

CHAPTER 1: GENERAL PROVISIONS

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

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

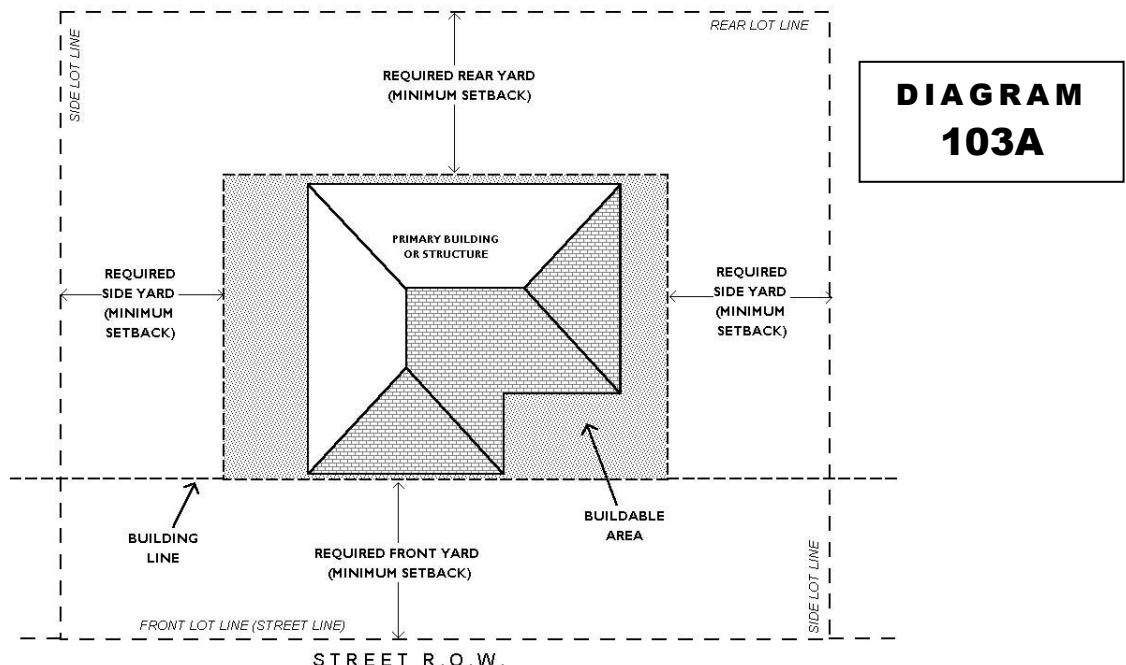
103 **DEFINITIONS.** For the purpose of interpreting this Ordinance, certain items, terms, and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural shall include the singular. The word “shall” is mandatory; the word “may” is permissive. The words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as the individual. The words “application” and “request” may be used interchangeably.

1. **Abutting:** Having property or district lines in common.
2. **Access:** A way of approaching or entering a property from a public street.
3. **Accessory Buildings:** A subordinate building located on the same lot as the main building occupied or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.
4. **Accessory Dwelling Unit.** A secondary residential unit located on the same lot as a single-family home, either attached to or detached from the primary dwelling.
5. **Accessory Use:** A use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such accessory use dominate, in area, extent or purpose, the principal lawful use or building.
6. **Active Solar Energy System:** A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.
7. **Administrative Officer:** The City Clerk of the City of Breda or his designated appointee.
8. **Agriculture:** Agricultural activity, including forest and forest products, harvest and management, dairy farming, livestock grazing and pasturage, truck gardening, the raising of crops, fruit and nursery stock, fish farms, animal kennels and fur bearing animal farms, and the harvesting, processing, packaging, shipping, and selling of products produced on the premises, and incidental farm occupations and uses such as machinery, farm equipment and domestic repair and construction, excluding commercial feed lots.
9. **Alley:** A public way, other than a street, of twenty (20) feet or less in width, affording only the secondary means of access to abutting property.
10. **Alterations – Structural:** A change in the supporting members of a building, such as bearing walls, partitions, columns, beams, or girders. An enlargement of the size or height of a building shall be construed to be an alteration.
11. **Alterations – Substantial:** Any change in or enlargement of any building or other improvement covered by this Ordinance that will: (1) upon completion, affect a change in the use thereof, or (2) that has the effect of enlarging the floor area thereof.

12. Animal Hospital or Clinic: An establishment where animals are admitted principally for examination, treatment, or care by a doctor of veterinary medicine.
13. Animals – Food: Fowl, cattle, swine, sheep, ducks, geese, rabbits, and other animals raised for the purpose of food consumption.
14. Animals – Fur: Animals raised for their pelts.
15. Animals – Pets: Any animal that is tamed or domesticated (dogs, cats, etc.).
16. Apartment: A room or suite of rooms in a multiple dwelling intended or designed for use as residence by a single family and included kitchen facilities.
17. Apartment House: A building or portion thereof used or designed as a residence for three or more families, households or groups of persons occupying separate apartments and living independently of each other.
18. Attic: A space under a gable, hip or gambrel, or other roof, the finished floor of which is, or would be, at or entirely above the level of the wall plates of at least two (2) exterior walls, and the height of which, from the floor level to the highest point of the roof, does not exceed ten (10) feet.
19. Automobile Repair (Major): General repair, rebuilding or reconditioning of engines, motor vehicles or trailer; collision service, including body, frame or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning.
20. Automobile Repair (Minor): Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and trucks, but not including any operation specified under "Automobile Repair-Major".
21. Automobile Repair-Station (Garage): A place where the following services may be carried out: general repair, engine rebuilding or reconditioning of motor vehicles, collision service such as body, frame and fender straightening and repair, painting and undercoating of automobiles and the sale of engine fuels stored in underground tanks.
22. Automobile Service Station: A place of business where engine fuels (stored in tanks) kerosene, motor oil, lubricants or grease are retailed directly to the public including the sale of minor accessories and services for motor vehicles.
23. Automobile Wrecking Yard: An area of land where 3 or more motor vehicles, machinery, or equipment drawn or operated by a motorized mechanical unit, not in running or operable condition, or parts thereof are stored in the open; and any land, building or structure used for wrecking, abandoning or storing of such motor vehicles.
24. Barnodminium. See Shouse.
25. Basement: A story having part but not more than one-half (1/2) of its height below grade. A basement shall be counted as a story if the vertical distance from the average adjoining grade to its ceiling is over five (5) feet.
26. Bed & Breakfast: A lodging house providing guest rooms not exceeding 4, and serving a meal or meals to guests, where lodging is provided for any number of days and nights. A Bed & Breakfast is often but need not be a private residence of the owner or host. It may not advertise itself as a restaurant, but may advertise and make reservations in the manner of a hotel or motel.
27. Billboard: 'Billboard' as used in this Ordinance shall include all structures, regardless of the material used in the construction of the same, that are erected, maintained or used for public display of posters, painted signs, whether the structure be placed on the wall or painted on the

wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.

28. **Blade:** An element of a wind turbine which acts as a part of an airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
29. **Block:** That property abutting on one side of a street and lying within the two nearest intercepting or intersecting streets or lying within the nearest intercepting or intersecting streets and un-subdivided acreage or railroad right-of-way.
30. **Board:** The Board of Adjustment of the City of Breda, Iowa.
31. **Boarding House-** A building other than a hotel where, for compensation, meals and lodging are provided for four (4) or more persons.
32. **Boarding, Lodging, or Rooming House:** A dwelling containing a single dwelling unit and not more than 10 guest rooms or suites of rooms, where lodging is provided with or without meals, for compensation for more than one week.
33. **Buildable Area:** The area of a lot remaining after the minimum yard and open space requirements have been met, on which permitted buildings or other structures can be erected (See Diagram 103A for illustration).



34. **Building:** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property, but not including signs or billboards and not including structures, or vehicles originally designed for transportation purposes.
35. **Building, Detached:** A building having no common wall connection with another building
36. **Building, Existing:** A building erected prior to the adoption of this Ordinance or one for which a legal building permit has been issued.

37. **Building, Height of:** The vertical distance from the average natural grade at the building line to the highest point of coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip, and gambrel roofs.

38. **Building-integrated Solar Energy Systems:** An active solar energy system that is integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of a building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings

39. **Building Line:** A line other than a lot line, used to regulate the location of a building or structure in relationship to the abutting street or streets. This line is generally the same as a minimum setback line (See Diagram 103A for illustration). The line of the outside wall of the building or any enclose projection thereof nearest street.

40. **Bulk Stations:** Distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

41. **Business:** Engagement in the purchase, sale, barter, or exchange of goods, wares, merchandise or service or the maintenance or operation of offices or recreational or amusement enterprises.

42. **Carport:** A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. A carport attached to a principal building is considered a part of the principal building and subject to all yard requirements in this chapter.

43. **City Engineer:** The City Engineer or one acting in that capacity.

44. **Clerk:** The City Clerk of the City of Breda, Iowa.

45. **Commission:** The Planning and Zoning Commission of the City of Breda, Iowa.

46. **Common Wall:** An unbroken wall shared by two or more separate buildings.

47. **Comprehensive Plan:** The general plan for land use, transportation and community facilities prepared and maintained by the Commission and adopted by the Council.

48. **Condominium:** A single unit in a multiunit dwelling or structure, that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

49. **Congregate Residence:** Any building or portion thereof that contains facilities for living, sleeping and sanitation as required by this code, and may include facilities for eating and cooking for occupancy by other than a family. A congregate residence shall be permitted to be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels, motels, bed & breakfasts or lodging houses.

50. **Council:** The City Council of the City of Breda, Iowa.

51. **Court:** 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.

52. **Data Farm or Data Center:** a facility that houses a large number of computer systems and their related hardware, primarily for the purpose of data storage, processing, and transmission.

53. **Day Care:** The caring for of six or more unrelated children under the age of 12 years out of their home for two hours or more, but less than 24 hours a day, for compensation.

54. **Deck:** A deck is an uncovered and open platform built above grade and attached to a principal or accessory building, typically supported by pillars or posts. Decks are considered to be part of a building or structure. Setbacks shall be measured from the outermost portion of the deck.

