREA.**

1. General.

- a. Total Area. The term "floor area" shall mean the total area of all floors of a building, or any part of such area, measured to the outside surface of exterior walls or the center line of walls to attached buildings or uses.
- b. Underground. The term "floor area" shall include area of all or any floors in the basement or cellar, provided such basement or cellar has a principal or accessory use permitted in the zone in which the building is located.
- c. Appurtenances. The term "floor area" shall not include area of any appurtenances, including garages, porches and balconies.

2. Floor Area Ratio. The term "floor area ratio" (FAR) shall mean the numerical value obtained by dividing the floor area within a building or buildings on a lot by the area of such lot.

**SEC. 100.2.57 FOSTER CHILD CARE.** The term "foster child care" shall mean the custody, care and education of not more than five (5) children within a residence by adults who are unrelated to such children by blood or adoption.

**SEC. 100.2.58 FRATERNITY / SORORITY HOUSE.** The term "fraternity house" or "sorority house" shall mean a building used as a residence by a chapter of a fraternal or sororal nonprofit organization recognized by Wartburg College. For purposes of this chapter, the term "rooming house" as defined in this chapter shall not be included within this definition.

**SEC. 100.2.59 GASOLINE STATION.** The term "gasoline station" shall mean any building or premises used for the dispensing or retail sale of motor vehicle fuel or oil. When the dispensing or sale is incidental to the operation of a commercial garage, the building and premises shall be classified as a "commercial garage" as defined in this chapter.

**SEC. 100.2.60 GARAGE.**

1. Commercial Garage. The term "commercial garage" shall mean any building or premises principally used for equipping, repairing, renting, selling or storing motor vehicles, and any building or premises from which automobile fuels and supplies may be sold which is not a "gasoline station" as defined in this chapter.
2. Private Garage. The term "private garage" shall mean an accessory building designed or used principally to shelter one (1) or more motor vehicles, and which is under the control and use of the occupants of the main building.
3. Government Garage. The term "government garage" shall mean any building or premises not described in the preceding subsections of this section and is principally used for equipping, refueling, servicing, repairing, selling, or storing motor vehicles owned by a government.

**SEC. 100.2.61 GRADE.**

1. General. The term "grade" shall mean the top surface elevation of lawns, walks, drives, or other improved surfaces after completion of construction or grading and landscaping.
2. Building Height. The term "building height" for purposes of determining the height of a building means the average level at the corners of the exterior walls of a building.

**SEC. 100.2.62 GRAIN ELEVATOR.** The term "grain elevator" shall mean a structure or group of related structures which is designed or used to receive, store and dry bulk grain.

**SEC. 100.2.63 GROUND AREA.** The term "ground area" shall mean the area of a building within its largest outside dimensions computed on a horizontal plane at the first floor level, exclusive of open porches, breezeways, terraces, and exterior stairways.

**SEC. 100.2.64 GROUP CARE FACILITY.** The term "group care facility" shall be described as the following:

1. Dwelling. A government licensed or approved facility which provides resident services in a dwelling to more than eight (8) individuals and not exceeding thirty (30) individuals, provided that resident staff members are not included in calculation.
2. Individuals. Individuals within the dwelling must be developmentally disabled, aged or undergoing rehabilitation; are in need of adult supervision; and are provided services in accordance with their individual needs.
3. Nursing Home. The term "group care facility" does not include any facility defined in this chapter as a nursing home.

**SEC. 100.2.65 HEDGE.** The term "hedge" shall mean a boundary formed of a row of closely planted shrubs or bushes.

**SEC. 100.2.66 HOME OCCUPATION.** Refer to Section 100.27 HOME OCCUPATIONS

**SEC. 100.2.67 HOSPITAL.** The term "hospital" shall mean an institution providing health care services for human in-patient medical care for the sick or injured and including related facilities such as laboratories, out-patient facilities, emergency medical services, and staff offices which are an integral part of the facility.

**SEC. 100.2.68 HOTEL.**

1. General. The term "hotel" shall mean a residential building licensed by the state and occupied and used principally as a place of lodging for guests. Hotels may or may not provide meals and there are usually no cooking facilities in guest rooms.
2. Hotel Apartment. The term "hotel apartment" shall mean a multifamily dwelling under resident supervision which maintains an interlobby through which all tenants must pass to gain access to the apartments and which may furnish services ordinarily furnished by hotels, including any drugstore, barbershop, cosmetologist, cigar stand or newsstand, provided that such uses are located entirely within the building and no separate entrance from the street is visible from any sidewalk, and no sign or display is visible from outside of the building indicating the existence of such services.

**SEC. 100.2.69 INSTITUTION.** The term "institution" shall mean a building occupied by a nonprofit corporation or a nonprofit establishment dedicated for public use.

**SEC. 100.2.70 JUNKYARD.** See the term "salvage yard" as defined in this chapter.

**SEC. 100.2.71 KENNEL.**

1. General. The term "kennel" shall mean an establishment where small animals, including dogs and cats, are bred, raised, trained, groomed, and boarded for compensation, sale or other commercial purposes.
2. Evidence. Where four (4) or more dogs are kept on the same lot, conclusive evidence shall exist that such premises are being used as a kennel, provided that at least four (4) of the dogs are six (6) months old or older.

**SEC. 100.2.72 LAUNDROMAT.**

1. General. The term "laundromat" shall mean a commercial establishment providing facilities for customers to wash, dry or iron fabrics, including clothing, provided that no beer or alcohol shall be served on the premises.
2. Laundromat-Drinking Establishment. The term "laundromat-drinking establishment" shall mean any laundromat, as defined in this section, which serves beer or alcohol.

**SEC. 100.2.73 LAWFUL USE.** The term "lawful use" shall mean the use of a structure or property, provided that such use existed on the effective date of the ordinance codified in this chapter, and for which a legal zoning permit has been issued.

**SEC. 100.2.74 LIVESTOCK.** The term "livestock" shall mean any animal or fowl which is generally produced primarily for use as food or food products for human consumption, including cattle, sheep, swine and poultry.

**SEC. 100.2.75 LODGING HOUSE.** See the term "rooming house" as defined in this chapter.

**SEC. 100.2.76 LOTS.**

1. Lot. The term "lot" shall mean a section of property, including any plot, separate tract or parcel of land, having fixed boundaries and complying with all requirements specified for the zoning district within which such lot is located.
2. Lot Area. The term "lot area" shall mean the total horizontal area as measured above the surface of any lot and within the lot lines which represent the boundaries of such lot.
3. Lot Frontage. The term "lot frontage" shall mean that dimension of a lot or part of a lot abutting on a street, excluding the side of a corner lot.
4. Lot Width. The term "lot width" shall mean the width of a lot measured at the building line and at right angles to an imaginary line measuring the depth of such lot.
5. Lot Lines. The term "lot lines" shall mean the lines drawn on a plat of an area within which such lot is located, representing the boundaries of the lot, and shall include the following:
  - a. Front Lot Line. The "front lot line" is the boundary line separating an interior lot from the street, or the boundary line separating a corner lot or double frontage lot from the street which is designated as the front street.
  - b. Rear Lot Line. The "rear lot line" is the boundary line opposite from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to the front lot line which is farthest from the front lot line and running between each side lot line and running entirely within the area of the lot.
  - c. Side Lot Line. The "side lot line" is any boundary line of a lot which is not a front or rear lot line.
6. Lot of Record. The term "lot of record" shall mean a lot which is a part of a legal subdivision of the city, provided that the plat of such lot is recorded in the office of the county recorder or a valid contract of sale for such lot was recorded in the office of the county recorder prior to 1971.
7. Corner Lot. The term "corner lot" shall mean any lot located at the intersection of two (2) streets.
8. Double Frontage Lot. The term "double frontage lot" shall mean any lot which is not a corner lot and which abuts two (2) streets.
9. Interior Lot. The term "interior lot" shall mean any lot other than a corner lot with only one (1) frontage street.
10. Reverse Frontage Lot. The term "reverse frontage lot" shall mean any double frontage lot which has vehicular access limited to the back of such lot, rather than having access to its front.

11. Through Lot. The term "through lot" shall mean an interior lot which abuts two (2) parallel or approximately parallel streets.
12. Outlot. The term "outlot" shall mean any area represented on a plat which describes any parcel of land, land remnant or tract of land which cannot be developed after the area has been subdivided.

#### **SEC. 100.2.77 MANUFACTURED HOUSING.**

1. Manufactured Home. The term "manufactured home" shall mean any dwelling, which qualifies pursuant to the following requirements:
  - a. Permanency. Any factory built single-family dwelling, which is manufactured or constructed under the authority of 42 U.S.C. Section 5403, Federal Manufactured Home Construction and Safety Standards, which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles.
  - b. Factory Built Home. A factory built home, as defined in this section, shall not be considered a manufactured home, unless it has been constructed pursuant to all applicable standards established in the Federal Manufactured Home Construction and Safety Standards and it has been converted to real property and is taxed as a site-built dwelling as is provided in Chapter 135D of the Iowa Code.
  - c. Effect. For purposes of this chapter, any dwelling which is a manufactured home, as defined in this section, shall be considered the same as a single-family detached dwelling and shall be constructed with a permanent foundation system that is visually compatible with surrounding residential structures.
2. Factory Built Home. The term "factory built home" shall mean any dwelling which qualifies pursuant to the following requirements:
  - a. Mobile Dwelling. A vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used for year-round occupancy as a single-family dwelling and containing water supply, waste disposal, heating and electrical conveniences.
  - b. Chassis. A mobile dwelling which is built on a chassis.
  - c. Travel Trailer. A mobile dwelling which is not a travel trailer or other form of recreational vehicle.
  - d. Conversion. A factory built home shall be construed to remain a factory built home, subject to all regulations and requirements applying to factory built homes as established within this section, whether or not appurtenances, including any hitch, wheel or axle, are removed, and regardless of the foundation provided for such home.

- e. **Manufactured Home.** A factory built home may be classified as a manufactured home, provided that the requirements established for a manufactured home have been satisfied.
3. **Modular Home.** The term "modular home" shall mean any single-family dwelling unit which is manufactured in whole or in components at a place other than the location where it is to be permanently located; which is assembled in whole or in components at the location where it is to be permanently located; which rests on a permanent foundation or slab; which does not have wheels or axles affixed as a part of its normal construction; and which does not require a license by any agency as a motor vehicle, special equipment, trailer motor home or factory built home.

**SEC. 100.2.78 MEETING HALL.** The term "meeting hall" shall mean a building which is used to provide space for lectures, social functions, exhibitions, entertainment, and instruction, and may provide ancillary space for customary uses, including kitchens, foyers, work and dress rooms and storage areas.

**SEC. 100.2.79 FACTORY BUILT HOME PARK.**

1. **General.** The term "factory built home park" shall mean any lot or part of such lot which is used or designed or intended to be used as a site for two (2) or more factory built homes.
2. **Recreational Vehicles.** Any lot which is used or designed or intended to be used as a site for (2) or more occupied recreational vehicles shall not be included within the definition of "factory built home park."

**SEC. 100.2.80 MOTEL.** The term "motel" or "motor hotel" shall mean any commercial enterprise having a building or group of buildings which must be licensed by the state to furnish temporary living accommodations to guests, provided that such accommodations may serve two (2) or more families.

**SEC. 100.2.81 NONCONFORMING LOT.** The term "nonconforming lot" shall mean a lot which does not conform to the provisions of this chapter regarding lot frontage, width or area for the zone in which it is located, provided that such lot is made nonconforming due to the adoption of this chapter or amendments to this chapter.

**SEC. 100.2.82 NONCONFORMING STRUCTURE.** The term "nonconforming structure" shall mean a structure or part of a structure which does not conform to the provisions of this chapter regarding height, yards or building coverage for the zone in which it is located, provided that such structure is made nonconforming due to the adoption of this chapter or amendments to this chapter.

**SEC. 100.2.83 NONCONFORMING USE.** The term "nonconforming use" shall mean any use which is not allowed within the zone in which it is located or any way in which property or a building is used, provided that such use is made nonconforming due to the adoption of this chapter or amendments to this chapter.

**SEC. 100.2.84 NURSING HOME.** The term "nursing home" shall mean a facility, including all buildings related to such facilities, which is operated by a proprietary or nonprofit corporation or association and licensed or regulated by a governmental entity for the accommodation of convalescents or other persons who are not in need of hospital care but who require skilled care or related health care services.



**SEC. 100.2.85 OBSTRUCTION.** The term "obstruction" shall mean any structure or matter, including a dam, wall, wharf, embankment, levee, dike, pile, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, junk, solid waste, refuse, fill or other matter, which is located in, along, across, or projecting into any floodway and which may impede, retard or change the direction of the flow of any water, or which may be carried downstream to the possible damage or detriment of life or property.

**SEC. 100.2.86 OCCUPANCY PERMIT.** "Occupancy permit" means a certificate issued by the building official to insure compliance with this chapter and the building and health ordinances of the city.

**SEC. 100.2.87 OFFICE.** The term "office" shall mean a place where services are provided to clients or to the public, or managerial, administrative, executive decisions are made by personnel in governmental or commercial establishments, rather than where goods, wares or merchandise are created, sold or exchanged.

**SEC. 100.2.88 OFFICIAL PLANS.**

1. Flood-Prone Area Map. The term "flood-prone area map" shall mean the official map of the city, filed with city records, which delineates the floodplain within the city.
2. Major Street Plan. The term "major street plan" shall mean the official plan, filed with city records, of all existing and proposed major streets, including the right-of-way for each such street.
3. Zoning Map. The term "zoning map" shall mean the official map of the city, filed with the city records, which delineates the zoning districts of the city pursuant to the requirements established in the chapter.

**SEC. 100.2.89 OWNER.** The term "owner" shall mean the person who holds free, simple or equitable title of the property in question.

**SEC. 100.2.90 PARKING.**

1. Parking Area. The term "parking area" shall mean an off-street facility intended or designed for the parking of more than four (4) automobiles, including parking spaces, aisles and tree islands.
2. Parking Space. The term "parking space" shall mean a permanent dust free surface, including asphalt or concrete, which is intended for off-street vehicular parking, with dimensions specified in departmental standards, provided that each space is least at one hundred eighty square feet.

**SEC. 100.2.91 PATIO.** The term "patio" shall mean a covered or uncovered surfaced outdoor living area at a grade abutting and accessible from a dwelling.

**SEC. 100.2.92 PERMITTED USE.** The term "permitted use" shall mean the principal use which is allowed in the zone in which it is classified, subject to the dimensional requirements and special requirements of such zone and the general requirements of this chapter.

**SEC. 100.2.93 PLANTING AREA.** The term "planting area" shall mean an unpaved pervious area designed, intended or used for the placement of greenery, including a tree, shrub or flower bed.

**SEC. 100.2.94 PORCH.** The term "porch" shall mean a covered entrance to a building consisting of a platform area with open sides, projecting from the wall of a building.

**SEC. 100.2.95 PREMISES.** The term "premises" shall mean that area of a lot or lots owned by a person or government who uses the property in a specific and intended manner which complies with all applicable zoning requirements for such property.

**SEC. 100.2.96 PROJECTIONS.** The term "projection" shall mean any part of a structure, including a building, which protrudes from the side or face of such structure.

**SEC. 100.2.97 QUARRY.** The term "quarry" shall mean a commercial enterprise in the business of excavating stone or slate as an industrial operation.

**SEC. 100.2.98 RELIGIOUS INSTITUTION.** The term "religious institution" shall mean an organization, including any church, rectory, meeting hall or school, having a religious purpose, which has been granted an exemption from federal tax obligations.

**SEC. 100.2.99 REMODEL.** The term "remodel" shall mean any improvement made to a building which is not a structural alteration.

**SEC. 100.2.100 REPAIR.** See the term "remodel" as defined in this chapter.

**SEC. 100.2.101 RESTAURANTS.**

1. Restaurant. The term "restaurant" shall be defined pursuant to the following requirements:

- a. Business. A commercial establishment, including a cafe, cafeteria, coffee shop, delicatessen, lunchroom, tea room, dining room, bar, cocktail lounge or tavern, having as its principal business the preparation and dispensing of food.
- b. Dining Area.
  - (1) Premises. A dining area where all food prepared and dispensed by such establishments must be provided within a building located on the premises, or part of a larger building in which the commercial establishment is located, and where customers may be seated while dining.
  - (2) Area. The total seating area located within the dining area shall be established by departmental standards, provided that no such area shall be less than fifty (50) per cent of the total floor area of the business premises.

2. Drive-In Restaurant. The term "drive-in" restaurant shall be defined pursuant to the following requirements:

- a. Business. A commercial establishment having as its principal business the preparation and dispensing of food.

- b. Counter. An area for receiving orders and dispensing food to customers who are located inside or outside the building located on the premises or part of a larger building in which the commercial establishment is located.
- c. Area. The total seating area of a dining area, if any, within a building located on the premises or part of a building in which the commercial establishment is located, shall be less than fifty (50) per cent of the floor area of the building premises.

**SEC. 100.2.102 REZONE.** The term "rezone" shall mean a change in the regulations governing how property and structures may be used, by a comprehensive revision or modification of the zoning text and map; a text change in zone requirements; or a change in the boundaries of zoning districts as shown on the zoning map.

**SEC. 100.2.103 RIGHT-OF-WAY.** The term "right-of-way" shall mean a strip of land occupied or intended to be occupied by a throughway, and shall include the area between the edge of the surfaced area of any such throughway and the boundary, represented by a property line, for any property abutting such throughway. Every right-of-way established under this chapter and described or shown on the final plat shall be separate and distinct from the lots and parcels adjoining such right-of-way and shall not be counted when measuring the area of any such lots and parcels.

**SEC. 100.2.104 ROOF.**

- 1. Roof. The term "roof", shall mean the top covering of a structure, including any canopy, constructed to shelter the area beneath such covering from the weather.
- 2. Roof Line. The term "roof line" shall mean the highest point of the coping of a flat roof; the deck line of a mansard roof; and the midpoint between the eaves and ridge of a saddle, hip, gable, gambrel or ogee roof.

**SEC. 100.2.105 ROOMING ACCOMMODATIONS.**

- 1. Roomer. The term "roomer" shall mean an occupant of a "rooming house" or "rooming unit" as defined in this section, who is not a member of the family of the rooming house operator. The term "roomer" shall also mean an occupant of a dwelling unit who is not a member of the family occupying the dwelling unit.
- 2. Rooming House. The term "rooming house" shall mean any dwelling, containing one (1) or more rooming units, in which space is let by the owner or operator to four (4) or more roomers.
- 3. Rooming Unit. The term "rooming unit" shall mean the following:
  - a. Living Quarters. Any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used, or intended to be used, primarily for living and sleeping.
  - b. Common Rooms. A room where bath and toilet facilities are available for the exclusive use by the occupants or for communal use. A room where kitchen or dining accommodations are available for use by the occupants may also be provided within the rooming house.

**SEC. 100.2.106 SALVAGE YARD.** The term "salvage yard" shall mean a commercial establishment which principally contained area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or assembled, stored or handled, including the dismantling or wrecking of automobiles or other vehicles or machinery, the storage of salvaged lumber and building materials and structural steel materials and equipment.

**SEC. 100.2.107 SATELLITE RECEIVERS.** The term "satellite receiver" shall refer to a facility, including a concave dish or antenna, anchored to a foundation or portable which is designed and intended to transmit, receive or intercept microwave, television or radio signals which are transmitted above the atmosphere.

**SEC. 100.2.108 SCHOOLS.**

1. Educational Facility. The term "educational facility" shall mean the following:
  - a. Curriculum. A private or public institution which offers a broad curriculum of instruction, including language arts, mathematics, history, science and social sciences.
  - b. Grades. All private or public institutions classified as elementary and secondary schools, which are established or certified by the state, below university grade, including denominational and sectarian, kindergartens and military academies.
  - c. Colleges. All private or public institutions classified as colleges, universities, and professional schools granting academic degrees and requiring for admission at least a high school diploma or equivalent general academic training.
2. Vocational Facility. The term "vocational facility" shall mean any private institution which offers the following:
  - a. Technical Training. Training for a technical occupation, including the following: data processing, computer programming, computer and peripheral equipment operation, keypunch operation; business machine operation, office procedures, secretarial and stenographic training; mechanical and electrical repair, welding, and mechanical and electrical drafting.
  - b. Artistic Development. Classes or lessons to develop an artistic talent in any of the fine arts, including music, painting, sculpture, dance or drama, provided that no degree may be offered upon graduation from the institution or completion of any classes or lessons.
  - c. Preparation. Classes or lessons which prepare applicants of an exam to pass such exam, including any civil service exam, or college or graduate school admissions exam.

**SEC. 100.2.109 SETBACK LINES.**

1. Setback Line. The term "setback line" shall mean that line represented on a plat for a subdivision from which the area of any lot's front, side and rear yards can be measured.
2. Building Setback Lines. The term "building setback lines" shall include any line drawn on a plat for a subdivision representing the minimum distance, when measured horizontally, which is required to exist between any structure on a lot and a line drawn on the plat representing a right-of-way which abuts such lot.

**SEC. 100.2.110 SEWAGE SYSTEMS.**

1. Public Sewer System. The term "public sewer system" or "public sewage disposal system" shall mean any type of sewage treatment and disposal facility approved by the Iowa Department of Public Health as properly designed to serve the city, and which is dedicated to the public, and operated and maintained by the city to provide central sanitary sewage service to all citizens connected to its facilities. A system which includes the use of a septic tank shall not be classified as a public sewage system.
2. Private Sewer System. The term "private sewer system" shall mean any type of sewage treatment or disposal facility, approved by the Iowa Department of Public Health, and designed and maintained to serve at least one (1) lot, provided that such system is not connected to a public sewage disposal system. A facility which maintains a septic tank shall be classified as a private sewer system.

**SEC. 100.2.111 SIDEWALK.** The term "sidewalk" shall mean any throughway which is paved and designed for exclusive pedestrian use.

**SEC. 100.2.112 SIGN.** Refer to Section 100.26 SIGN REGULATIONS

**SEC. 100.2.113 SPECIAL EXCEPTION.** The term "special exception" shall mean a principal or accessory use or modification in yards or parking and staging spaces which may be allowable pursuant to the requirements of this chapter and provided that facts and conditions exist as determined by the board of adjustment.

**SEC. 100.2.114 STABLE.**

1. Individual Stable.
  - a. General. The term "individual stable" shall mean a structure used or intended to be used to shelter horses owned by the person owning the property on which such shelter is located.
  - b. Prohibition. No shelter defined as an "individual stable" shall be operated as part of a commercial establishment, including any operation which auctions horses, regularly sells in the course of business, products associated with the care or use of horses, including any riding apparatus, or charges a fee for the care or shelter of any horse, riding instructions, rides on any horse, or for having a cart pulled by any horse.

2. Commercial Stable. The term "commercial stable" shall mean any stable which is used or intended to be used to shelter horses which is not an "individual stable," as defined in this section.

#### **SEC. 100.2.115 STACKING SPACE.**

1. General. The term "stacking space" shall mean a permanent dust free surface, including asphalt or concrete, which is designed to accommodate a motor vehicle waiting for entry to a place identified as a use for automobiles, provided that the location of such space shall not obstruct access to a parking space.
2. Dimensions. The dimensions of each place defined as a "stacking space" shall be specified in departmental standards, provided that no lot space shall be less than one hundred eighty square feet.

#### **SEC. 100.2.116 STORIES.**

1. General. The term "story" shall mean the part of a building included between the upper surface of any floor and the upper surface of the floor next above it, or if there is no floor above it, then the part of a building between the upper surface of the topmost floor and the ceiling or roof above it.
2. Yard Dimensions. For purposes of determining the required dimensions for any yard or court, for each building which has an average height exceeding twelve (12) feet, the stories of such building shall be calculated in the following manner:
  - a. First Story. The first story of the building may measure fifteen (15) feet high.
  - b. Remaining Stories. All building stories or all remaining stories after the first story shall each be considered to measure twelve (12) feet in height and any remaining part of the building height shall be considered a fractional story equaling that fraction of twelve (12) feet measured.
3. Half Story. The term "half story" shall mean that part of a story located under a sloping roof, including that part of a story under a gable, hip, or gambrel roof, and above the top floor level of the building, provided that at least (2) opposite exterior walls, are not more than four (4) feet in height measured from the top floor.

#### **SEC. 100.2.117 STREETS.**

1. General. The term "street" shall mean any throughway, having a right-of-way sixty (60) or more feet wide, which is designed to channel or circulate vehicular and pedestrian traffic. The term "street" may refer to any right-of-way bounded by adjacent property lines or to the paving installed within such right-of-way.
2. Arterial Street. The term "arterial street" shall mean a street primarily designed to carry traffic from one end to another end of the city.

3. Collector Street. The term "collector street" shall mean any street which is not an arterial street and which carries traffic between sections of the community or which serves to connect rural areas and the community.
4. Half Street. The term "half street" shall mean a street which is less wide than the minimum requirements permitted for streets.
5. Dead-End Street. The term "dead-end street" shall mean any street having one end opened to vehicular traffic and the other end terminated without a cul-de-sac.
6. Local Street. The term "local street" shall mean any street which primarily serves to provide access to properties abutting such street.
7. Major Street. The term "major street" shall mean any arterial street or other street which is designed to carry traffic from one section to another section of the city.
8. Marginal Access Street. The term "marginal access street" shall mean any local street which is parallel to and adjacent to any primary street or highway.
9. Street Pavement Width. The term "street pavement width" shall mean the distance of any roadway, measured horizontally, from the back of one curb to the back of the curb on the opposite side of such roadway.
10. Major Street Plan. The term "major street plan" shall mean a plan describing the most efficient use and design of streets, including recommendations for constructing new streets and modifying the use and design of existing streets. The major street plan shall be drafted and adopted by the city pursuant to the procedures established in this code.

#### **SEC. 100.2.118 STRUCTURES.**

1. General. The term "structure" shall mean anything, including any building, constructed or erected on the ground or which is attached to something located on the ground, including any building, radio and television tower, or permanent signs. The term "structure" shall not include vehicles, throughways or pavings.
2. Accessory Structure. The term "accessory structure" shall mean any secondary structure located on the same lot as which a principal structure is located, provided that such secondary structure complies with the following requirements:
  - a. Subordinate. It must be subordinate to a principal structure in area and the purpose for which the structures is used.
  - b. Contribution. It must contribute to the comfort, convenience or necessity of occupants of the principal building.
  - c. Location. It shall be located on the same lot as is the principal structure.
3. Principal Structure. The term "principal structure" shall mean the structure which contains the principal use.

**SEC. 100.2.119 SUBSTANDARD LOT.** See the term "nonconforming lot" as defined in this chapter.

**SEC. 100.2.120 SUBSTANTIAL IMPROVEMENT.**

1. General. The term "substantial improvement" shall mean any repair, reconstruction, or improvement of a structure, including any building, the cost of which equals or exceeds fifty (50) per cent of the market value of the structure either of the following:
  - a. Starting Date. Prior to the date that the improvement or repair was started.
  - b. Damage Date. Prior to the date that the damage was done, provided that the structure was being restored.
2. Starting Date. For purposes of this section, the starting date of a substantial improvement shall be deemed to occur when the first alteration of any wall, ceiling, floor or other integral part of a structure commences, whether or not such alteration affects the external dimensions of the structure.
3. Exception. The term "improvement" shall not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historical Places or a state inventory of historic places.

**SEC. 100.2.121 SUBDIVISION.** See Chapter 103.

**SEC. 100.2.122 TOWNHOUSE.**

1. Complex. The term "townhouse complex" shall mean a complex containing not less than three (3) nor more than six (6) abutting single-family dwellings with dwelling located on a separate lot.
2. Unit. The term "townhouse unit" shall mean each principal dwelling located on a separate lot within the townhouse complex.

**SEC. 100.2.123 TRAILER PARK.** See the term "factory built home park".

**SEC. 100.2.124 TRANSIENT HOUSING.** The term "transient housing" shall mean a structure owned and operated by a nonprofit organization, as defined by Internal Revenue Code, providing a temporary residence, for a period of not more than ten (10) days, for persons in need of emergency shelter and who are temporarily unable to pay for housing.

**SEC. 100.2.125 TRAVEL TRAILER.** The term "travel trailer" shall mean a recreational vehicle which shall be designed as a mobile structure built on a chassis, designed to be used as a temporary dwelling for travel and recreation, provided that such vehicle shall have a width of no more than eight (8) feet.

**SEC. 100.2.126 TREE.** The term "tree" shall mean a live self-supporting woody plant with a single self-supporting trunk or multiple self-supporting trunks.



**SEC. 100.2.127 TRUCK TERMINAL.**

1. Storage. The term "truck terminal" shall mean a commercial establishment in the business of storing, handling and dispatching freight from major truck carriers.
2. Repair. A "truck terminal" as defined in this section may operate facilities for the storage and repair of trucks and trailers used by major truck carriers to transport freight.

**SEC. 100.2.128 USE.**

1. General. The term "use" shall mean any purpose for which land, structures, or a part of any land or structure is designed, occupied and maintained.
2. Accessory Use. The term "accessory use" shall mean any use which is characterized by the following:
  - a. Subordinate. It is subordinate to and serves a principal use, with its purpose and the extent of its purpose subordinate to a principal use.
  - b. Contribution. It contributes to the comfort, convenience, profitability, or necessity of persons relying on or owning the principal use.
  - c. Location. It shall be located only on the same lot as or across a street, alley or railroad right-of-way from the principal use, unless the use constitutes a space defined as off-street parking.
3. Permitted Use. The term "permitted use" shall mean a principal use which is allowed in the zone in which it is classified, provided that such use complies with the dimensional requirements and special requirements, if any, described for the zoning district in which the use is located.
4. Principal Use. The term "principal use" shall mean the primary purpose for designing, occupying, operating and maintaining any property or structure located on a premises.
5. Provisional Use. The term "provisional use" shall mean any principal use which is allowed in the zone in which it is classified, provided that such use complies with the specific requirements mentioned with the use and all other dimensional requirements and special requirements, if any, described for the zoning district in which the use is located.

**SEC. 100.2.129 VACATION.** The term "vacation" shall mean the process by which the city discontinues the use of a street, alley or easement as a public way.

**SEC. 100.2.130 VARIANCE.** The term "variance" shall mean the legal mechanism of granting a property owner relief by relaxing a certain requirement of this division to ensure substantial justice is done, provided that special conditions exist which may result in unnecessary hardship to such owner if the provision is enforced and the community interest is not jeopardized.

**SEC. 100.2.131 VEHICLE.** The term "vehicle" shall mean every device in, upon which or by which any person or property is or may be transported or drawn upon a roadway.

## **SEC. 100.2.132 YARDS.**

1. General.
  - a. Open Space. The term "yard" shall mean a required open space at grade and unoccupied and unobstructed by any structure or part of a structure, other than a projection, including any projection from uncovered steps, an uncovered balcony or porch, or specific minor uses or structures allowed in such area according to the provisions of this chapter.
  - b. Measurement. For the purpose of determining the width of a side yard, or depth of a front yard or rear yard, the minimum horizontal distance shall be used measuring, by straight line, the distance between the lot line and the place where the principal structure is located on the lot.
2. Yard Lines.
  - a. Front Yard Line. The term "front yard line" shall mean an imaginary line extending from one side lot line to another side lot line, parallel to the street abutting the lot, and located as far back from the street as possible to create an area in front of such line which equals the minimum area required for a front yard in the zoning district in which the lot is located.
  - b. Rear Yard Line. The term "rear yard line" shall mean an imaginary line parallel to the rear lot line and located as far forward from such lot line as possible to create an area in front of the lot line which equals the minimum area required for a rear yard in the zoning district in which the lot is located.
  - c. Side Yard Line. The term "side yard line" shall mean an imaginary line parallel to the side lot line and located as far from such lot line as possible to create an area in to the side of the lot line which equals the minimum area required for a side yard in the zoning district in which the lot is located.
3. Front Yard. The term "front yard" shall mean the required area across a lot as measured between the front yard line and the street.
4. Rear Yard. The term "rear yard" shall mean the required area as measured from one side lot line to another side lot line, and as measured between the rear yard line and the rear lot line.
5. Side Yard. The term "side yard" shall mean the required area as measured from the front yard line to the rear yard line, and as measured for each side of the lot, from the side yard line to the side lot line.