55. **District**: A section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
56. **Duplex**: A building designed for or occupied exclusively for residence purpose by two families.
57. **Dwelling**: Any building or portion thereof, which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.
58. **Dwelling, Multiple-Family**: A building or portion thereof designed for or occupied exclusively by and for residence purposes by 2 or more families.
59. **Dwelling, Single Family**: A building designed for or occupied exclusively by and for residence purposes by one family.
60. **Dwelling, Townhouse**: Dwelling units having one or more common walls designed so as to have direct access outside.
61. **Dwelling, Two-Family or Duplex**: A detached building arranged, designed or intended to be occupied by two (2) families or housekeeping units living independently of each other.
62. **Dwelling Unit**: One or more habitable rooms which are intended or designed for human occupancy and designed for one family with facilities for living, sleeping, cooking and eating.
63. **Employees**: All persons including proprietors working in the premises during the largest shift of employment.
64. **Enforcement Officer**: The City Manager of the City of Breda or his designated appointee.
65. **Exception, or Special Exception**: Modification of the general provisions of this Ordinance under particular given circumstances after it is determined by the Board of Adjustment that that strict compliance with the Ordinance would cause undue hardship on the applicant. This term is not synonymous with “special exception” for which see “special use.”
66. **Family**: One or more persons occupying a single housekeeping unit and using common cooking facilities.
67. **Family Home**: A community-based residential home which is licensed as a residential care facility under Chapter 135C of the Iowa Code or as a child foster care facility under Chapter 237 of the Iowa Code to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, Family Home does not mean an individual foster care family home licensed under Chapter 237 of the Iowa Code.
68. **Farm**: An area of ten (10) acres or more which is used for the growing of the usual farm products, such as vegetables, fruits, trees and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals.
69. **Farming**: The growth of agricultural products. Farming shall not include the commercial operation of stockyards, slaughterhouses, or feed lots. Includes the operating of such an area for one or more of the above uses, including the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities, and provided further that farming does not include the feeding or garbage or offal to swine or other animals.
70. **Flood Area**: Any land or portion of land, adjacent to a stream, river, or other natural drainage channels or basins, that is subject to overflow, inundation, or flood hazard from the unusual and rapid accumulation or runoff of surface water from any source.
71. **Floor Area, Gross**: The sum of the gross horizontal areas of the floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of dividing walls; this includes courts and decks or porches when covered by a roof.

72. **Floor Area, Net:** The gross floor area exclusive of vents, shafts, courts, elevators, stairways, exterior walls and similar facilities.

73. **Garage:** A building or portion thereof in which a motor vehicle containing gasoline, distillate, or other volatile flammable liquid in its tank is stored, repaired, or kept.

74. **Garage, Private:** A building or part thereof accessory to the main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.

75. **Garage, Public or Storage:** A building or part thereof other than a private garage used for the storage of motor vehicles and in which service station activities may be carried on.

76. **Grade:** The average elevation of the finished ground at the exterior walls of the main building or structure.

77. **Grid-intertie Solar Energy System:** A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

78. **Health Care Facility:** Any residential care facility, intermediate care facility, or skilled nursing facility.

- A. Residential Care Facility. Any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board personal assistance, and other essential daily living activities to 3 or more individuals, not related to the administrator or owner, who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis.
- B. Intermediate Care Facility. Any institution, place, building or agency providing for a period exceeding twenty-four consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals, not related to the administrator or owner thereof, who by reason of illness, disease, or physical or mental infirmity require nursing services which can be provided only under the direction of a registered nurse or licensed practical nurse.
- C. Skilled Nursing Facility. Any institution, place, building, or agency providing for a period exceeding twenty-four consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals not related to the administrator or owner thereof within the third degree of consanguinity who by reason of illness, disease, or physical or mental infirmity require continuous nursing care services and related medical services, but do not require hospital care. The nursing care services provided must be under the direction of a registered nurse on a twenty-four hour per day basis.

79. **Height of Building:** See "Building, Height of".

80. **Height, Total System:** The height above grade of the wind energy system, including the tower generating unit, and the highest vertical extension of any blades or rotors. Height shall be measured from the adjacent grade of the tower to the tip of the turbine (blade) at its highest point.

81. **Home Occupation:** An occupation conducted in a dwelling unit, provided that:

- A. No person other than members of the family residing on the premises shall be engaged in such occupation;
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25

percent of the gross floor area of the dwelling unit shall be used in the conduct of the home occupation;

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C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building.

D. No home occupation shall be conducted in any accessory building; except by Special Exception of Board of Adjustment.

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

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

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

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

84. Junkyard: Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

85. Kennel (Commercial): Establishment in which dogs or domestic animals more than one year old are housed, groomed, bred, boarded, trained, or sold.

86. Lodging House: A "lodging house" is a building originally designed for, or used as a single-family, two-family, or multiple-family dwelling, all or a portion of which contains lodging rooms or rooming units which accommodate persons who are not members of the keeper's family. Lodging or meals, or both, are provided for compensation. The term "lodging house" shall be construed to include: boarding house, rooming house, fraternity house, sorority house and dormitories.

87. Lot: For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- A. A single lot of record;
- B. A portion of a lot of record;
- C. A combination of complete lots of record, or complete lots of record and portions of lots of record, or portions of lots of record;
- D. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance or any other subdivision regulations of the City. The word "lot" includes the words "plot" or "parcel".

88. Lot Area: The area of a horizontal plane, bounded by the front, side, and rear lot lines.

89. Lot, Corner: A lot situated at the intersection of two or more intersecting streets with a boundary thereof bordering each street.

90. Lot Frontage: The portion of a lot nearest the adjacent street. For corner lots, all sides adjacent to streets shall be considered frontage.

91. Lot Line: The legally defined property lines bounding a lot.

- A. Lot Line, Front. That line separating the lot from adjacent streets.
- B. Lot Line, Rear. The lot line farthest from or opposite the front lot line. In the case of a corner lot, the rear lot line shall be considered the lot line opposite the adjacent street that is designated as the front street (the street upon which the property's address is assigned).
- C. Lot Line, Side. A lot line other than the front or rear lot lines.

92. Lot Measurements:

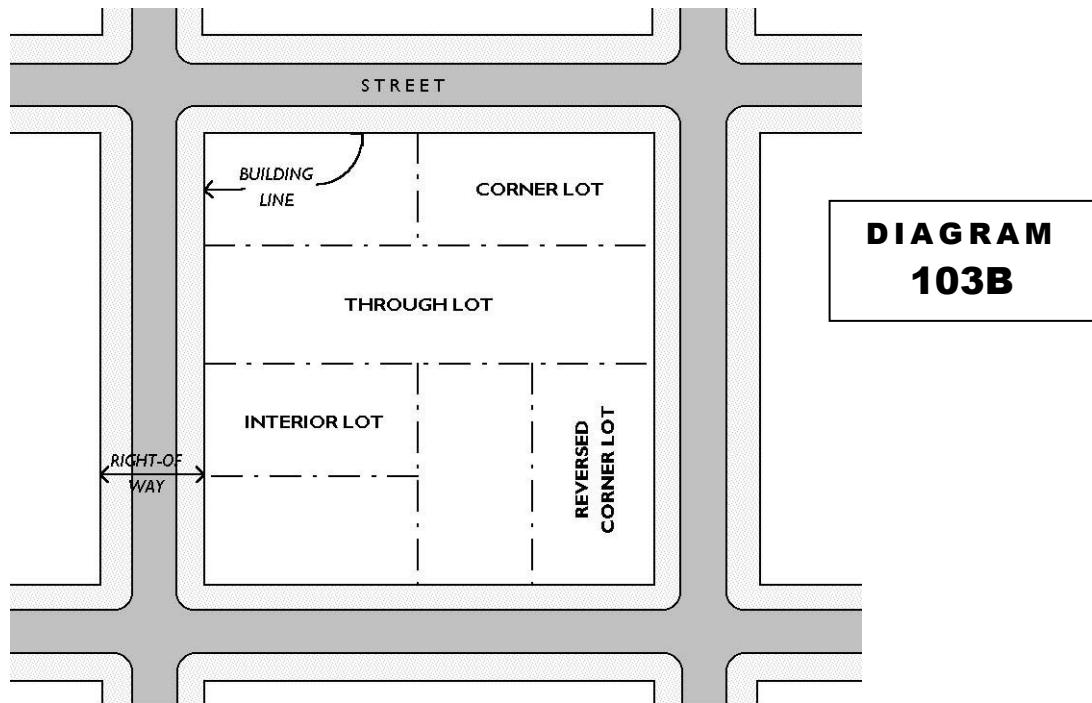
- A. Depth. Depth of a lot shall be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- B. Width. The width of a lot shall be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the building line, provided, however, that width between side lot lines at their foremost points (where they intersect with the street line or front property line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where 80 percent requirements shall not apply.

93. Lot of Record: A lot which is part of a Subdivision recorded in the Office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

94. Lot Types: (See Diagram 103B for illustration)

- A. "Corner" Lot. A lot located at the intersection of two or more streets.
- B. "Interior" Lot. A lot other than a corner lot with only one frontage on a street other than an alley.
- C. "Through" Lot. A lot other than a corner lot with frontage on two parallel or non-intersecting streets.

D. “Reversed Corner” Lot. A corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.



Lot, Zoned. A parcel of land which (at the time of filing for a building permit) is designated by its owner or developer as a parcel of land to be used, developed or built upon as a unit under a single ownership or unified control. (A “zoned lot” may or may not coincide with a lot of record).

95. **Manufactured Home:** a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. § 5403, that is required by federal law to display a seal from the United States department of housing and urban development, and was constructed on or after June 15, 1976, and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A manufactured home shall be located and installed according to the same standards, including but not limited to, a permanent foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. A “mobile home” as defined in Section 435.1.1 of the Code of Iowa is not a manufactured home, unless it has been converted to real property as defined in Section 435.26 of the Code of Iowa, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

96. **Manufacturing:** The use of land, buildings, or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing, or storing or adapting for sale of any goods, substance, article, thing, or service. Processing on farms is not classified as manufacturing if the raw material is grown on the farm.

97. **Meteorological Equipment:** Equipment primarily used to measure wind speed and directions, including other data relevant to locating an operational wind energy conversion system

98. **Mobile Home:** Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human

habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A "*mobile home*" is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976. If a mobile home is placed outside a mobile home park, the home is to be assessed and taxed as real estate.

99. **Mobile Home Park**. Any lot of portion of a lot upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

100. **Motel (also Motor Hotel, Motor Court, Motor Lodge, or Tourist Court)**: A building or group of buildings designed to provide sleeping accommodations to transient guests for compensation, and provides near each guest room a parking space for the guests' vehicle. A swimming pool, restaurant, meeting rooms, management offices and other such accessory facilities may be included.

101. **Motel, Motor Lodge, Auto Court**: A building or group of attached or detached buildings containing individual sleeping or living units for overnight auto tourists, with attached or parking facilities conveniently located to each such unit.

102. **Non-Conforming Use (also Nonconformities)**: Lots, structures, uses of land and structures, or characteristics of uses, that are prohibited under the terms of the Zoning Ordinance but were lawful at the date of the Ordinance's enactment.

103. **Nursing or Rest Home**: A home for the aged, infirmed, invalid, convalescent, or physically disabled in which 3 or more persons not of the immediate family are received, kept, or provided with food and shelter, or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

104. **Off-grid Solar Energy System**: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electronically connected in any way to electric circuits that are served by an electric utility company.

105. **Parcel**: A part of a tract of land.

106. **Parking Lot**: A hard-surfaced area (either Asphaltic cement or Portland concrete cement) that is able to withstand vehicular traffic of other heavy-impact uses.

107. **Parking Space**: An area of not less than 180 square feet either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle.

108. **Passive Solar Energy System**: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

109. **Permitted Use**: A use by right that is specifically authorized in a particular zoning district.

110. **Person**: Every natural person, firm, partnership, association, or corporation having legal rights and responsibilities.

111. **Planned Development**: A project located on a single tract, controlled by one owner, corporation or agency, including usable open space for the mutual benefit of the entire tract, designed to provide variety and diversity through the variance or normal zoning and subdivision standards, so that maximum long range benefit can be gained and unique features of the site preserved or enhanced.

112. **Pools (Swimming), Hot Tubs, and Spas**.

- A. Above ground/on ground pool. See "Private swimming pool".
- B. **Barrier**. A fence, a wall, a building wall, the wall of an above-ground pool or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

- C. Hot tub. See "Private swimming pool".
- D. In-ground pool. See "Private swimming pool"
- E. Power safety cover. A pool cover that is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.
- F. Private swimming pool. Any structure that contains water over 24 inches in depth and which is used, or intended to be used for swimming or recreational bathing and which is available only to the family and guests of the householder. This includes in-ground, above ground, and on-ground swimming pools, hot tubs and spas.
- G. Private swimming pool, indoor. Any private swimming pool that is totally contained within a private structure and surrounded on all four sides by walls of said structure.
- H. Private swimming pool, outdoor. Any private swimming pool that is not an indoor pool.
- I. Public swimming pool. Any swimming pool other than a private swimming pool.
- J. Spa. See "Private swimming pool".

113. **Photovoltaic System:** An active solar energy system that converts solar energy directly into electricity.

114. **Pole Barn Building:** A structure constructed using post-frame construction in which vertical support members (poles or posts) are embedded in the ground or anchored to a foundation to support the roof and walls, typically with exterior siding and roofing attached to horizontal framing members, and commonly used for agricultural, storage, or utility purposes.

115. **Principal Building:** A principal building is a non-accessory building in which the principal use of the lot on which it is located is conducted.

116. **Principal Use:** The main use of land or structures as distinguished from an accessory use.

117. **Projections (into yards):** Parts of buildings such as architectural features that extend beyond the building's exterior wall.

118. **Public Land:** Land owned, controlled, and/or operated by a governing unit.

119. **Qualified Professional:** An individual certified by the manufacturer of a wind energy conversion system as qualified to install and/or maintain that manufacturer's wind energy conversion system.

120. **Recreational Facility:** A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities. Examples include basketball courts, ball fields, tennis courts, trails, etc. Private recreational facilities are those that are located on private property for the exclusive use of the property owners. Public recreational facilities are those that are located on public property and available for use by the public.

121. **Renewable Energy Easement, Solar Energy Easement:** An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

122. **Renewable Energy System:** A solar energy or wind energy system. Renewable energy systems do not include passive systems that serve a dual function, such as a greenhouse or window.

123. **Retaining Wall:** Any structure designed and constructed to resist the lateral pressure of soil when there is a desired change in ground elevation.

124. **Roof Pitch:** The final exterior slope of a building roof, calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

125. **Rotor Diameter:** The diameter of the circle described by the moving rotor blades.

126. **Senior Housing:** All housing projects designed primarily or exclusively for assisted or independent living by persons over 55 years of age, or handicapped or disabled persons of any age.

127. **Service Station:** A building or premises used for dispensing or offering for sale at retail any automobile fuels, oils, or having pumps and storage tanks therefore, or where battery, tire, or any similar services are rendered, and where vehicles are not parked for purposes of inspection or sale.

128. **Setback:** The minimum required horizontal distance measured at right angles to the lot line of the lot or parcel between the farthest protruding point of the structure or building closest to the lot line.

129. **Shadow Flicker:** Alternating in the light intensity caused by the moving blade of a wind power generator casting shadows on the ground and stationary objects such as the window of a dwelling.

130. **Shipping Container:** A cargo container originally designed for, or capable of being mounted or moved by rail, truck, or ship. No person shall place, or cause to be placed, or use, or permit the use of any shipping container as an accessory building, storage building, or living unit except on industrial zoned land. Temporary uses of shipping containers for temporary housing of equipment and materials storage is allowed in all districts as authorized by a City building.

131. **Shouse or Barndominium.** A structure constructed using post-frame or comparable building methods, typically featuring metal or wood siding, that combines residential living space with areas intended for storage, workshop, agricultural, garage or other accessory uses under a single roof. Such structures may be designed in a barn-like style. For the purposes of this zoning ordinances, the terms shouse and barndominium shall be considered interchangeable.

132. **Sign:** Any device designed to inform, or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:

- A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- B. Flags and insignias of any government except when displayed in connection with commercial promotion.
- C. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
- D. Integral decorative or architectural features of buildings.
- E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

133. **Signs, Community:** Temporary, on- or off-premises signs, generally made of a woven material or durable synthetic materials primarily attached to or hung from light poles or on buildings. These signs are solely of a decorative, festive and/or informative nature announcing activities, promotions or events with seasonal or traditional themes having broad community interest, and which are sponsored or supported by a jurisdiction-based nonprofit organization.

134. **Sign, On-Site:** A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-Site Signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

135. **Solar Access:** Unobstructed access to the solar resource (see definition below) on a lot or building including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

136. **Solar Collector:** A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

137. **Solar Collector Surface:** Any part of a solar collector that absorbs solar energy for the use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.

138. **Solar Daylighting:** A device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

139. **Solar Energy:** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

140. **Solar Energy Device:** A system or series of mechanisms designed primarily to provide heating, cooling, electrical power, mechanical power, solar daylighting or to provide any combustion of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also have the capability of storing such energy device such as a trombe wall and not merely a part of a normal structure such as a window.

141. **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 generating, or water heating.

142. **Solar Heat Exchanger:** A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

143. **Solar Hot Air System:** (also referred to as Solar Air Heat or Solar Furnace) – An active solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance typically uses a vertically mounted collector on a south-facing wall.

144. **Solar Hot Water System:** (also referred to as Solar Thermal) – A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

145. **Solar Mounting Device:** Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

146. **Solar Resource:** A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.

147. **Solar Storage Unit:** A component of a solar energy device that is used to store solar generated electricity or heat for later use.

148. **Special Use or Special Use Permit:** A reasonable use that will not impair the public health, safety, or welfare in a zone but does not conform to the character of the zone in which it is

located. Certain restrictions on the location, aesthetics, size, and other performance standards may be imposed. Said special use runs with the owner and not with the land.

149. **Statement of Intent.** A statement preceding regulations for individual districts, intended to characterize the districts, and their legislative purpose.

150. **Story:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof next above it. A half-story is a space under a sloping roof that has the line of intersection of roof decking and wall face not more than 4 feet above the top floor level. A half story containing independent apartments or living quarters shall be counted as a full story.

151. **Story, Half:** A space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story.

152. **Street:** The entire width between the boundary lines of a public right-of-way which provides for public means of access to abutting property or for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms "road", "highway", "lane", "place", "avenue", and other similar designations.

153. **Street Line:** The dividing line between a lot and a street.

154. **Structural Alterations:** Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.

155. **Structure:** Anything constructed or erected that requires location on the ground or attached to something having location on the ground, but not including pavements, curbs, walks, or open-air surfaced areas. For the purposes of this Ordinance, fences & signs shall be considered structures.

156. **Subdivision:** The division of land into 2 or more lots of other division of land for the purpose, whether immediate or future, or transfer of ownership or building development. The term, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, or, the re-subdivision of land theretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

157. **Temporary Use:** A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period or completion of an activity for which the temporary use is incidental.

158. **Tent:** A portable or temporary cover of shelter with or without side panels, which is supported by poles and is made of canvas, plastic, or similar materials, that is not permanently affixed to the site and is not considered a structure.

159. **Tourist Home:** A residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers.

160. **Tower:** The vertical component of a wind energy conversion system that elevates the wind generator above the ground.

161. **Tract:** An aliquot part of a section, a lot within an official plat, or a governmental lot.

162. **Trailer:** See "Mobile Home".

163. **Trailer Park:** See "Mobile Home Park".

164. **Truck Repair-Station (Garage):** A place where the following services may be carried out: general repair, engine rebuilding or reconditioning of motor vehicles, collision service such as

body, frame and fender straightening and repair, painting and undercoating of trucks and heavy equipment and the sale of engine fuels stored in underground tanks.

165. **Use:** The purpose or activity for which a piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained.

166. **Use, Principal:** The principal use for which that land or building is designed, arranged, intended, or for which it is occupied or maintained.

167. **Use, Special:** Deleted, See 77B. “Special Use” or “Special Use Permit”.

168. **Variance:** A modification of the special regulations of this Ordinance granted by resolution of the Board of Adjustment in accordance with the provisions and terms of this Ordinance, which grants a property owner relief from certain provisions of the Ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property (which condition is not of the owner’s making), compliance would result in particular hardship on the owner, as distinguished from a mere inconvenience or desire to make more money.

169. **Warehouse:** A warehouse is a structure or part of a structure, public or private, for storing goods, wares and merchandise, whether for the owners or others.

170. **Wind Energy Conversion System:** A system consisting of at least one of the following; a wind turbine, a tower, and associated control or conversion electronics, which is intended to reduce on-site consumption of utility power, is incidental and subordinate to a permitted use on the same parcel and has a rated capacity of up to one hundred (100) kilowatts.

171. **Wind Turbine:** A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing into electrical energy.

172. **Yard:** The unoccupied or unobstructed open space on a lot with a main building.

173. **Yard, Front:** The yard extending the full width of the lot between a building and the front lot/property line, unoccupied and unobstructed from the ground upward. In the case of a corner lot, both yards adjoining the street shall be considered front yards. For the purposes of designating a rear lot (i.e., opposite the front yard, as described below), the main front yard shall be along the street upon which the property’s address is assigned.

174. **Yard, Rear:** On open space extending the full width of a lot between a building and the rear lot/property line, unoccupied and unobstructed from the ground upward, except as hereinafter specified. On corner lots, the rear yard shall be considered opposite the adjacent street that is designated as the front street (the street upon which the property’s address is assigned).