## **SEC. 100.2.133 ZONING.**

1. Zoning District. The term "zoning district" shall mean that part of the jurisdiction of the city delineated on the zoning map in which requirements and development standards for the use of property and structures shall be prescribed.

2. Zoning Map. The term "zoning map" shall mean the city map which delineates the boundaries of the zoning districts which, along with this chapter, and resolutions adopted pursuant to this chapter, comprises the zoning law of the city.
3. Downzoning. The term "downzoning" shall mean a change in the zoning classification of property to a classification which is more restrictive, or which allows development which is less intensive or dense.
4. Upzoning. The term "upzoning" shall mean a change in the zoning classification of property to a classification which is less restrictive, or which allows development which is more intensive or dense.
5. Zoning Permit. The term "zoning permit" means a permit issued by the zoning administrator authorizing the use of land in the manner and for the purpose specified in the application.

### **Section 100.3 Districts and Boundaries Established**

**SEC. 100.3.01 DISTRICTS DESIGNATED.** In order to classify, regulate, and restrict the location of trades and industries and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas and to regulate and determine the area of yards, courts, and other open spaces within and surrounding such buildings, the city is divided into sixteen classes of districts. The use, height, and area regulations are uniform in each class of district, and said districts shall be known as:

A-1	Agricultural
R-1	Residential (Single Unit Detached)
R-1A	Residential (Single Unit Detached- Two Unit Attached)
R-2	Residential (Small Lot and Duplex)
R-3	Multiple Family Residential (Two to Four Units)
R-4	Multiple Family Residential (Apartments- Five Plus Units)
R-FBH	Factory Built Home
S-1	Shopping Center
C-1	Commercial (Neighborhood)
C-2	Commercial (Large)
C-2A	Commercial (Limited Depth)
C-3	Commercial (Central Business)
M-1	Light Industrial
M-2	Heavy Industrial
PD	Planned Development
U-1	Environmentally Sensitive Protected

(Ord. 1026 10-10-17)

### **SEC. 100.3.02 DISTRICT BOUNDARIES.**

1. The boundaries of these districts are indicated upon the zoning map of the city, which map is made a part of this chapter by reference. The zoning map of the city and all the notations, references, and other matters shown thereon shall be as much a part of this chapter as if the notations, references, and other matters set forth by said map were all fully described herein. The zoning map is on file in the office of the city clerk at the city hall of the City of Waverly.

2. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map made a part of this chapter by reference, the following rules apply:
  - a. The district boundaries are either street lines or alley lines unless otherwise shown; and where the districts, designated on the map made a part of this chapter are bounded approximately by street lines or alley lines, the street lines or alley lines shall be construed to be the boundary of the district.
  - b. In unsubdivided property, the district boundary lines on the map made a part of this chapter shall be determined by the use of the scale appearing on the map.

**SEC. 100.3.03 FUTURE ANNEXATION.** All territory which may be annexed to the city after the effective date of the ordinance codified in this chapter shall automatically be classed as lying in the A-1 Agricultural District until such classification shall have been changed by an amendment to the zoning ordinance as provided by law.

#### **Section 100.4 General Regulations**

**SEC. 100.4.01 CONFORMANCE REQUIRED.** Except as otherwise specified in this chapter, no building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this chapter or the district in which the building or land is located.

**SEC. 100.4.02 CONTINUING EXISTING USES PERMITTED.** The use of a building existing at the time of the enactment of the ordinance codified in this chapter may be continued even though such use may not conform with the regulations of this chapter or the district in which it is located. Any use in existence at the adoption thereof which was not authorized as a nonconforming use under previous zoning ordinances shall not be authorized to continue as a nonconforming use pursuant to this chapter or amendments thereto.

**SEC. 100.4.03 NONCONFORMING USES - ENLARGEMENT, RECONSTRUCTION PROHIBITED - EXCEPTION.** No existing building or premises devoted to a use not permitted by this chapter in the district which such building or premises is located, except when required by law, shall be enlarged, extended, reconstructed, substituted, or structurally altered unless the use thereof is changed to a use permitted in the district in which such building or premises is located, except as follows:

1. Substitution. If no structural alternations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed it shall not thereafter be changed to a less restricted use.
2. Discontinuance. In the event that a nonconforming use of any building or premises is discontinued for a period of one year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

3. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than sixty percent of its replacement value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or act of God, shall not be restored or reconstructed and used as before such happening; but if there is less than sixty percent damaged above the foundation, it may be restored, reconstructed, or used as before, provided that it be initiated within six months of such happening, and be built of like or similar materials.
4. Existing Residential Dwelling Exception. Any nonconforming existing residential dwelling within the A-1, R-2, R-3, R-4, C-1, C-2, C-2A, C-3 or M-1 zoning districts shall be exempt from the restrictions listed within said section. Structures shall be allowed to be reconstructed, substituted, enlarged, extended or structurally altered and shall be required to meet the setbacks of their respective residential zoning district as shown on the original plat, including, if applicable, lots of record. Ordinance 1037 5/29/18

**SEC. 100.4.04 NONCONFORMING USES OR BUILDINGS IN OTHER THAN A, R, OR U DISTRICTS.**

1. Structural Alterations and Enlargements. Any building in districts other than an A, R, or U district devoted to a use made nonconforming by this chapter may be structurally altered or enlarged in conformity with the lot area, the lot frontage and yard and height requirements of the district in which situated, provided such construction shall be limited to buildings on land owned of record by the owner of the land devoted to the nonconforming use prior to the effective date of the ordinance codified in this chapter. In the event of such structural alteration or enlargement of buildings, the premises involved may not be used for any nonconforming use other than the use existing on the effective date of the ordinance codified in this chapter, other provisions of this chapter notwithstanding.
2. Discontinuance. In the event that a nonconforming use of any building or premises is discontinued for a period of one year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
3. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than sixty percent of its replacement value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or act of God, shall not be restored or reconstructed and used as before such happening, but if there is less than sixty percent damaged above the foundation, it may be restored, reconstructed, or used as before, provided that it be started within six months of such happening, and be built of like or similar materials.

**SEC. 100.4.05 STREET FRONTAGE REQUIREMENTS - RESIDENCES.** Except as permitted in the streets and sidewalks chapter, within this code, no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least forty feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least twenty feet wide to a street, and there shall be not more than one single-family dwelling for such frontage or easement, except that a common easement of access at least fifty feet wide may be provided for two or more such single-family dwellings or for one or more two-family or multiple dwellings.

**SEC. 100.4.06 ACCESSORY BUILDING AND BREEZEWAY REQUIREMENTS.** The following regulations shall apply to single or two family dwellings regardless of zoning district.

1. Accessory Buildings.
  - a. Except as allowed by Section 100.4.06 (f), no accessory building shall be erected in a front or side yard.
  - b. Accessory buildings closer than ten (10) feet to a main building shall have the side and rear yard setbacks required for the primary structure.
  - c. An accessory building more than ten (10) feet from the main building shall have a minimum five foot setback from side and rear lot lines.
  - d. Area Limitations.
    - (1) For lots up to 8,700 square feet, the total area for accessory buildings shall not occupy more than 720 square feet and shall not exceed 30% of the rear yard.
    - (2) For lots from 8,700 square feet to 13,333 square feet, no one accessory building shall occupy more than 720 square feet and the total area occupied by accessory buildings shall not exceed 800 square feet.
    - (3) For lots from 13,333 square feet to one acre, the total area occupied by accessory buildings shall not exceed 1000 square feet.
    - (4) For lots larger than one acre, the total area occupied by accessory buildings shall not exceed 2000 square feet.
  - e. The maximum height of an accessory building shall not exceed 18 feet with a maximum average height of 15 feet or shall not exceed the height of the principal building, whichever is less. The height shall be measured from the first floor elevation of the main building and from the front entrance elevation for a split foyer building.
  - f. On corner lots accessory buildings may be placed in the side yard. Said accessory buildings shall have the same side and rear yard requirements as that of the main building. The accessory building shall not extend into the front yard beyond the front line of the main building.
2. Breezeway Requirements. A breezeway is hereby defined as a covered walkway attaching an accessory building to a main structure. A breezeway will be allowed under the following conditions:
  - a. The accessory building meets the rear and side yard requirements of the main structure.
  - b. The separation between a main building and an accessory building shall be ten (10) feet or less.

- c. A breezeway shall not exceed eight (8) feet in width and ten (10) feet in length, and shall not exceed the height requirements set out for accessory buildings.
- d. Frost footings will be required if a breezeway is more than forty (40) square feet in size.
- e. The breezeway area shall be included as part of the accessory building to which it is attached for purposes of calculating the maximum square footage limitation for that building and for all accessory buildings.

(Nos. 1 – b. - Amended 3/14/23 by Ord. 1120.)

**SEC. 100.4.07 CORNER LOTS - SIDE YARD REQUIREMENTS.**

1. For corner lots platted after the effective date of the ordinance codified in this chapter, the street side yard shall be equal in width to the setback regulation of the lots to the rear having frontage on the intersecting street.
2. On corner lots platted and of record at the time of the effective date of the ordinance codified in this chapter, the side yard regulation shall apply to the longer street side of the lot except in the case of reverse frontage where the corner lot faces an intersecting street. In this case, there shall be a side yard on the longer street side of the corner lot of not less than fifty percent of the setback required on the lots to the rear of such corner lot, and no accessory building on said corner lot shall project beyond the setback line of the lots in the rear; provided further, that this regulation shall not be so interpreted as to reduce the buildable width of the corner lot facing an intersecting street, and of record or as shown by existing contract of purchase at the time of the effective date of the ordinance codified in this chapter, to be less than twenty-eight feet nor to prohibit the erection of an accessory building.

**SEC. 100.4.08 CORNER LOTS FRONTAGE REQUIREMENTS.** On corner lots, frontage may be considered on either street; provided, that if front and rear yards are parallel to the lot line having the longer dimension, then setbacks along both streets shall conform to the front yard requirement of the district in which it is located.

**SEC. 100.4.09 R DISTRICT FRONT YARD REQUIREMENTS.** In any R district there shall be a minimum front yard required as stated in the yard requirements for that particular district; provided, however, that where lots comprising thirty percent or more of the frontage within two hundred feet of either side lot line are developed with buildings at a different setback, the front yard setback shall be the average of these building setbacks and the minimum setbacks required for the undeveloped lots. In computing the average setback, buildings located on reversed corner lots or entirely on the rear half of lots shall not be counted. The required setback as computed herein need not exceed fifty feet in any case, nor be less than twenty feet.

**SEC. 100.4.10 REDUCTION PROHIBITED.** No lot shall be reduced in area so as to make any yard of any other open space less than the minimum required by this chapter. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space required under this chapter for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this chapter.

**SEC. 100.4.11 BUILDING LINES ON APPROVED PLATS.** Whenever the plat of a land subdivision on record in the office of the county recorder shows a setback building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.

**SEC. 100.4.12 PERMITS ISSUED PRIOR TO EFFECTIVE DATE - CHANGES NOT REQUIRED.**

Nothing herein contained shall require any change in the overall layout, plans, construction, size, or designated use of any building or part thereof for which approvals and required building permits have been granted before the enactment of the ordinance codified in this chapter, the construction of which in conformance with such plans shall have been started prior to the effective date of the ordinance codified in this chapter and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control.

**100.4.13 Visual Barrier Standards**

**SEC. 100.4.13.1 Purpose:** The City of Waverly recognizes the aesthetic and economic value of visual barriers between low density residential and high-density and non-residential land uses, and therefore requires minimum standards to:

- a. Establish and enhance a pleasant visual character which recognizes aesthetics and safety issues;
- b. Promote compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting uses;
- c. Unify development, and enhance and define land uses.

**SEC. 100.4.13.2 When Screening Required.** Screening is required between adjacent zoning districts when one or more of the following conditions in the more dense or non-residential zoning district is directly visible from and faces toward the boundary of the low density residential zoning district.

- a. Non-Residential Uses Abutting Residential Uses. Where any business, industrial, institutional, essential service, utility, or public use structure abuts property zoned or developed for residential use, said building/facility shall provide screening along the boundary of the residential property. Screening shall not be required on that side of a business, industry, or institutional building considered to be the architectural front (as determined by the code enforcement officer).
- b. Multifamily Residential Uses Abutting Single Family Residential Uses. Where multifamily dwelling unit development is to be located or altered to include items from this section, said use shall be screened when 66 feet or less from property lines zoned or developed as single family residential use.
- c. Outdoor storage areas or storage tanks, unless otherwise screened.
- d. Loading docks, refuse collection points, and other service areas.
- e. Major machinery or areas housing a manufacturing process.
- f. Major on-site traffic circulation areas or truck and/or trailer parking.
- g. Sources of glare, noise, or other environmental effects.

**SEC. 100.4.13.3 Landscape/Screening Plan Required.** In all instances where screening is required, a comprehensive plan shall be submitted at the time of building permit submittal and said plan shall identify all proposed screening in both plan and sectional view.



**SEC. 100.4.13.4 Type of Screening Required.** All screening specifically required by this section shall consist of either a fence, a greenbelt planting strip, or berming and a planting strip as provided for below:

- a. Fencing. A screening fence shall be constructed of masonry, brick or wood or similar materials to achieve said screening purpose. Such fence shall provide a solid screening effect and shall be a minimum of six (6) feet in height. The design and materials used in constructing a required screening fence shall be subject to the approval of the code enforcement officer.
  1. Fencing may be used to screen residential properties across a right-of-way 66 feet or less. Said fencing shall be no taller than three feet in height and not located within a sight triangle as defined in the Waverly City Code.
- b. Greenbelt planting strip. A planting strip shall consist of any combination of coniferous trees and deciduous trees and shall be of sufficient width and density to provide an effective visual screen at the time of planting at mature height.
  1. The width of the greenbelt planting strip shall be a minimum of 10 feet in width from the property line affected.
  2. The planting strip shall be designed to provide visual screening to achieve 75% non-transparency year round and to a minimum height of 6 feet at maturity. The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection unless otherwise established by the code enforcement officer.
  3. All greenbelt strips and buffer yards must be seeded or sodded or treated with a decorative mulch or stone except in areas of steep slopes where natural vegetation is acceptable. The 10 foot buffer strip shall be effectively mowed and maintained so that the plant material has sufficient means for continued survival. If plants utilized for visual obstruction die, they must be replaced in accordance with maintenance of landscaping guidelines in this code.
- c. Planting Strip and Berming. Earth mounding or berms may be used, with a maximum slope of two to one, in combination with deciduous plantings or coniferous plantings.
  1. Berming shall not be used to achieve more than three (3) feet of the required screen and the planting and berming combination shall achieve a total height of at least six (6) feet in height at the time of installation.
  2. Plantings, if desired on top of or in between berms, shall be planted at a height of at least three (3) feet in height to achieve a continuous visual barrier of at least six (6) feet in height, including the berm height, when plantings mature.
  3. The planting strip shall be designed to provide visual screening to achieve 75% non-transparency year round.
  4. The design of berms shall include provisions that demonstrate said berms will avoid changes with drainage conditions onto adjacent properties.
- d. Maintenance of Landscaping. Upon installation of any plant materials used for screening, the owner of the property shall take appropriate actions to ensure their continued health and maintenance and effective visual barrier is maintained. Required landscaping that is damaged shall be replaced so as to perform the intended screening requirements within 9 months of receiving notice to replace from the City.

**SEC. 100.4.13.5 Exceptions.** A development may continue to comply with the screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise

require compliance with buffer yard or screening provisions. In addition, the following general conditions shall also be exempted:

- a. Reconstruction or replacement of a lawfully existing use or structure following a casualty loss when reconstructed in the same configuration.
- b. Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures, parking spaces, traffic circulation or other site improvements.
- c. Additions or enlargements of existing parking lot surface areas or structures which increase impervious coverage area by less than 25 percent. Where such additions or enlargements are 25 percent or greater, these provisions shall apply only to that portion where the new development occurs adjacent to or across the street from residential zoning.
- d. Existing agricultural land uses which existed prior to the establishment of this ordinance.

(Established by Ord. 992 04/14/15)

**SEC. 100.4.14 Conversion To Condominium Or Multiple Family Housing Cooperative.**

1. The conversion of any residential building or portion thereof to a horizontal property regime or to a multiple housing cooperative shall be treated as a change of occupancy classification for the building, notwithstanding anything in the building codes to the contrary, and shall conform to the International Building Code.
2. No person shall file or record a declaration in the office of the county recorder to convert an existing structure located within the city to a horizontal property regime unless a certificate of occupancy for compliance with the current building codes has been issued by the building official
3. No person shall file or record an instrument in the office of the county recorder conveying an interest in real estate located in the city to a multiple housing cooperative unless a certificate of occupancy for compliance with the current building codes has been issued by the building official.
4. At least 60 days before being filed or recorded in the office of the county recorder, the applicant shall file a copy of such declaration or such instrument, together with the following documents with the permit and development administrator, and shall also pay a conversion fee in the amount set in the schedule of fees adopted by the city council by resolution:
  - a. Two copies of an as-built plan for the entire structure.
  - b. A building code analysis prepared by a licensed architect or professional engineer demonstrating that the structure conforms with the current building codes or can be brought into conformance with the current building codes by planned improvements to be made to the structure.
  - c. Two copies of construction plans for planned improvements to be made to the structure to bring the structure into conformance with the current building codes.
5. Upon receipt of the documents and the conversion fee as provided above, the permit and development administrator or the administrator's designee shall review the building code analysis and conduct such inspections of the structure as may be deemed appropriate by the administrator to determine whether or not the structure conforms with the requirements of paragraph (1) above. If the permit and development center administrator or the administrator's designee determines that the structure has been shown to be in substantial compliance with the requirements of paragraph (1) above, the administrator shall cause a certificate of occupancy to be issued for the use of the structure as a horizontal property regime or a multiple housing cooperative. If the structure has not been shown to be in

substantial compliance with the requirements of paragraph (1) above, the administrator shall give written notice to the applicant of any violations of the applicable code requirements discovered to exist in the building.

(Established by Ord. 1046 06/26/18)

### **Section 100.5 A-1 Agricultural District**

**SEC. 100.5.01 PURPOSE.** The purpose of this zoning district is to provide for areas of managed growth in which agricultural and other non-urban uses of property may continue and/or for the preservation of farm ground, until such time as the city is able to provide municipal services and urban development can take place. Before installation of facilities providing municipal services, the city must and the property owner may initiate rezoning of property to uses consistent with the comprehensive plan. A-1 designations on the zoning map shall be reevaluated with each revision of the comprehensive plan.

### **SEC. 100.5.02 USES.**

1. Permitted Uses. The following shall be subject to all the requirements of permitted uses.
  - a. Agricultural. All uses and structures identified with agriculture, except for feedlot operations.
2. Provisional Uses. The following uses and structures identified with such uses shall be subject to all the requirements of provisional uses:
  - a. Single Family Dwellings. Any single family dwelling, provided the following:
    - (1) Dimensions. The dimensional requirements for such dwelling must comply with all the dimensional requirements for a dwelling located in a R-1 district.
    - (2) Distance. No such dwelling shall be constructed within one fourth (1/4) mile from another single family dwelling which is not a farm dwelling.
  - b. Farm Dwellings. Any farm dwelling, provided that the dimensional requirements for such dwelling comply with all the dimensional requirements for a dwelling located in an R district. A maximum of two (2) roomers may reside in each farm dwelling.
  - c. Gardening Establishments. Any gardening establishment, provided that no dwelling shall be located on the premises unless such premises has an area of three (3) or more acres.
  - d. Commercial Grain Elevators. Any commercial grain elevator with usual accessory structures, provided that such elevator is located not closer than five hundred (500) feet from any R district boundary.
  - e. Veterinary Establishments. Any veterinary establishment, provided that such establishment complies with all general requirements specified for veterinary establishments.
  - f. Forest and Forestry.
3. Special Provisional Uses. The following uses and structures identified with such uses shall be subject to all the requirements of special provisional uses and subject to the recommendation of the Planning and Zoning Commission and with Board of Adjustment approval. The Planning and Zoning Commission shall hold a public hearing with the same requirements as Section 100.24.03. This shall include the notification requirements to all property owners within 250 feet. A request of waiver for the public notification requirements may be submitted to the City Administrator for uses that may require anonymity. (Ordinance 1069 01/06/20)
  - a. Mining. Any mining operation, provided that such operation is located not closer than one fourth (1/4) mile from any R district boundary.
  - b. Entertainment Grounds. Any entertainment ground such as race tracks (including snowmobile and dirt bike), carnivals, circuses, rides and shows.
  - c. Air Fields. Any air field, provided that such field complies with all general requirements specified for air fields.
  - d. Religious Institutions. Any religious institution which complies with all general requirements specified for religious institutions.

- e. Schools. Any school defined as an educational facility pursuant to this chapter, provided that such facility complies with all general requirements specified for educational facilities.
  - f. Clubs. Any club which complies with all general requirements specified for clubs.
  - g. Park Areas. Any park area which complies with all general requirements specified for park areas.
  - h. Golf Courses. Any park area which complies with all general requirements specified for golf courses.
  - i. Public Facilities. Any facility dedicated to public use.
  - j. Feedlots. Any feedlot which is not a confinement feeding operation, provided such feedlot is located not closer than one-fourth (1/4) mile to any R district boundary.
  - k. Stables. Any stable, provided that such stable is located at least one hundred (100) feet from the nearest lot line of the property on which it is located.
  - l. Kennels. Any kennel, provided that such kennel complies with general requirements established for kennels.
  - m. Excavation. Any excavation operation, provided that such excavation is located not closer than one-fourth (1/4) mile from any R district boundary.
  - n. Cemeteries. Any cemetery, provided such cemetery complies with all general requirements specified for cemeteries and subject to recommendation of the planning and zoning commission and with council approval.
  - o. Childcare Facilities.
4. Special Exceptions. The following uses and structures identified with such uses shall be subject to all the requirements of special exceptions and subject to recommendation of the Planning and Zoning Commission and with Board of Adjustment approval (Ordinance 1069 01/06/20):
- a. Communication Facilities. Any communication facility, including all towers, provided such towers shall be located at least as far away from property lines as their height is above the grade.
  - b. Utilities. Any major or minor utilities.
5. Accessory Uses. Accessory uses in the A-1 district shall be any accessory buildings and uses customarily incidental to any of the above permitted uses.

**SEC. 100.5.03 DIMENSIONAL REQUIREMENTS.**

- 1. General. The dimensional requirements described in this section shall constitute minimum requirements governing all uses and structures identified with such uses, provided they are regulated pursuant to this chapter and no stricter departmental design standards or general requirements specified for any such use or structure is applicable.
- 2. Minimal Lot Dimensions. All lots within an A-1 district shall have the following minimum dimensions:
  - a. Dwellings. No dwelling shall be located on a lot which has less than the following minimum dimensions:
    - (1) Lot Area: 3 acres.
    - (2) Lot Area (Per Family): 3 acres.
    - (3) Lot Width: 200 feet.
    - (4) Yard Frontage: 30 feet.
    - (5) Yard Rearage: 30 feet.
    - (6) Least Width on Any One Side: 10% of the lot width or 25 feet, whichever is less.
  - b. Other Permitted Uses. No use or structure shall be located on a lot which has less than the following minimum dimensions:
    - (1) Lot Area: 3 acres.
    - (2) Lot Area (Per Family): 3 acres.
    - (3) Lot Width: 200 feet.
    - (4) Yard Frontage: 50 feet.
    - (5) Yard Rearage: 50 feet.

(6) Least Width on Any One Side: 25 feet.

- 3. Yards and Streets. Each yard with a front setback described below shall have dimensions correlating with the dimensions of the following streets:

Setback (feet)	Street Width (feet)	Comprehensive Plan Street Classification
40	40	Major
27	66	Major
25	40	Collector or Local
20	80 or more	Major
20	50 or more	Collector

- 4. Maximum Building Bulk: None.
- 5. Minimum Building Width: 24 feet for at least 75 percent of the building's length.
- 6. Maximum Structure Height: No structure shall exceed three (3) stories or thirty-five (35) feet in height, whichever is less.

**Section 100.6 R-1 Residential District**

**SEC. 100.6.01 PURPOSE** The primary purpose of this zoning district is to provide for low density detached residential dwellings and related neighborhood facilities associated with such dwellings, consistent with a dominant single-family residential character. All proposed uses and structures within the district, including non-residential development, shall be planned and designed to be consistent in character with the scale and developmental pattern of the residential neighborhood. The R-1 District is appropriately located away from high traffic and dense land use areas. Commercial uses are limited to allowable home occupations.

**SEC. 100.6.02 USES**

- 1. **Permitted Uses.** The following shall be considered permitted uses or structures:
  - a. Single-family detached dwellings.
  - b. Park areas, open spaces, recreational facilities, waterways and detention areas.
  - c. Essential services.
  
- 2. **Provisional Uses.** The following uses and structures identified with such uses shall be subject to all the requirements of provisional uses:
  - a. Family Care Homes meeting rental ordinance requirements for occupancy.
  - b. Child Care Homes for six or fewer children.
  - c. Home Occupations meeting the criteria set forth in City Code.
  
- 3. **Special Provisional Uses.** The following uses and structures identified with such uses shall be subject to all the requirements of special provisional uses and recommendation of the Planning and Zoning Commission and with Board of Adjustment approval. The Planning and Zoning Commission shall hold a public hearing with the same requirements as Section 100.24.03. This shall include the notification requirements to all property owners within 250 feet. A request of waiver for the public notification requirements may be submitted to the City Administrator for uses that may require anonymity. Approval of a special provisional use by the City in this Residential District expires at the end of one year, unless a building permit and site plan have been approved by the City of Waverly. Any modifications to the original special provisional use structure either by increasing the structure size beyond 25% of the original gross floor plan or proposed changes to previously approved conditions of approval by the City shall void the special provisional use. (Ordinance 1069 01/06/20)
  - a. Government Facility. Any facility dedicated to public use.
  - b. Utilities. Any major or minor utility which requires an outside enclosed area larger than 120 square feet in area or taller than 45 feet to house utilities. This shall

exclude essential services which do not propose an outside enclosed area.

4. **Accessory Structures.** Accessory structures in the R-1 district shall be as follows:
  - a. Private garages and storage structures.
  - b. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

#### **SEC. 100.6.03 DIMENSIONAL REQUIREMENTS**

1. **Minimum Lot Dimensions.** The following minimum and maximum size regulations shall apply in the R-1 Residential District:
  - a. Minimum Lot Size: 9,000 square feet
  - b. Minimum Lot Dimensions:
    - (1) Lot Width: 75 feet
  - c. Building Setbacks:
    - (1) Front yard: 25 feet
    - (2) Side yard: 10 feet
    - (3) Rear yard: 30 feet
  - d. Maximum Building Dimensions:
    - (1) Height: 35 feet and three stories.
    - (2) Impervious Coverage: 50% of lot area, inclusive of primary and accessory building square footage area and impervious paved surface areas.
  - e. Minimum Building Dimensions:
    - (1) Width: 24 feet for at least 75% of its length
  - f. Maximum Accessory Structure Dimensions:
    - (1) See Section 100.4.06.
  - g. Driveway Considerations:
    - (1) Width at the right of way line: 32 feet maximum
    - (2) Width at the curb: 32 feet maximum
    - (3) Distance from side property lines: 5 feet minimum
  - h. Street and Right of Way Considerations:
    - (1) Street Width: Streets shall be 29 feet wide, inclusive of curbs, with a right of way provided at 60 feet and including a sidewalk four (4) foot in width.
    - (2) Parking: On a street 29 feet in width, parking shall be allowed on one side only.

#### **Section 100.6A R-1A Residential District**

**SEC. 100.6A.01 PURPOSE** The primary purpose of this zoning district is to provide for low density detached and two attached residential dwellings and related neighborhood facilities associated with such dwellings, consistent with a dominant single-family residential character. All proposed uses and structures within the district, including non-residential development, shall be planned and designed to be consistent in character with the scale and developmental pattern of the residential neighborhood. The R-1A District is appropriately located away from high traffic and dense land use areas and is intended to allow developers to provide for both detached and two attached single-family dwellings within a development. Commercial uses are limited to allowable home occupations.

#### **SEC. 100.6A.02 USES**

1. **Permitted Uses.** The following shall be considered permitted uses or structures:
  - a. Single-family detached dwellings.
  - b. Park areas, open spaces, recreational facilities, waterways and detention areas.
  - c. Essential services.

2. **Provisional Uses.** The following uses and structures identified with such uses shall be subject to all the requirements of provisional uses:
  - a. Single-family attached dwellings, provided a site plan is submitted and covenants and restrictions are in place governing common elements of the attached housing; and provided no more than two dwellings are attached.
  - b. Family Care Homes meeting rental ordinance requirements for occupancy.
  - c. Child Care Homes for six or fewer children.
  - d. Home Occupations meeting the criteria set forth in Section 100.27.04.
  
3. **Special Provisional Uses.** The following uses and structures identified with such uses shall be subject to all the requirements of special provisional uses and recommendation of the Planning and Zoning Commission and with Board of Adjustment approval. The Planning and Zoning Commission shall hold a public hearing with the same requirements as Section 100.24.03. This shall include the notification requirements to all property owners within 250 feet. A request of waiver for the public notification requirements may be submitted to the City Administrator for uses that may require anonymity. Approval of a special provisional use by the City in this Residential District expires at the end of one year, unless a building permit and site plan have been approved by the City of Waverly. Any modifications to the original special provisional use structure either by increasing the structure size beyond 25% of the original gross floor plan or proposed changes to previously approved conditions of approval by the City shall void the special provisional use. (Ordinance 1069 01/06/20)
  - a. Government Facility. Any facility dedicated to public use.
  - b. Utilities. Any major or minor utility which requires an outside enclosed area larger than 120 square feet in area or taller than 45 feet to house utilities. This shall exclude essential services which do not propose an outside enclosed area.
  
4. **Accessory Uses.** Accessory uses in the R-1A district shall be as follows:
  - a. Private garages and storage buildings.
  - b. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

#### **SEC. 100.6A.03 DIMENSIONAL REQUIREMENTS**

**Minimum Lot Dimensions.** No lots within an R-1A district shall have dimensions less than the following dimensions:

- a. Minimum Lot Size:
  - (1) Single-Family Detached: 9,000 square feet
  - (2) Single-Family Attached: 6,000 square feet
- b. Minimum Lot Dimensions:
  - (1) Lot Width for single-family detached: 75 feet
  - (2) Lot Width for single-family attached: 50 feet
- c. Building Setbacks:
  - (1) Front yard: 25 feet
  - (2) Side yard: 7.5 feet (0 feet for connected side of attached dwellings)
  - (3) Rear yard: 30 feet
- d. Maximum Building Improvement Dimensions:
  - (1) Height: 35 feet and three stories.
  - (2) Impervious Coverage: 50% of lot area, inclusive of primary and accessory building square footage area and impervious paved surface areas.
- e. Minimum Building Dimensions:
  - (1) Width: 24 Ft. for 75% of its length
- f. Maximum Accessory Structure Dimensions:
  - (1) See Section 100.4.06.

- g. Driveway Considerations:
  - (1) At the right of way line:
    - (a) Detached single-family: 32 feet maximum
    - (b) Attached single-family: 26 feet maximum  
(46 feet for joint drives)
  - (2) At the curb or alley:
    - (a) Detached single-family: 32 feet maximum
    - (b) Attached single-family: 26 feet maximum  
(46 feet for joint drives)
  - (3) Distance from side property lines: 5 feet minimum
- h. Street and Right of Way Considerations:
  - (1) Street Width: Streets shall be 37 feet wide, inclusive of curbs, with a right of way provided at 70 feet and including a sidewalk four (4) foot in width. If the sidewalk is wider than four feet, the additional width shall be added to the right of way.
  - (2) Parking: Both sides of street.

**Section 100.7 R-2 Residential District**

**SEC. 100.7.01 PURPOSE.** The R-2 Residential District is a moderate density area intended to provide for the inclusion of single-family detached, single-family attached and two-family dwellings which are blended to form small lot single-family neighborhoods. The R-2 district is appropriately located along primary and secondary arterials and as a buffer area between medium density residential development, commercial development and other low density residential development. This district is intended to allow for existing and compatible uses found in the central part of the City. All commercial uses are limited to allowable home occupations and uses specified in special provisional uses and shall be consistent in character with the scale and developmental pattern of the residential neighborhood.

**SEC. 100.7.02 USES.**

The following uses and structures identified with such uses shall be allowed to exist within an R-2 district:

1. **Permitted Uses.** The following shall be considered permitted uses or structures:
  - a. Single-family detached dwellings.
  - b. Two-family dwellings.
  - c. Park areas, open spaces, recreational facilities, waterways and detention areas.
  - d. Essential services.
  
2. **Provisional Uses.** The following uses and structures identified with such uses shall be subject to all the requirements of provisional uses:
  - a. Single-family attached dwellings, provided a site plan is submitted and covenants and restrictions are in place governing common elements of the attached housing; and provided no more than two dwellings are attached.
  - b. Family Care Homes meeting rental ordinance requirements for occupancy.
  - c. Child Care Homes for six or fewer children.
  - d. Home Occupations meeting the criteria set forth in Section 100.27.04.
  
3. **Special Provisional Uses.** The following uses and structures identified with such uses shall be subject to all the requirements of special provisional uses and subject to the recommendation of the Planning and Zoning Commission and with Board of Adjustment approval. The Planning and Zoning Commission shall hold a public hearing with the same requirements as Section 100.24.03. This shall include the notification requirements to all property owners within 250 feet. A request of waiver for the public



notification requirements may be submitted to the City Administrator for uses that may require anonymity. Approval of a special provisional use by the City in this Residential District expires at the end of one year, unless a building permit and site plan have been approved by the City of Waverly following approval of said use. Or, the special provisional use expires with any modifications to the original special provisional use structure either by increasing the structure size beyond 25% of the original floor plan or changes to previously approved conditions of approval by the City. (Ordinance 1069 01/06/20)

- a. Government Facility. Any facility dedicated to public use.
- b. Utilities. Any major or minor utility which requires an outside enclosed area larger than 120 square feet in area or taller than 45 feet to house utilities. This shall exclude essential services which do not propose an outside enclosed area.
- c. Boarding House

**4. Accessory structures.** Accessory structures in the R-2 district shall be as follows:

- a. Private garages and storage structures.
- b. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

**SEC. 100.7.03 DIMENSIONAL REQUIREMENTS.**

**Minimum Lot Dimensions.** The following minimum and maximum size regulations shall apply in the R-2 Two-family Residential District:

- a. Minimum Lot Width/Depth Dimensions:
  - (1) Lot width for single-family detached: 65 feet/100 feet
  - (2) Lot Width for two-family: 65 feet/100 feet
  - (3) Lot Width for single-family attached: 35 feet/100 feet
- b. Building Setbacks:
  - (1) Single-family detached, attached and two-family:
    - (a) Front yard: 20 feet
    - (b) Side yard: 7.5 feet (except for one-family attached which is zero(0) feet on the attached side)
    - (c) Rear yard: 20 feet
- c. Maximum Building Improvement Dimensions:
  - (1) Height: 35 feet and two stories.
  - (2) Impervious Coverage: 50% of lot area, inclusive of primary and accessory building square footage area and impervious paved surface areas.
- d. Minimum Building Dimensions:
  - (1) Width of one-story structures: 25 Ft. for 80% of its length
  - (2) Width of two-story structures: 20 Ft. for 80% of its length
- e. Maximum Accessory Structure Dimensions:
  - (1) See Section 100.4.06.
- f. Driveway Considerations:
  - (1) For two-family and attached single-family dwellings with separate driveways:
    - (a) At the right of way line: 22 feet maximum
    - (b) At the curb or alley: 22 feet maximum
    - (c) Distance from one side property line: 5 feet minimum
  - (2) For detached single-family dwellings:
    - (a) At the right of way line: 26 feet maximum
    - (b) At the curb or alley: 26 feet maximum
    - (c) Distance from one side property line: 5 feet minimum
  - (3) For two-family and single-family attached dwellings with combined driveways:

- (a) At the right of way line: 36 feet maximum width
- (b) At the curb or alley: 36 feet maximum width
- (c) Distance from side property lines: 5 feet minimum
- g. Street and Right of Way Considerations:
  - (1) Street Width: Street shall be provided at 37 feet and right of way shall be provided at 70 feet wide.
  - (2) Parking: Both sides of street.
  - (3) Alternative Street Width: Street width shall be provided at 29 feet and right of way at 60 feet wide with parking on one side of the street.

(Ordinance 1017 – Published on 12/13/16)

(Ordinance 1103 – Published on 5/24/22)

### **Section 100.8 R-3 Residential District**

**SEC. 100.8.01 PURPOSE.** The R-3 District is a medium density residential area intended to provide for innovatively designed housing opportunities, consisting of individually owned horizontally attached single family dwellings and single family cluster detached dwellings primarily in a condominium regime. The R-3 district is appropriately located near primary and secondary collectors or arterials and may act as a buffer area between higher density residential development and other low density residential development. This district is intended to allow for attaching single family dwelling units by common walls to create self-contained neighborhoods with shared or private parking facilities and minimal access points.

**SEC. 100.8.02 USES.** The following uses and structures identified with such uses shall be allowed to exist within an R-3 district:

1. Permitted Uses. The following shall be considered permitted uses or structures:
  - a. Two (2), Three (3) and Four (4) family dwelling units horizontally attached.
  - b. One family detached dwellings in a cluster development of two or more.
  - c. Public Parks, open spaces and recreational facilities.
  - d. Home Occupations shall meet the criteria set forth in Section 100.27.04.
2. Special Provisional Uses. The following uses and structures identified with such uses shall be subject to all the requirements of special provisional uses and subject to the recommendation of the Planning and Zoning Commission and with Board of Adjustment approval. (Ordinance 1069 01/06/20)
  - a. Government Facility. Any facility dedicated to public use.
  - b. Utilities. Any major or minor utility which requires an outside enclosed area larger than 120 square feet in area or taller than 45 feet to house utilities. This shall exclude essential services which do not propose an outside enclosed area.

### **SEC. 100.8.03 REQUIRED PROVISIONS.**

1. Dimension and Density Requirements. The following minimum and maximum size and density regulations shall apply in the R-3 Residential District:
  - a. Minimum Lot Width/Depth for Lots with Single Structures:
    - (1) One family: 40 feet/100 feet
    - (2) Two family: 65 feet/100 feet
    - (3) Three family: 90 feet/100 feet
    - (4) Four family: 115 feet/100 feet

- b. Minimum Density Requirement for Lots with Multiple Structures:
  - (1) Two family: 6,500 square feet per structure
  - (2) Three family: 9,000 square feet per structure
  - (3) Four family: 11,500 square feet per structure
  - (4) One family detached (cluster homes): 4,000 square feet per structure
- c. Building Setbacks:
  - (1) Front yard: 25 feet
  - (2) Side yard: 7.5 feet (except for one family attached which is zero (0) feet on the attached side). Multi-family structures on the same property shall be located at least 15 feet apart.
  - (3) Rear yard: 25 feet
- d. Maximum Building Improvement Dimensions:
  - (1) Height: 2 stories or 35 feet, whichever is less.
  - (2) Impervious Coverage: 40% of lot area, inclusive of building square footage area and impervious paved road and parking surface areas. Sidewalks and private patio areas shall not be counted towards this requirement.
- e. Minimum Building Dimensions:
  - (1) Width of one-story structures: 25 Ft. for 80% of its length
  - (2) Width of two-story structures: 20 Ft. for 80% of its length
- f. Driveway Considerations:
  - (1) Width of driveway serving one unit at the curb of a public street: 22 feet maximum width.
  - (2) Width of driveway serving two units at the curb of a public street: 36 feet maximum width.

(Ordinance 1103 – Published on 5/24/22)

- 2. Site Plan Required. A site plan is required for lots with two or more dwelling structures at full build out. The yard set-back requirement must be met around the perimeter of the development. A site plan review process will be utilized. A proposed dimensioned site plan and restrictive covenants shall accompany the building permit application and will be reviewed by the City Staff. The site plan shall include at a minimum:
  - a. Structure(s)
  - b. Building Setback Lines
  - c. Resulting Grading Plan (two foot min. intervals)
  - d. Resulting Drainage Plan (showing flow lines and including underground tiles, termination points of drain spouts at least five feet from all property lines)
  - e. Erosion Control Plan
  - f. All Adjoining Land Uses, Streets, Utility Service Lines
  - g. On-site Parking
  - h. Driveways
  - i. Sidewalks Connecting to Adjacent Public Sidewalks
  - j. Screening (if required by Code)
  - k. Recreation Space
  - l. The site plan shall also contain such dimensional or additional information as may be required by the Zoning office.
- 3. For newly developing areas, property owners shall submit along with all new zoning change applications, a preliminary development plan for said property and all contiguous properties

owned by the same property owner(s). This plan shall show compliance with the City's Land Use Plan.

**SEC. 100.8.04 SITE PLAN REVIEW PROCEDURE.**

1. The site plan review procedure provides for special review of projects that have more than one structure on a single lot and can have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.
  - a. Administration. The Zoning Administrator or designee shall review, evaluate, and approve all site plans submitted pursuant to this procedure.
  - b. Form of Site Plan. All site plans shall be submitted in the following form:
    - (1) Site plans shall be drawn on sheets no larger than 24 inches by 36 inches. Where the size of the site precludes all required information from being shown on a sheet, the Zoning Administrator may permit a larger sheet size or an increase in scale.
    - (2) Site plans shall be drawn with north directed to the top of the page and the page may be oriented with either its short side or long side as the top of the page.
    - (3) All site plans shall include a north arrow, graphic scale, and appropriate key.
    - (4) All site plans shall include the name, address, and phone number of the company or persons responsible for preparing the site plan.
    - (5) Two (2) copies of the site plan and all required information shall be submitted. A reduced copy of the site plan on a sheet 8.5 inches by 11 inches and a digital version of the plan (.pdf or equivalent file) shall also be submitted.
  - c. Administrative Appeal. The Zoning Administrator must act upon each complete application within 30 calendar days. An applicant may appeal a denial to the Planning and Zoning Commission within 10 calendar days of the action of the Zoning Administrator. The Commission shall consider the appeal at the first available meeting following the filing of such appeal. An applicant may appeal a denial of the Commission to the City Council within 10 calendar days of the action of the Commission. The Council shall consider the appeal at the first available meeting following the filing of such appeal.
  - d. Review and Evaluation.
    - (1) The Zoning Administrator, the Planning and Zoning Commission (if appealed) and the Council (if further appealed) shall review and act upon the site plan application based on applicable regulations in this chapter.
    - (2) The Zoning Administrator, the Planning and Zoning Commission (if appealed) and the Council (if further appealed) shall make the following findings before approval of the site plan:
      - (a) The proposed development, together with any necessary modifications, is compatible with the criteria set forth in this chapter.

- (b) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
  - (c) The site plan conforms to the Zoning Regulations contained in this chapter.
  - (d) The site plan documents include the information requested in the Site Plan Checklist.
- e. Modification of the Site Plan. The Zoning Administrator or designee (or the Planning and Zoning Commission in cases of appeal) may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than zoning district regulations and may include, but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, welfare, or character of the community.
- f. Term and Modification of Approval.
- (1) A Site Plan Approval shall become void one year after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.
  - (2) The Zoning Administrator or his /her designee may approve a modification to a previously approved site plan if he/she determines that the modification does not materially change the plan.
  - (3) The Zoning Administrator or his/her designee may revoke a Site Plan Approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Commission and Council under the procedure outlined above.
- g. Approval to Run with Land. An approval pursuant to this section shall run with the land until the expiration date of such approval.

### **Section 100.9 R-4 Residential District**

**SEC. 100.9.01 PURPOSE.** The R-4 District is the highest density residential area intended to provide for multiple dwelling unit structures with units under common or individual ownership. The R-4 district is appropriately located near primary and secondary arterials and near retail districts. Typically these districts are located between lower density residential areas and nonresidential areas in conformity with the City's Land Use Plan.

**SEC. 100.9.02 USES.** The following uses and structures identified with such uses shall be allowed to exist within an R-4 district:

1. Permitted Uses. The following shall be considered permitted uses or structures:
  - a. Three or more dwelling units in a single structure.
  - b. Public Parks, open spaces and recreational facilities.
  - c. Condominiums.
  - d. Multiple structures on a single lot
2. Special Provisional Uses. The following uses and structures identified with such uses shall be subject to all the requirements of special provisional uses and subject to the

recommendation of the Planning and Zoning Commission and with Board of Adjustment approval. (Ordinance 1069 – Published on 01/06/20)

- a. Government Facilities. Any facility dedicated to public use.
- b. Utilities. Any major or minor utility which requires an outside enclosed area larger than 120 square feet in area or taller than 45 feet to house utilities. This shall exclude essential services which do not propose an outside enclosed area.

**SEC. 100.9.03 REQUIRED PROVISIONS.** Permitted uses and structures identified with such uses within this section shall be subject to the following requirements:

1. Site Plan Required. A site plan shall accompany the building permit application for the permitted uses in this chapter. Site plan will be reviewed by the City Staff. The site plan shall include at a minimum:
  - a. Structure(s)
  - b. Building Setback Lines
  - c. Resulting Grading Plan (two foot min. intervals)
  - d. Resulting Drainage Plan (showing flow lines and including underground tiles, termination points of drain spouts at least five feet from all property lines)
  - e. Erosion Control Plan
  - f. All Adjoining Land Uses, Streets, Utility Service Lines
  - g. On-site Parking
  - h. Driveways
  - i. Sidewalks Connecting to Adjacent Public Sidewalks
  - j. Screening (if required by Code)
  - k. Recreation Space
  - l. The site plan shall also contain such dimensional or additional information as may be required by the Zoning office.

**SEC. 100.9.03 DIMENSIONAL REQUIREMENTS.**

1. Lots and Yards. The following minimum and maximum size regulations shall apply in the R-4 Residential District:
  - a. Minimum Lot Size: 9,000 square feet or 1,800 square feet per dwelling unit, whichever is greater.
  - b. Minimum Lot Dimensions for a single structure:
    - (1) Lot width: 90 feet
    - (2) Lot depth: 100 feet
    - (3) Lot frontage: 90 feet
  - c. Building Structure Setbacks:
    - (1) Front yard: 25 feet
    - (2) Side yard: 10 feet; multiple family units on the same property shall be located at least 20 feet apart.
    - (3) Rear yard: 20 feet
  - d. Maximum Building Improvement Dimensions:
    - (1) Height: Three (3) stories or 45 feet, whichever is lower, except that additional height for additional stories may be added at the rate of two feet in height for each one foot that the building or portion thereof is set back from the required yard lines.
    - (2) Building Coverage: 40% of lot area. Sidewalks and private patio areas shall not be counted towards this requirement.
  - e. Minimum Building Dimensions:

(1) Width: 24 Ft. for 75% of its length

- f. Driveway Considerations for access onto Public Streets:
  - (a) Width at the curb: 22 feet maximum
  - (b) Distance from one side property line: 5 feet
  - (c) Driveways shall be limited to two driveway curb cuts per 150 feet of frontage onto a public street.

- 2. For multiple structures, the structures must meet the yard setback requirement for the district around the perimeter of the development and other dimensional requirements. For corner lots, the structure(s) shall observe a front yard setback from each frontage. A proposed site plan and restrictive covenants (if applicable) shall accompany an application for site plan review with the Zoning office.
- 3. Land Use Intensity. In order to uphold the public health, safety and welfare, the relationship of impervious land area (Buildings under roof and parking areas) and recreation space (unimproved, planted with vegetation that is suitable for active and passive recreation) of the development must conform with the following ratios:
  - a. Impervious Land Area: Not greater than 90%, inclusive of building square footage area and impervious paved parking surface areas.
  - b. Recreation Space Area: Not less than 10%
- 4. For newly developing areas, property owners shall submit along with all new zoning permit requests for review by the Planning Commission a general development plan for said property and all contiguous properties owned by the same property owner(s). This plan shall show intended compliance with the City's Land Use Plan, zoning density provisions, future roadway and public utility connections, and the anticipated layout and typical dimensioned structure(s) at build-out.

**SEC. 100.9.04 SITE PLAN REVIEW PROCEDURE.**

- 1. The site plan review procedure provides for special review of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.
  - a. Administration. The Zoning Administrator or designee shall review, evaluate, and approve all site plans submitted pursuant to this procedure. An applicant may appeal a denial of any application to the Planning and Zoning Commission.
  - b. Form of Site Plan. All site plans shall be submitted in the following form:
    - (1) Site plans shall be drawn on sheets no larger than 24 inches by 36 inches. Where the size of the site precludes all required information from being shown on a sheet, the Zoning Administrator may permit a larger sheet size or an increase in scale.
    - (2) Site plans shall be drawn with north directed to the top of the page and the page may be oriented with either its short side or long side as the top of the page.
    - (3) All site plans shall include a north arrow, graphic scale, and appropriate key.

- (4) All site plans shall include the name, address, and phone number of the company or persons responsible for preparing the site plan.
  - (5) Two (2) copies of the site plan and all required information shall be submitted. A reduced copy of the site plan on a sheet 8.5 inches by 11 inches and a digital version of the plan (.pdf or equivalent file) shall also be submitted.
- c. Administrative Appeal. The Zoning Administrator must act upon each complete application within 30 calendar days. An applicant may appeal a denial to the Planning and Zoning Commission within 10 calendar days of the action of the Zoning Administrator. The Commission shall consider the appeal at the first available meeting following the filing of such appeal. An applicant may appeal a denial of the Commission to the City Council within 10 calendar days of the action of the Commission. The Council shall consider the appeal at the first available meeting following the filing of such appeal.
- d. Review and Evaluation.
- (1) The Zoning Administrator, the Planning and Zoning Commission (if appealed) and the Council (if further appealed) shall review and act upon the site plan application based on applicable regulations in this chapter.
  - (2) The Zoning Administrator, the Planning and Zoning Commission (if appealed) and the Council (if further appealed) shall make the following findings before approval of the site plan:
    - (a) The proposed development, together with any necessary modifications, is compatible with the criteria set forth in this chapter.
    - (b) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
    - (c) The site plan conforms to the Zoning Regulations contained in this chapter.
    - (d) The site plan documents include the information requested in the Site Plan Checklist.
- e. Modification of the Site Plan. The Zoning Administrator or designee (or the Planning and Zoning Commission in cases of appeal) may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than zoning district regulations and may include, but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, welfare, or character of the community.
- f. Term and Modification of Approval.



- (1) A Site Plan Approval shall become void one year after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.
- (2) The Zoning Administrator or his /her designee may approve a modification to a previously approved site plan if he/she determines that the modification does not materially change the plan.
- (3) The Zoning Administrator or his/her designee may revoke a Site Plan Approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Commission and Council under the procedure outlined above.

g. Approval to Run with Land. An approval pursuant to this section shall run with the land until the expiration date of such approval.

(Ordinance 1024 – Published on 5/23/17)

### **Section 100.10 R-FBH Planned Factory Built Home District**

#### **SEC. 100.10.01 APPLICABILITY - PURPOSE.**

1. Regulations. The regulations set forth in this chapter shall apply in the R-FBH Planned Factory Built Home District.
2. Intent. The intent of the R-FBH District is to provide sites only for the location of factory built homes which will allow the maximum amount of freedom possible in the design of factory built home parks and will provide for the related recreational, commercial, and other service facilities for the planned factory built home residential developments.

#### **SEC. 100.10.02 PERMITTED USES.** Principal permitted uses in the R-FBH district shall be as follows:

1. Homes. Single and double-wide factory built homes.
2. Facilities. Noncommercial community recreational facilities which are intended exclusively for the use of the residents and their guests of the factory built home development.
3. Services. Pedestrian-oriented personal service facilities which are intended exclusively for the use of the residents of the factory built home development, provided that such personal service facilities occupy not more than ten square feet of gross floor area for each factory built home in the development.
4. Buildings. Buildings used for the management and maintenance of the development.
5. Sales. Commercial factory built home sales.

#### **SEC. 100.10.03 ACCESSORY USES.** Accessory uses permitted in the R-FBH district shall be as follows:

1. Factory Built Home Storage. Storage buildings and uses customarily accessory to factory built homes, such as garages and storage buildings.

**SEC. 100.10.04 HEIGHT REGULATIONS.** No principal building within this district shall exceed two stories or twenty-five feet in height, whichever is lower; and no accessory structure shall exceed one story or fifteen feet in height, whichever is lower.

**SEC. 100.10.05 PLAN - REVIEW.** The owner or owners of any tract of land comprising an area of not less than ten acres shall submit to the planning and zoning commission a plan for the use and development of the entire tract of land. This plan shall include the site location and uses of all buildings, the location of each single-wide and double-wide factory built home stand, the locations and types of all community and recreational facilities; open spaces, including developed open spaces and those to be preserved in their existing state; points of access to the site, principal pedestrian and vehicular circulation ways, parking facilities and other principal elements of the vehicular and pedestrian transportation system. The planning and zoning commission shall review the conformity of the proposed development with the standards of the comprehensive plan, and with recognized principals of civic design, land use planning and landscape architecture. The planning and zoning commission may after holding a public hearing and reviewing the development plan recommend approval, approval with recommended modifications, or disapproval of the development plan which accompanies the application. The planning and zoning commission shall forward its written recommendations to the city council which shall, after notice and public hearing, approve or disapprove said application and plan, or may require such changes thereto as it deems necessary to effectuate the intent and purpose of this chapter.

**SEC. 100.10.06 GENERAL REQUIREMENTS.** The land usage, minimum lot area, yard, height and accessory uses shall be determined by the requirements set out as follows, which shall prevail over conflicting requirements of this chapter or the subdivision ordinance.

1. **Boundary Lines.** Uses along the project boundary lines shall not be in conflict with those allowed in adjoining or opposite property. To this end the planning and zoning commission may require, in the absence of an appropriate physical barrier, that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project.
2. **Plat.** A plat of the development shall be recorded, showing building locations, common land, streets, easements, and other applicable items required, by the subdivision ordinance.
3. **Permits.** No building permits shall be issued until the final plat of the development is approved and recorded, and the applicant must file with the Zoning Manager and/or Building Official proof of compliance with all requirements of the Department of Health of the State of Iowa.
4. **Tie-downs.** Factory built homes shall maintain structural tie-downs.

**SEC. 100.10.07 DEED RESTRICTIONS.** In its review of the plan, the commission or council may consider any deed restrictions or covenants entered into or contracted for by the developer concerning the use of common land or permanent open space. Common land as herein contained shall refer to land dedicated to the public use and to land retained in private ownership but intended for the use of the residents of the development unit or the general public.

**SEC. 100.10.08 LAND USE AND DENSITY REQUIREMENTS.** Land use and density requirements in the R-FBH district shall be as follows:

1. **Area Plan.** Seven factory built home stands shall be permitted for each acre of land contained in the usable area of the plan.
2. **Set Back.** No part of any factory built home or other structure shall be located within twenty-five feet of any public road shown on the official major street plan, nor within twenty feet of any exterior boundary of the planned factory built home development.

3. Parking. Parking facilities shall be provided within the development at the rate of two spaces per factory built home.
4. Percent Use. Commercial uses and accessory uses within the R-FBH district shall not consume more than fifteen percent of the total district.
5. Permit Exception. No permit for any commercial structure or building shall be issued until at least twenty-five percent of the factory built home sites is developed for residential uses.

### **Section 100.11 S-1 Shopping Center District**

#### **SEC. 100.11.01 PURPOSE.**

1. The regulations set forth in this section shall apply in the S-1 shopping center district.
2. The S-1 district is intended to provide for the development of shopping centers. For the purposes of this chapter, the term "shopping center" shall mean a planned retail and service area under single ownership, management or control characterized by a concentrated grouping of stores and compatible uses, with various facilities designed to be used in common, such as ingress and egress roads, extensive parking accommodations, etc. and comprised of a tract of land not less than five acres.

#### **SEC. 100.11.02 PERMITTED USES - HEIGHT, LOT AREA, FRONTAGE AND YARD**

**REQUIREMENTS.** Uses permitted in the S-1 district shall include any use permitted in the C-2 and C-3 districts, and as limited by these districts; provided, however, the city council may consider any additional restrictions proposed by the owner. The lot area, lot frontage, and yard requirements of the C-2 district shall be considered minimum for the S-1 district. However, it is expected that these minimums will be exceeded in all but exceptional structures. Buildings may be erected to heights greater than those allowed in the C-2 district in accordance with the intent and purpose of this chapter.

**SEC. 100.11.03 PRELIMINARY APPLICATION REQUIREMENTS.** Before or concurrently with any application seeking the zoning classification for the proposed property may be changed to a S-1 classification, the owner shall submit paper and electronic copies of a preliminary application to the city clerk, pursuant to procedures established by the city clerk and containing the following information:

1. Heading. The title "Preliminary Plan," the scale of the drawing, and a north point.
2. Name. The proposed name of the shopping center which shall not duplicate or resemble existing shopping center names in the city.
3. Owner. The name and address of the owner and the name, address and profession of the person preparing the plan.
4. Key Map. A key map showing the general location of proposed property in relation to the surrounding area.
5. Boundaries. A general drawing which shows the dimensions of the proposed property and the approximate length of such property's proposed boundaries which shall be indicated on the plan by a solid line drawn darker than any other line appearing on such plan. The plan shall also include city boundary lines, provided that such lines divide the property.
6. Throughways. A drawing which shows the name and location of all existing throughways which abut the proposed property.

7. Proposed Streets. A drawing which shows the location of any street proposed to be located on or abutting the proposed property.
8. Structures. A drawing which shows the location and dimensions, including the height, number of stories, width, length and floor area, of each proposed structure and the primary function that each such structure may serve.
9. Parking Areas. A drawing showing the location and dimensions of all proposed surfaced areas which are designed to accommodate vehicular parking.

**SEC. 100.11.04 PRELIMINARY APPLICATION APPROVAL PROCEDURES.** The city shall consider for approval any preliminary application, according to the following requirements:

1. Administrative Review. City staff shall review the preliminary application and the city administrator shall submit a report recommending the approval or disapproval of the preliminary application. The report may contain a statement of concerns about the proposal or reasons for disapproving the application and may contain suggestions for improving the application. The report shall be delivered to the city clerk and a copy to the applicant within fifteen (15) days following the date that the city clerk received the preliminary application for filing.
  - a. The owner shall have the opportunity to amend the application to conform to recommendations and suggestions of the city administrator. The applicant shall advise the city administrator when the application or amended application is requested to be reviewed by the planning and zoning commission.
2. Planning and Zoning Commission Review. The planning and zoning commission shall review the preliminary application, following receipt of the administrator's report.
  - a. The commission shall determine that the proposals in the preliminary application conform with city zoning and subdivision laws and the comprehensive plan of the city.
  - b. The commission shall submit a report recommending the approval or disapproval of the preliminary application. If disapproved, the report shall contain all reasons for denying the preliminary application and may contain suggestions for improving such application. The report shall be delivered to the city clerk within 40 days following the date that the preliminary application was first reviewed by the commission. The owner may amend the preliminary application to conform with recommendations or suggestions made by commission resolution.
3. City Council Review. The city council shall review the preliminary application, following receipt of the written recommendation of the planning and zoning commission.
  - a. The city council shall determine whether the proposals contained in the preliminary application conform with all applicable law and the comprehensive plan.
  - b. The city council shall decide to approve or disapprove the preliminary application. If disapproved, the city council shall state, by resolution all the reasons for disapproving the preliminary application and may specify how the application may be improved. The decision shall be rendered by the council within 30 days following the date that the preliminary application was first reviewed by the council.

- c. A certified copy of the resolution approving or disapproving the preliminary application and stating the reasons for such actions shall be attached to a copy of the application and filed with the city clerk.
- d. Effect. Approval of the preliminary application shall have the following effects:
  - (1) The request for rezoning to the S-1 district must accompany the preliminary application, or be submitted within six (6) months following the date the preliminary application was approved by the council.
  - (2) Preliminary Plan. The owner shall be authorized to submit to the city a preliminary plan of the shopping center to be located on the proposed property.

**SEC. 100.11.05 PRELIMINARY PLAN REQUIREMENTS.** A preliminary plan, including all materials required to be attached to such plan, must be delivered to the clerk before one (1) year expires following the date that the zoning application for the proposed property was approved, provided that such plan contains the following information:

1. Plan. The following information shall be contained in any such plan:
  - a. Name. The name of the shopping center shall be designated by name stated in bold letters inside the margin at the top of each sheet included in the plan.
  - b. Compass. An arrow indicating the northern direction shall be drawn in a prominent place on each sheet included in the plan.
  - c. Boundary Lines. The course of every boundary line shown on the plan shall be indicated by a direct bearing reference or by an angle between the boundary line and an intersecting line having a shown bearing, except when the boundary line has an irregular or constantly changing course, as along a body of water, or when a description of the boundary line is better achieved by measurements shown at points or intervals along a meander line.
  - d. Irregular Boundary. When any portion of the proposed property is shown bounded by an irregular line, the major portion of such property shall be shown to be enclosed by a meander line. There shall be shown the complete data describing distances along all lines extending beyond the enclosure to the irregular boundary shown with as much certainty as can be determined, if variable. In all cases, the true boundary shall be clearly indicated on the plan.
  - e. Curve Measurements. Curve data shall be stated in terms of radius, central angle, and tangent, or length of curve, and curve data for streets shall be shown only with reference to the center line, and lots fronting on such curves may show only the bearing and distance of such portion of the curve as is included in their boundary. In all other cases, the curve data must be shown for the line affected.
  - f. Excepted Parcels. All interior excepted parcels shall be clearly indicated and labeled, "not part of this plan."
  - g. Adjoining Property. All properties adjoining the proposed property shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown.
  - h. Easements. All easements on the proposed property shall be shown and the purpose of such easements shall be clearly stated.