175. **Yard, Side:** An open space extending from the front yard to the rear yard between a building and the side lot/property line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.

176. **Zoning Administrator.** The local Official responsible for granting Zoning Permits and following a determination by the Zoning Board of Adjustment for special exceptions and variances. Decisions of the Official may be appealed to the Board of Adjustment.

177. **Zoning District.** A section the City designated in the Zoning Ordinances text and delineated on the Zoning Map in which requirements for the use of land, the building and development standards are prescribed. Within each district, all requirements are uniform.

178. **Zoning Map.** The Map delineating the boundaries of districts which, along with the zoning text, comprises the Zoning Ordinance.

104

DISTRICTS ESTABLISHED. The City of Breda, Iowa is hereby divided into the following zoning districts:

| | |
|-------|---------------------------------|
| “A-1” | Agricultural |
| “R-1” | Residential District |
| “R-2” | Residential District |
| “R-5” | Mobile Home Parks District |
| “B-1” | General Business and Commercial |
| “I-1” | Industrial |

105

ZONING MAP

105.01

Zoning Map: The location and boundaries of a district are hereby established as shown on the official zoning map of the City, and which with all its designations, and amendments, is hereby made a part of this chapter, and is hereafter referred to as the “Zoning Map,” to be maintained in the office of the Clerk.

105.02

Changes or Amendments: Changes or amendments in district boundaries shall be made by an ordinance amending the Zoning Ordinance, and shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council with an entry notation on the Official Zoning Map identifying the change (including the changes by ordinance number and date of adoption). The amending ordinance shall refer to the Official Zoning Map and shall set out the identification of the area affected by the legal description and identify the zoning district as the same exists and the new district designation applicable to said property.

105.03

Replacement of Official Zoning Map: In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by Resolution Adopt a new Official Zoning Map, which shall supercede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the Seal of the City under the following words: “This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted DATE as part of the Zoning Ordinance of the City of Breda, Iowa”. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior Map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendments.

105.04

Rules for Interpretation of District Boundaries: When uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following City limits shall be construed as following City limits.

106

APPLICATION OF DISTRICT REGULATIONS. The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class of land except as hereinafter provided:

- A. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- C. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- D. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

107

CLASSIFICATION OF NEWLY ANNEXED LAND. Every petitioner for voluntary annexation is required to state the reasons for wishing to join the city and to request zoning for the area to be annexed. All newly annexed territory shall be in the A-1 District until zoned by the Council.

108

NON-CONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, AND NONCONFORMING USES OF STRUCTURES AND PREMISES

108.01

Statement of Intent: Within the districts established by this Ordinance, there exist lots, structures, and uses of land and structures that were lawful before this Ordinance was passed or amended, but that are prohibited, regulated or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

108.02

Nonconforming Uses of Land: The lawful use of land upon which no building or structure is erected or constructed, which is a vested nonconforming use under this chapter and prior zoning ordinances as adopted or amended, may be continued so long as use remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land.

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel.

C. No structure or building shall be constructed on or moved onto the land, unless the use is changed to a use permitted in that district.

D. If any nonconforming use of land ceases for any reason for a period of one (1) year, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.

108.03 Nonconforming Structures: If a lawful use or vested nonconforming use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment to these regulations, that would not be allowed in the district under the terms of these regulations, the use may be continued so long as it remains otherwise lawful, subject to the following provisions: no existing structure devoted entirely or in part to use not permitted by this chapter in the district in which it is located, shall be enlarged, extended, reconstructed, moved or structurally altered, unless the use is changed to a use permitted in the district in which such structure located; that it is not enlarged or altered in a way which increases the degree or nature of its nonconformity; and, provided that any enlargement or addition shall conform to current zoning regulations. Should the structure housing a nonconforming use be destroyed by any means to an extent of sixty percent (60%) or more of its replacement cost at time of destruction, exclusive of the foundation, it shall not be reconstructed except in conformity with the provisions of this chapter provided it is constructed within one (1) year of such happening.

108.04 Maintenance and Repair to Vested Nonconforming Structures: Nothing in this section shall prohibit the maintenance and repair of vested nonconforming structures to keep such structures in sound and safe condition, provided that no structural enlargement, extension, alteration, or change shall be made to increase the degree of nonconformity.

108.05 Change of Tenancy, Ownership, or Management: There may be change of tenancy, ownership, or management of any existing nonconforming use of land, structure, or land and structure providing there is not a change in the nature or character of said nonconforming use.

108.06 Special Exceptions not Nonconforming Uses: Any use that is permitted as a special exception in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a nonconforming use.

⋮ ⋮ ⋮ ⋮ ⋮

CHAPTER 2: DISTRICT REGULATIONS

201 INDIVIDUAL DISTRICT REGULATIONS

201.01 A-1-Agricultural District: This district is intended to accommodate areas predominantly agricultural in character or undeveloped for urban use. The following tables detail principal and accessory uses in agricultural districts, special exceptions (which require approval of the Board of Adjustment), and setback, area, and height requirements.

TABLE 201.01A

USES IN THE A1-AGRICULTURAL DISTRICT

| Permitted Principal Uses | Permitted Accessory Uses | Special Uses: |
|---|---|---|
| <p>Principal uses that are permitted in the agricultural district. A building, or premises shall be used only for the following purposes:</p> <p>A. Agricultural crops, including truck gardening, but not raising poultry, pets, or livestock for commercial purposes, or on a scale that would be objectionable due to noise or odor or sight to surrounding residences.</p> <p>B. Plant Nurseries including greenhouses.</p> <p>C. Stables.</p> <p>D. Cemeteries.</p> <p>E. Public or private parks, playgrounds, historical sights, golf courses, and other outdoor recreational facilities which are commonly, but not necessarily, operated on a non-profit basis; however, amusement parks, golf driving ranges, golf miniature putting courses, normally operated for profit and employing manufactured or constructed facilities of an unnatural or non-environmental design shall be excluded.</p> <p>F. Churches.</p> <p>G. Schools, public and private.</p> <p>H. Public Utility and public service installations and facilities excluding business offices and repair and storage facilities.</p> <p>I. Single-family dwellings.</p> | <p>Uses customarily incidental and subordinate to permitted principal uses:</p> <p>A. Private garages & storage sheds, including machine sheds, barns, and farm buildings</p> <p>B. Living quarters of persons employed on the premises</p> <p>C. Roadside stands offering for sale only agricultural products or other products produced on the premises</p> <p>D. Temporary uses, such as buildings for uses incidental to construction work which shall be removed upon completion or abandonment of the work</p> <p>E. Fences & walls, per Section 202.05</p> <p>F. Satellite Dish Antennas, lampposts, flagpoles, & other yard fixtures per Section 202.08</p> <p>G. Swimming Pools, per Section 202.09</p> <p>H. Keeping of domestic animals as pets, but <u>not</u> on a commercial basis (i.e., breeding for sale) or scale objectionable to neighbors; the keeping or raising of pigs, sheep, goats, cattle, or horses is prohibited except on premises containing 2 acres or more, and within an enclosure at least 300' from any house except that of the owner.</p> <p>I. Accessory Dwelling Unit</p> | <p>The following special uses are permitted in the "A-1" District only, in accordance with the provisions set forth hereinafter:</p> <p>A. Gasoline service stations and neighborhood and convenience stores which front on either a collector or arterial street. Gasoline service stations shall refer to any building or premises used for the retail sale of automotive fuels, oils, and other items customarily associated with the sale of such products, but not for the purpose of making other than minor repairs.</p> |

TABLE 201.01B

MINIMUM REQUIREMENTS IN THE A1-AGRICULTURAL DISTRICT**

| Minimum Lot Area Single family dwelling at building line | Minimum Lot Width Single family dwelling at building line | Minimum Front Yard Setback | Minimum Side Yard Setback | Minimum Rear Yard Setback | Maximum Height |
|---|--|-------------------------------|------------------------------|------------------------------|---|
| PRINCIPAL USES | | | | | |
| 1 acre (43,560 sq. ft.) | 100 feet | 50 feet | 20 feet | 50 feet | 2 ½ stories or thirty-five (35) maximum |
| ACCESSORY BUILDINGS & STRUCTURES | | | | | |
| | | 50 feet | 20 feet | 50 feet | 2 ½ stories or thirty-five (35) maximum |

**See Section 103 for explanations regarding setback & yard measurement. See Section 202.06 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

201.02A R-1 Residential District: The intent of the “R-1” District is to establish and preserve a quiet, single unit residential neighborhood, preserving large amounts of residential open space, free from other uses, except those which are compatible with and convenient to the residents of such a district.

TABLE 201.02A1

USES IN THE *R-1 Residential District*.

| Permitted Principal Uses A building or premises shall be used only for the following purposes: | Permitted Accessory Uses Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use **NO MORE THAN 3 ALLOWED PER LOT** | Special Exceptions The following special uses are permitted in the “R-1” District only in accordance with the provisions set forth hereinafter: |
|--|---|---|
| <p>A. Single family dwellings.</p> <p>B. Public or private parks, playgrounds, historical sites, golf courses, and other outdoor recreational facilities which are commonly, but not necessarily, operated on a non-profit basis; however amusement parks, golf driving ranges, golf miniature putting courses, normally operated for profit and employing manufactured or constructed facilities of an unnatural or non-environmental design shall be excluded.</p> <p>C. Schools, public and private.</p> <p>D. Churches</p> | <p>A. Private garages & storage sheds no larger or higher than the requirements listed below and in Section 202.06</p> <p>B. Living quarters of persons employed on the premises</p> <p>C. Parking lots</p> <p>D. Temporary uses, such as buildings for uses incidental to construction work which shall be removed upon completion or abandonment of the work</p> <p>E. Fences & walls, per Section 202.05</p> <p>F. Satellite Dish Antennas, lampposts, flagpoles, & other yard fixtures per Section 202.08</p> <p>G. Swimming Pools, per Section 202.09</p> <p>H. Private recreational facilities</p> <p>I. Keeping of domestic animals as pets, but not on a commercial basis (i.e., breeding for sale) or scale objectionable to neighbors; the keeping or raising of pigs, sheep, goats, cattle, foul, <u>poultry</u>, or horses is in this district is prohibited. Pet shelters (including doghouses), cages, fences, and runs for pets shall be considered accessory structures and shall be regulated as such.</p> <p>J. Accessory Dwelling Unit</p> | <p>A. Home occupations</p> <p>B. Public utility and public service installations and facilities excluding business offices and repair and storage facilities.</p> |

TABLE 201.02A2

MINIMUM SETBACK, AREA, & Off-street Parking REQUIREMENTS IN THE *R-1 RESIDENTIAL DISTRICT***

| Minimum Lot Area | Minimum Lot Width | Minimum Front Yard Setback | Minimum Side Yard Setback | Minimum Rear Yard Setback | Maximum Height |
|---|-------------------|----------------------------|---|---------------------------|--|
| PRINCIPAL USES | | | | | |
| 7,500 sq. ft.(single family) | 10 feet | 35 feet | 10 feet *except for a corner lot the side yard shall be a minimum of 20 feet on the side abutting the street. A garage attached to a dwelling may be located five feet from the side lot, line, but not a street line. | 20 feet | The lesser of 2 ½ stories or 35 feet |
| ACCESSORY BUILDINGS & STRUCTURES | | | | | |
| | | 35 feet | 10 feet *except for a corner lot the side yard shall be a minimum of 20 feet on the side abutting the street. A garage attached to a dwelling may be located five feet from the side lot, line, but not a street line. | 20 feet | No accessory structure shall exceed one (1) story or twelve (12) feet in sidewall height |

**See Section 103 for explanations regarding setback & yard measurement. See Section 202.06 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

201.02B R-2 Residential District: This district is intended to provide for low density residential areas with single family dwellings and two-family dwellings.