- i. Throughway Plan.
    - (1) Existing Throughways. A showing of the location and the dimensions of all existing throughways.
    - (2) Proposed Throughways. A detail showing all throughways planned to be installed on or abutting the proposed property, including the type of throughway installed, and the location, width and depth, and any materials used to pave, such throughway.
  - j. Site Plan. A detail showing or description of all specific methods planned to ensure attractive landscaping, that desirable features of the proposed property are retained, and that topsoil and tile drainage are preserved, and that erosion is effectively controlled.
  - k. Water and Sewer Plan. A detailed description or showing of all specific methods planned to provide water and sanitary sewer service, including the location and capacity or size of hydrants, valves, thrust blocks, plugs and service lines.
  - l. Drainage Plan. A detailed description or showing of all specific drainage systems planned to drain water and debris carried by water from the proposed property, including storm sewers, culverts and erosion control facilities.
  - m. Flood Plain Management. A description of the present and proposed flood plain limits.
  - n. Building Plan. A detailed description or showing of all structures to be constructed on the proposed property, the primary purpose of the structure, and the dimensions of each such structure, including the height, number of stories, length, width and floor space of each structure.
  - o. Utility Plan. A detailed description or showing of all existing and proposed major and minor utility facilities which is planned to furnish service to the shopping center.
2. Attachments to the Preliminary Plan. The following documentation shall be attached to each copy of the preliminary plan:
- a. Traffic Analysis. A detailed analysis of the amount of traffic and traffic patterns on the proposed property and surrounding the proposed property if such property is developed according the preliminary plan.
  - b. Maintenance Guarantee. A certificate, signed by city administrator, stating that a maintenance guarantee has been posted, as required by Section 103.7.19 of this code.
  - c. Performance Guarantee. A certificate, signed by the city administrator, stating that a performance guarantee has been posted, as required by Section 103.7.18 of this code.
  - c. Oversized Facilities. A certificate, signed by the city administrator, which shall state that a payment has been made to reimburse a subdivider who was required to install any oversized major utility facility, including any oversized pipe, on property abutting the proposed property, provided that the abutting property's subdivision has been approved and that the oversized facilities installed on the abutting property may benefit the shopping center.

**SEC. 100.11.06 PRELIMINARY PLAN APPROVAL PROCEDURES.** The city shall consider for approval any preliminary plan, pursuant to the following requirements:

1. **Administrative Review.** City staff shall review the preliminary plan and the city administrator shall submit a report recommending the approval or disapproval of the plan, including all attached materials, pursuant to the following requirements. The report may contain a statement of concerns about the proposal or reasons for disapproving the plan and may contain suggestions for improving the plan. The report shall be delivered to the city clerk and the applicant within fifteen (15) days following the date that the city clerk received the preliminary plan for distribution.
  - a. The owner shall have the opportunity to amend the plan to conform with all recommendations and suggestions reported by the city administrator. The applicant shall advise the city administrator when the plan or amended plan is requested to be reviewed by the planning and zoning commission.
2. **Planning and Zoning Commission Review.** The Planning and Zoning Commission shall review the plan, including all attached materials, and the administrator's report, subject to the following requirements:
  - a. The commission shall determine whether the plan conforms with city zoning and subdivision laws, including any provision of this division, the city comprehensive plan and other adopted plans of the city.
  - b. The commission shall submit a report recommending the approval or denial of the plan, including any attached materials. If disapproved, the report shall contain all reasons for denying the preliminary plan and may contain recommendations or suggestions for improving the plan. The commission's report shall be delivered to the city clerk within 40 days following the date that the plan was first reviewed by the commission. The owner may amend the plan to conform with all recommendations or suggestions made by commission resolution, unless the city clerk is provided notice that the owner demands immediate review of the existing plan by the council.
3. **City Council Review.** The city council shall review the preliminary plan, including all materials attached to such plan, and may consider the reports by the city administrator and the commission, following receipt of the written recommendation of the planning and zoning commission.
  - a. The council shall determine whether the plan conforms with city zoning and subdivision laws, including any provision of this division, the city comprehensive plan, and other adopted plans.
  - b. The city council shall decide to approve or disapprove the plan, pursuant to the following requirements. If disapproved, the council shall state, by resolution all the reasons for denying the plan and may specify how the plan may be improved. The decision shall be rendered by the council within 30 days following the date that the plan was first reviewed by the council.
  - c. A certified copy of the resolution approving or denying the plan and stating the reasons for such action shall be attached to a copy of the plan and filed by the city clerk.

- d. Effect. Approval of the preliminary plan by the city council shall authorize the owner to submit to the city a final plan of the shopping center to be located on the proposed property.

**SEC. 100.11.07 FINAL PLAN.** Upon council approval of the preliminary plan, including materials attached to such plan, the owner shall submit to the city clerk, a final plan for the proposed property.

1. Final Plan Requirements. The final plan shall contain the following information:
  - a. Preliminary Plan. All information required to be contained in the preliminary plan, including any amendments to the approved preliminary plan.
  - b. Attachments. All information required to be contained in the materials attached to the approved preliminary plan, including any amendments to such materials.
  - c. Endorsements. At the end of the proposed final plan there shall be attached a copy of the approving resolution of the council and the signatures of the mayor and city clerk.
  - d. Certification. A statement attached to the plan and signed by the city administrator, stating that the proposed property has been developed in compliance with the requirements of the approved preliminary plan and materials attached to such plan.
  - e. Guarantee Status. Prior to the release or extension of any guarantee, the administrator shall deliver to the city clerk for council approval the certification described at (d) above.

**SEC. 100.11.08 CHANGE IN PLAN - RESUBMISSION REQUIRED.** Any proposed change in the shopping center plan that would materially alter the plan or basic concept of the shopping center as it was originally approved shall be resubmitted and considered in the same manner as the original proposal.

**SEC. 100.11.09 EXISTING SHOPPING CENTERS - CONFORMANCE REQUIRED WHEN.**

Shopping centers in existence at the time of passage of this chapter which are zoned S-1 by this chapter shall be considered as having met all of the requirements of this chapter. All new construction, additions, enlargements, etc., to structures within these shopping centers shall be in accordance with the use and bulk regulations of the C-2 district, except in cases where more restrictive controls have been imposed by agreement between the city and the property owners involved.

**Section 100.12 C-1 Neighborhood Commercial District**

**SEC. 100.12.01 APPLICABILITY AND PURPOSE.**

1. Regulation. The regulations set forth in this section shall apply in the C-1 commercial district.
2. Intent. The intent of the C-1 district is to provide for personal service businesses, professional offices and medical offices where persons are served primarily by appointment. This district is designed to allow for the service commercial uses outside the central business district. The uses permitted are intended to primarily accommodate the local community. This district may be located near residential areas and should not include high traffic volume businesses which require frequent deliveries by tractor trailers, and that generally operate between the hours of 10pm and 6am.
3. Character. All proposed commercial uses and structures allowed within this district should be planned and designed to be consistent in character with the blend of residential and commercial representing the scale and developmental pattern of a transitional district.



**SEC. 100.12.02 USES.**

1. Principal. Principal permitted uses in the C-1 district shall be as follows:
  - a. Medical clinics, including doctors, chiropractors, dentists, therapists or similar professions, except facilities which provide overnight accommodations.
  - b. Business and professional offices, including law, engineering, real estate, insurance, accounting, and financial institutions.
  - c. Personal service businesses, including beauty salons, barber shops, nail salons, tanning salons.
  - d. Other uses that are consistent by type of use, use intensity, physical characteristics, style, size and purpose with the uses listed above.
  
2. Special Provisional Uses. The following uses and structures identified with such uses shall be subject all the requirements of special provisional uses and subject to the recommendation of the Planning and Zoning Commission and with Board of Adjustment Approval (Ordinance 1069 – Published on 01/06/20):
  - a. Religious institutions, including churches, chapels, synagogues, mosques and similar places of worship, and associated residency of clergy or ordained official of the religious organizations.
  - b. Schools and colleges, public and private.
  - c. Childcare facilities.
  - d. Clubs, including service organizations, without banquet facilities for rent.
  - e. Public, quasi-public, and governmental buildings and facilities, such as post office substations, libraries, or similar.
  - f. Other uses that are consistent by type of use, use intensity, physical characteristics, style, size and purpose with the permitted uses and special provisional uses listed above.

**SEC. 100.12.03 ACCESSORY USES.** Accessory uses normally associated with the above permitted principal uses are permitted in the C-1 district:

**SEC. 100.12.04 DIMENSIONAL REQUIREMENTS.**

1. General. The dimensional requirements described in this section shall constitute the minimum requirements governing all uses and structures identified with such uses, provided they are regulated pursuant to this section and no stricter departmental design standards or general requirements specified for any such use or structure is applicable.

2. Minimum Lot Dimensions. No lots within a C-1 district shall have dimensions less than the following dimensions:
  - a. Permitted Uses. No use or structure shall be located on a lot which has less than the following minimum dimensions:
    - (1) Yard Frontage: 25 feet.
    - (2) Yard Rearage: 15 feet.
    - (3) Side Yard: 10 feet.
  - b. Accessory Buildings. No accessory structure shall be located on a lot which has less than the following minimum dimensions:
    - (1) Yard Frontage: 25 feet.
    - (2) Yard Rearage: 10 feet.
    - (3) Side Yard: 10 feet.
  - c. Maximum Structure Height. No building shall exceed two stories or thirty-five feet in height whichever is lower except as provided in exceptions and modifications of this chapter.

**SEC. 100.12.05 SCREENING.**

- a. Screening. Screening shall be in accordance with the Visual Barrier Standards in Section 100.4.13 of this Code.

(Ordinance 1030 3/13/18)

**Section 100.13 C-2 Commercial District**

**SEC. 100.13.01 APPLICABILITY AND PURPOSE.**

1. Regulations. The regulations set forth in this section shall apply in the C-2 commercial district.
2. Intent. The intent of the C-2 district is to provide for commercial and primarily retail uses generally associated with automobile traffic, located adjacent to arterial and collector streets and highways requiring amounts of space too great to be located in the central business district and characterized by high retail activity levels during business hours.
3. Commercial/Residential Use. For the purposes of this District the principal permitted uses shall be commercial. Residential dwellings shall be permitted above the first floor of the commercial use. Multifamily dwelling unit proposals shall require special provisional use approval. (Amended 6/11/2013 by Ord. 971. and 3/14/23 by Ord. 1120)

**SEC. 100.13.02 PERMITTED USES.** Principal permitted uses in the C-2 district shall be as follows:

1. Any use permitted in the C-1 district or C-3 district.
2. The manufacture and sale of baked goods.
3. The sale of prepared food and beverages, including carryout and sale for consumption on the premises.
4. Retail sale of consumer products in stores. The sale of general merchandise, including multi-department stores; grocery; apparel of all kinds; furniture, furnishings and household goods; hardware and garden; home improvement; pharmacies; gifts; music; sporting goods; hobby shops, jewelry stores; convenience stores and similar retail stores where products and merchandise are sold to the general public.
5. Service establishments. The provision of general personal and financial services provided to individuals and businesses generally, including financial institutions.
6. Hotels and motels.
7. Vehicle and machinery sales, rentals, parts and services, including repair businesses, fueling stations, parking lots, vehicle tires and parts businesses; carwashes; motor vehicles sales and rental businesses, but not including salvage yards.
8. Amusement and recreation. Event venues, bowling alleys, gaming centers, theaters, skating rinks, golf driving range, miniature golf course, golf simulators; or other social, sport or recreation businesses.
9. Animal hospital, veterinary clinic or kennel, provided all phases of the business conducted upon the premises are within a building where noises and odors are not evident to adjacent properties.
10. Residential units when located above first floor level of the principal permitted uses. Off street parking requirements for both residential and business must be met.
11. Childcare Facilities
12. Businesses engaged in the small-scale final production of consumer products from previously prepared base materials, including processing, fabrication, assembly, treatment and packaging of such goods entirely within an enclosed structure, and which include an on-site sales showroom for the public. These businesses are generally located on sites of 3 acres or less and have no major external environmental effects such as noise, odor, smoke or vibrations across property lines. Such businesses are required to utilize screening for storage areas as defined in this Chapter.

(Amended 3-14-23 by Ordinance No. 1120)

**SEC. 100.13.03 SPECIAL PROVISIONAL USES.** The following uses and structures identified with such uses shall be subject to all the requirements of special provisional uses and subject to the recommendation of the Planning and Zoning Commission and with Board of Adjustment

approval. The Planning and Zoning Commission shall hold a public hearing with the same requirements as Section 100.24.03. This shall include the notification requirements to all property owners within 250 feet. (Ordinance 1069 01/06/20)

1. Adult Entertainment and Sexually Oriented Businesses. Uses defined as adult entertainment or sexually oriented businesses are generally considered to be any adult arcades, adult bookstores, adult video stores, adult cabarets, adult motels, escort agencies, adult theaters or any similar or like businesses. All uses for adult entertainment shall be placed a minimum of 500 feet from the nearest residential district and a minimum 1000 feet from the nearest school, playground, day-care facility, church or another adult entertainment or sexually oriented business.
2. Traditional single story self-storage or mini-storage typified by rows of connected storage units with residential sized roll-up doors open to the outdoors and limited in height, which are not located in prime retail commercial locations adjacent to arterial and collector street corridors and are shielded from them.
3. Multi-family residential structures as permitted in R-3 and R-4 which are not located in prime retail commercial locations adjacent to arterial and collector street corridors.

(Amended 3-14-23 by Ordinance No. 1120)

**SEC. 100.13.04 ACCESSORY USES.** Accessory uses in the C-2 district shall be as follows:

- 1 Permitted. Accessory uses permitted in the C-1 district.
4. Incidental Uses. Accessory uses and structures customarily incidental to any permitted uses, including warehouse storage structures that should be located behind the permitted use and not adjacent to arterial and collector street corridors.

**SEC. 100.13.05 DIMENSIONAL REQUIREMENTS.**

1. General. The dimensional requirements described in this section shall constitute the minimum requirements governing all uses and structures identified with such uses, provided they are regulated pursuant to this chapter and no stricter departmental design standards or general requirements specified for any such use or structure is applicable.
2. Building setbacks and height limitations. Buildings within a C-2 district shall have the following building setbacks.
  - a. No use or structure shall be located on a lot, which has less than the following minimum setbacks.
    - (1) Front Yard Building Setback from right of way: 50 feet.
    - (2) Rear Yard Building Setback: 10 feet or 25 feet when adjacent to a residentially zoned lot.
    - (3) Side Yards Building Setbacks: 10 feet or 25 feet when adjacent to a residentially zoned lot, except where vehicular service is required to the rear of the principal structure and is adjacent to a commercial or industrial zoned lot, in which case one side yard setback shall be no less than twenty feet.

- b. Accessory Buildings. Accessory buildings shall have the same setbacks and height limitations as a primary structure.
- c. Maximum Structure Height. No building shall exceed three stories or 48 feet in height, whichever is lower, unless granted a special provisional use exception in consideration of the site location and its proximity to other current or future possible uses.
- d. Parking Lots. Parking lots shall be setback at least 10 feet from the right of ways of adjacent public or private streets.

(Amended 3-14-23 by Ordinance No. 1120)

**Section 100.13A C-2A Commercial District**

**SEC. 100.13A.01 APPLICABILITY AND PURPOSE.**

- 1. Regulations. The regulations set forth in this section shall apply in the C-2A Commercial District.
- 2. Intent. The intent of the C-2A District is to provide for commercial uses primarily oriented toward automobile traffic or requiring amounts of space too great to be located in the central business district located along major arterial or primary highway routes with limited property depth.
- 3. Commercial/Residential Use. For the purposes of this District the principal permitted uses shall be commercial. Residential dwellings shall be permitted above the first floor of the commercial use. New multi-family dwelling unit proposals on or below the first floor shall be subject to the special provisional use process. (Amended 6/11/2013 by Ord. 971.)

**SEC. 100.13A.02 PERMITTED USES.** Principal permitted uses in the C-2A District shall be as follows:

- 1. Any use permitted in the C-1 District, C-2 District or C-3 District.
- 2. Residential units when located above first floor level of the principal permitted uses. Off street parking requirements for both residential and business must be met.

**SEC. 100.13A.03 ACCESSORY USES.** Accessory uses in the C-2A district shall be as follows:

- 1. Incidental Uses. Accessory uses and structures customarily incidental to any permitted uses.

**SEC. 100.13A.04 DIMENSIONAL REQUIREMENTS.**

- 1. General. The dimensional requirements described in this section shall constitute the minimum requirements governing all uses and structures identified with such uses, provided they are regulated pursuant to this chapter and no stricter departmental design standards or general requirements specified for any such use or structure is applicable.

2. Minimum Lot Dimensions. No lots within a C-2A district shall have dimensions less than the following dimensions:
  - a. Other Permitted Uses. No use or structure shall be located on a lot, which has less than the following minimum dimensions.
    - (1) Yard Frontage: 10 feet
    - (2) Yard Rear: 15 feet
    - (3) Side Yards: Each Side yard shall be no less than ten feet, fifteen feet when abutting residential, except where vehicular service is required to the rear of the principal structure, in which case one side yard shall be no less than twenty feet.
  - b. Accessory Buildings. No accessory building shall be located on a lot which has less than the following minimum dimensions:
    - (1) Yard Frontage: 10 feet
    - (2) Yard Rearage: 10 feet
    - (3) Side Yards: Each side yard shall be no less than ten feet, 15 feet when abutting residential.
  - b. Maximum Structure Height. No building shall exceed three stories or 48 feet in height, whichever is lower.

#### **Section 100.14 C-3 Commercial (Central Business) District**

##### **SEC. 100.14.01 APPLICABILITY - PURPOSE.**

1. Regulations. The regulations set forth in this section shall apply in the C-3 commercial district.
2. Intent. The intent of the C-3 district is to provide for the grouping of the majority of commercial uses and services in the central business district and in defined secondary commercial centers.
3. Commercial/Residential Use. For the purposes of this District the principal permitted uses shall be commercial. Residential dwellings shall be permitted above the first floor of the commercial use. New multi-family dwelling unit proposals on or below the first floor shall be subject to the special provisional use process. (Amended 6/11/2013 by Ord. 971.)

##### **SEC. 100.14.02 PERMITTED USES.** Principal permitted uses in the C-3 district shall be as follows:

1. Uses permitted in the C-1 district.
2. Antique shop.
3. Apparel shop.

4. Auto parts and tire sales.
5. Baker, whose products are sold only at retail and only on the premises.
6. Bicycle shop, sales or repair.
7. Billiard parlor and pool hall.
8. Bookbinding.
9. Bookstore.
10. Bus and taxi depots.
11. Candy shops where products are sold only at retail and only on the premises.
12. Carpet and floor coverings store.
13. Clothes cleaning and/or dyeing establishments.
14. Collection office of public utility.
15. Commercial parking lots for passenger vehicles.
16. Dairy store, retail.
17. Dance and/or music studio.
18. Department store.
19. Drapery shop.
20. Drinking establishment.
21. Exterminator sales.
22. Florist and nursery shop, retail.
23. Fruit and vegetable market.
24. Financial institutions.
25. Furniture store.
26. Gift shop.
27. Grocery store.
28. Hardware and variety store.
29. Hobby shop.

30. Hotels and motels.
31. Household appliances, sales, repair, and rental.
32. Ice storage and distributing of not more than five-ton capacity.
33. Jewelry shop.
34. Key shop.
35. Landscape gardener.
36. Laundries.
37. Lawn mower repair shop.
38. Liquor store.
39. Locker plant for storage and retail sales only.
40. Music, audio or video, rental or retail store.
41. Museums.
42. Offices, business, government and professional.
43. Office supply store.
44. Paint and wallpaper store.
45. Pet shop including aquariums.
46. Photographic studio.
47. Plumbing, heating and electrical contractor shop.
48. Printing and/or publishing houses, newspapers.
49. Radio and television sales and service.
50. Restaurants.
51. Residential. Above the first floor. For residential on or below the first floor, follow special provisional use process.
52. Shoe and shoe repair shop.
53. Sporting goods store.
54. Tailor shop.



- 55. Theaters (excluding drive-in theaters), auditoriums.
- 56. Travel agency.
- 57. Upholstery establishments.
- 58. Childcare Facilities.
- 59. Monument Sales for Retail Purposes Only.

(51 – 59 Amended 6/11/2013 by Ord. 971.)

**SEC. 100.14.03 ACCESSORY USES.** Accessory uses in the C-3 district shall be as follows:

- 1. Residential Units. Residential units only when located above the first floor level of the principal permitted use. Multi-family dwelling unit proposals on or below the first floor shall be subject to the special provisional use process. The waiver of off-street parking requirements within the C-3 district does not apply to residential uses. (Amended 6/11/2013 by Ord. 971.)
- 2. Storage. Storage facilities related to the operation of the principal permitted use.

**SEC. 100.14.04 DIMENSIONAL REQUIREMENTS.**

- 1. General. The dimensional requirements described in this section shall constitute the minimum requirements governing all uses and structures identified with such uses, provided they are regulated pursuant to this section and no stricter departmental design standards or general requirements specified for any such use or structure is applicable.
- 2. Minimum Lot Dimension. No lots within a C-3 district shall have dimensions less than the following dimensions:
  - a. Permitted Uses.
    - (1) Yard Frontage. None required unless fronting on the proposed right-of-way of the thoroughfare shown on the official major street plan, in which case the building setback line shall be the proposed right-of-way line.
    - (2) Rear Yard: None required when abutting a street or alley, 15 feet when directly abutting a Residential District.
    - (3) Side Yard: None required when abutting a street or alley, 15 feet when directly abutting a Residential District. (Amended 8/26/14 Ord. 984)
- 3. Maximum Structure Height. No building shall exceed a height of 5 stories or 78 feet whichever is less. When across the street from an “R” district lot, or on a corner lot located across from an “R” district lot, no building shall exceed a height of 3 stories or 48 feet, whichever is less. (Amended 6/11/2013 by Ord. 971.)

## Section 100.15 M-1 Light Industrial District

### **SEC. 100.15.01 APPLICABILITY AND PURPOSE.**

1. Regulations. The regulations set forth in this section shall apply in the M-1 industrial district.
2. Intent. The intent of the M-1 district is to provide areas for light industrial uses.

### **SEC. 100.15.02 PERMITTED USES.** Principal permitted uses in the M-1 district shall be as follows:

1. Any use permitted in the C-2 district except for any residential dwelling, school, hospital, clinic, or other institutions for human care, except where incidental to the permitted use.
2. Automobile assembly.
3. Carpet and rug cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.
4. Bakeries, except for those whose products are sold at retail only on the premises.
5. Welding or other metal working shops, excluding shops with presses over twenty ton rated capacity, drop hammers and the like.
6. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors, storage and sale of feed and/or fuel, provided dust is effectively controlled, and storage yards for vehicles of a delivery or draying service.
7. Carting, express, hauling or storage yards.
8. Circus, carnival or similar transient enterprise, provided such structures or buildings shall be at least two hundred feet from any R district.
9. Coal, coke or wood yard.
10. Cooperage works.
11. Creamery, bottling works, ice cream manufacturing wholesale, ice manufacturing and cold storage plant.
12. Enameling, lacquering or japanning.
13. Foundry casting lightweight nonferrous metals or electric foundry not causing noxious fumes or odors.

14. Flammable liquids, not to exceed twenty-five thousand gallons, provided said tanks are placed in a manner that complies with visual barrier regulations. State of Iowa Fire Marshall regulations or applicable building code standards governing placement, whichever is a greater setback from property lines, shall be enforced. A dimensioned site plan shall be submitted to the Zoning Administrator showing compliance prior to building permit issuance. (Ord. 1007 1-12-16)
15. Junk, iron or rags, storage or baling, where the premises upon which such activities are conducted are wholly enclosed within a building, wall or fence, not less than six feet in height, completely obscuring the activity, but not including automobile, tractor or machinery wrecking or used parts yards.
16. Laboratories, experimental, film or testing.
17. Machine shop.
18. Manufacture of musical instruments and novelties.
19. Manufacture of assembly of electrical appliances, instruments and devices.
20. Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns.
21. Manufacture and repair of electric signs, advertising structures, sheet metal products, including heating and ventilating equipment.
22. Milk distributing station other than a retail business conducted on the premises.
23. Sawmill, planing mill, including manufacture of wood products not involving chemical treatment.
24. The manufacturing, 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.
25. The manufacture, compoundings, assembly 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 woods.
26. Buildings containing self-storage units.

(Amended 3-14-23 by Ordinance No. 1120)

**SEC. 100.15.03 ACCESSORY USES.** Accessory uses in the M-1 district shall be any accessory uses customarily accessory and incidental to a permitted principal use.

**SEC. 100.15.04 HAZARDOUS OR OFFENSIVE USES PROHIBITED.** 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.

### **SEC. 100.15.05 DIMENSIONAL REQUIREMENTS.**

1. General. The dimensional requirements described in this section shall constitute the minimum requirements governing all uses and structures identified with such uses, provided they are regulated pursuant to this chapter and no stricter departmental design standards or general requirements specified for any such use or structure is applicable.
2. Other Permitted Uses. No use or structure shall be located on a lot, which has less than the following minimum dimensions.
  - a. Yard Frontage: 25 feet.\*
  - b. Yard Rearage: 40 feet.\*
  - c. Side Yard Width: None required except adjacent to an R district in which case not less than 25 feet.

\* For every additional foot the front yard depth is increased over twenty-five feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than eight feet; and in addition, if any portion of this rear yard area is used for an enclosed off-street loading space, the area above such an enclosure may be used for building purposes.
3. Maximum Structure Height. No building shall exceed four stories or fifty feet in height whichever is lower except as otherwise provided in exceptions and modifications of this chapter.

### **Section 100.16 M-2 Heavy Industrial District**

#### **SEC. 100.16.01 APPLICABILITY AND PURPOSE.**

1. Regulations. The regulations set forth in this section shall apply in the M-2 industrial district.
2. Intent. The intent of the M-2 district is to provide areas for heavy industry that because of its location, transportation requirements, and demands on public services exerts a pronounced impact on the city.

#### **SEC. 100.16.02 USES.**

1. Buildings or premises in the M-2 district may be used for any of the following:
  - a. Any heavy industrial use.
  - b. Any permitted use in an M-1 district.

### **SEC. 100.16.03 RESTRICTIONS UPON USES.**

1. No occupancy permits shall be issued for any dwelling, school, hospital, clinic or other institution for human care except for incidental to the permitted use.
2. Uses. Buildings or premises in the M-2 district may be used for any of the above, Section 100.16.02 a and b; however, no occupancy permits shall be issued for any use in conflict with any ordinance of Waverly or law of the State of Iowa regulating nuisances.
3. Special Provisional Uses. The following uses and structures identified with such uses shall be subject to all the requirements of special provisional uses and subject to the recommendation of the Planning and Zoning Commission and with Board of Adjustment approval. The planning and zoning commission shall hold a public hearing with the same requirements as Section 100.24.03. This shall include the notification requirements to all property owners within 250 feet. (Ordinance 1069 01/06/20)
  - a. Slaughterhouses or stockyards, storage and sale of livestock.
  - b. Acid manufacture or wholesale storage of acids.
  - c. Automobile, tractor, or machinery wrecking and used parts yards.
  - d. Cement, lime gypsum or plaster of paris manufacture, concrete mixing, concrete products manufacture.
  - e. Distillation of bones.
  - f. Explosive manufacture, storage, or testing.
  - g. Fertilizer manufacture.
  - h. Garbage, offal or dead animal reduction or dumping.
  - i. Gas manufacture and cylinder recharging.
  - j. Glue, size or gelatin manufacture.
  - k. Manufacturing, compounding, processing, packaging or treatment of fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour, and the rendering or refining of fats and oils.
  - l. Petroleum or its products, refining or wholesale storage.
  - m. Rubber goods manufacture or storage.
  - n. Sand or gravel pits.
  - o. Smelting of tin, copper, zinc, or iron ores.
  - p. Transmitting stations.
  - q. Waste paper yard.

- r. Wholesale storage of gasoline.

**SEC. 100.16.04 REQUIRED CONDITIONS.**

1. Disposal of Refuse. The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance shall be employed.
2. Location. All flammable liquid storage tanks shall be located at least seventy-five (75) feet from any R district and placed in a manner that follows visual barrier regulations. State of Iowa Fire Marshall regulations or applicable building code standards governing placement, whichever is a greater setback from property lines, shall be enforced. A dimensioned site plan shall be submitted to the Zoning Administrator showing compliance prior to building permit issuance. (Ord. 1007 1-12-16)

**SEC. 100.16.05 DIMENSIONAL REQUIREMENTS.**

1. General. The dimensional requirements described in this section shall constitute the minimum requirements governing all uses and structures identified with such uses, provided they are regulated pursuant to this chapter and no stricter departmental design standards or general requirements specified for any such use or structure is applicable.
2. Other Permitted Uses. No use or structure shall be located on a lot, which has less than the following minimum dimensions:
  - a. Yard Frontage: 25 feet.
  - b. Yard Rearage: 40 feet.
  - c. Side Yard Widths: None required except adjacent to a R district in which case not less than 75 feet. (Ord. 1007 1-12-16)
3. Maximum Structure Height. No building shall exceed in height the distance measured to the center line of the nearest street from any portion of the proposed building or structure except as provided in exceptions and modifications in this chapter.

**Section 100.17 PD - Planned Development District**

**SEC. 100.17.01 INTENT - APPLICABILITY**

1. Intent. The Planned Development District is intended and designed to provide a means for the development of tracts of land on a unit basis, allowing greater flexibility and diversification of land uses and building locations than the conventional single lot method. It is the intent of this Section that basic principles of good land use planning be maintained and that sound zoning standards be utilized in implementing this Ordinance, especially concerning population density, providing adequate light and air, preserving recreation and open space and insuring appropriate building placement.
2. Uses Permitted. The “PD” district shall permit the inclusion of multiple “R” district and “C” district land uses modified into a development providing for greater flexibility of land use, transportation elements, open spaces, architectural standards, building setbacks and building locations than the individual zoning districts would permit. The district is not to be used to circumvent “R” and “C” standards, but to follow recognized principles of civic design, land use planning, and building architecture resulting in creative mixed use developments.

## **SEC. 100.17.02 PROCEDURE**

When an application for a Planned Development District as an amendment to the Zoning Ordinance is submitted for a particular parcel development, the following procedure shall be utilized to facilitate said amendment:

1. The owner of a parcel of land comprising an area of not less than five (5) acres shall submit an application and site development plan to change the zoning of said parcel to the “PD” Zoning District Classification.
2. The application and Site Development Plan shall be submitted by the owner to the City Zoning office for review and comment. City Staff shall review the conformity of the proposed development with the standards of the Comprehensive Plan and recognized principles of civic design, land use planning and architecture and offer comments in a response to the filings. Once the application and plan are finalized, City Staff shall place the application on the agenda of the Planning and Zoning Commission for public hearing and consideration by the Commission.
3. The applicant shall present the application and Site Development Plan to the Planning and Zoning Commission. The Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan and with recognized principles of civic design, land use planning and architecture.
4. After notice and a public hearing, the Commission may recommend approval or disapproval of the Site Development Plan and zoning petition to the City Council as submitted or require that the petitioner amend the plan to preserve the intent and purpose of this Ordinance to promote public health, safety and general welfare.
5. The Site Development Plan and zoning petition shall thereafter be placed on the agenda of the City Council with the Commission’s recommendations. The City Council, after notice and public hearing, shall approve the Site Development Plan as an amendment to the Zoning Ordinance.

## **SEC. 100.17.03 REQUIRED DOCUMENTS – SITE DEVELOPMENT PLAN**

1. A site analysis showing a review of topography, patterns, existing vegetation, sanitary sewer and water service, and major street connections.
2. A schematic at 1" = 50' minimum showing:
  - a. Buildings with height and exterior design of typical structures and the number of dwelling units in each zone
  - b. Zoning district classification boundaries within the development
  - c. Parking areas
  - d. Access drives and sidewalks
  - e. Streets abutting or within the proposed development
  - f. Required peripheral yards and/or required visual barriers
  - g. Common land, recreation areas and parks
  - h. Existing and proposed utilities and public easements
  - i. Development stages and timing
  - j. All proposed walls and fences
  - k. Surface water drainage accommodations, including consideration of adjoining properties
  - l. Proposed signs and their location

m. Lighting facilities and their location

n. Name of property owner or owners, legal description of the property, point of compass, scale and date

#### **SEC. 100.17.04 ALTERNATIVE APPROVAL PROCESS**

Full development of a Site Development Plan that complies with Section 100.17.03 may involve substantial effort and financial investment without guarantee of approval. In order to determine if the Staff, Commission and Council are supportive of the Planned Development concept being proposed without completing a full Site Development Plan, the applicant may choose to use this two-step process:

1. The applicant shall submit an application for zoning change to PD District with a preliminary site plan showing the layout of streets, types of development, access drives, and a legal description of the entire property. The Commission shall consider the application for their recommendation on the rezoning of the land only. This requires a public hearing. The rezoning of the land only is then submitted to the City Council after review and recommendation by the Planning and Zoning Commission. This requires a public hearing. The City Council only considers the zoning change. While the zoning change is preliminarily approved by this procedure, the zoning change becomes effective only upon approval of the final Site Development Plan.
2. The final Site Development Plan shall then be submitted for staff review, Commission recommendation and City Council consideration, including a second public hearing at each level, for the final approval of the Site Development Plan. The final Site Development Plan must be approved by Council as an amendment to the Zoning Ordinance before any development can occur and before construction of any public infrastructure.

#### **SEC. 100.17.05 SITE PLAN AMENDMENTS**

##### **1. Major**

Proposed major amendments shall be administratively reviewed by City planning staff. Any major change in the site plan deemed to be substantial after the Council has approved the Site Development Plan shall be resubmitted and considered in the same manner as the original site plan. The amended site plan shall be prepared in accordance with this Section.

Examples of major changes may include, but are not limited to the following: changes in density, changes in classification of land as assigned on the approved Site Development Plan, exterior street connections or major traffic changes.

##### **2. Minor**

Proposed minor amendments shall be administratively reviewed by the Planning staff. If the change is considered insignificant in nature, staff may approve the change without a review and public hearing before the Commission and City Council.

Examples of minor changes may include, but are not limited to the following: the location, construction, replacement or change in type of signage; change in use of a site to another similar use classified in the same zoning district; minor change in building locations; or minor changes in the locations of access, driveways, or parking areas. Minor changes may include additions to an existing building which do not increase the floor area by more than fifty (50) percent of the floor area of the building proposed to be added on to and new buildings with a floor area not exceeding ten (10) percent of the floor area of all existing or approved principal buildings. Minor changes may also include a change in the location or type of residential structure(s) as long as the overall density (units per acre) is not significantly increased by more than what was previously approved.



If staff determines that any proposed change is significant in nature or could become significant in nature, it shall be deemed major and shall be resubmitted and considered in the same manner as the original site plan review procedure, including a public hearing before the Commission and City Council. In determining if a change is significant in nature the Planning staff shall consider, among other things, the overall design of the proposed change and its compatibility to the existing development and surrounding development, as well as impact on the neighborhood due to changes in parking, traffic, etc. or changes in visibility or aesthetics from the public roads or adjoining properties caused by the proposed change.

**SEC. 100.17.06 REQUIRED STANDARDS FOR ALL PLANNED DEVELOPMENTS**

1. All public improvements, including dedicated streets, water mains, sanitary sewers, storm sewers and parks shall be subject to the acceptance and approval of the City Council.
2. No building permit for any building or other structure within the development shall be issued until the final Site Development Plan is approved by the City Council.
3. The parking requirements of the Zoning Ordinance shall apply to all planned developments, except the City Council may, after recommendation from the Commission, alter those requirements consistent with the intent and purpose of this Ordinance.
4. The minimum yard requirements of the respective zoning districts included within the Site Development Plan shall apply unless specifically altered by the Plan. Consideration should be given to keeping the required yard setback requirements compatible and/or similar to adjacent properties provided around the boundary of the development. However, the Commission and City Council may require additional setbacks or other requirements if needed.
5. The maximum building height within the development boundaries shall not exceed the maximum height regulations of its underlying zoning district, except for development at least one hundred (100) feet from the boundaries of adjoining property, Council may, after recommendation from the Planning and Zoning Commission, alter these requirements.

**SEC. 100.17.07 LAND USE RESTRICTIONS**

The Commission or City Council may require land use restrictions or covenants by the developer concerning the use of common land for permanent open spaces. Common land as herein contained shall include land dedicated for public park use and land retained in private ownership but intended for the use of residents of the development and the general public.

**SEC. 100.17.08 COMMENCEMENT AND COMPLETION**

The Council may condition the approval of the Site Development Plan upon the developer commencing construction of the development within one (1) year and contingent upon completion of construction and improvements within a reasonable period of time after Council approval. In determining such time period, the Council shall consider the scope and magnitude of the development. Failure to meet these requirements shall be deemed sufficient cause for the Council, in accordance with the provisions of this Ordinance to rezone the subject property to the zoning classification effective at the time of the original submittal of the petition unless an extension is approved by the Council for due cause shown after recommendation by the Commission.

**SEC. 100.17.09 LAND USAGE**

The permitted land usage, minimum lot area, yard height, and accessory uses shall be determined by the approved Site Development Plan, which shall prevail over conflicting requirements of the Zoning Ordinance or the Subdivision Ordinance.

## **SEC. 100.17.10 PLATTING REQUIRED**

If platting is required and a final plat has not been approved and recorded on any part or portion of the development, the platting procedure must be followed in accordance with the City of Waverly Subdivision Ordinance on all portions or parts not platted. The Site Development Plan can be considered as a preliminary plat if it meets the preliminary plat requirements.

Ord. 1027 11/28/17

### **Section 100.18 U-1 Environmentally Sensitive Protected District**

#### **SEC. 100.18.01 APPLICABILITY AND PURPOSE.**

1. Regulations. The regulations set forth in this chapter shall apply in the U-1 environmentally sensitive protected district.
2. Intent. The intent of the U-1 district is to identify those portions of the city that contain environmentally sensitive areas due to adverse soil or drainage way characteristics and thus are best suited for preservation as open space or buffers between land uses and are primarily unsuitable for structural development.

#### **SEC. 100.18.02 PERMITTED USES.** Principal permitted uses in the U-1 district shall be as follows:

1. Agriculture and the usual agricultural building and structures.
2. Truck gardening and nurseries, provided that no permanent dwelling units shall be erected thereon unless the tract contains ten or more acres.
3. Airports and landing fields.
4. Forest and forestry.
5. Parks, playgrounds, golf courses, both public and private and recreational uses including boat ramps and docks, nature trails, bike paths, and jogging paths.
6. Railroad right-of-way.
7. Dwellings on existing lots of record.

**SEC. 100.18.03 USES PERMITTED UPON APPROVAL.** Special Provisional Uses. The Following uses and structures identified with such uses shall be subject to all the requirements of special provisional uses and subject to the recommendation of the Planning and Zoning Commission and with Board of Adjustment approval. The Planning and Zoning Commission shall hold a public hearing with the same requirements as Section 100.24.03. This shall include the notification requirements to all property owners within 250 feet. (Ordinance 1069 01/06/20)

1. Amusement enterprises, such as race tracks, carnivals, circuses, rides, and shows subject to prior recommendation from the planning and zoning commission and approval by the city council for temporary activities only.
2. Mining and extraction of minerals or raw material, subject to approval by the city council.
3. Any use erected or maintained by a public agency.
4. Parking facilities.

5. Public utility structures and equipment necessary for the operation thereof.
6. Transmitting stations.
7. Depositing of noncombustible materials for land fill purposes, stabilization or erosion control.

**SEC. 100.18.04 ACCESSORY USES.** Accessory uses in the U-1 district shall be as follows:

1. Incidental. Accessory buildings and uses customarily incidental to any of the above uses.

**SEC. 100.18.05 DIMENSIONAL REQUIREMENTS.**

1. General. The dimensional requirements described in this section shall constitute the minimum requirements governing all uses and structures identified with such uses, provided they are regulated pursuant to this chapter and no stricter departmental design standards or general requirements specified for any such use or structure is applicable.
2. Minimum Lot Dimensions. No lots within an U-1 district shall have dimensions less than the following dimensions:
  - a. Other Permitted Uses. No use or structure shall be located on a lot, which has less than the following minimum dimensions:
    - (1) Yard Frontage: 50 feet.
    - (2) Yard Rearage: 50 feet.
    - (3) Side Yard: 50 feet.
  - b. Dwellings. No dwelling shall be located on a lot which has less than the following minimum dimensions:
    - (1) Lot Area: 9,000 square feet.
    - (2) Lot Area (Per Family): 9,000 square feet.
    - (3) Lot Width: 80 feet.
    - (4) Yard Frontage: 25 feet.
    - (5) Yard Rearage: 30 feet.
    - (6) Least Width on Any One Side: 10 feet or 10% of the lot width whichever is less.
  - c. Maximum Structure Height. Any building erected or structurally altered after the effective date of the ordinance codified in this chapter may be erected to any height consistent with an R-1 district unless recommended by the planning and zoning commission and approved by the city council to exceed them.

**Section 100.19 Off-Street Parking and Loading Zones**

**SEC. 100.19.01 OFF-STREET LOADING SPACES REQUIRED WHEN.**

1. Loading Space. In any district, except the C-3 commercial district, in connection with every building or part thereof erected after the effective date of the ordinance codified in this chapter, having a gross floor area of ten thousand 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 off-street loading space plus one additional such loading space for each

twenty thousand square feet or major fraction thereof of gross floor area so used in excess of ten thousand square feet.

2. Width. Each loading space shall be not less than ten feet in width.
3. Located. Such space may occupy all or any part of any required yard or court space or as specifically provided in the district in which it is located.

#### **SEC. 100.19.02 OFF-STREET PARKING AREA REQUIREMENTS.**

1. Parking. In all districts, except the C-3 commercial district, in connection with every industrial, commercial, business, trade, institutional, recreation, or dwelling use and similar uses, space for parking and storage of vehicles shall be provided for each permitted use in accordance with the following schedule. However, no parking area required by this section shall be less than one thousand square feet in area except in the case of dwellings and retail stores and shops under one thousand square feet.
  - a. Automobile sales and service garages. Fifty percent of floor area.
  - b. Automotive service stations. Two spaces for each gas pump, plus three spaces for each enclosed garage stall.
  - c. Offices. Banks, business and professional offices. Seventy-five percent of floor area.
  - d. Bowling alleys. Five spaces for each alley.
  - e. Churches. One space for each six seats in the principal auditorium.
  - f. Dance halls and assembly halls. Two hundred percent of floor area used for dancing or assembly.
  - g. Dwellings:
    - (1) One and two family dwellings. Two spaces for each family or dwelling unit.
    - (2) Multiple dwellings. One space for each efficiency (studio) unit, one and one-half space for each one bedroom unit, two spaces for each two or more bedroom unit.
    - (3) Multiple dwellings for the elderly. Three-quarters space per unit.
    - (4) Outside parking spaces in the R-3 and R-4 Multi-Family Districts shall contain a minimum of 240 square feet per space. Enclosed parking stalls in the R-3 and R-4 Multi-Family Districts shall contain a minimum of 240 square feet and a maximum of 340 square feet per stall.
  - h. Funeral homes and mortuaries. One parking space for each five seats in the principal auditorium.
  - i. Furniture and appliance stores and household equipment or furniture repair shops over two thousand square feet of floor area. Fifty percent of floor area.
  - j. Hospitals. One and one-fifth space for each bed.
  - k. Hotels and motels. One space for each rentable unit plus one-half space for each employee.
  - l. Manufacturing plants. One space for each two employees on the maximum working shift.

- m. Factory built home park. Two spaces for each factory built home unit.
  - n. Nursing, convalescent, and retirement homes. One space for each four beds plus one-half space for each employee, plus one space for each two residents.
  - o. Restaurants, beer parlors and nightclubs with over one thousand square feet floor area. Two hundred percent of floor area.
  - p. Retail stores, supermarkets, etc., with over two thousand square feet floor area. Two hundred fifty percent of floor area.
  - q. Retail stores, shops, etc., under two thousand square feet. One hundred percent of floor area.
  - r. Schools. One space for each four seats in the principal auditorium.
  - s. Sororities, fraternities, and lodging houses. One space for each three hundred square feet of gross floor area.
  - t. Sports arenas, auditoriums other than in schools. One space for each three seats.
  - u. Theaters and assembly halls with fixed seats. One parking space for each three seats.
  - v. Wholesale establishments or warehouses. One space for each two employees.
2. Other Uses. In case of any building, structure or premises, the use of which is not specifically mentioned herein, and provisions for a use which is so mentioned and to which said use is similar, shall apply.

**SEC. 100.19.03 ACCESS DRIVE REQUIRED WHEN - EXCEPTION.** Where a 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 feet in width in the case of a dwelling, and not less than sixteen feet in width in all other cases leading to the loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question, except where provided in connection with a use permitted in a residence district, such easement of access or access drive shall not be located in any residence district.

**SEC. 100.19.04 PARKING AREA DEVELOPMENT AND MAINTENANCE REQUIREMENTS.** Every parcel of land hereafter used as a public or private parking area after the effective date of the ordinance codified in this chapter, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

- 1. Setback. No part of any parking space shall be closer than five feet to any established street right-of-way or alley line. In case the parking lot adjoins an R district, it shall be set back at least five feet from the R district boundary and shall be effectively screen-planted.
- 2. Surfacing. Any off-street parking area, including any commercial parking lot, for more than five vehicles, or any lot next to a residentially zoned district, shall be surfaced with an asphaltic or portland cement binder pavement or such other equivalent surfaces as approved by the public works director so as to provide an all dust free 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 or unloading and parking and storage of self-propelled vehicles.

3. Lighting. Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any R district.

**SEC. 100.19.05 DISTRICT ABUTTING C OR M DISTRICT -- OFF STREET PARKING LOT REQUIREMENTS.** In any R residence district abutting a C or M district off-street parking lots shall be permitted in accordance with the following requirements:

1. Distance. Said off-street parking lot shall not extend further than two hundred feet into an R residence district or to the nearest street, whichever is closer.
2. Yards. Off-street parking lots located in an R residence district shall provide front and side yards in accordance with the district in which it is located; provided, that front or side yards shall be used for fences, walks or landscaping only, with no vehicular parking in said yard area, provided, further, that where a contiguous development of lots is used for parking purposes, no side yard shall be required for abutting parking lots having a common side lot line.
3. Screen. Off-street parking lots in any R residence district shall provide a permanent fence or shrubbery screen on all side yards of the abutting R residence district. Such screen to be located in the provided side yard.
3. Surfacing. Off-street parking lots in any R residence district shall be developed with an asphaltic or portland cement binder pavement or such other equivalent surface as approved by the public works director, provided that such parking lots shall be maintained in an orderly manner free from refuse or debris.
4. Lighting. All lighting for said off-street parking lots shall be such that no light is directed or reflected on adjacent residential properties.

#### **Section 100.20 Filling Stations, Public Garages, and Parking Lots**

**SEC. 100.20.01 VEHICLE ENTRANCE OR EXIT PROHIBITED WHERE.** No gasoline filling station, a commercial customer or employee parking lot for twenty-five or more motor vehicles, or a parking garage or automobile repair shop shall have an entrance or exit for vehicles within two hundred feet along the same side of a street of any school, public playground, church, hospital, public library, or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut.

**SEC. 100.20.02 FILLING STATION OR GARAGE PROHIBITED WHERE.** No gasoline filling station or public garage shall be permitted where any oil-draining pit or fuel-filling appliance is located within twelve feet from any R district, except where such appliance or pit is within a building.

#### **Section 100.21 Exceptions and Modifications**

**SEC. 100.21.01 APPLICABILITY.** The regulations specified in this chapter shall be subject to the exceptions and interpretations set forth in this chapter.

**SEC. 100.21.02 USE OF EXISTING LOTS OF RECORD.** In any district where dwellings are permitted, a single family dwelling may be located on any lot or plot of official record as of the effective date of the ordinance codified in this chapter respective of its area or width; and in addition, any two family dwelling may be located on any lot or plot in an R-2 residence district that has a lot width of not less than

sixty feet and is of official record as of the effective date of the ordinance codified in this chapter; provided, however:

1. Side Yard. The sum of the side yard widths of any such lot or plot shall not be less than ten feet, but in no case less than five feet, for any one side yard.
2. Rear Yard. The depth of the rear yard of any such lot need not exceed twenty percent of the depth of the lot, but in no case less than ten feet.
3. Lesser Requirement. In the case of a lot of record where the above requirements are greater than those of the district in which it is located, the lesser requirement shall apply.
5. Setbacks. In the case of building setback lines established on lots of record, as of the effective date of the ordinance codified in this chapter, such setback lines may apply in lieu of those required by this chapter unless existing adjacent building setbacks are greater than specified on the plat of record, in which case the provisions of Section 100.4 shall apply.

**SEC. 100.21.03 BUILDING HEIGHT LIMITATION - EXCEPTIONS.** The building height limitation of this chapter shall be modified as follows:

1. Structure Appurtenances. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, 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 existing or hereafter adopted ordinances of the city.
2. Buildings.
  - a. Public, semipublic or public service buildings, hospitals, sanatoriums, or schools, when permitted in a district, may be erected to a height not exceeding sixty feet and shall be allowed an additional story per the respective zoning district.

Churches and temples, when permitted in a district, may be erected to a height not exceeding seventy-five feet if the building is set back from each property line at least one foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.
3. Dwelling. Single family dwellings and two family dwellings in the dwelling districts may be increased in height by not more than ten feet when two side yards of not less than fifteen feet each are provided, but they shall not exceed three stories in height.

**SEC. 100.21.04 LOTS WITHOUT SEWAGE FACILITIES - LOT AREA REQUIREMENTS.** In any district where neither public sanitary sewers or a private sanitary sewage treatment system serving three or more lots is accessible, the lot area requirement shall be one acre.

**SEC. 100.21.05 DOUBLE FRONTAGE LOTS - FRONT YARD REQUIREMENTS.** Buildings on through lots and extending through from street to street shall provide the required front yard on both streets.

**SEC. 100.21.06 COMPUTATION OF REAR AND SIDE YARDS.** 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 of the alley width may be included as a portion of the rear or side yard as the case may be.

**SEC. 100.21.07 YARD REQUIREMENTS - EXCEPTIONS.**

1. 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 the ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed twenty-four inches.
2. Structures on Property Lines. Residential fences or landscape features such as sculpture or walls may be erected or constructed on property lines provided no such fence in any front yard exceeds three feet in height, and six feet in height in the case of side or rear yards.
3. Structure Exteriors. In the C-3 commercial districts, signs, overhangs, and marquees may extend over street right-of-way lines provided the erection of such signs, overhangs and marquees is in accordance with the provisions of the building code.
4. Multiple Dwellings. In all districts providing for condominium dwellings or row dwellings, the front, rear and side yard requirements of this chapter shall apply to the building and shall not be required for each individual unit.
5. In R-1 and R-2 Districts, non-conforming buildings (as result of yard requirements) on existing lots of record may be altered, providing such alteration conforms with current district regulations or does not further increase the non-conformance of the original building.
6. Replacing Non-Conforming Damaged Buildings. Any non-conforming building in R-1, R-2, R-3 and R-4 Districts (as a result of yard requirements) on existing lots of record demonstrated to the City Administrator or their designee as damaged beyond fifty (5) percent of its replacement value by rot, decay, fire, explosion, war, riot or act of God, shall be allowed to be restored at the current setback within the same footprint at the time of such happening after filing a building permit application for review and approval.  
(Ord 964 12/17/12)
7. Decks. Decks that are unenclosed and without a roof may extend into a front yard setback five (5) feet and up to a maximum of five (5) feet wide. On corner lots, decks that are unenclosed and without a roof may extend into a rear yard setback ten (10) feet but in no case closer than ten (10) feet from the rear property line. In all cases, decks shall not encroach on any recorded easement.
8. Steps. Any steps of enclosed or unenclosed decks, porches, stoops, or other entryways, may extend into a required setback but not within five (5) feet of any property line and shall not encroach on any recorded easement.
9. Window Wells. Egress window wells may extend into required front side and rear yard setbacks, but not within five (5) feet of any property line. In all cases, said wells shall not encroach on any recorded easement.  
(Ord. 1009 2/16/16)

**SEC. 100.21.08 OPEN PORCH ENCLOSURE PERMITTED WHEN.** An existing open porch may be remodeled or rebuilt to an enclosed nonhabitable vestibule entrance way, which may include closet space, when projecting not more than one-fourth the distance of the front yard setback and extending in width not more than one-fourth of the width of the residence.

**SEC. 100.21.09 SPECIAL PERMIT REQUIRED WHEN -- PLANNING AND ZONING COMMISSION REVIEW.**



1. Permit. A special permit for the location of any of the following buildings or uses in any district where permitted in this chapter must be obtained from the city council after public hearing thereon.
  - a. Government Facilities. Any public building erected and used by a department of the city, township, county, state or federal government.
  - b. Schools. Public and parochial schools.
  - c. General. Hospitals, nonprofit fraternal purposes and institutions of an educational, religious, philanthropic or charitable character, provided that the building shall be set back from all yard lines a distance of not less than two feet for each foot of building height.
  - d. Recreational field.
  - e. Cemeteries, minimum ten acres.
  - f. Mining and extraction of minerals or raw materials.
  - g. Airports and landing fields.
  - h. Circus, carnival or similar transient enterprises.
  
2. Before the issuance of any special permit for any of the above buildings or uses, the city council shall refer the proposed application to the city planning and zoning commission, which shall be given forty-five days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the general welfare. No action shall be taken upon any application for any such proposed building or use until and unless the report of the planning and zoning commission has been filed; provided, however, that if no report is received from the zoning commission within forty-five days, it shall be assumed that approval of the application has been given by the commission.

**SEC. 100.21.10 MODIFICATION OF REAR YARD BUILDING SETBACK LINES.**

For any lot where the rear yard adjoins a golf hole (tee, fairway, green, adjacent rough or other landscaped area) of Centennial Oaks Golf Club Addition to Waverly, Iowa, or the Waverly Municipal Golf Course, the rear yard building setback lines of such adjoining lot shall be a minimum of 20 feet.

**Section 100.22 Occupancy Permits**

**SEC. 100.22.01 WHEN REQUIRED.**

1. Use. No land shall be occupied or used, and no building erected or structurally altered after the effective date of the ordinance codified in this chapter shall be occupied or used in whole or in part for any purpose whatsoever until a certificate is issued by the Zoning Manager and/or Building Official, stating that the building and use comply with the provisions of this chapter and the building and health ordinances of Waverly. No change of use shall be made in any building or part thereof erected or structurally altered now or without a permit being issued therefore by the Zoning Manager and/or Building Official. No permit shall be issued to make a change unless the changes are in conformity with the provisions of this chapter.
  
2. Continuance of Nonconforming Use. Nothing in this chapter shall prevent the continuance of a nonconforming use as herein authorized, unless a discontinuance is necessary for the safety of life or property.

**SEC. 100.22.02 APPLICATION AND ISSUANCE.** Certificates for occupancy and compliance shall be applied for coincidentally with the application for a building permit, and shall be issued within ten 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 Manager and/or Building Official, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

**SEC. 100.22.03 TEMPORARY PERMIT.** A temporary occupancy certificate may be issued by the building inspector for a period not to exceed sixty days for erection in substantial completion.

**SEC. 100.22.04 EXCAVATION AND BUILDING PERMITS -- CERTIFICATE OF OCCUPANCY APPLICATION REQUIRED FOR ISSUANCE.** No permit for excavation 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.

**SEC. 100.22.05 NONCONFORMING USES -- CERTIFICATE OF OCCUPANCY REQUIRED -- APPLICATION.** A certificate of occupancy shall be required of all nonconforming uses. Application for certificate of occupancy for nonconforming uses shall be filed within twelve months from the effective date of the ordinance codified in this chapter, accompanied by affidavits of proof that such nonconforming use was not established in violation of this chapter or amendment thereto.

### **Section 100.23 Plat Specifications**

**SEC. 100.23.01 PLAT.** 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 application and plats shall be kept in the office of the Zoning Manager and/or Building Official.

### **Section 100.24 Amendments**

**SEC. 100.24.01 AUTHORITY.** The city council on its own action or on petition, after public notice and hearings as provided by law and after report by the planning and zoning commission may amend, supplement, or change the boundaries or regulations herein or subsequently established.

**SEC. 100.24.02 APPLICATION.** Whenever any person, firm or corporation desires any amendment to this ordinance an application requesting such amendment shall be filed with the city clerk. The application shall be on forms furnished by the city clerk and shall include the following provisions:

1. Description and Zoning. A legal description of the property and boundaries indicating the present zoning and requested zoning.
2. Owners Signatures. The signatures of the owners of 50% of the area of all real estate included within the boundaries of said tract as described in the application.
3. Plat. A plat showing the name and address of all owners of record (as found in the County Assessor's records) of all property lying within 250 feet of the boundaries of the proposed property to be rezoned.
4. Development Plan. If the application is requesting "S-1" shopping center district or "PD" planned development district, it shall also have attached to it the proposed development plan.
5. Fee. A rezoning nonrefundable application fee as set by resolution of the city council.

**SEC. 100.24.03 PLANNING AND ZONING COMMISSION CONSIDERATION.** An application for rezoning shall be considered by the planning and zoning commission at its regular meeting next held consistent with the notice requirements of the hearing. The city clerk shall publish notice of such hearing in a local newspaper, not less than 7 or more than 20 days, prior to the date of the hearing. In addition the clerk shall mail notice of the hearing to all property owners within 250 feet as shown on the plat submitted with the rezoning application, at least seven (7) days prior to the hearing which notice shall contain a description of the property proposed to be rezoned, the present, and requested zoning classification. Within forty-five (45) days of the public hearing, the commission shall act upon the rezoning application by resolution and shall forward a notice of their action to the city council.

**SEC. 100.24.04 PROTEST.** A protest may be presented duly signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent or in the rear thereof, extending the depth of one lot or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots. A favorable vote of at least three-fourths (3/4) of all members of the city council shall be required to approve a rezoning request which has been subject of such a protest or which has been disapproved by the zoning commission.

**SEC. 100.24.05 CITY COUNCIL CONSIDERATION.** A rezoning application shall be considered as a proposed amendment to the zoning ordinance and shall be subject to all provisions pertaining to readings of ordinances. After receiving the recommendation of the zoning commission, the city council shall consider a rezoning application as a first reading of an ordinance amendment. After the reading the council may reject further consideration of the rezoning or may establish a public hearing to be held as the second reading of the ordinance amendment. The city clerk shall publish notice of the public hearing in a newspaper of the city not less than seven (7) days or more than twenty (20) days in advance. In no case shall said public hearing be held earlier than the next regularly scheduled city council meeting following the published notice. The council shall hold a third reading, unless waived, at which time final action on the rezoning ordinance amendment shall be considered.

**SEC. 100.24.06 RECONSIDERATION.** An amendment to the zoning ordinance which has been disapproved by the city council shall not be subject to reconsideration until twelve (12) months from the date of initially filing the rezoning application. At anytime prior to final consideration by the city council a rezoning application may be withdrawn without being subject to the above time restrictions for reapplication.

**SEC. 100.24.07 PUBLICATION.** A rezoning amendment approved shall be effective upon the publication of the ordinance amendment and as such shall constitute an official amendment to the official zoning map. The map or portion of said map however need not be published.

### **Section 100.25 Violation and Penalties**

**SEC. 100.25.01 VIOLATION – PENALTY.** Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this chapter upon conviction shall be fined not more than one hundred dollars for each offense. Each day that a violation is permitted to exist constitutes a separate offense. The Zoning Manager and/or Building Official is designated and ordered to enforce this chapter.

**SEC. 100.25.02 ENFORCEMENT AUTHORITY.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of this chapter, the Zoning Manager and/or Building Official, 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.

### **SEC. 100.26 SIGN REGULATIONS.**

A. Purpose:

The regulations in this ordinance establish comprehensive minimum requirements for the control of signs in order to preserve, protect and promote the public health, safety, morals and general welfare. More specifically, this ordinance is intended to assist in achieving the following objectives:

1. To authorize the use of signs which are:
    - a. compatible with their surroundings and the zoning district;
    - b. appropriate to the type of activity;
    - c. expressive of the identity of the proprietors; and
    - d. legible in the circumstances.
  2. To foster high quality commercial development and to enhance the economic vitality of existing businesses by promoting the reasonable, orderly, and effective display of signs, and to encourage better communication with the public.
  3. To encourage sound, proper display practices and to mitigate the objectionable effects of competition in respect to the size and placement of signs.
  4. To enhance the physical appearance of the City of Waverly by protecting the man-made and natural beauty of the area.
  5. To protect pedestrians and motorists from damage or injury that might result from improper construction, placement, or use of signs.
  6. To protect the public by reducing the obstructions and distractions which might cause traffic accidents.
  7. To preserve the value of private property by assuring the compatibility of signs with nearby land uses.
  8. To protect the physical and mental well being of the general public by recognizing and encouraging a sense of aesthetic appreciation for the visual environment.
  9. To preserve and enhance the natural beauty and unique character of the City of Waverly.
  10. To promote convenience, enjoyment, and free flow of traffic within the City of Waverly.
  11. To protect the public's ability to identify uses and premises without confusion.
- B. Definitions. For the purposes of this Section, certain terms and words pertaining to signs are defined as follows:
1. Accessory Sign. A sign relating only to uses of the premises on which the sign is located, or products are sold, or services offered on the premises on which the sign is located, or indicating the name or address of a building, or the occupants or management of a building of the premises where the sign is located. See "Off-Premise Sign" definition.
  2. Address Sign. A sign posted in conjunction with doorbells or mailboxes showing only the numerical address and/or the occupants of the premises upon which the sign is situated.
  3. Awning. Any retractable structure made of cloth, metal, or other material attached to building; erected to permit raising or retracting to a position against the building when not in use. If the sign is on an awning, then only the awning area covered by the actual lettering or symbol shall be used in calculating the sign area. If the awning is illuminated then the entire lit area shall be included in computing the sign area.

4. Banner Sign. Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by permanent frame at one or more edges.
5. Bench Sign. A sign painted or attached to a seating bench.
6. Billboard Sign. A sign structure designed for the posting of changeable graphics or reading matter advertising a product, place, activity, person, profession, service institution or business located upon property other than the premises on which the sign is located. This definition includes the term 'display board'.
7. Building Code. The Uniform Building code promulgated by the International Conference of Building Officials.
8. Building Official. The officer or other designated authority charged with the administration and enforcement of the Building Code in the City of Waverly.
9. Bulletin Board. A sign used for the temporary posting of meeting or event notices.
10. Canopy. A structure (other than an awning) designed to cover or shade windows, entries, or walkways made of cloth, vinyl, canvas, or other similar material with frames.
11. Combination Sign. A sign incorporating any combination of the features of freestanding, projecting, and roof signs.
12. Curblin. The line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curblin shall be established by the jurisdiction's engineer.
13. Directional Sign. A sign designed for the purpose of assisting traffic control, that is located on private property and limited to no more than three (3) feet in height, nor six (6) square feet in area.
14. Driveway. A private access to either a private or public street, road, alley, highway, or freeway.
15. Flag Sign. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used as a symbol of government, political subdivision, or other entity.
16. Flashing Sign. A sign containing electrical wiring and lighting where the light produces a flashing or strobe effect. A flashing sign shall be affixed to a permanent structure and shall have at least ten (10) feet of clearance above the sidewalk, street, or ground. This term excludes signs illuminated by an exterior light source.
17. Freestanding Sign. A sign that is supported by one (1) or more uprights, columns, pole, pylons, or braces in or upon the ground and not attached to any building or wall. This term shall also apply to those signs having their framework permanently embedded in the ground.
18. Home Occupation Sign. A sign or nameplate limited to the display of the occupant and/or the name of the home occupation. The sign shall not exceed two (2) square feet in area, shall not be illuminated, shall be affixed to the main structure, or shall be visible through a window, and shall be limited to one (1) per home.