TABLE 201.02B1

USES IN THE R-2 Residential District

| Permitted Principal Uses A building or premises shall be used only for the following purposes: | Permitted Accessory Uses | Special Exceptions The following special uses are permitted in the "R-2" district only in accordance with the provisions set forth hereinafter: |
|--|---|--|
| <p>A. Single-family dwellings.</p> <p>B. Two-family dwellings.</p> <p>C. Multi-family.</p> <p>D. Churches, convents, and rectories.</p> <p>E. Schools, public and private.</p> <p>F. Hospitals, sanitariums, rest homes, nursing homes, convalescent homes, or other similar institutions.</p> | <ul style="list-style-type: none"> Private garages & storage sheds no larger or higher than the requirements listed below and in Section 202.06 Temporary uses, such as buildings for uses incidental to construction work which shall be removed upon completion or abandonment of the work Living quarters of persons employed on the premises Private recreational facilities Fences & walls, per Section 202.05 Satellite Dish Antennas, lampposts, flagpoles, & other yard fixtures per Section 202.08 Swimming Pools, per Section 202.09 Keeping of domestic animals as pets, but not on a commercial basis (i.e., breeding for sale) or scale objectionable to neighbors; the keeping or raising of pigs, sheep, goats, cattle, foul, poultry, or horses is in this district is prohibited. Pet shelters (including doghouses), cages, fences, and runs for pets shall be considered accessory structures and shall be regulated as such. Accessory Dwelling Unit | <p>A. A use permitted as a special use in the "R-1" district.</p> |
| | | |

TABLE 201.02B2

MINIMUM SETBACK, AREA, & OFF STREET PARKING REQUIREMENTS IN THE R-2 Residential District**

| Minimum Lot Area | Minimum Lot Width | Minimum Front Yard Setback | Minimum Side Yard Setback | Minimum Rear Yard Setback | Maximum Height |
|--|-------------------|----------------------------|---------------------------|---------------------------|------------------------------------|
| PRINCIPAL USES | | | | | |
| 7,500 sq. ft.(single family) | 80 feet | 35 feet | 10 feet | 20 feet | The lesser of 3 stories or 45 feet |
| <small>**except on a corner lot the side yard shall be a minimum of 20 feet on the side abutting the street. A garage attached to a dwelling may be located five feet from the side lot line, but not a street line.</small> | | | | | |
| 10,000 sq. ft. (two family) | | | | | |
| <7,500 sq. ft. (vacant lots) | | | | | |
| ACCESSORY BUILDINGS & STRUCTURES | | | | | |
| | | 35 feet | 10 feet | 20 feet | The lesser of 3 stories or 45 feet |
| <small>** At the effective date of the ordinance codified in this chapter may be occupied by a single-family dwelling, provided the yard requirements of this section are complied with.</small> | | | | | |

**See Section 103 for explanations regarding setback & yard measurement. See Section 202.06 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

201.03 **General Business District (B-1):** The intent of the "B-1" District is to establish and preserve a general business district, providing a wide variety of goods and services for the city.

TABLE 201.03A

USES IN THE B-1 General Business District

| Permitted Principal Uses A building or premises shall be used only for the following purposes: | Permitted Accessory Uses Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use | Special Exceptions The following special uses are permitted in the "B-1" District only in accordance with the provisions set forth hereinafter: |
|--|--|---|
| <p>A. Retail stores such as hardware stores, variety and drugstores, gift shops, and apparel stores.</p> <p>B. Accessory buildings and uses.</p> <p>C. Apartments located above the first floor of a business.</p> <p>D. Automobile sales or repairing.</p> <p>E. Automobile service stations.</p> <p>F. Banks, savings, loans, and finance companies.</p> <p>G. Business, general retail.</p> <p>H. Churches, chapels and mortuaries.</p> <p>I. Electrical, television, and radio repair.</p> <p>J. Grocery stores.</p> <p>K. Night clubs and taverns.</p> <p>L. Office, general and professional including medical laboratories, clinics, health spas, rehabilitation centers, real estate brokers, insurance agents.</p> <p>M. Parking garages and/or lots.</p> <p>N. Personal service shops.</p> <p>O. Printing and newspaper houses.</p> <p>P. Public utility and public service installations and facilities.</p> <p>Q. Restaurants, cafes, and coffee shops.</p> <p>R. Sundry shops and stores.</p> <p>S. Theaters, auditoriums, and other places of indoor assembly.</p> <p>T. Vocational centers, medical, and professional institutions.</p> <p>U. Warehouses and other Storage Completely enclosed within a building.</p> <p>V. Wholesaling only in connection with retail and service businesses.</p> <p>W. Other compatible uses, as determined by the Zoning Commission</p> | <ul style="list-style-type: none"> Outdoor Sales & Service Parking Lots Private garages & storage sheds no larger or higher than the requirements listed below and in Section 202.06 Temporary uses, such as buildings for uses incidental to construction work which shall be removed upon completion or abandonment of the work Private recreational facilities Fences & walls, per Section 202.05 Satellite Dish Antennas, lampposts, flagpoles, & other yard fixtures per Section 202.08 Keeping of domestic animals as pets, but not on a commercial basis (i.e., breeding for sale) or scale objectionable to neighbors; the keeping or raising of pigs, sheep, goats, cattle, foul, <u>poultry</u>, or horses is in this district is prohibited. Pet shelters (including doghouses), cages, fences, and runs for pets shall be considered accessory structures and shall be regulated as such. Living quarters (2nd floor & above) of persons employed on the premises or otherwise used as a separate dwelling | <p>A. Multi-family dwellings.</p> <p>B. Mortuaries.</p> <p>C. Public utility and public service installations.</p> |

TABLE 201.03B

MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE B-1 General Business District**

| Minimum Lot Area | Minimum Lot Width | Minimum Front Yard Setback | Minimum Side Yard Setback | Minimum Rear Yard Setback | Maximum Height |
|---|-------------------|----------------------------|---------------------------|---------------------------|------------------------------------|
| PRINCIPAL USES | | | | | |
| 0 | 0 | 0 | 0 | None | The lesser of 3 stories or 45 feet |
| ACCESSORY BUILDINGS & STRUCTURES | | | | | |
| | | 0 | 0 | None | The lesser of 3 stories or 45 feet |

See Section **103 for explanations regarding setback & yard measurement. See Section **202.06** for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

201.04 I-1 Industrial District: The intent of the “I-1” district is to establish and preserve an industrial district for commercial and industrial uses.

TABLE 201.04A

USES IN THE *I-1 INDUSTRIAL* DISTRICT

| Permitted Principal Uses | Permitted Accessory Uses | Special Exceptions |
|--|--|---|
| Principal uses that are permitted in the LI district. | Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use | The following special uses are permitted in the "I-1" District only in accordance with the provisions set forth hereinafter: |
| <p>A. Warehouse type building for commercial or industrial storage, completely enclosed within a building</p> <p>B. Lumber and building supply yards</p> <p>C. plumbing, heating , and air condition yards</p> <p>D. Automobile repair shops</p> <p>E. Carpenter and cabinet shops</p> <p>F. Any business, professional, retail, or service establishment permitted in the "B-1" District.</p> <p>G. Other compatible uses, as determined by the Zoning Commission.</p> <p>H. Large equipment sales and repair</p> <p>I. Boarding, lodging, and rooming houses</p> <p>J. the manufacturing, assembling, compounding, packaging, processing, or treatment of products or raw materials</p> <p>K. The storage of raw materials to be used in production, goods in process, or manufactured items.</p> <p>L. Warehouse buildings and commercial or industrial storage completely within an enclosed building</p> <p>M. Cartage and express facilities and truck freight terminals</p> <p>N. Public utility and public service installations and facilities including repair and storage facilities</p> <p>O. Elevators and livestock-buying facilities.</p> <p>P. Gasoline stations</p> <p>Q. Open storage of building supplies and materials.</p> | <ul style="list-style-type: none"> Living quarters for watchmen or custodians of industrial properties | <p>A. Stockyards and/or rendering plants</p> <p>B. Open storage of contractor's equipment and/or supplies</p> <p>C. Junkyards and automotive wrecking yards.</p> |

TABLE 201.04B

MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE *I-1 Industrial District***

| Minimum Lot Area | Minimum Lot Width | Minimum Front Yard Setback | Minimum Side Yard Setback | Minimum Rear Yard Setback | Maximum Height |
|-------------------|-------------------|--|---------------------------|---------------------------|------------------------------------|
| 4,000 Square feet | None | PRINCIPAL USES | | | |
| | | 10 feet | 10 feet | 10 feet | The lesser of 3 stories or 50 feet |
| | | ADDITIONAL BUILDINGS & STRUCTURES | | | |
| | | 10 feet | 10 feet | 10 feet | The lesser of 3 stories or 50 feet |

**See Section 103 for explanations regarding setback & yard measurement. See Section 202.06 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

202.01

Planned Unit Developments: The owner or owners of any tract of land comprising an area of not less than 3 acres may submit to the City Council a plan for the use and development of the entire tract of land, commonly referred to as a "Planned Unit Development" (or P.U.D.). A P.U.D. is intended to provide a means of the development or redevelopment of tracts of ground on a unit basis, allowing greater flexibility and diversification of land uses and building locations than the conventional single-lot method provided in other sections of the Ordinance.

It is further the intent of this section that the basic principles of good land use planning, including an orderly and graded relationship between various types of uses, be maintained and that the zoning standards as set forth in this Ordinance be preserved. Normal permitted uses are those of a primarily residential character including single-family and multiple-family dwellings; usual accessory buildings such as garages; storage space; maintenance structures; and buildings for recreational purposes. Commercial uses in such developments are limited to those that are primarily for the service and convenience of the residents of the development.

A. Review by Planning & Zoning Commission. Any proposals for a P.U.D. received by the Council shall be referred to the Planning & Zoning Commission for study and report, and the Commission shall hold a public hearing on the proposed plan. After the public hearing, the Commission may recommend the project for approval if it finds, through its studies of the proposed project, that the project meets the following conditions:

1. That the tract of land on which the project is to be erected is of sufficient size and has appropriate topography and sufficient access to service to support the project.
2. That the buildings are to be used primarily for residential purposes and the customary accessory uses, such as private garages, storage spaces, recreational and community activities.
3. That the average lot area per family or dwelling unit on the site, exclusive of the area occupied by drives or streets, will not be less than the lot area per family required in the residential district in which the project is to be located.
4. That there is to be provided within the tract, or immediately adjacent thereto, parking spaces in private garages or off-street parking areas.
5. That there are to be provided, as a part of the project, adequate recreation facilities to serve the needs of the anticipated population to be housed therein.
6. That drives, access ways and parking areas are developed to a standard equal to that required for public use.
7. That such drives and access ways are protected by recorded deed covenants assuring their availability to all residents of the project.
8. That the proposed project will constitute a residential environment of a sustained desirability and stability; that it will be in harmony with the character of the surrounding neighborhood and ensure substantially the same type of occupancy as obtained or may be expected to be obtained in said neighborhood; that it will result in intensity of land utilization no higher, and standards of open spaces at least as high as permitted or specified in the ordinance in the district in which the project is to be located.
9. That the project will be consistent with the intent and purpose of the ordinance to promote public health, safety, and general welfare.

- B. Setback Requirements. The setback requirements of the conventional zoning districts in which the development is located do not apply, except that minimum yards specified in the conventional district for suitable screening or buffering shall be provided around the boundary of the development.
- C. Approval by City Council. After review by the Planning & Zoning Commission, the City Council may then consider the P.U.D. proposal. If the City Council approves the plan, building permits may be issued even though the use of the land, location of buildings, and yards and open spaces detailed by the plans do not conform in all respects to the district regulations of the district in which it is located. Upon approval, said area shall be designated on the official zoning map.

202.02 Signs: The following regulations shall apply to signs in all districts.

- A. No sign may be lighted in a manner that impairs the vision of the driver of any motor vehicle.
- B. No sign may obstruct the view of any highway so as to render dangerous the use of the highway.
- C. No sign may imitate or resemble an official traffic control sign, signal, or device.
- D. Signs shall not encroach or extend over public right-of-way.
- E. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
- F. No advertisement or advertising structure shall be posted, erected, or maintained that simulates any official, directional, or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- G. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.
- H. No billboard, sign, banner, or other advertisement shall be constructed of such height that it interferes with any utility pole, line, or wire. Utility providers may provide restrictions regarding how close billboards, signs, banners and supporting structures may be located in relation to utility poles and wires. Such restrictions shall govern.
- H. Billboards and off-premise signs (i.e., signs not attached to businesses) shall be allowed in I districts and only in other districts by special exception of the Board of Adjustment, and shall be subject to the following requirements:
 1. No billboard or similar advertising banner or signboard shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
 2. Billboards shall not exceed 300 square feet in area.
 3. No billboard or similar advertising banner or signboard shall be constructed or located where it will unreasonably interfere with the use and enjoyment of neighboring property.

4. Billboards and off-premise signs with a total sign surface area of 32 square feet or less may be located on any part of a lot provided the sign is no higher than 5 feet and does not interfere with any traffic visibility. Signs between 33 and 75 square feet may be located may be constructed so that the closest edge of the sign or structure supporting the sign is a minimum of 10 feet from any adjacent property line. Height requirements in the district apply. Billboards with sign surface areas over 75 square feet shall be subject to the same height and location (setback) requirements as other structures in the respective district.
5. All billboards and off-premise signs shall require a building permit per Section 306 of this Ordinance, but signs shall not be considered towards the maximum of three (3) accessory uses/structures per lot in the R-1 and R-2 Residential Districts.

202.03 Statement of Intent-Home Occupations: Within the various districts as described, certain uses are permitted as they are mutually compatible. It is the intent of this chapter to restrict incompatible uses; however, it is not the intent of this chapter to eliminate certain home occupations which may be compatible with residential areas. Home occupations are hereby permitted and defined as business, occupation, or profession carried on within a residential dwelling by a resident or residents thereof, and shall have the following characteristics:

- A. There shall be no exterior advertising other than identification of the home occupation by a sign which shall be attached to the dwelling and shall not exceed two square feet in area which shall not be illuminated.
- B. There shall be no emission of smoke, dust, odor, fumes, glare, noise, and vibration, electrical or electronic disturbance at or beyond the property line.
- C. The activity shall employ in the home only members of the immediate family of the residents and dwelling and one outsider.
- D. The use shall be clearly incidental and secondary to the use of the dwelling purposes and shall not change the character thereof.
- E. There shall not be any activity so as to cause parking and/or traffic problems annoying to the public. A home occupation shall provide additional off-street parking area in accordance with this chapter.

202.04 Off-street Parking and Loading Requirements: The intent of this section is to prevent traffic congestion and to provide for property traffic safety by preserving the public thoroughfares for the unimpaired movement of pedestrian and vehicular traffic. The requirements of this section are minimums, and in certain circumstances, they may be inadequate. If a review of site plans or building permit applications reveals, through the application of proven standards or experience, that the requirements herein are inadequate for the specific project or land use, greater requirements for parking or off-street loading may be required by the Council.

- A. **Off-Street Loading.** The following off-street loading requirements shall apply in all zoning districts:
 1. All activities or uses allowed in any district shall be provided with adequate receiving facilities accessible by motor vehicle from any adjacent service drive or open space on the same lot.
 2. Loading shall not be permitted to block the public right-of-way.

B. Parking Requirements. The following minimum off-street parking requirements shall apply:

| TABLE 202.04A | | OFF-STREET PARKING REQUIREMENTS | |
|---|---|--|--|
| Zoning District: | Use: | Off-Street Spaces Required: | |
| RS RESIDENTIAL (ALL RS DISTRICTS) | Dwellings (except Accessory Dwelling Units) | 2 for each living unit in the building | |
| | Public Buildings & Facilities | 1 for every 300 square feet of floor area or 1 for every 5 seats in the main assembly area | |
| | Churches | 1 for every 5 seats in the main auditorium | |
| | Nursery Schools | 1 for each employee | |
| | Elementary & Junior High Schools | 1 for each classroom & office, plus 1 for every 300 square feet of floor area in auditorium or classroom | |
| B-1 General Business and Commercial I-1 Industrial | High Schools | 1 for each employee, plus 1 for every 10 students | |
| | Dwellings | 2 for each living unit in building, unless waived by Board of Adjustment | |
| | All other uses | NONE REQUIRED | |
| | Commercial Uses | 1 for every 300 square feet of floor area | |
| | Industrial Uses | 1 for every 2 employees on the largest shift working at any one time | |
| | Uses Not Specified | As determined by the Board of Adjustment based on comparable uses | |

C. Other Off-street Driveway, Parking & Loading Provisions.

1. All parking spaces should be a minimum of 9 feet wide and 19 feet long.
2. Adequate entrances and exits shall be provided for so as to minimize traffic congestion.
3. Parking areas shall be properly graded for drainage and surfaced with Portland cement, asphaltic cement concrete, other hard-surfaced paving materials, or crushed gravel.
4. Driveways in Residential Areas: Driveways in residential areas that lead directly to a garage attached to a house, or that lead to a detached garage located in a side yard shall be hard-surfaced. Driveways leading to garages or sheds in rear yards shall not require specific surfacing.
5. New Additions: In case of new additions to existing buildings, off-street parking and loading areas shall be provided for the new floor area added in accordance with the provisions the table above.
6. Several Uses: If several uses occupy a single structure or parcel, the total requirements for off-street parking shall be the sum of the requirements of the uses computed separately.
7. Joint Use: Owners of 2 or more uses, structures, or parcels may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap or are adequate for both uses, provided that satisfactory legal evidence is presented in the form of deeds, leases, or contracts to establish joint use.
8. Availability: Required spaces shall be available for the parking of licensed and operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business of use.
9. Location: Off-street parking space for single or multiple-family dwellings shall be provided within the dwelling or on the premises of the dwelling. Off-street parking

spaces for other buildings shall be provided within the buildings, on the premises, or on a permanently reserved space on another lot, any portion of which is within 300 feet of said buildings, with the exception of auditoriums, theaters, churches, assembly halls, or stadiums, which parking spaces can be within 600 feet of the latter.

10. **Plan:** All applications for building permits shall include plans showing how the off-street parking and loading requirements will be met.

D. **Vehicles & Trailer Parking in Residential Districts.** In residential districts, vehicles or trailers of any kind or type without current license plates shall not be parked or stored other than in completely enclosed buildings. No automotive vehicle or trailer of any kind shall be parked or stored in a required front yard on any lot in any residential district except when parked on a designated hard surfaced driveway. No vehicle of any kind shall be parked on public or private property so as to create a safety hazard with pedestrian or vehicular traffic.

202.05 Fences, Walls, Hedges, & Trees: Fences, walls (including retaining walls), hedges, and trees are permitted in all districts in accordance with the following provisions. Fences shall be constructed of materials commonly used for landscape fencing such as masonry block, lumber, chain-link, wrought iron or natural plantings, but shall not include corrugated sheet metal or salvage lumber. Fences and walls shall not be considered towards the maximum of three (3) accessory uses/structures per lot in the R-1 and R-2 Residential Districts.

- A. Fences shall not be allowed in any front yard. Retaining walls, walls, hedges, shrubs, and other plantings 3 feet high or less (as measured from the established street grade) may be located in a front yard.
- B. Fences, walls, or hedges 6 feet high or less may be located on any remaining part of a lot, except that side and rear yard setbacks for accessory structures shall apply if the fence adjoins a public alley. Higher fences may be allowed by special exception by the Board of Adjustment. Fences shall be constructed with the “finished” side facing the neighboring property.
- C. Snow fences (including wooden and plastic-type) shall be allowed on a temporary basis in all districts. Snow fences shall only be allowed during the months of November through April, and any snow fence left standing outside of those months shall be considered a nonconforming structure and must be removed.
- D. The construction of any fence or wall shall require a building permit per Section 306 of this Ordinance.
- E. Tree branches that overhang a public sidewalk shall be kept trimmed to a height of at least eight feet above the sidewalk level. Tree branches that overhang a public street shall be kept trimmed to a height of at least 15 feet above the street level.
- F. Trees and shrubs shall not be planted on public right-of-way without first obtaining a permit from the City. Trees and shrubs shall not be planted within 20 feet of a power or overhead utility line.