19. Legal Setback Line. A line established by ordinance beyond which a building may not be built. A legal setback line may be a property line.
20. Marquee Sign. A sign which is a permanent roofed structure attached to and supported by the building and projecting over public property.
21. Memorial Sign. A sign dedicated to an historical event, figure, or person.
22. Monument Sign. An identification device permanently embedded in the ground, upon which is affixed only the name and/or symbol of a particular neighborhood, subdivision, municipality, commercial or industrial development.
23. Mural Sign. See "Wall Sign" definition.
24. Non-combustible. A term when applied to building construction material means a material which, in the form it is used, is either of the following:
  - a. Material of which no part will ignite and burn when subjected to fire. Any material conforming to the Building Code. Specifically, U. B. C. Standard Number 4-1 shall be considered non-combustible within the meaning of the section.
  - b. Material having a structure base of non-combustible material as defined in "a" above, with a surfacing material not over one-eighth (1/8) inch thick that has flame-spread rating of fifty (50) or less. "Non-combustible" does not apply to surface finish materials.
25. Non-structural Trim. The molding, battens, caps, nailing strips, latticing, cutouts, or letters and walkways that are attached to the sign structure.
26. Off-Premise Sign. A sign displaying or drawing attention to a product, place, activity, person, profession, service institution, or business located upon property other than the premises on which the sign is located. Except for temporary signs advertising special events or projects and government entity signs, off-premise signs are not permitted.
27. Pennant Sign. Any lightweight plastic, fabric, or other material (whether or not containing a message of any kind) suspended from a rope, wire, or string, usually in series, designed to move in the wind.
28. Plastic Material, Approved. Shall be those materials having a self-ignition temperature of six hundred fifty (650) degrees Fahrenheit or greater and a smoke-density rating not greater than four hundred fifty (450) degrees when tested in accordance with U. B. C. Standard Number 55-2. Approved plastics shall be classified and shall meet the requirements for CC1 or CC2 plastic.
29. Pole Sign. See "Freestanding Sign" definition.
30. Political Sign. A political sign means an outdoor sign of a temporary nature erected for the purpose of soliciting votes or support for, or in opposition to, any candidate or any political party under whose designation any candidate is seeking nomination or election or any public question or issue on the ballot in an election held under the laws of the State of Iowa.

31. **Portable Sign.** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to signs designed to be transported by means of wheels; signs converted to "A" or "T" frames; menu and sandwich board signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business. Portable signs are not permitted unless specifically authorized for temporary use by the Zoning Manager and/or Building Official. Said sign shall be permitted for ninety (90) days in any consecutive twelve (12) month period.
32. **Projecting Sign.** A sign supported by a building or other structure which projects over any street, sidewalk, alley, or public way or public easement, or which projects more than twelve (12) inches from the face of the building, structure or supporting wall, excluding canopies, awnings, and marquees. No projecting sign shall project from the face of the building or structure over a street, alley or other public space, beyond a line drawn perpendicular from a line two (2) feet inside the curbline. This definition includes signs and structures that are perpendicular and parallel to the building or other supporting structure. Those projecting signs that are perpendicular are limited to twenty (20) square feet in area, while those projecting signs that are parallel shall not exceed twenty-five (25) percent of the surface area of any store wall to which the sign is affixed. In either case, a projecting sign shall have at least ten (10) feet of clearance above the sidewalk, street, or ground.
33. **Regulatory Sign.** Traffic and other municipal signs, legal notices, railroad crossings, danger, and other such necessary, temporary, emergency, or non-advertising signs.
34. **Road or Street.**
  - a. **City Street:** Any throughway having a public right-of-way which is designed to channel or circulate vehicular and pedestrian traffic. The term "street" may refer to any right-of-way bounded by adjacent property lines or to the paving installed within such right-of-way. The types, or classifications, of streets are defined in Section 100.2.117 in the Waverly Municipal Code.
  - b. **County Road:** Any road or street owned, operated, and maintained by Bremer County.
  - c. **Main-Traveled Way:** The portion of the roadway for movement of vehicles on which through traffic is carried exclusive of shoulders and auxiliary lanes. In the case of a divided highway, the main-traveled way includes each of the separated roadways for traffic in opposite directions, exclusive of frontage roads, turning roadways, or parking areas.
  - d. **Primary Highway:** The entire primary system as officially designated, or as may hereafter be so designated by the State Department of Transportation. United States (U.S.) Highway 218 and State Highway 3 are classified by the State Department of Transportation as "primary highways" within the City of Waverly.
  - e. **Private Street.** Any privately-owned road, street, or driveway.
35. **Roof Sign.** A sign erected upon or above a roof or parapet wall of a building and which is wholly or partially supported by said building. Said roof sign shall not be larger than forty (40) square feet in area.

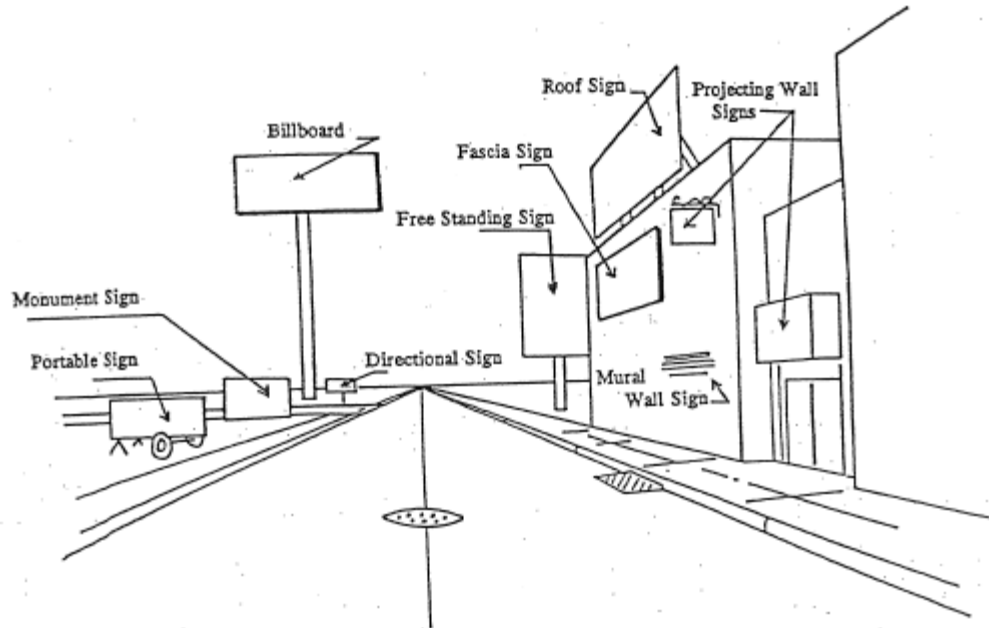
36. Sign. An identification, description, illustration, or device that is affixed to, or represented on a building, structure, or parcel of land and that directs attention to a product, place, activity, person, profession, service, institution, or business.
37. Sign Area. That area within a line including the outer extremities of all letters, figures, characteristics or delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. When the irregularity of a sign shape warrants, such area shall include the extreme points or edges of the sign. The support for the sign background, whether it be columns, pylons, or a building or part thereof, shall not be included in the sign area, unless said building part provides back-lighting for sign lettering and then said back-lit portion will be calculated as part of the sign area. Only one (1) side of a double-faced sign shall be included in the computation of sign area
38. Sign Structure. Any structure that supports or is capable of supporting a sign as defined in this section. A sign structure may be one or more poles, beams, and/or frames, and may or may not be an integral part of the building.
39. Structure. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts jointed together in some definite manner.
40. Temporary Sign. A sign or advertising device intended to be displayed for a limited time period typically identifying construction, community or civic projects, show homes, or other special events on a temporary basis. Said sign shall not exceed thirty-two (32) square feet in area. Said sign shall be permitted for ninety (90) days in any consecutive twelve (12) month period.
41. U.B.C. Standards. The Uniform Building Code Standards volume, promulgated by the International Conference of Building Officials.
42. Wall Sign. A sign other than a roof sign that is supported by a building or wall. Such a sign shall not project, in height, beyond the peak of said building or wall more than one-third (1/3) of the sign's longest dimension. Signs surpassing said peak projections shall be designated as roof signs. Wall signs shall not exceed twenty-five (25) percent of the surface area of any wall to which the sign is affixed.
  - a. Canopy wall sign. Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structure protective cover over a door, entrance, window, or outdoor service area.
  - b. Facial wall sign. A single-faced building or wall sign that is parallel to its supporting wall and not extending more than twelve (12) inches from a building or wall.
  - c. Mural wall sign. A graphic illustration or presentation that is painted or otherwise applied to a building, wall, or facade.
  - d. Projecting wall sign. A sign that is attached to and projects more than twelve (12) inches from the face or wall of a building.

Figure 1.

See **Sign Type Sketch** on the following page:



Figure 1. Sign Type Sketch.



43. Zoning Manager. The officer or other designated authority charged with the administration and enforcement of the Zoning Code in the City of Waverly.

C. Signs: General Regulations.

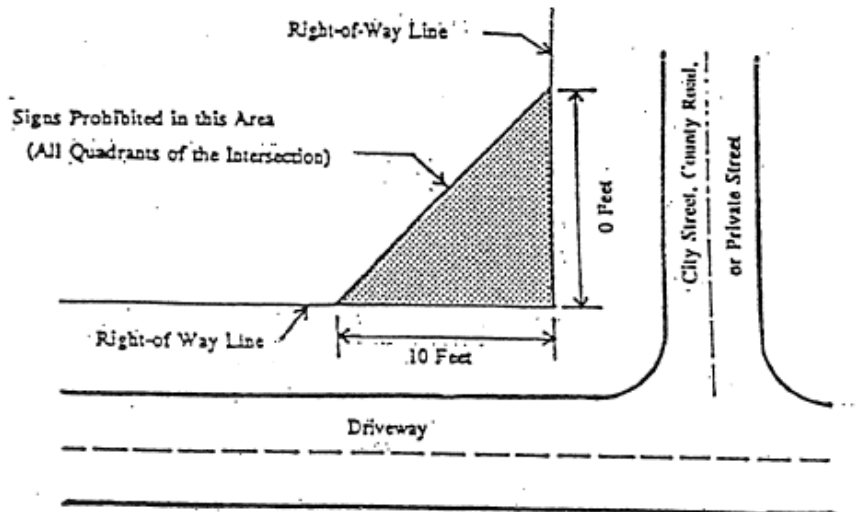
1. All signs permitted herein shall be contained entirely upon private property; set back from existing and proposed public right-of-way.
2. No sign shall be permitted within the line of sight triangles formed at the intersection of a public right-of-way with an access, driveway, or alley; nor shall any sign be permitted within the line of sight triangles formed at the intersection of two (2) rights-of-way, with two (2) sides of the respective triangles being measured in length along the state boundaries measured from their point of intersection, and the third side being a line connecting the ends of the two (2) sides already established. (See Figures 2 and 3).

As defined in this subsection, no advertising device shall be erected or maintained in the triangular area shown below unless said triangular area is occupied by an existing building or structure. In that event, no advertising device shall be erected or maintained closer to the intersection than the building or structure itself. A wall sign that does not protrude more than twelve (12) inches may be attached to said building or structure.

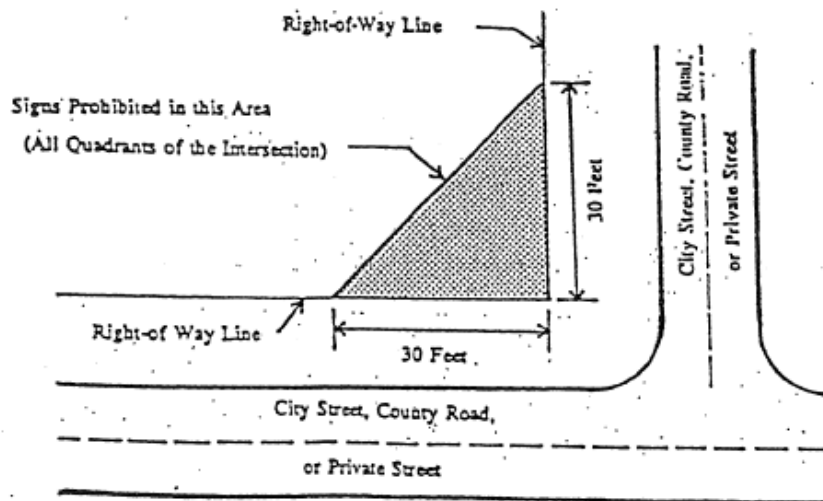
Figure 2  
Figure 3.

See **Intersection of Driveways and Rights-of-way** and **Intersection of Right-of-ways (Primary Highways excluded)** on following page.

**Figure 2. Intersection of Driveways and Rights-of-way.**



**Figure 3. Intersection of Right-of-ways (Primary Highways excluded).**



3. No freestanding or roof sign shall be permitted that faces the front side lot line of any lot in a residential "R" District within one hundred (100) feet of such lot lines, unless the subject sign is also permitted within the adjacent "R" District.
4. Any light, exclusive of the sign area itself, used to illuminate any sign shall be situated and arranged as to shine or reflect the light away from adjoining premises, including public right-of-way.
5. Lawful signs, other than portable signs as herein defined, existing on the effective date of this Ordinance amendment, that do not conform to the terms of this Ordinance shall be classified as legal, nonconforming signs and may be maintained as such, yet shall not (except when required by Law) be enlarged, extended, reconstructed, substituted, or structurally altered, unless altered in a nature so as to conform with the written terms of this Ordinance. Any sign in existence at the adoption hereof that was not an authorized nonconforming sign under previous ordinances shall not be authorized to continue as a nonconforming sign pursuant to this Ordinance, or amendments thereto. In the event that nonconforming sign is either removed, replaced, or destroyed, new signs shall thereafter conform to the terms of this Ordinance.
6. Calculation of sign area:
  - a. If a sign is enclosed by a rectangle or an outline, the total area will be the sign area; or if a sign consists of individual letters or figures, the imaginary square or rectangle which would enclose all letters or figures shall be the sign area. For freestanding signs, the sign area shall be the total square footage of all individual signs anchored to the same support structure or the ground.
  - b. Only one (1) side of a double faced sign shall be counted.
  - c. The area of signs of unusual shapes, such as globes, cylinders, pyramids, shall be computed as one-half (1/2) the total of the exposed surfaces.
  - d. In all cases, total allowable sign area for signs attached to buildings shall not exceed twenty-five (25) percent of the total square footage of the front of any building.
  - e. In all cases, total allowable sign area for rear entrances shall not exceed twenty-five (25) percent of the total square footage of the rear facade of any building.

7. Sign height requirements.

Maximum sign heights, per each zoning district, are shown in the following figure.

<b>Figure 4. Sign Height Table</b> (Height is shown in feet and measured from the base of the sign to highest point of the sign.)														
A1	R1	R2	R3	R4	RF	S1	C1	C2	C2A	C3	M1	M2	PD	U1
20	10	10	10	10	10	40	30	40	40	30	50	50	10	10

8. Structural and maintenance requirements:

- a. The wiring of all signs shall be contained and enclosed and shall conform to the provisions of the National Electrical Code.
- b. Every sign shall be maintained in a safe, neat, and attractive condition by its owner. The sign supports shall be kept painted/treated to prevent rust, deterioration, rotting, or corrosion.
- c. No sign shall be erected, placed or mounted in such a manner as to interfere with any exit, fire escape, or window in any building.
- d. If a sign is illuminated, the source of such illumination shall be kept in a state of working order at all times.
- e. All signs shall be designed to withstand a wind pressure of not less than eighty (80) miles per hour and shall be constructed to receive dead loads as required in the building code or other ordinances of the City of Waverly.
- f. No signs or sign structures shall have any nails, tacks, wires, or sharp metal edges protruding from them.
- g. Any glass forming a part of a sign shall be heavy safety glass and a minimum of one-fourth (1/4) inch in thickness. Where any single piece or pane of glass has an area exceeding three (3) square feet, it shall be wired glass.
- h. No sign shall be erected, placed or mounted in such a manner as to interfere with snow removal or utility maintenance.
- i. No sign shall be erected, placed, or mounted closer than ten (10) feet to any existing overhead electrical service wire nor closer than five (5) feet from any existing overhead telephone or communication cable.

- j. All letters, figures, characters, or representations in cut-out or irregular form, maintained in conjunction with, attached to, or superimposed upon any sign shall be safely and securely built or attached to the sign structure.
  - k. Every marquee, freestanding, wall, or projecting sign (including frame, braces and support thereof) shall be securely built, as may be required by the Zoning Manager and/or Building Official.
  - l. All signs shall be mounted in one (1) of the following manners:
    - 1). Flat against a building or wall.
    - 2). Back-to-back in pairs so that the backs of signs will be screened from public view.
    - 3). Otherwise mounted so that the back of all signs or sign structures showing to the public view shall be painted and maintained a neutral color or a color that blends with surrounding environment.
  - m. All signs shall be constructed to not hold water, snow or ice.
  - n. When any sign is found to be hazardous to a person or property, or if any sign shall be unlawfully installed, erected, or maintained in violation of the provisions of this ordinance, the owner thereof, or the person or firm maintaining the same, shall upon written notice of the Zoning Manager and/or Building Official forthwith in the case of immediate danger, and in any case within not more than (10) days, make such sign conform to the provisions of this ordinance or remove it.
  - o. Any business that ceases operation or changes location shall remove all signs and sign structures within thirty (30) days. Failure to do so will result in the property owner receiving notification from the City. All associated costs of this provision shall be the responsibility of the owner of the property. An abandoned sign or remaining sign structure thereof, existing at the time of adoption of this ordinance, shall have thirty (30) days to be removed.
  - p. Signs constructed or maintained in violation of the provisions of the ordinance are hereby deemed to constitute a nuisance and are subject to actions and any civil or criminal nuisance violation procedures under the Code of Iowa as well under Chapter 63 of the Waverly Municipal Code.
9. Applications, installation, and licensure.

Any person desiring to engage in the business of erecting or installing signs shall make application for a license to do so, to the Clerk, which application shall set forth the name and business address of the applicant; and if the applicant is a firm or partnership, the names of the partners, and in the case of a corporation, the names of the president and secretary, and the name of the person who will have charge of sign installation within the City.

10. Sign permit.

A sign permit must be obtained from the Zoning Manager and/or Building Official prior to installing or erecting a sign. A one-time fee will be charged for a sign permit; and the City Council shall, by resolution, determine the fee schedule. A copy of the fee schedule shall be located in the Zoning and/or Building Department.

11. Bonds and insurance required.

No license shall be issued until a bond has been filed with the Clerk with sureties approved by said Clerk indemnifying the City against any loss, expense, judgment, or damages which the City might incur or suffer by reason of the granting of a permit to erect or install signs, such bond to be in the amount of five thousand dollars (\$5,000.00) or in such amount as may be determined by the Council. In addition to said bond, the applicant shall file with the City evidence of liability insurance in the amount of fifty thousand dollars (\$50,000.00) to the City that will be in full force and effect during the period the license is issued.

D. Signs permitted in all zones: Signs hereafter designated shall be permitted in all zoning districts without prior Building Department approval. A sign permit is not required.

1. Signs advertising the sale, rental, or lease of the premises, or part of the premises, on which the sign is displayed. One (1) non-illuminated sign, not to exceed six (6) square feet in area, shall be permitted on each premise.
2. Signs advertising the architects, engineers, contractors, occupants, other individuals involved in the construction, reconstruction, or remodeling of a building and/or development project and such signs announcing the character and/or purpose of the site. Total non-illuminated signage, not to exceed forty (40) square feet in area, shall be permitted on each premise. Said signs shall not be erected sooner than thirty (30) days prior to site development, nor continued being displayed longer than thirty (30) days following project completion. Said signs shall be placed in accordance with the regulation in this Section.
3. Signs announcing candidates seeking public political office or pertinent political issues. Said signs shall be confined to private property and shall be subject to applicable State and municipal regulations. It shall be lawful to place political signs on private property with permission of the owner or person in charge of the property.
4. Address signs posted in conjunction with doorbells or mailboxes showing only the numerical addresses and/or occupants of the premises upon which the sign is situated.

5. Home occupation signs that are not illuminated and do not exceed two (2) square feet in area. Said sign shall be attached to the front of the principal building. For the purposes of this subsection, "front" shall be determined by the street from where the address is derived.
  6. Accessory signs identifying hospitals, civic, philanthropic, educational, or religious organizations. All signs must comply with the general regulations found in subsection "C" of this Section. All freestanding, monumental and roof signs exceeding forty (40) square feet in area must be approved by City Council.
  7. Signs that primarily consist of balloons, ribbons, streamers, spinners, or other similarly moving devices. Said signs shall be permitted for ninety (90) days in any consecutive twelve (12) month period.
  8. Flag signs: All flag signs exceeding forty (40) square feet in area must be approved by City Council.
- E. Signs permitted in all zones: Signs hereafter designated shall be permitted in all zoning districts subject to prior Building Department Approval. A sign permit is not required.
1. Traffic and other regulatory, municipal signs, legal notices, railroad crossing, danger and other such necessary, temporary, emergency, or non-advertising signs.
  2. Signs required to be posted and maintained by law or governmental order, rule or regulation, unless specifically prohibited in this Section.
  3. Portable signs, banners pennants, and other temporary advertising devices identifying public events, special promotions, holidays and similar events, providing that specific approval is granted under regulations established by the City Council.
  4. Memorial plaques, cornerstones, historical markers, and similar representations.
  5. Monumental signs intended to identify residential, commercial and/or industrial developments, in accordance with this Section.
  6. Mural wall signs, company logo signs, hand-painted art, or any similar sign that is intended to be painted directly on the existing building facade or wall.
- F. Signs permitted within zoning districts. In order to implement the provisions of this Section, the following signs are hereby permitted in the previously defined zoning districts as follows:
1. "A-1" Agricultural District:
    - a. Signs permitted in and limited as per subsection "D" herein.

- b. Fascial and mural wall signs used to identify the given name, symbol, and/or occupants of a farmstead located upon the premises. Sign area shall not exceed twenty-five (25) percent of the surface area of the single wall to which the sign is affixed. Signs exceeding forty (40) square feet in area must be approved by City Council.
  - c. Accessory signs, subject to approval of the Building Department, appertaining to any material that is mined, grown, or treated upon the premises; provided, however, that such signs shall be located upon or immediately adjacent to the buildings or in the area in which such materials are treated, grown, processed, or stored. Said sign shall not exceed forty (40) square feet in area. No more than one (1) such sign shall be permitted per parcel.
2. "R-1" Single Family Residential District:
- a. Signs permitted in and limited as per subsection "D" herein.
  - b. Residential developments of four (4) or more dwelling units shall be permitted one (1) development complex sign for each public street frontage within the project (or for each entrance in the case of a subdivision project). Said signs may be placed in any location on private property provided the sign complies with the height limitations in this ordinance. The maximum sign area for each sign shall be two (2) square feet, plus one (1) square foot for each dwelling unit or lot, not to exceed twenty-five (25) square feet in area per face of the sign.
  - c. Accessory signs, not to exceed two (2) square feet in area, identifying principal permitted and accessory uses in "R-1" zones other than dwellings and churches. Not more than one (1) sign shall be issued per parcel. All permitted signs must be of the fascia or mural wall type, unless the product, place, activity, person, service, institution, or business being advertised is located within a structure surpassing setback requirements from the lot line being utilized for access. If said setback exceeds Code requirements, one (1) directional sign may be permitted.
  - d. One (1) bulletin board or sign, not exceeding forty (40) square feet in area pertaining to construction, lease, hire, or sale of a building or premises, or sale of land or lots is allowed. The board or sign shall be removed as soon as the premises are leased, hired, sold, or construction is completed.
  - e. Church bulletin boards.
  - f. Home occupation signs, provided that only one (1) non-illuminated sign be attached directly to the front of the principal dwelling. Said sign shall not exceed two (2) square feet in area. For the purposes of this subsection, "front" shall be determined by the street from where the address is derived.



3. "R-2" one and Two Family Residential District:
  - a. Any sign permitted in the "R-1" Single Family Residential District, including a non-illuminated sign not to exceed one (1) square foot for each five (5) feet of frontage of property occupied by the use in question.
4. "R-3" Multiple Family Residential District:
  - a. Any sign permitted in the "R-2" One and Two Family Residential District.
  - b. Directional signs, limited to one (1) per curb cut.
5. "R-4" Multiple Family Residential - Transitional District:
  - a. Signs permitted in and limited as per subsection "E" herein.
  - b. Directional signs, limited to one (1) per curb cut.
  - c. Accessory wall signs having a total sign area not to exceed twenty-five (25) percent of the surface area of the single wall to which the sign is affixed. Said sign shall not exceed forty (40) square feet in area, unless special approval is granted by the City Council.
  - d. Accessory freestanding signs shall be permitted as follows:
    - 1). Upon parcels containing street frontage along any one (1) public street of at least one hundred fifty (150) linear feet.
    - 2). Less than forty (40) square feet in area.
    - 3). Limited to a maximum of one (1) sign for each principal permitted structure.
6. "R-FBH" Planned Factory Built Home District:
  - a. The requirements shall be the same as those outlined for the "R-3" Multiple Family Residential District:
7. "S-1" Shopping Center District:
  - a. Signs permitted in and limited as per subsection "E" herein.
  - b. Accessory and projecting wall signs.
  - c. Directional signs, limited to two (2) signs per curb cut.
  - d. Accessory freestanding signs shall be permitted as follows:

In keeping with the intent of the "S-1" District, individual freestanding signs should be limited in number and designed to identify the shopping center and/or the stores contained therein; individual business identification signs are to be discouraged.

To meet this end, one (1) such sign structure shall be permitted for each two hundred fifty (250) linear feet, or fractional part thereof, of frontage on a public street. Said signs shall be no larger than three hundred fifty (350) square feet in area. When separate principal uses are situated on parcels containing less than two hundred fifty (250) feet of street frontage, one (1) freestanding sign may be permitted. Said sign shall be no larger than one hundred (100) square feet in area.

- e. Roof signs are allowed.
  - f. Flashing signs provide said sign is affixed to a permanent structure and has at least ten (10) feet of clearance above the sidewalk, street, or ground.
  - g. All signs shall be reviewed and approved in accordance with the "S-1" zoning district provisions, regulations, and restrictions.
8. "C-1" Commercial District:
- a. Signs permitted in and limited as per subsection "E" herein.
  - b. Accessory and projecting wall signs.
  - c. Directional signs, limited to two (2) signs per curb cut.
  - d. Accessory freestanding signs shall be permitted as follows:
    - 1). Said sign shall not be larger than forty (40) square feet in area.
    - 2). Said sign shall be limited to one (1) sign per separate principal permitted business.
  - e. Roof signs are not allowed.
  - f. Flashing signs provided said sign is affixed to a permanent structure and has at least ten (10) feet of clearance above the sidewalk, street, or ground.
9. "C-2" Commercial District:
- a. Signs permitted in and limited as per subsection "D" herein.
  - b. Accessory and projecting wall signs.
  - c. Directional signs, limited to two (2) signs per curb cut.
  - d. Freestanding signs shall be permitted as follows:
    - 1) The sign area of free standing signs shall be limited by allowing two square foot of sign area per linear foot of street frontage with the

following limitations: On parcels up to 499 feet of frontage, the combined square footage of all free standing signs shall not exceed 250 square feet. On parcels with 500 to 999 feet of frontage the square footage of all free standing signs shall not exceed 300 square feet. On parcels with 1000 linear feet and over the area of all free standing signs shall not exceed 350 square feet.

- 2) Regardless of lineal street frontage, all parcels shall be permitted at least one such sign not to exceed forty (40) square feet in area.
  - e. Roof signs are allowed.
  - f. Flashing signs provided said sign is affixed to a permanent structure and has at least ten (10) feet of clearance above the sidewalk, street, or ground.
10. "C-2A" Commercial District:
- a. Any sign permitted in the "C-2" Commercial District.
  - b. Roof signs are not allowed.
  - c. Flashing signs provided said sign is affixed to a permanent structure and has at least ten (10) feet of clearance above the sidewalk, street, or ground.
11. "C-3" Commercial (Central Business) District:
- a. Accessory and projecting wall signs.
  - b. Roof signs are not allowed.
  - c. Flashing sign provided said sign is affixed to a permanent structure and has at least ten (10) feet of clearance above the sidewalk, street, or ground.
  - d. Accessory freestanding signs shall be permitted as follows:
    - 1) Said sign shall be limited to one (1) sign per separate principal permitted business.
    - 2) Said sign shall be limited by allowing one (1) square foot of sign area per lineal foot of street frontage.
    - 3) Said sign shall not be larger than eighty (80) square feet in area.
  - e. Directional signs, limited to two (2) signs per curb cut.

12. "M-1" Light Industrial District:
  - a. Any sign permitted in the "C-2" Commercial District.
  - b. Roof signs are allowed.
  - c. Flashing signs provided said sign is affixed to a permanent structure and has at least ten (10) feet of clearance above the sidewalk, street, or ground.
13. "M-2" Heavy Industrial District:
  - a. Any sign permitted in the "C-2" Commercial District.
  - b. Roof signs are allowed.
  - c. Flashing signs provided said sign is affixed to a permanent structure and has at least ten (10) feet of clearance above the sidewalk, street, or ground.
14. "PD" Planned Development District:
  - a. Any sign permitted in the "R-4" Multiple Family Residential-Transitional District.
15. "U-1" Environmentally Sensitive Protected District:
  - a. Any sign permitted in the "R-1" Multiple Family Residential-Transitional District.

G. Signs prohibited in all zones: Signs hereinafter designated shall be prohibited in all zoning districts:

1. Signs that advertise a product, place, activity, person, service, institution, or business no longer conducted on the premises on which the sign is located. Said signs and any supporting sign structures shall be removed in accordance with the provisions of the code of Ordinance of the City of Waverly, Iowa.
2. Signs that are larger than twenty-five (25) percent of the surface area of a wall or forty (40) square feet in area, unless otherwise allowed under this ordinance.
3. Signs erected in a manner as to obstruct free and clear vision of streets, alleys, or driveways or erected, designed, or positioned to interfere with, obstruct, or be confused with any authorized traffic sign, signal or device that may mislead or confuse traffic.
4. Signs posted on public property, including utility poles, lighting fixtures, street signs, benches and similar fixtures.
5. Billboards.

6. Signs that imitate or resemble official traffic control signs, signals, regulatory signs, or devices.
7. Off-premise signs, except for temporary signs advertising special events or projects and government entity signs.

H. Non-Conforming Signs.

Signs existing at the time of the enactment of this ordinance and not conforming to its provision, but which were constructed in compliance with previous regulations and ordinance shall be regarded and non-conforming signs. Non-conforming signs shall not be:

1. Changed to another non-conforming sign.
2. Structurally altered so as to prolong life of the sign.
3. Expanded.
4. Re-established after discontinuance of the sign use for a period of thirty (30) days.
5. Moved in whole or in part to another location unless said sign, and the use thereof, is made to conform to all regulations of this ordinance.
6. Re-established after damage or destruction by any means, including an act of God, exceeding fifty (50) percent of the estimated initial value of the sign, as determined by the Zoning Manager and/or Building Official.

I. Variance Procedure.

A sign owner may request a variance from the terms of this ordinance which will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

1. Application. An application for a variance from the provision of this sign ordinance shall be filed in writing with the Zoning Manager and/or Building Official. The application shall contain the following:
  - a. Name and address of the owner or applicant.
  - b. Address and legal description of the property where the sign is located.
  - c. A statement describing the variance requested and the reasons why a variance is required.
  - d. A map, sketch, or drawing which depicts, with reasonable accuracy, the size, shape and location of the sign and supporting structures and the sign's relationship to other structures.

2. Additional information. The Zoning Manager and/or Building Official may request additional information necessary to enable a complete analysis and evaluation of the variance request and a determination as to whether the circumstances prescribed for the granting of a variance exists.
3. Fee. The application shall be accompanied by payment of a fee established by the City Council.
4. Board of Adjustment. All request for variances from the provisions of this sign ordinance shall be submitted to the Board of Adjustment which shall consider and act upon variance requests under this Chapter in the same matter and applying, generally the same standards, to the extent applicable, as in considering variances from the provision of the Waverly Municipal Zoning Code.

**See Figure 5.** See **Sign Table** on following page.

Figure 5. Sign Table.

Sign Type	Zoning District															
	A1	R1	R2	R3	R4	RF BH	S1	C1	C2	C2A	C3	M1	M2	PD	U1	
Address	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Banner	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Billboard	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Canopy	N	N	N	N	N	N	S	S	S	S	S	S	S	N	N	
Combination	N	N	N	N	N	N	S	S	S	S	S	S	S	N	N	
Directional	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Flag	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Flashing	N	N	N	N	N	N	S	S	S	S	S	S	S	N	N	
Freestanding	N	N	N	N	S	N	S	S	S	S	S	S	S	N	N	
Home Occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Marquee	N	N	N	N	N	N	S	S	S	S	S	S	S	N	N	
Memorial	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Monument	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Mural	N	N	N	N	N	N	P	P	P	P	P	P	P	N	N	
Off-Premise	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Pennant	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Political	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Portable	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Projecting	N	N	N	N	N	N	S	S	S	S	S	S	S	N	N	
Regulatory	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Roof	N	N	N	N	N	N	S	N	S	N	N	S	S	N	N	
Temporary	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Wall	N	N	N	N	N	N	S	S	S	S	S	S	S	N	N	

Table Key:

- A Sign permitted without Building Department approval. No sign permit required.
- P Sign permitted subject to Building Department approval. No sign permit required.
- S Sign permitted subject to Building Department approval. A sign permit is required.
- N Sign not allowed.

## **SEC. 100.27 Home Occupations**

### **Section: 100.27.01 Purpose**

1. Permit residents of the community a broad choice in the use of their homes as a place of livelihood and the production of supplementing of personal and family income.
2. Establish criteria and development standards for home occupations conducted in dwelling units and accessory structures in residential zones.
3. Protect residential areas from adverse impacts of activities associated with home occupations.
4. Regulate home occupation.

### **Sec. 100.27.02 Definition.** Home occupation means:

1. An accessory use of a dwelling unit, involving the manufacture, provision, or sale of goods and/or services, which is conducted by members of the family residing on the premises plus no more than one nonresident assistant or employee and carried on only within the enclosed living area of the dwelling unit.
2. Home occupations do not include garages sales and yard sales nor home parties which are held for the purpose of the sale or distribution of goods or services. Provided, however, that if the collective total of all such sales and/or parties exceeds six in any calendar year such sales and/or parties shall be considered home occupations

Home occupations do not include in-home childcare.

**Sec. 100.27.03 Generally.** The regulations set forth in this ordinance shall apply to all residential dwelling units, irrespective of zoning district.

### **Sec. 100.27.04 Criteria.** All home occupations shall meet the following criteria:

1. A home occupation shall be conducted in a manner which does not give an outward appearance of nor manifest characteristics of a business which would infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units or infringe upon or change the intent of the residential zone. There shall not be outside storage nor window display. Noise, dust, odor, noxious fumes, or vibrations emanating from the premises shall not exceed that which is normally produced by a single dwelling unit. Mechanical or electronic equipment which is incidental to the home occupation may be used provided it does not create visible or audible interference in radio or television receivers or cause fluctuations in line voltage off the premises. The home occupation shall not interfere with the delivery of utilities or other services to the area.
2. The home occupation should not generate significantly greater traffic volume than would normally be expected in the particular residential zone in which the home occupation is conducted. General delivery and pick-up of materials or commodities to and from the premises by a commercial vehicle should not exceed two trips per year. A commercial vehicle for the purpose of this section and chapter is any motor vehicle having a gross vehicle weight of more than 14,000 pounds.



3. The parking of customers' or clients' vehicles should not create safety hazards or unusual congestion. At any one time only one commercial vehicle associated with the activities of the home occupation may be parked on the street near the premises for more than four consecutive hours. One additional on-site parking space shall be required above the normal parking requirements for the dwelling unit for any home occupations where students or clients are likely to concurrently visit the premises and their method of transportation are two or more separate motor vehicles.
4. The home occupation is to be conducted only by members of the family residing in the dwelling unit plus not more than one nonresident assistant or employee. Persons engaged in building trades, sales or similar fields, using their dwelling units or residential premises as an office for business activities carried on or off the premises, may have more employees than the limitations set forth in subsection (4) of this section if they are not employed on the premises. One additional on-site parking space shall be required above the normal parking requirements for the dwelling unit for any home occupations where a nonresident employee works on the premises and that particular employee's method of transportation to and from the site for the home occupations is a motor vehicle which would normally be parked on or near the site of the new occupation.
5. Only one flush-mounted wall sign, not over two square feet in area, is permitted per dwelling unit. The legend shall show only the name of the occupant and type of occupation. The sign shall not be illuminated. A permit for the sign is not required.
6. If the home occupation is the type in which classes are held or instruction given, there shall be no more than four students or pupils in the dwelling unit or on the premises at any one time. These requirements limiting class size shall not be construed to prohibit occasional exceptions for events such as recitals, demonstrations, and other similar gatherings.
7. If the home occupation is the type in which customers or clients visit the premises there shall be no more than six clients or customers in the dwelling unit or on the premises during any period of 60 consecutive minutes. Motor vehicle traffic generated by clients or customers of a home occupation shall be prohibited from visiting the premises between the hours of 10:00 p.m. and 7:00 a.m. Motor vehicle traffic associated with clients or customers coming to or going from the premises shall be limited to a total of no more than four vehicles during any period of 60 consecutive minutes; provided, however the City may approve up to six such vehicles during any period of 60 consecutive minutes after having considered the availability of on-site parking, traffic circulation in the neighborhood, and the hours during which the home occupation are conducted. The requirements of this subsection shall not be construed to prohibit occasional exceptions for such events as meetings, conferences, demonstrations, or other similar gatherings of the time constraints contained in this subsection.
8. The total number of home occupations conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit or on the premises thereof shall not be greater than the impact of one home occupation.
9. Home occupations shall comply with all local, state, or federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this chapter shall not be construed as an exemption from such regulations.

10. Abatement. A nonconforming home occupation existing at the time this ordinance is adopted shall be nonconforming. Said home occupations may remain but cannot be reinstated once original owner has ended the operation nor can an ownership be transferred.
11. Home occupations shall be limited to 25% of the enclosed living area of the dwelling unit not to exceed 300 square feet.

#### **Section 100.27.05 Procedure.**

1. Application. Application for a home occupation permit shall be made to the Zoning Manager and/or Building Official on a form provided by the department and shall be accompanied by the prevailing filing fee as established by resolution of the City Council. The Zoning Manager and/or Building Official will make a decision and notify the applicant in writing within 15 calendar days of the date the application is received.
2. Scope. In cases where the Zoning and/or Building Department considers the application not within the scope of the home occupation criteria, the application will be denied.
3. Time Limit. All home occupation permits shall be valid for a period of one year from initial date of approval.
4. Voiding of Permit. The Zoning and/or Building Department may void any home occupation permit for noncompliance with the criteria set forth in this ordinance. Revocation may take place at any time prior to the expiration date of the permit. If the permit is revoked or is not renewed, it becomes null and void, and said use shall be terminated.
5. Appeal to the Board of Adjustment. The decision of the Zoning Manager and/or Building Official concerning approval or revocation shall be final unless a written appeal is filed with the Board of Adjustment within ten (10) calendar days of the decision.
6. Inspection. Home occupation applicants shall permit a reasonable inspection of the premises by the Zoning Manager and/or Building Official to determine compliance with this ordinance. Home occupation shall be field-checked annually by staff to determine compliance.
7. Renewal. Home occupation permits may be renewed annually provided there has not been any violation of the provisions of this ordinance. Requests for renewals shall be submitted to the Zoning and/or Building Department in writing, accompanied by the prevailing renewal fee, as established by City Council resolution, one month prior to expiration of the permit.

#### **Section 100.27.06 Enforcement Procedures.**

1. Any aggrieved person believing that a violation or violations of this ordinance are Occurring and who desires that action be taken by the City shall notify the Zoning and/or Building Department in writing of such alleged violation(s). Within 30 calendar days after receipt by the Zoning Manager and/or Building Official of such written allegation(s), the Zoning Manager and/or Building Official shall complete an investigation of the alleged allegation(s) to determine the merits thereof. Within 10 calendar days after the Zoning Manager and/or Building Official completed the investigation(s), he shall notify in writing the following persons:

- a. If the Zoning Manager and/or Building Official determines that no violation as alleged or otherwise is occurring, then notification of that decision shall be given to the complaining person or a spokesperson for complaining person by certified mail return requested.
  - b. If the Zoning Manager and/or Building Official determines that a violation is occurring or has occurred as alleged, then notification of that decision and a time for compliance shall be sent by certified mail return requested to both the violator and complaining person or a spokesperson for complaining person. The notification shall also state what action, if any, will be taken if compliance is not timely effected.
2. Any person feeling aggrieved by a decision of the Zoning Manager and/or Building Official may appeal that decision to the Board of Adjustment by filing a written notice of appeal in the office of the Zoning Manager and/or Building Official within 30 days from the date of the decision that is appealed.

## **Section 100.28 Alternative Energy System Requirements**

### **Section A. Purpose:**

It is the purpose of this regulation to promote the safe, effective, and efficient use of small alternative energy systems installed to reduce on-site consumption of utility supplied services to residences and businesses in the City of Waverly.

### **Section B. Findings:**

The City of Waverly finds that solar, small wind, and geothermal energy is abundant, renewable, and nonpolluting energy resources and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Alternative energy has the potential to reduce peak power demands and help diversify the State's energy supply portfolio.

### **Section C. Definitions:**

1. **Alternative energy system:** An energy system that generates electrical power or heat management by the means of wind, solar, or geothermal energy.
2. **Building-integrated solar energy system:** A solar energy system that is an integral part of a building, rather than a separate mechanical device, replacing, or substituting for an architectural or structural component of the building including, but not limited to, photovoltaic or hot water solar systems contained within roofing materials, windows, skylights, and awnings.
3. **Closed loop ground source heat pump system:** a system that circulates a heat transfer fluid, typically food-grade antifreeze, through pipes or coils buried beneath the land surface or anchored to the bottom in a body of water.
4. **Extended tower height:** The height above grade to a propeller's tip at its highest point of rotation.
5. **Ground-mounted solar energy system:** Solar energy system that is free standing and is not supported by any building, accessory, or dwelling. For the purposes of this section, solar powered lights used to illuminate exterior areas shall not be included in this definition.
6. **Ground source heat pump system:** A system that uses the relatively constant temperature of the earth or a body of water to provide heating in the winter and cooling in the summer. System components include open or closed loops of pipe, coils, or plates, a fluid that absorbs and transfers heat; and a heat pump unit that processes heat for use or disperses heat for cooling;

and an air distribution system.

7. **Heat transfer fluid:** a non-toxic and food grade fluid such as potable water, aqueous solutions of propylene glycol not to exceed 20% by weight or aqueous solutions of potassium acetate not to exceed 20% by weight.
8. **Horizontal wind energy system:** A small wind energy system that rotates around a horizontal axis.
9. **Open loop ground source heat pump system:** a system that uses groundwater as a heat transfer fluid by drawing groundwater from a well to a heat pump and then discharging the water over land, directly in a water body or into an injection well.
10. **Passive solar energy system:** A system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.
11. **Roof-mounted solar energy system:** A roof mounted solar energy system mounted directly abutting the roof.
12. **Small Wind Energy System:** A small wind energy conversion system may consist of a small wind turbine on a tower or a roof-mountable small wind turbine unit, and associated control or conversion electronics, which supplies power solely for onsite use with the primary purpose of reducing on-site consumption of power.
13. **Solar energy system:** A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.
14. **Tower height:** The height above grade of the fixed portion of the tower, excluding the small wind turbine itself.
15. **Vertical Small Wind Energy System:** A Small Wind Energy System that rotates around a vertical axis.

#### **Section D. Permit Process:**

Alternative energy systems shall require plans to be approved by the zoning official through a permit procedure as outlined in the City Code and shall be permitted to be applied for in residential, commercial, and industrial zoning classifications, where structures of any sort are allowed and subject to all applicable conditions of this section and all general requirements specified for any such use or structure identified in this Section. Plan approval does not indicate compliance with building or electrical codes. Building and electrical permits must be issued through Bremer County Zoning.

1. Permitted Uses. The following shall be considered permitted uses or structures, subject to all applicable conditions, described in this section and all general requirements specified for any such use or structure identified with such use. Any of the proposed uses below shall be reviewed and approved by the zoning official if the proposed use meets all requirements. If a proposed use does not meet all requirements, or an exception is requested, the use shall be considered a special provisional use.
  - a. Passive Solar Energy System
  - b. Building Integrated Solar Energy System
  - c. Closed Loop Ground Source Heat Pump System
  - d. Open Loop Ground Source Heat Pump System
  - e. Roof-Mounted Solar Energy System
2. Special Provisional Uses. Special provisional uses, require a review and recommendation of the Planning and Zoning Commission to the Board of Adjustment which will determine

approval of the use subject to all applicable conditions of this section and all general requirements specified for any such use or structure identified with such use. The following uses and structures shall require special provisional use approval in compliance with all applicable conditions, described in this section and all general requirements specified for any such use or structure identified with such use:

- a. Small Wind Energy System
  - b. Ground-Mounted Solar Energy System
3. **Public Hearing.** During the consideration of a special provisional use, the Planning and Zoning Commission shall hold a public hearing with the same requirements as Section 100.24.03. This shall include the notification of all property owners within 250 feet. After conducting the public hearing, the Commission shall forward its recommendation for action to the Board of Adjustment for decision. A request of waiver for the public notification requirements may be submitted to the City Administrator for uses that may require anonymity.
  4. **Energy Production.** The sum of all alternative energy systems capacity ratings shall not exceed the average annual consumption on the property, utilizing information from the prior calendar year.
  5. **Code Compliance.** Applications that meet the design requirements of this ordinance, and do not require a special use permit, shall be granted administrative approval by the zoning official. Plan approval does not indicate compliance with Building Code, Electric Code or Plumbing Code. Building and electrical permits must be issued through Bremer County Zoning.

#### **Section E. Small Wind Energy System:**

1. **Lot Size:** No Small Wind Energy System shall be allowed on any lot containing less than two acres.
2. **Height and Set-Back:** The base of the small wind energy system shall be set back from all property lines, public right of ways, and above ground public utility lines at a distance no closer than 110% of the total extended height of the tower. Guywires which support the tower, if applicable, shall be allowed at a distance no closer than the zoning district setbacks. No tower should exceed height limitations as imposed by FAA regulations.
3. **Noise:** Small wind energy systems shall not exceed 60 dBA, as measured at the property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
4. **Aesthetics:** All small wind energy systems shall use colors that blend with the sky or have low visual impact on the surrounding area. No reflective materials can be used.
5. **Wind Turbines:** Building permit applications for small wind energy systems shall be accompanied by documentation showing that the small wind turbine is approved by any small wind certification program recognized by the American Wind Energy Association. (AWEA)
6. **Compliance with International Building Code:** Building permit applications for small wind energy systems shall be accompanied by standard drawings of the small wind turbine structure, including the tower, base, and footings. For roof-mounted applications, standard drawings showing the capability of a roof to support such a proposal shall be submitted for review. An engineering analysis of the tower showing compliance with the International Building Code and certified by a licensed professional engineer shall also be submitted. This analysis is frequently

supplied by the manufacturer. Wet stamps shall not be required.

7. **Compliance with FAA Regulations:** Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports and the Airport Tall Structure Zoning section in the City Code. Required documents, if applicable, shall be submitted to the City at the time of application.
8. **Compliance with National Electric Code:** Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
9. **Utility Notification:** No small wind energy system shall be installed until evidence has been given that the electric utility provider has been informed of the customer's intent to install an interconnected customer-owned generator and the customer can show proof that they have received, understand, and agree to abide by the utility's requirements for net metering and distributed generation installation. A disconnect will be required at the time of installation and the utility company shall be notified of this installation. A written statement from the electric utility provider shall be presented at the time of applying for a construction building permit showing compliance with the disconnect requirement. Off-grid systems shall be exempt from this requirement and a statement from the utility company recognizing the off-grid status is required to be presented at time of application.
10. **Vertical Small Wind Energy System:** Because of the range of motion and lower required height, vertical small wind energy systems require special attention. Vertical systems will be reviewed as a special provisional use.
11. **Requirement for engineered drawings/approval and soil studies:** A small wind energy system of less than 20kW, or a small wind energy system mounted on a structure other than a free-standing tower, shall not be erected in the City of Waverly, unless the plans and specifications for the system have received the stamped approval of an Iowa registered engineer. In lieu of obtaining the stamped approval of an Iowa registered engineer for each small wind energy system of 20kW or less mounted on a free standing tower, a manufacturer may submit its standard plans and specifications for a 20 kW system on a free-standing tower, including its soils study and foundation plans for such system, for a one time review and stamped approval by an Iowa registered engineer as suitable for construction in any soil condition that exists in the State of Iowa. If such one-time stamped approval is obtained, that manufacturer may thereafter construct such small wind energy systems of 20 kW or less in the City of Waverly, utilizing the approved soils study and foundation plans for the 20 kW small wind energy system, without obtaining and presenting the stamped approval of an Iowa registered engineer for each such installation.
12. **Insurance:** A person seeking a building permit to erect a small wind energy system shall provide evidence, in the form of a certificate of insurance satisfactory to the City of Waverly, showing general liability insurance coverage for the installation and operation of the system under a standard homeowner's or standard business owner's insurance policy, separate and distinct from any insurance requirements from the electric utility provider.
13. **Safety Requirements:** In addition to meeting all applicable building code requirements, to limit climbing access to the tower, applicant must demonstrate a method such as erecting a fence six (6) feet in height with a locking portal or installing an anti-climbing device or utilization of an equivalent method will be installed prior to final approval by the building inspector. Also climbing foot pegs or rungs below 12 feet above grade must be removed.
14. **Blade Clearance:** No Portion of the small wind energy system blade sweep shall extend within thirty (30) feet of the ground. No blade sweep may extend over public parking areas, driveways or sidewalks.

15. **Automatic Over Speed Controls:** All small wind energy systems shall be equipped with manual (electronic or mechanical) and automatic over speed controls to limit the blade rotation speed to within the design limits of the small wind energy system. Turbine/blade systems shall be rated to wind speeds of no less than 90 miles per hour, measured at sea level.
16. **Minimal Interference Requirements:** The small wind system operation shall not cause interference to the radio and television reception on adjoining property.
17. **Shadow Flicker:** Small wind energy systems shall avoid shadow flicker resulting from the shadow cast from the small wind energy system onto adjacent properties.
18. **Ice Shedding:** The small wind energy system owner shall ensure that ice from the wind turbine blades does not impact any off-site property. Compliance with this requirement in the form of a plan or specifications showing compliance with this provision shall be indicated in the plans and specifications submitted with the plans and application.
19. **General Requirements on Operation:** The owner of a small wind energy system shall defend, indemnify, and hold harmless the City of Waverly, and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever including attorney fees arising out of the actions or omissions of the operator or the operator's contractors concerning the construction or operation of the small wind energy facility without limitation, whether said liability is premised on contract or tort. Owner's submittal for a building permit for a small wind energy system shall constitute agreement to defend, indemnify, and hold harmless the City of Waverly and their officials.
20. **Signage:** No signs, other than appropriate warning signs, or standard manufacturer's or installer's identification signage shall be displayed on a small wind generator, tower, building, or other structure associated with a small wind energy system.
21. **Lighting:** No illumination of the turbine or tower shall be allowed unless required by the FAA.
22. **Maintenance:** All small wind energy facilities shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all of the requirements in this section and permit conditions for a continuous 12-month period.
  - a. **Notice of Abandonment:** The Zoning Official may issue a Notice of Abandonment (Notice) to the owner of a small wind energy system that is deemed not meeting the requirements or conditions associated with the small wind energy system for a continuous 12-month period. The owner shall have the right to respond to the Notice within 30 days from receipt date. The Zoning Official shall withdraw the Notice and notify the owner that the Notice has been withdrawn should the owner provide information that demonstrates the small wind energy system has not been abandoned.
  - b. **Removal:** If the small wind energy system is determined to be abandoned, the owner, at their sole expense, shall restore site to original condition and foundation shall be removed up to 5 feet below final grade and vegetation restored within 120 days. This determination shall include the requirements or conditions associated with the small wind energy system not being met for a continuous 12-month period.

## **Section F. Solar Energy System:**

1. **System Type:** Passive or building-integrated solar energy systems are exempt from the requirements of this section and shall be regarded as any other building element. Roof-mounted solar energy systems shall be reviewed and approved by the zoning official if the proposed structure meets all requirements of this code chapter. Ground-mounted solar energy systems require approval through a special provisional use procedure described in this section.

2. **Height:** Roof-mounted solar energy systems in residential applications shall not be higher than 10 inches above the roof at any point. Non-residential flat roof mounted system applications are exempt from this height requirement. Ground-mounted solar energy systems in residential applications shall not exceed 15 feet in height from grade at total extended height. Ground-mounted solar energy systems in non-residential applications are exempt from this height requirement.
3. **Location:** The locations of ground mounted systems are limited to the rear of the property and should avoid being in eyesight from the street. Roof-mounted systems must be placed on rear or side-facing roofs, which do not front any public street, unless documentation can be shown that such locations would be ineffective or impractical.
4. **Setbacks:** Ground-mounted solar energy systems shall meet all set back requirements for the applicable zoning district for accessory structures. Roof-mounted systems shall meet all set back requirements for the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.
5. **Easements:** Solar energy systems shall not encroach on any platted public easement.
6. **Screening:** Solar energy systems shall be screened from street view to the extent possible without reducing their efficiency. The applicant shall submit a landscaping plan subject to The City of Waverly staff review at the time of application.
7. **Aesthetics:** All solar energy systems shall use colors that blend with the surrounding settings. Reflection angles from collector surfaces shall be oriented away from neighboring windows.
8. **Maximum Area of unit:** Ground-mounted solar energy systems shall be treated as an accessory structure and thus are limited in area to the accessory structure limitations as set by the City Code. The total size of all solar energy systems may not produce any amount of energy, addition to other alternative energy systems beyond the average annual consumption.
9. **Compliance with International Building Code:** Building permit applications for ground-mounted solar energy systems shall be accompanied by standard drawings of the solar energy system structure, including the panels, base, and footings. For roof-mounted applications, standard drawings showing the capability of a roof to support such a proposal shall be submitted for review. An engineering analysis of the system showing compliance with the International Building Code and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer. Wet stamps shall not be required.
10. **Compliance with Federal Regulations:** Solar energy systems must comply with applicable Federal regulations. Required documents, if applicable, shall be submitted to the City at the time of application.
11. **Compliance with National Electric Code:** Building permit applications for solar energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code
12. **Utility Notification:** No solar energy system shall be installed until evidence has been given that the electric utility provider has been informed of the customer's intent to install an interconnected customer-owned generator and the customer can show proof that they have received, understand, and agree to abide by the utility's requirements for net metering and distributed generation installation. A disconnect will be required at the time of installation and the electric utility provider shall be notified of this installation. A written statement from the utility company shall be presented at the time of applying for a construction building permit showing compliance with the disconnect requirement. Off-grid systems shall be exempt from this requirement.
13. **Safety:** Feeder lines, Utility connects, and any other feature shall have appropriate markings, warnings, and safety features to prevent harm to persons, wildlife, or personal property.



14. **General Requirements on Operation:** The owner of a solar energy system shall defend, indemnify, and hold harmless the City of Waverly and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever including attorney fees arising out of the actions or omissions of the operator or the operator's contractors concerning the construction or operation of the solar energy facility without limitation, whether said liability is premised on contract or tort. Owner's submittal for a building permit for a solar energy system shall constitute agreement to defend, indemnify, and hold harmless the City of Waverly and their officials.
15. **Maintenance:** All solar energy facilities shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all of the requirements in this section and permit conditions for a continuous 12-month period.
  - a. **Notice of Abandonment:** The Zoning Official may issue a Notice of Abandonment (Notice) to the owner of a solar energy system that is deemed not meeting the requirements or conditions associated with the solar energy system for a continuous 12-month period. The owner shall have the right to respond to the Notice within 30 days from receipt date. The Zoning Official shall withdraw the Notice and notify the owner that the Notice has been withdrawn should the owner provide satisfactory information that demonstrates the solar energy system has not been abandoned.
  - b. **Removal:** If the solar energy system is determined to be abandoned, the owner, at their sole expense, shall restore site to original condition and foundation shall be removed up to 5 feet below final grade and vegetation restored within 120 days. This determination shall include the requirements or conditions associated with the solar energy system not being met for a continuous 12-month period.

#### **Section G. Ground Source Heat Pump Systems:**

1. **System type:** Closed loop ground source heat pump systems utilizing heat transfer fluids in residential applications are permitted subject to all applicable conditions described in this section. Open loop ground source heat pump systems are permitted only in non-residential applications and require approval through the Public Works Department subject to all applicable conditions described in this section.
2. **Setbacks:** All components of ground source heat pump systems including pumps, borings, and loops shall be set back at least 5 feet from interior side lot lines and at least 10 feet from rear lot lines. All components above ground must also meet setback requirements for the applicable zoning district. Ground source heat pump systems shall not encroach on any public easement.
3. **Safety:** For open loop ground source heat pumps, all components must contain safety devices that will protect persons, wildlife, and public property from any type of damage.
4. **Groundwater Testing:** Building permit applications for open loop ground source heat pump systems shall be accompanied by documentation of ground water quality test results that fulfill the needs of The City Public Works Department for inspection. Prior to permit approval, follow up tests are to take place and given to the City Public Works Department upon completion of the installation of the system to ensure water quality of the groundwater aquifer. The City may conduct follow up tests at the site as needed to ensure water quality of the groundwater aquifer.
5. **Compliance with International Building Code:** Building permit applications for ground source heat pump systems shall be accompanied by standard drawings of the total energy system structure, including the pumps, borings, and loops. An engineering analysis of the system showing compliance with the International Building Code and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer. Wet stamps shall not be required.
6. **Compliance with Federal and State Regulations:** Ground source heat pump systems must

comply with applicable federal and state regulations. Required documents, if applicable, shall be submitted to the City at the time of application.

7. **Compliance with National Electric Code:** Building permit applications for ground source heat pump systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
8. **General Requirements on Operation:** The owner of a ground source heat energy system shall defend, indemnify, and hold harmless the City of Waverly and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever including attorney fees arising out of the actions or omissions of the operator or the operator's contractors concerning the construction or operation of the ground source heat energy facility without limitation, whether said liability is premised on contract or tort. Owner's submittal for a building permit for a ground source heat energy system shall constitute agreement to defend, indemnify, and hold harmless the City of Waverly and their officials.
9. **Maintenance:** All open loop ground-source heat pump facilities shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all the requirements in this section and permit conditions for a continuous 12-month period.
  - a. **Notice of Abandonment:** The City of Waverly may issue a Notice of Abandonment (Notice) to the owner of an open loop ground source heat pump system that is deemed not meeting the provisions associated with the open loop ground source heat pump system for a continuous 12-month period. The owner shall have the right to respond to the Notice within 30 days from receipt date. The City of Waverly shall withdraw the Notice and notify the owner that the Notice has been withdrawn should the owner provide information that demonstrates the system has not been abandoned and is in compliance with all applicable regulations.
  - b. **Removal:** If the open loop ground source heat pump system is determined to be abandoned, the owner, at their sole expense, shall restore site to original condition. To complete the removal of said system, the owner must remove the heat pump and any external mechanical equipment; fill pipes and coils with grout to displace heat transfer fluid. The heat transfer fluid must be removed from site and be disposed of in accordance with applicable regulations, documentation is required for removal. A final ground water quality test must be taken to ensure protection of ground water. Any piping or coiling 5 feet or less from the surface shall be removed. Removal and vegetation must be restored on site in 120 days from date of the determination of abandonment. This determination shall include the requirements or conditions associated with the open loop ground source heat system not being met for a continuous 12-month period.

(Amended by Ordinance No. 1121 3/28/23)

## CHAPTER 101

### AIRPORT TALL STRUCTURE ZONING

#### Sections:

- 101.1 Statutory Authorization, Findings of Fact and Purpose.
- 101.2 Definitions.
- 101.3 Airport Zones and Airspace Height Limitations.
- 101.4 Use Restrictions and Lighting.
- 101.5 Administration.

#### **1.1 Section 101.1 Statutory Authorization, Findings of Fact and Purpose**

**SEC. 101.1.01 STATUTORY AUTHORIZATION.** This chapter is adopted pursuant to the authority conferred on the City of Waverly and the Bremer County Board of Supervisors by the Iowa State Code.

#### **SEC. 101.1.02 FINDINGS OF FACT.**

1. The creation and/or establishment of an airport hazard is a public nuisance and an injury to the city/country served by the Waverly Municipal Airport.
2. That it is necessary and in the interest of the public health, public safety and general welfare that creation of airport hazards be prevented.
3. That this should be accomplished, to the extent legally possible, by proper exercise of the police power.
4. That the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the City of Waverly and Bremer County may raise and expend public funds, as an incident to the operation of airports, to acquire land or property interest therein.

**SEC. 101.1.03 SHORT TITLE.** This chapter shall be known and may be cited as the "Waverly Municipal Airport Height Zoning Ordinance".

#### **Section 101.2 Definitions**

**SEC. 101.2.01 DEFINITIONS GENERALLY.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**SEC. 101.2.02 AIRPORT.** The Waverly Municipal Airport.

**SEC. 101.2.03 AIRPORT ELEVATION.** The highest point of the airport's usable landing area measured in feet above mean sea level, which elevation is established to be 991 feet.

**SEC. 101.2.04 AIRPORT HAZARD.** Any structure or tree or use of land which would exceed the Federal obstruction standards as contained in fourteen Code of Federal Regulations, Sections seventy-seven point twenty-one (77.21), seventy-seven point twenty-three (77.23) and seventy-seven point twenty-five (77.25) as revised March 4, 1972, and which obstruct the airspace required for the flight of aircraft and landing or takeoff at an airport or is otherwise hazardous to such landing or taking off of aircraft.

**SEC. 101.2.05 AIRPORT PRIMARY SURFACE.** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface of a runway shall be that width prescribed in Part 77 of the Federal Aviation Regulation (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**SEC. 101.2.06 AIRSPACE HEIGHT.** For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**SEC. 101.2.07 CONTROL ZONE.** Airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five (5) statute miles in radius, with extensions where necessary to include instrument approach and departure paths.

**SEC. 101.2.08 INSTRUMENT RUNWAY.** A runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.

**SEC. 101.2.09 MINIMUM DESCENT ALTITUDE.** The lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

**SEC. 101.2.10 MINIMUM ENROUTE ALTITUDE.** The altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

**SEC. 101.2.11 MINIMUM OBSTRUCTION CLEARANCE ALTITUDE.** The specified altitude in effect between radio fixes on VOT airways, off-airway routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.

**SEC. 101.2.12 RUNWAY.** A defined area on an airport prepared for landing and takeoff of aircraft along its length.

**SEC. 101.2.13 VISUAL RUNWAY.** A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a FAA approved airport layout plan, a military services approved military airport layout plan, or by any planning document to the FAA by competent authority.