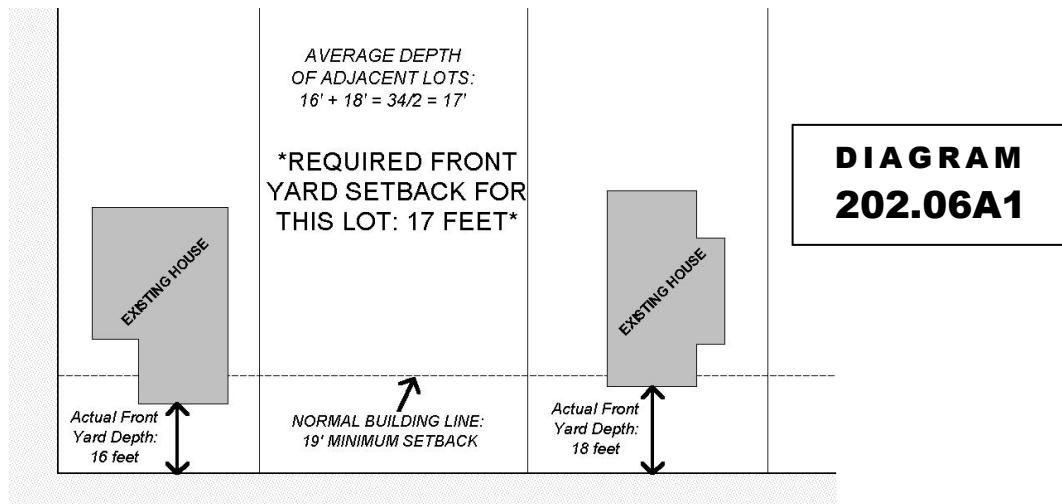
202.06 Area, Height, Yard, Setback Modifications and Exceptions:

- A. **Front Yard Modifications & Exceptions.**
 1. Bay windows or balconies occupying in the aggregate not more than 1/3 of the front wall, open fire escapes, and the ordinary projection of fireplaces and flues may project

3 & 1/2 feet into a required yard if so approved and permitted by the Zoning/Building Administrator.

2. Belt courses, leaders, sills, pilasters, or other decorative features may project no more than 2 feet into a required yard.
3. Open, unenclosed and uncovered porches, stairs, decks, and ramps may extend up to 10 feet into a front yard.
4. In any district where the average depth of two or more existing front yards on lots within 100 feet of the lot in question and within the same block front is less than the minimum front yard setback prescribed, front yard setbacks may be varied.

The depth of the front yard setback on such lot shall not be less than the average of said existing front yards or the average depth on the two lots immediately adjoining, or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of front yard on a lot in any residential district shall be at least 15 feet. (See Diagram 02-02.06A1 below for example)



B. Side Yard Modifications & Exceptions.

1. Along any district boundary line, any abutting side yard setback on a lot in the less restricted district shall have at least width equal to that required in the more restrictive district.
2. Side yard setbacks may be reduced by three inches from the otherwise required least width of each side yard setback for each foot by which a lot of record at the time of enactment of this Ordinance is narrower than the minimum lot width specified for the district in which the lot is located, provided the owner of record does not own any adjoining property, and provided that no side yard shall be narrower at any point than three feet. (See following below for sample)

**TABLE
202.06B1****SAMPLE CALCULATION OF SIDE YARD SETBACK REDUCTIONS
FOR EXISTING LOTS SMALLER THAN MINIMUM REQUIREMENTS
OF THIS ORDINANCE**

| Actual Lot Width | Minimum Required | Difference | X 3 inches = | 60 inches ÷ 12 inches (1 foot) = |
|------------------|------------------|------------|--------------|---|
| 50 feet | 70 feet | 20 feet | 60 inches | 5' (total reduction in side yard setback, or 2 1/2 feet for each side yard) |

C. Accessory Buildings & Structures. No accessory building, including accessory dwelling units, detached private garages, storage sheds, doghouses or runs, or any other such structure may be constructed in any required front yard. Such structures may be constructed in a side or rear yard provided the structure is not closer than 5 feet from any side or rear lot line, except when adjacent to an alley line, in which case it may be located no closer than 3 feet from the alley line. Garages with access directly facing an alley shall be located no closer than 20 feet from the alley line.

Accessory buildings and structures shall be kept a minimum of 5 feet from the principal building, and the total area of all accessory buildings & structures (in aggregate) shall not occupy more than 75 percent of a required rear or side yard.

There shall be no more than three (3) accessory buildings or structures on any property in a residential district unless so approved by special exception by the Board. (i.e., a detached garage, garden shed, and dog run would be considered 3 accessory structures and would constitute the maximum).

Galvanized steel or aluminum panels or siding is prohibited from use on principal or accessory structures in residential areas. Painted steel or aluminum siding or roofing materials may be allowed. All accessory buildings (including garages, sheds, dog houses, etc.) in residential districts shall be constructed with materials and finishes that conform in style and aesthetics to the principal structure (house, apartment, etc.) on the property, and fit in with the character of the surrounding residential neighborhood and properties.

Accessory Dwelling Units shall not exceed one thousand square feet or fifty percent of the size of the single family residence, whichever is larger.

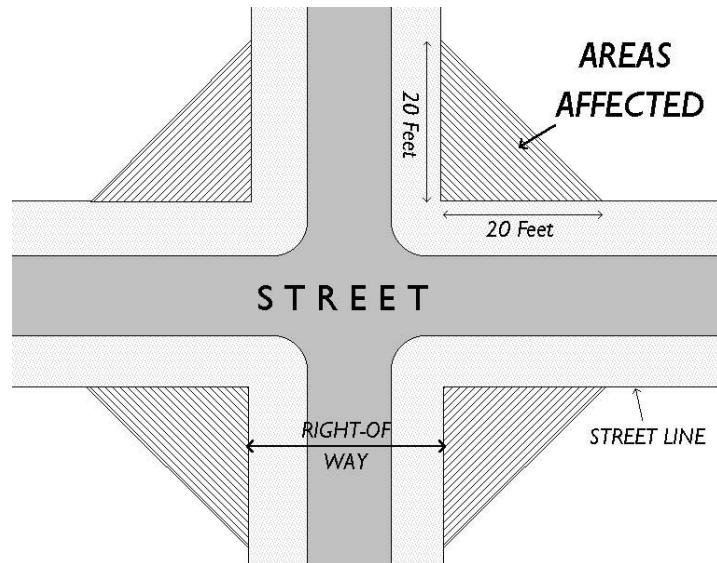
D. Height Limits. Height limits specified in district regulations or elsewhere shall not apply to chimneys, church steeples, cooling towers, fire towers, monuments, stacks, stage towers or scenery, lofts, water towers, spires, wireless communication towers, elevator bulkheads, or other necessary mechanical appurtenances.

E. Height Limits in Commercial and Industrial Districts. Buildings and Structures in excess of forty-five (45) feet in Commercial and Industrial Districts shall be permitted provided that the required side and/or rear yards that abut a residential district are increased by one foot for each foot of additional building height above 45 feet.

F. Driveways, Sidewalks, Patios, and other Paving. All paved driveways, sidewalks, patios or other paving constructed on the ground, or less than 18 inches above the average grade of the ground, shall be allowed to be constructed within any required front, side, or rear yards. However no paving shall encroach closer than two (2) feet to any property line that does not abut a public street or alley, except for public sidewalks. The construction or installation of any paving shall require a building permit per the requirements of Section 306 of this Ordinance.

202.07 Traffic Visibility Across Corner Lots: In any residential district on any corner lot, nothing shall be erected, placed, maintained, planted, or allowed to grow within 20 feet of the corner of the intersection

right-of-way so as to interfere with traffic visibility across the corner (See Diagram 202.7A for illustration).



**DIAGRAM
202.07A**

202.08 Accessory Yard Fixtures (Satellite Dishes, Lampposts, Flagpoles, etc.): Accessory fixtures are allowed in all districts subject to the following provisions and limitations. Accessory fixtures shall not be considered towards the maximum of three (3) accessory uses/structures per lot in the R-1 and R-2 Residential Districts. The permanent installation of any such fixture, whether listed here or not, shall require a building permit per the requirements of Section 306 of this Ordinance. Fixtures not permanently attached to the property shall not require a building permit, but are still subject to the requirements herein.

- A. **Liquid Propane Fuel Tanks:** All liquid propane fuel tanks shall be placed in rear or side yards. LP fuel tanks holding under 125 gallons may be placed in any part of rear or side yards. LP fuel tanks holding between 125 and 500 gallons shall be placed a minimum of 10 feet from any property or lot line. In relation to buildings and structures, LP fuel tanks shall be sited at distances from buildings sufficient to meet Uniform Fire Code requirements.
- B. **Satellite Dish Antennas.** The placement of satellite dish antennas, either permanent or temporary, is permitted in side or rear yards of any district. Satellite dish antennas shall be considered an accessory structure (except that a 72 hour temporary use is allowed), and shall be subject to provisions for accessory structures as provided in Section 202.06C. No satellite dish shall exceed a diameter of 12 feet, except in the case of one that is owned and operated by, and part of a public cable television system.
- C. **Lampposts.** Lampposts, light bollards, and other similar exterior lighting fixtures are permitted in all districts. Lampposts shall not exceed a height of 7 feet except by special exception, and no lamppost or bollard exceeding 3 feet in height may be erected or placed within 20 feet of any intersection or on any public utility easement. All electrical and gas lines powering lampposts or bollards must be underground.
- D. **Flagpoles.** Flagpoles are permitted in all districts. Flagpoles shall be subject to height requirements in each district. Flagpoles may be erected in any part of a yard so long as they do not interfere with any public utility lines or create traffic visibility issues. All electrical lines powering lights for lighted flagpoles shall be underground. Flags and flagpoles attached directly to structures shall not require a building permit.

- E. Trellises, Clotheslines, etc. Fixtures such as trellises and clotheslines may be erected on any part of a side or rear yard so long as they meet all other requirements of this Ordinance.
- F. Basketball Hoop Poles. Basketball hoop poles may be erected on any part of a rear or side yard so long as they meet all other requirements of this Ordinance and do not interfere with any public utility lines or create visibility issues. Basketball hoop poles may be installed in a front yard only if they are adjacent to a paved driveway that leads to an enclosed garage, are no closer to the property line than the midway point between the property line and the structure, and do not interfere with any public utility lines or create visibility issues.
- G. Playhouses & Other Playground Equipment. Playhouses, swing sets, “jungle gyms”, and other similar equipment shall not be allowed in any front yard. Such items shall be considered accessory structures when permanently affixed, and side and rear yard setbacks shall apply.