## **Section 101.3 Airport Zones and Airspace Height Limitations**

**SEC. 101.3.01 ESTABLISHED GENERALLY.** In order to carry out the provision of this chapter, there are hereby created and established certain zones which are depicted on the Waverly Municipal Airport Height Zoning Map. A structure located in more than one zone of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows.

### **SEC. 101.3.02 AIRPORT HEIGHT ZONES.**

1. Horizontal Zone. The land lying under a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by:
  - a. Swinging arc of five thousand (5,000) feet radii from the center of each end of the primary surface of runways 18 and 36 and 11 and 29, and connecting the adjacent arcs by lines tangent to those arcs.
  - b. No structure shall exceed one hundred fifty (150) feet above the established airport elevation in the horizontal zone as depicted on the Waverly Municipal Airport Height Zoning Map.
2. Conical Zone. The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of four thousand (4,000) feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Waverly Municipal Airport Height Zoning Map.
3. Approach Zone. The land lying under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface, as follows:
  - a. The inner edge of the approach surface is:
    - (1) Five hundred (500) feet wide for runway 18 and 36
    - (2) Two hundred fifty (250) feet wide for runway 11 and 29
  - b. The outer edge of the approach surface is:
    - (1) Two thousand (2,000) feet for runway 18 and 36.
    - (2) One thousand two hundred fifty (1,250) feet for runway 11 and 29
  - c. The approach zone extends for a horizontal distance of five thousand (5,000) feet at a slope of 20 to 1 for runways 18 and 36 and 11 and 29.
    - (1) No structure shall exceed the approach surface to any runway, as depicted on the Waverly Municipal Airport Height Zoning Map.

4. Transitional Zone. The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces.
  - a. No structure shall exceed the transitional surface, as depicted on the Waverly Municipal Airport Height Zoning Map.
5. No structure shall be erected in Waverly or Bremer County that raises the published minimum descent altitude for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum enroute altitude to be increased on any Federal airway in Waverly or Bremer County.

#### **Section 101.4 Use Restrictions and Lighting**

**SEC. 101.4.01 USE RESTRICTIONS.** Notwithstanding any other provisions of Chapter 101.3, no use may be made of land or water within the City of Waverly or Bremer County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use.

1. All lights or illumination used in conjunction with street, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Waverly Municipal Airport or in the vicinity thereof.
2. No operations from any use within three (3) statute miles of any usable runway of the Waverly Municipal Airport shall produce smoke, glare or other visual effects that are hazardous or dangerous to aircraft operating from the Waverly Municipal Airport.
3. No operations from any use in the City of Waverly or Bremer County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

#### **SEC. 101.4.02 LIGHTING.**

1. Notwithstanding the provisions of Section 101.4.01, the owner of any structure over two hundred (200) feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1D and amendments. Additionally, any structure, constructed after the effective date of this chapter and exceeding nine hundred forty-nine (949) feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Circular 7464-1D and amendments.
2. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City of Waverly or Bremer County at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

## Section 101.5 Administration

**SEC. 101.5.01 VARIANCES.** Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use the property in violation of any section of this chapter, may apply to the board of adjustments for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the board of adjustments unless a copy of the application has been submitted to the city administrator for an opinion as to the aeronautical effects of such a variance. If the city administrator does not respond to the board of adjustments within thirty (30) days from receipt a decision to grant or deny the variance, the board may make its decision to grant or deny the variance.

### **SEC. 101.5.02 BOARD OF ADJUSTMENTS.**

1. For purposes of this chapter the board of adjustments shall be the established city zoning board of adjustments or the Bremer County zoning board of adjustments and shall exercise the following powers:
  - a. To hear and decide appeals from any order, requirement, decision or determination made by the city administrator or the county zoning officer in the enforcement of this chapter; and
  - b. To hear and decide special exemptions to the terms of this chapter upon which such board of adjustments under such regulations may be required to pass; and
  - c. To hear and decide specific variances.
2. The board of adjustments shall have the powers established in the Iowa Code. The concurring vote of a majority of the members of the board of adjustments shall be sufficient reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect variations of this chapter.

**SEC. 101.5.03 JUDICIAL REVIEW.** Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustments, may appeal to the Court of Record as provided in Iowa Code, Section 414.15.

**SEC. 101.5.04 ADMINISTRATIVE AUTHORITY.** It shall be the duty of the city administrator and the county zoning officer to administer the regulations prescribed herein. Applications for permits and variances shall be made to the city administrator or the county zoning officer on forms furnished by him. Applications required by this chapter to be submitted to the administrative officer shall be promptly considered and granted or denied. Application for action by the board of adjustments shall be forthwith transmitted by the city administrator or the county zoning officer.

**SEC. 101.5.05 PENALTIES.** Each violation of this chapter or of any regulation, order or ruling promulgated hereunder shall constitute a misdemeanor, and be punishable by a fine of not more than one hundred dollars (\$100.00) or imprisonment for not more than thirty (30) days or both; and each day a violation continues to exist shall constitute a separate offense.

**CHAPTER 102**

**FLOOD PLAIN MANAGEMENT**

**CHAPTER 102**

**FLOOD PLAIN MANAGEMENT**

**Sections:**

- 102.1 Statutory Authorization, Finding of Fact and Purpose.
- 102.2 General Provisions.
- 102.3 Definitions.
- 102.4 Establishment of Zoning Districts.
- 102.5 Floodway (Overlay) District (FW).
- 102.6 Floodway Fringe (Overlay) District (FF).
- 102.7 General Flood Plain (Overlay) District (FP).
- 102.8 Shallow Flooding (Overlay) District (SF).
- 102.9 Administration.
- 102.10 Nonconforming Uses.

**Section 102.1 Statutory Authorization, Finding of Fact and Purpose**

**SEC. 102.1.01 STATUTORY AUTHORIZATION.** The legislature of the State of Iowa has in Chapter 414, of the current Code of Iowa, as amended, delegates the responsibility to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

**SEC. 102.1.02 FINDINGS OF FACT.**

1. Flood Hazard Areas. The flood hazard areas of the city are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the health, safety, and general welfare of the community.
2. Cause. These losses, hazards and related effects are caused by the occupancy of flood hazards and related effects are caused by the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flood and the cumulative effect of flood plain construction on flood flows, which causes increases in flood heights and flood water velocities.
3. Engineering Methodology. This chapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources. This methodology consists of a series of interrelated steps including:
  - a. Flood Magnitudes. Determination of flood magnitudes and the corresponding flood frequencies by statistical and engineering factors as expected frequency of



occurrence, area inundated, and depth of inundation.

- b. Water Surface Profiles. Calculations of water surface profiles based upon a hydraulic engineering analysis of the capability of the stream channel and overbank areas to convey flood flows.
- c. Floodway. Computation and delineation of a floodway, an area which must be reserved (no obstructions) for conveyance of flood flows so that flood heights and velocities will not be substantially increased by future encroachment on the flood plain.

**SEC. 102.1.03 STATEMENT OF PURPOSE.** It is the purpose of this chapter to promote the public health, safety and general welfare by minimizing those flood losses described in Section 102.1.02 with provisions designed to:

1. Reserve Area. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
2. Dangerous Area. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
3. Vulnerable Uses. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction.
4. Buying Lands. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
5. Flood Insurance. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

### **Section 102.2 General Provisions**

**SEC. 102.2.01 LANDS TO WHICH CODE CHAPTER APPLIES.** This chapter shall apply to all lands within the jurisdiction of the City of Waverly on the Flood Insurance Rate map to be within the base flood boundaries.

**SEC. 102.2.02 ESTABLISHMENT OF OFFICIAL FLOOD PLAIN ZONING MAP.**

1. Adoption. The Flood Insurance Rate Map (FIRM) Panels 19017C0175E, 0260E, 0276E, 0277E, 0278E, 0279E, and 0285E and 285 prepared as part of the flood insurance study for Bremer County and Incorporated Areas, and the City of Waverly dated January 29, 2021 are hereby adopted by reference and declared to be the official Flood Plain Zoning Map.
2. Flood Profiles. The flood profiles and all explanatory material contained with the Flood Insurance Study and the Flood Insurance Rate Map(s) are also declared to be a part of this chapter.
3. Dry Run. For that area of the dry run reach west of Twelfth (12th) Street Northwest, information and technical data established in the Dry Run Creek Drainage and Flood Control Study January, 1980, shall be used to determine accurate flood plain zoning and said technical data and mapping shall supersede the Flood Insurance Rate Map described above for purposes of enforcement of this chapter.

**SEC. 102.2.03 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.** The boundaries of the zoning district shall be determined by scaling distances on the "Official Flood Plain Zoning Map." Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Flood Plain Zoning Map, the administrator shall make the necessary interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case and submit technical evidence.

**SEC. 102.2.04 COMPLIANCE.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

**SEC. 102.2.05 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances, resolutions or regulations inconsistent with this code chapter are hereby repealed to the extent of the inconsistency only.

**SEC. 102.2.06 INTERPRETATION.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

**SEC. 102.2.07 WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damage. This chapter shall not create liability on the part of the City of Waverly or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**SEC. 102.2.08 SEVERABILITY.** If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

### **Section 102.3 Definitions**

**SEC. 102.3.01 DEFINITIONS GENERALLY.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**SEC. 102.3.02 APPURTENANT STRUCTURE.** A Structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

**SEC. 102.3.03 BASEMENT.** Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides.

**SEC. 102.3.04 BASE FLOOD.** The flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the “100-year flood”)

**SEC. 102.3.05 BASE FLOOD ELEVATION.** The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

**SEC. 102.3.06 BOARD OF ADJUSTMENT.** The term "board of adjustment" means the zoning board of adjustment as established under this code.

**SEC. 102.3.07 DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include “minor projects” or “routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.

**SEC. 102.3.08 EXISTING CONSTRUCTION.** Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community. May also be referred to as "existing structure".

**SEC. 102.3.09 EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION.** A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

**SEC. 102.3.10 EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION.** The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**SEC. 102.3.11 FACTORY-BUILT HOME.** Any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes and modular homes and also include park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**SEC. 102.3.12 FACTORY-BUILT HOME PARK OR SUBDIVISION.** A parcel or contiguous parcels of land divided into two or more factory-built home lots for rent or sale.

**SEC. 102.3.13 FLOOD.** The term "flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid run off of surface waters from any sources.

**SEC. 102.3.14 FIVE HUNDRED (500) YEAR FLOOD.** A flood, the magnitude of which has a two-tenths (.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

**SEC. 102.3.15 FLOOD ELEVATION.** The term "flood elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the one hundred year (100) flood elevation is that elevation of floodwaters related to the occurrence of the

base flood.

**SEC. 102.3.16 FLOOD INSURANCE RATE MAP.** The term "flood insurance rate map" means the official map prepared as part of but published separately from the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

**SEC. 102.3.17 FLOOD INSURANCE STUDY.** A report published by FEMA for a community issued along with the community's Flood Insurance Rate Map. The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the Flood Insurance Rate Map.

**SEC. 102.3.18 FLOOD PLAIN.** The term "flood plain" means any land area susceptible to being inundated by water as a result of a flood.

**SEC. 102.3.19 FLOOD PLAIN MANAGEMENT.** The term "flood plain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing, and flood plain management regulations.

**SEC. 102.3.20 FLOODPROOFING.** The term "floodproofing" means any combination of structural or nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

**SEC. 102.3.21 FLOODWAY.** The term "floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

**SEC. 102.3.22 FLOODWAY FRINGE.** The term "floodway fringe" means those portions of the Special Flood Hazard Area outside the floodway.

**SEC. 102.3.23 HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**SEC. 102.3.24 HISTORIC STRUCTURE.** Any structure that is:

1. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

**SEC. 102.3.25 LOWEST FLOOR.** The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

1. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 102.6, subsection 4.a.
2. The enclosed area is unfinished (not carpeted, dry walled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
3. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100 year flood level, and
4. The enclosed area is not a "basement" as defined in this section.
5. In cases where the lowest enclosed area satisfies criteria 1,2,3, and 4 above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

**SEC. 102.3.26 MAXIMUM DAMAGE POTENTIAL DEVELOPMENT** Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergencies or other buildings or building complexes similar in nature or use.

**SEC. 102.3.27 MINOR PROJECTS.** Small development activities (except for filling, grading and excavating) valued at less than \$500.

**SEC. 102.3.28 NEW CONSTRUCTION.** For flood plain management purposes, the term "new construction" means structures for which the start of construction commenced on or after the effective date of flood plain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

**SEC. 102.3.29 NEW FACTORY-BUILT HOME PARK OR SUBDIVISION.** A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.

**SEC. 102.3.30 RECREATIONAL VEHICLE.** A vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**SEC. 102.3.31 ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES.** Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

1. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
2. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
3. Basement sealing;
4. Repairing or replacing damaged or broken window panes;
5. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

**SEC. 102.3.32 SPECIAL FLOOD HAZARD AREA.** The land within a community subject to the "base flood". This land is identified as Zone A, A1-30, AE, AH, AO, AR, and/or A99 on the community's Flood Insurance Rate Map.

**SEC. 102.3.33 START OF CONSTRUCTION.** Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date.

The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**SEC. 102.3.34 STRUCTURE.** The term structure means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities, and other similar uses.

**SEC. 102.3.35 SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**SEC. 102.3.36 SUBSTANTIAL IMPROVEMENT.** The term substantial improvement means any improvement to a structure which satisfies either of the following criteria:

1. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (1) before the improvement or repair is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur

when the first alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use.

2. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the date of this code shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

**SEC 102.3.37 VIOLATION** The failure of a structure of other development to be fully compliant with the community's floodplain management regulations.

**SEC. 102.3.38 MARKET VALUE.**

1. Market value of a structure referred to in this section will be determined by using the value provided by the Bremer County Assessor. Should a property owner feel that the value provided by the Bremer County Assessor is inaccurate, he/she may provide, for review and acceptance by the City, an appraisal from a certified appraiser.

**Section 102.4 Establishment of Zoning Districts**

**SEC. 102.4.01 ESTABLISHMENT OF ZONING DISTRICTS.** The flood plain areas within the jurisdiction of this code chapter are hereby divided into the following districts:

1. Floodway (Overlay) District (FW). The floodway district shall be consistent with the boundaries of the floodway as shown on the official Flood Plain Zoning Map.
2. Floodway Fringe (Overlay) District (FF). The floodway fringe district shall be those area as shown as floodway fringe on the official Flood Plain Zoning Map.
3. General Flood Plain (Overlay) District (FP). The general flood plain district shall be those areas shown on the official Flood Plain Zoning Map as being within the approximate base year flood boundary.
4. Shallow Flooding (Overlay) District (SF). The shallow flooding district shall be those area as shown on the official Flood Plain Zoning Map as being within the base flood boundary and identified on the Flood Insurance Rate Map as (AO or AH) zone(s).

**Section 102.5 Floodway (Overlay) District (FW)**

**SEC. 102.5.01 PERMITTED USES.** The following uses shall be permitted within the floodway district to the extent they are not prohibited by any other ordinance or underlying zoning district and provided they do not include placement of structures, factory built homes, fill or other obstruction, the storage of materials or equipment, excavation, or alteration of a watercourse:

1. Agricultural Uses. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial-Commercial Uses. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.
3. Recreational Uses. Private and public recreational uses such as golf courses, tennis courts,

driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

4. Residential Uses. Residential uses such as lawns, gardens, parking areas and play areas.
5. Remainder. Such other open space uses similar in nature to the above uses.

**SEC. 102.5.02 CONDITIONAL USES.** The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment may be permitted only upon issuance of a conditional use permit by the board of adjustment as provided for in Section 102.9. Such uses must also meet the applicable provisions of the floodway district performance standards:

1. Open Spaces. Uses or structures accessory to open space uses.
2. Transient Amusement. Circuses, carnivals, or similar transient amusement enterprises.
3. Roadside Places and Structures. Drive-in theaters, new and used car lots, roadside stands, signs, and billboards.
4. Extraction. Extraction of sands, gravel, and other materials.
5. Water's Edge. Marinas, boat rentals, docks, piers, and wharves.
6. Lines. Utility transmission lines and underground pipelines.
7. Remainder. Other uses similar in nature to uses described in Section 102.5.01 or Section 102.5.02 which are consistent with the provisions of Section 102.5.03 and the general spirit and purpose of this code chapter.

**SEC. 102.5.03 PERFORMANCE STANDARDS.** All floodway district uses allowed as a permitted or conditional use shall meet the following standards:

1. Prohibition. No use shall be permitted in the floodway district that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
2. All uses within the floodway district shall:
  - a. Flood Damage. Be consistent with the need to minimize flood damage.
  - b. Methods and Practices. Use construction methods and practices that will minimize flood damage.
  - c. Resistant Materials. Use construction materials and utility equipment that are resistant to flood damage.
3. Capacity. No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.



4. Structures. Structures, buildings, recreational vehicles and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the floodway fringe district and shall be constructed or aligned to present the minimum possible resistance to flood flows.
5. Buildings. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
6. Storage. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other materials may be allowed if readily removable from the floodway district within the time available after flood warning.
7. Watercourse. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Iowa Department of Natural Resources.
8. Fill. Any fill allowed in floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
9. Pipeline River Crossings. Pipeline river or stream crossings shall be buried in the stream bed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

#### **Section 102.6 Floodway Fringe (Overlay) District (FF)**

**SEC. 102.6.01 PERMITTED USES.** All uses within the floodway fringe district shall be permitted to the extent that they are not prohibited by any other ordinance or underlying zoning district and provided they meet applicable performance standards of the floodway fringe district.

**SEC. 102.6.02 PERFORMANCE STANDARDS.** All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Until a regulatory floodway is designated, no development may increase the Base Flood Elevation more than one (1) foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination:

1. Anchored Structures. All development shall be designed and adequately anchored to prevent flotation, collapse or lateral movement of the structure, be constructed with materials and utility equipment resistant to flood damage, and be constructed by methods and practices that minimize flood damage.
2. Residential Buildings.
  - a. Lowest Floor. All new or substantially improved residential structures shall have the lowest floor, including basements, elevated a minimum of one (1) foot above the base flood elevation.
  - b. Fill Construction. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above base flood elevation and extend at such elevation at least eighteen (18) feet beyond the limits of any structure erected thereon.

- c. Elevation. Alternate methods of elevating such as piers may be allowed, subject to favorable consideration by the board of adjustment and issuance of a conditional use permit, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential buildings shall be provided with a means of access which will be passable by wheeled vehicles during the 100 year flood.
- 3. Nonresidential Buildings.
  - a. Lowest Floor. All new or substantially improved nonresidential building shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level.
  - b. Certification. When floodproofing is utilized, a professional engineer registered in the state shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood elevation; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water.
  - c. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the administrator.
- 4. All new and substantially improved structures.
  - a. Lowest Floor. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
    - (1) Openings. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - (2) Grade. The bottom of all openings shall be no higher than one foot above grade.
    - (3) Equipped. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.
  - b. Prevention of Flotation, Collapse, or Lateral Movement. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

- c. Prevent Water Entering. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. Factory-Built Homes:
  - a. Anchored. All new and substantially improved factory-built homes including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.
  - b. Elevated. All new and substantially improved factory-built homes including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the base flood elevation.
6. Utility and Sanitary Systems.
  - a. Infiltration. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.
  - b. On Site Waste Disposal. On site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
  - c. New or Replacement Water Supply Systems. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities shall be provided with a level of protection equal to or greater than one (1) foot above the base flood elevation.
  - d. Utilities. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation. Other material and equipment must either be similarly elevated or not be subject to major flood damage and be anchored to prevent movement due to flood waters or be readily removable from the area within the time available after flood warning.
8. Flood Control. Flood control structural works such as levees, floodwalls, etc. shall provide, at a minimum, protection from a base flood with a minimum of three (3) feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
9. Watercourse Alterations. Watercourse alterations or relocations must be designed to

maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

10. Subdivisions. Subdivisions including factory-built home parks and subdivisions shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals including the installation of public utilities shall meet the applicable performance standards. Subdivision proposals intended for residential development shall provide all lots with a means of vehicle access which is no lower than one (1) foot below the base flood elevation. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Floodway Fringe (Overlay) District.
11. Accessory Structures to Residential Uses. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.
  - a. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
  - b. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.
  - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
  - d. The structure shall be firmly anchored to resist flotation, collapse and lateral movement.
  - e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one (1) foot above the base flood elevation.
  - f. The structure's walls shall include openings that satisfy the provisions of Section 102.6.02.4 of this ordinance.
  - g. Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
12. Recreational Vehicles
  - a. Recreational vehicles are exempt from the requirements of SEC 102.6.02 (5) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
    - (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
    - (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking

system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- b. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of SEC 102.6.02 (5) of this Ordinance regarding anchoring and elevation of factory-built homes.
13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.
14. Maximum Damage Potential Development. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum on one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

### **Section 102.7 General Flood Plain (Overlay) District (FP)**

**SEC. 102.7.01 PERMITTED USES.** The following uses shall be permitted within the general flood plain district to the extent that they are not prohibited by any other ordinance or underlying zoning district and provided that they do not include placement of structures, factory-built homes, fill or other obstruction; the storage of materials or equipment; excavation; or alteration of a watercourse:

1. Agricultural Uses. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial-Commercial Uses. Industrial-commercial uses such as loading areas, parking area, airport landing strips.
3. Recreation Uses. Private and public recreation uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
4. Residential Uses. Residential uses such as lawns, gardens, parking areas and play areas.

**SEC. 102.7.02 CONDITIONAL USES.** Any use which involves placement of structures, factory-built

homes, fill or other obstructions; the storage of materials or equipment; excavation; or alteration of a watercourse may be allowed only upon issuance of a conditional use permit by the board of adjustment and be reviewed by the Iowa Department of Natural Resources to determine whether the land involved is either wholly or partly within the floodway or floodway fringe and the base flood level elevation. The applicant shall be responsible for providing the Iowa Department of Natural Resources with sufficient technical information to make the determination.

**SEC. 102.7.03 PERFORMANCE STANDARDS.**

1. Floodway. All conditional uses, or portions thereof, to be located in the floodway as determined by the Iowa Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District (Section 102.5).
2. Floodway Fringe. All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the Iowa Department of Natural Resources shall meet the applicable standards of the Floodway Fringe (Overlay) District (Section 102.6).

**Section 102.8 Shallow Flooding (Overlay) District (SF)**

**SEC. 102.8.01 PERMITTED USES.** All uses within the shallow flooding district shall be permitted to the extent they are not prohibited by any other ordinance or underlying zoning district and provided that they meet the applicable performance standards of the shallow flooding district.

**SEC. 102.8.02 PERFORMANCE STANDARDS.** The performance standards for the shallow flooding district shall be the same as the performance standards for the floodway fringe district with the following exceptions:

1. AO Zone. In shallow flooding areas designated as an AO zone on the flood insurance rate map, the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the flood insurance rate map (or a minimum of 2.0 ft. if no number is specified) above the crown of the nearest street.
2. AH Zone. In shallow flooding areas designated as an AH zone on the flood insurance rate map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the flood insurance rate map.
3. In shallow flooding areas designated as either an AH or AO Zone on the Flood Insurance Rate Map, drainage paths are required around structures on slopes to adequately guide floodwaters around and away from proposed structures.

**Section 102.9 Administration**

**SEC. 102.9.01 ADMINISTRATOR.** The Community Development and Zoning Specialist is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator. The administrator shall enforce this chapter and have powers and duties which include the following:

1. Review Applications.
  - a. Chapter. Review all flood plain development permit applications to insure that the provisions of this code chapter will be satisfied.
  - b. Agencies. Review all flood plain development permit applications to insure that all necessary permits have been obtained from federal, state or local

governmental agencies.

2. Records.
  - a. Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new and substantially improved buildings or the elevation to which new and substantially improved structures have been floodproofed.
  - b. Administration. Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this chapter.
3. Notice.
  - a. Adjacent Communities and Counties. Notify adjacent communities and/or counties and the Iowa Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administrator.
  - b. Federal Insurance Administrator. Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.
4. Report. Submit to the Federal Insurance Administrator an annual report concerning the community's participation utilizing the annual report form supplied by the Federal Insurance Administrator.
5. Review. Review subdivision proposals to ensure such proposals are consistent with the purpose of this chapter and advise the council of potential conflicts.
6. Maintain the accuracy of the community's Flood Insurance Rate Maps when:
  - a. Development placed within the Floodway (Overlay) District results in any of the following
    - (1) An increase in the Base Flood elevations, or
    - (2) Alteration to the floodway boundary
  - b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
  - c. Development relocates or alters the channel. Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.
7. Perform site inspections to ensure compliance with the standards of this Ordinance.
8. Forward all requests for Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

**SEC. 102.9.02 FLOOD PLAIN DEVELOPMENT PERMIT.**

1. Permit Required. A flood plain development permit issued by the administrator shall be secured prior to initiation of any flood plain development (any man-made change to improved or unimproved real estate, including but not limited to buildings or other

structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

2. Application for Permit. Application for flood plain development permit shall be made on forms supplied by the administrator and shall include the following information.
  - a. Work Description. Work to be covered by the permit for which application is to be made.
  - b. Land Description. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
  - c. Use and Occupancy. Indication of the use or occupancy for which the proposed work is intended.
  - d. Elevation. Elevation of the base Flood.
  - e. Sea Level Elevation. Elevation in relation to North American Vertical Datum 1988 of the lowest habitable floor including basement of buildings or of the level to which a building is to be floodproofed.
  - f. Improvements. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
  - g. Information. Such other information as the administrator deems reasonably necessary for the purpose of this chapter.
3. Action on Permit Application. The administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable provisions and standards of this chapter and shall approve or disapprove the application. The administrator shall not issue permits for conditional uses or variances except as directed by the board of adjustment. For disapprovals, the applicant shall be informed, in writing of the specific reasons therefore.
4. Construction and Use to be as Provided in Application and Plans.
  - a. Permits. Flood plain development permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction.
  - b. Variance. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter and shall be punishable as provided by Section 102.10.02. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

### **SEC. 102.9.03 CONDITIONAL USES, APPEALS, AND VARIANCES.**

1. Appointment and Duties of Board of Adjustment. The board of adjustment shall hear



and decide: applications for conditional uses upon which the board is authorized to pass under this chapter, appeals and requests for variances to the provisions of this chapter, and shall take any other action which is required of the board.

2. Conditional Uses. Requests for conditional uses shall be submitted to the administrator, who shall forward such to the board of adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary by the board of adjustment.
3. Appeals.
  - a. Error. Where it is alleged there is any error in any order, requirement, decision, or determination made by the administrator in the enforcement or administration of this chapter, the aggrieved party may appeal such action.
  - b. Procedure. The notice of appeal shall be filed with the board of adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.
4. Variances. The board of adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:
  - a. One Hundred Year Flood. No variance shall be granted for any development within the floodway district which would result in any increase in floods during the occurrence of the base flood. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
  - b. Cause. Variances shall only be granted upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant; and a determination that the granting of the variance will not result in increased flood heights, additional threats to public expense, create nuisances, cause fraud on or victimization of the public.
  - c. Minimum Necessary. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - d. Below minimum. In cases where the variance involves lower level of flood protection for buildings than what is ordinarily required by this code chapter, the applicant shall be notified in writing over the signature of the administrator that the issuance of a variance will result in increased rates for base flood insurance coverage, and such construction increases risks to life and property.
  - e. I.D.N.R. All variances granted shall have the concurrence or approval of the Iowa Department of Natural Resources.
5. Hearings and Decisions of the Board of Adjustment.

- a. Hearings. Upon the filing with the board of adjustment of an appeal, an application for a conditional use or a request for a variance, the board shall hold a public hearing. The board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Iowa Department of Natural Resources.
- b. Decisions. The board shall arrive at a decision on an appeal, conditional use or variance within a reasonable time. In passing upon an appeal, the board may, so long as such action is in conformity with the provisions of this code chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a conditional use or variance, the board shall consider such factors as contained in this section and all other relevant sections of this code chapter and may prescribe such conditions as contained in Section 102.9.03 (5)(d).
- c. Factors Upon Which the Decision of the Board Shall be Based. In passing upon applications for conditional uses or requests for variances, the board shall consider all relevant factors specified in other sections of this code chapter and:
  - (1) Encroachments. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - (2) Downstream. The danger that materials may be swept to other lands or downstream to the injury of others.
  - (3) Water/Sewer Systems. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - (4) Proposed Facility. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (5) Services. The importance of the services provided by the proposed facility to the community.
  - (6) Flood Plain Location. The requirements of the facility for a flood plain location.
  - (7) Alternative Locations. The availability of alternative locations not subject to flooding for the proposed use.
  - (8) Compatibility. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) City Plans. The relationship of the proposed use to comprehensive plan and flood plain management for the area.

- (10) Emergency Vehicles. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (11) Expectation. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - (12) Remainder. Such other factors which are relevant to the purpose of this code chapter.
- d. Conditions Attached to Conditional Uses or Variances. Upon consideration of the factors listed above, the board may attach such conditions to the granting of conditional uses or variances as it deems necessary to further the purpose of this code chapter. Such conditions may include, but not necessarily be limited to:
- (1) Modification. Modification of waste disposal and water supply facilities.
  - (2) Limitations. Limitation on periods of use and operation.
  - (3) Imposition. Imposition of operational controls, sureties, and deed restrictions.
  - (4) Construction. Requirements for construction of channel modification, dikes, levees, and other protective measures, provided such are approved by the Iowa Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this code chapter.
  - (5) Floodproofing Measures. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The board of adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing elevation and associated flood factors for the particular area. Such floodproofing measures may include, but are not necessarily limited to the following:
    - a. Anchorage. Anchorage to resist flotation and lateral movement.
    - b. Installation. Installation of watertight doors, bulkheads, and shutters, or similar methods of construction.
    - c. Reinforcement. Reinforcement of walls to resist water pressure.
    - d. Seepage. Use of paints, membranes, or mortars to reduce seepage or water through walls.
    - e. Structures. Addition of mass or weight structures to resist flotation.
    - f. Pumps. Installation of pumps to lower water levels in structures.
    - g. Water/Sanitary Systems. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.

- h. Pumping Facilities. Pumping facilities or comparable practices for subsurface drainage systems for building to relieve external foundation wall and basement flood pressures.
  - i. Rupture. Construction to resist rupture or collapse caused by water pressure or floating debris.
  - j. Drains. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures.
  - k. Electrical Equipment. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding.
- e. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

### **Section 102.10 Nonconforming Uses**

**SEC. 102.10.01 NONCONFORMING USES.** A structure or the use of a structure of land which was lawful before the adoption or amendment of this code chapter but which is not in conformity with the provisions of this code chapter may be continued subject to the following conditions:

1. Enlargement. No such use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.
2. Alteration. No structural alteration, addition, or repair to any nonconforming structure over the life of the structure shall exceed fifty (50) percent of its value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.
3. Discontinued Use. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this chapter. The assessor shall notify the administrator in writing of instances of nonconforming uses which have been discontinued for twelve (12) months.
4. Destruction. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (50) percent or more of its value prior to destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
5. Nuisances. Uses or adjuncts thereof which are or become nuisances shall not be enchaptered to continue as nonconforming uses.
6. Conditional Uses. Except as provided in Section 102.10, subsection 5, any use which has been permitted as a conditional use or variance shall be considered a conforming use.

**SEC. 102.10.02 PENALTIES.** Violations of the provisions of this chapter or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of conditional uses or variances shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100 or imprisoned for not more than 30 days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Waverly from taking such other lawful action as is necessary to prevent or remedy any violation.

**SEC. 102.10.03 AMENDMENTS.** The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or repealed as provided in the Code of Iowa, as amended. No amendment, supplement, change, or modification to this chapter shall be undertaken without prior approval from the Iowa Department of Natural Resources.

(replace Chpt 102, Ordinance 1086- 01/27/21)