202.09 Swimming Pools and Ponds in Residential Districts: Swimming pools and ponds are permitted in any rear yard, with the following provisions:

- A. Swimming pools must be located, whether permanently installed or not, at least 6 feet from the nearest lot line. The maximum area of any permanently constructed swimming pool should not exceed 15 percent of the total lot area.
- B. All permanently constructed swimming pools must be enclosed by a fence at least 4 feet high and located not less than 5 feet and not more than 15 feet from the edge of the pool. Such fence may be solid or not, but must prevent unauthorized access to the pool area (i.e., a chain-linked fence is acceptable).
- C. The maximum height of swimming pools is 4 feet above the finished grade level of the ground surrounding the pool.
- D. Swimming pools or any portion thereof may not be located directly under any electrical service wires.
- E. Temporary swimming pools, such as those not intended for permanent installation (by manufacturer's design or otherwise), shall not be subject to the fence requirements listed in “B” above, but shall be subject to all other provisions herein. Additionally, property owners or occupants with temporary swimming pools shall make provisions to safeguard against accidents and prevent unauthorized access, including taking such actions as draining or covering the pool, erecting temporary fencing, etc.

202.10 Structures to Have Access: Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots so as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

202.11 Residential Dwelling Standards: In all districts permitting single-family dwellings on a single lot, the following standards shall apply to each new dwelling constructed:

- A. The dwelling shall have a minimum width of not less than 24 feet.
- B. The foundation shall meet one of the following construction type requirements:
 1. A continuous and complete permanent perimeter foundation on the main body of the structure;

2. Slab-style, with 10-inch width by 42-inch depth perimeter frost footing;
3. Pier footing system, provided the planned footings have been designed and are constructed to be compatible with the proposed structure and the building site, and have certification to such from a structural engineer or architect
4. Structures shall be permanently affixed to the foundation.

C. All hitches, wheels, axles, and any other types of towing devices shall be permanently removed.

202.12 Wind Energy Conversion Systems

- A. Purpose. The purpose of this section is to allow and encourage the safe, effective and efficient use of small wind energy systems; identify locations in areas of the City which would be least adversely impacted by the visual, aesthetic, and safety implications of their siting; and enhance the ability of the providers of wind energy services to provide such services to the community quickly, efficiently, and effectively.
- B. General Regulations.
 1. General: wind energy conversion systems shall be allowed as a special use accessory to a permitted use in all zoning districts other than residential zoning districts.
 2. Number of systems per property: no property shall contain more than one wind energy conversion system.
 3. Permit required: all wind energy conversion systems require a special use permit to be obtained from the Board of Adjustment prior to site grading and installation. The Board of Adjustment can revoke a special permit at any time if the requirements set forth in this ordinance and/or any conditions imposed by the Board of Adjustment are not met. The Board of Adjustment will revoke the special use permit of an abandoned wind energy conversion system.
 4. Insurance: the owner/operator of a wind energy conversion system unit must demonstrate adequate liability insurance.
 5. FAA Regulations: wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. The applicant has the responsibility of determining applicable FAA regulations and must provide evidence of securing the necessary approvals.
 6. Maintenance: all wind energy conversion systems shall be properly maintained in operational condition at all times, subject to reasonable maintenance and repair outages. The owner of any wind energy conversion system deemed unsafe by the zoning official or his/her designee shall repair the structure to meet all federal, state and local safety standards or remove it within six (6) months.
- C. Bulk Regulations:
 1. Minimum Lot Size: two (2) acre minimum lot size required for any tower mounted wind energy conversion systems.
 2. Minimum Setback Requirements: all wind energy conversion systems shall require a setback of one hundred ten percent (110%) of the total system height from any property line.
 3. Maximum Height: the maximum height for wind energy conversion system is eighty (80) feet.
 4. Number of Systems Allowed: no more than one (1) wind energy system may be placed on any parcel.
 5. Location:

- a. Tower mounted wind energy conversion systems shall only be located outside of any minimum building setback requirements.
- b. No part of a wind energy conversion system shall be located within or over drainage, utility or other established easements, or on or over property lines.
- c. A wind energy conversion system shall be in compliance with guidelines of the Federal Aviation Administration (FAA) regulations.
- d. No wind energy conversion system shall be constructed within twenty (20) feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least five (5) feet.
- e. No wind energy conversion system shall be located in a residential zoning district.
- f. No roof mounted wind energy conversion system will be allowed.

6. Minimum System Design Standards. The following standards are required of all wind energy conversion systems and shall be deemed to be conditions of approval for every wind energy system.

- a. Color: the wind energy conversion system shall be white or light gray in color. Other neutral colors may be allowed at the discretion of the Board of Adjustment. The surface of the structure shall be non-reflective.
- b. Lighting: no lights shall be installed on the tower, unless required by the Federal Aviation Administration (FAA).

7. Signs: One sign, limited to four (4) square feet, shall be posted at or near the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the phone number to the property owner/operator to call in case of emergency. Such sign shall be directly visible from any external fencing and/or landscaping. Brand names or advertising associated with any installation shall not be visible from any public right-of-way.

8. Clearance of Blade Above Ground: no portion of the tower mounted wind energy conversion system shall extend within thirty (30) feet of the ground. No blades may extend over parking areas, driveways or sidewalks.

9. Installation: installation must be done by a qualified professional and according to manufacturer's recommendations.

10. Noise: the wind energy conversion system shall not exceed 65 decibels, except during short term events such as severe wind storms and utility outages. Maximum sound pressures will be measured from the closest point on the closest property line.

11. Use of Electricity Generated: a wind energy conversion system shall be used exclusively to supply electrical power for onsite consumption, except that when a parcel on which a wind energy conversion system is installed also receives electrical power supplied by a utility company, excess electrical power generated by the wind energy system and not presently needed for onsite use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code.

12. Automatic Over speed Controls: all wind energy conversion systems shall be equipped with manual and automatic over-speed controls to limit the blade rotation speed to within the design limits of the wind energy conversion system.

13. Electromagnetic Interference: all blades shall be constructed of a nonmetallic substance. No wind energy conversion system shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would

produce electromagnetic interference with signal transmission or reception. No wind energy conversion system shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

14. Interconnection: the wind energy conversion system, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa Utilities Board.

15. Wind Access Easements: the enactment of this section does not constitute the granting of an easement by the City. The owner/operator shall provide covenants, easements, or similar documentation to assure sufficient wind to operate the wind energy conversion system unless adequate accessibility to the wind is provided by the site.

16. Shadow Flicker: a shadow flicker model demonstrates that shadow flicker shall not fall on, or in, any existing residential structure. Shadow flicker expected to fall on a roadway or a portion of residentially zoned parcel may be acceptable if the flicker does not exceed thirty (30) hours per year; and the flicker will fall more than one hundred (100) feet from an existing residence; or the traffic volumes are less than five hundred (500) vehicles per day on the roadway. The shadow flicker model shall:

- a. Map and describe within a one thousand (1,000) foot radius of the proposed dispersed wind energy system the topography, existing residences and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed;
- b. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations, calculate the total number of hours per year of flicker at all locations;
- c. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but not limited to, a change in siting of the wind energy conversion system, a change in the operation of the wind energy conversion system, or grading or landscaping mitigation measures.

17. Appearance: the property owner of any wind energy system shall maintain such system in a safe and attractive manner, including replacement of defective parts, painting, cleaning, and other acts that may be required for the maintenance and upkeep of the function and appearance of such a system. The owner shall maintain the ground upon which the system is located in an orderly manner, such that is free of debris, tall grass and weeds, and any structures remain quality in appearance.

D. Abandonment. Any wind energy system that is not operated for a period of one hundred eighty (180) consecutive days shall be considered abandoned and shall constitute a nuisance. Within the next 180 days, after notice from the City, the owner shall reactivate the tower or it shall be dismantled and removed at the owner's expense. Removal of the system includes the entire structure including foundations, transmission equipment and fencing from the property. If the abandoned wind energy system is not removed in the specified amount of time, the City may remove it and recover its costs from the wind energy conversion system owner or owner of the ground upon which it is located.

E. New Technologies. Should new technology present itself after construction that is more effective, efficient, and economical, the owner may petition the City to allow the upgrade, provided that the upgrade does not alter the conditions set forth in this chapter.

F. Liability and Damages. The owner/operator of a wind energy conversion system must demonstrate adequate liability insurance. Upon the granting of a permit, applicant shall assume full responsibility for any and all damages, claims, expenses, liabilities, judgments and costs of any kind, including reasonable attorney's fees related to or caused by the erection, location, use, or removal of a facility, whether on public or private property, and shall agree to hold the City harmless, indemnify and defend it from all such liabilities incurred or judgments entered against it as a result of the erection, location, use or removal of the facility.

G. Engineer Certification. Applications for wind energy conversion systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the applicable regulations and certified by a licensed professional engineer shall also be submitted.

H. Utility Notification. A wind energy conversion system shall not be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

I. Application and Approval Requirements. Applications for a special use permit shall be submitted with the following information:

1. A properly completed and signed application.
2. A statement from the applicant that the wind energy conversion system will be installed in compliance with manufacturer's specifications, and a copy of the manufacturer's specifications.
3. A statement indicating what hazardous materials will be used or stored on the site and how those materials will be stored.
4. A description of the wind energy conversion system's height and design, including a cross section, elevation, and diagram of how the wind energy conversion system will be anchored to the ground, prepared by a professional engineer licensed in the State of Iowa.
5. A site plan including the following information:
 - a. Legal description of the property
 - b. Parcel boundaries
 - c. Existing buildings
 - d. Easements
 - e. Fencing
 - f. Proposed location of wind energy conversion system
 - g. Setbacks
 - h. Travel ways
 - i. Overhead utility lines
 - j. Contour map with contours at intervals of two feet, if the general slope is less than ten (10) percent, and at vertical intervals of five feet if the general slope is greater than ten (10) percent.
 - k. If connection to the publicly regulated utility grid is proposed, a copy of the contract between applicant and utility verifying the proposed connection is acceptable, and/or other evidence making clear that the utility is aware of the proposed connection and finds it acceptable.
 - l. Shadow flicker model.
6. The City may require that the application and site plan be reviewed by a City Engineer before the Board of Adjustment schedules a hearing on the application for a special use permit.

J. Accessory Use. A wind energy conversion system shall only be allowed as an accessory use to a permitted principal use.

203 SOLAR ENERGY STANDARDS

203.01 **Permitted Accessory Use:** Active solar energy systems shall be allowed as an accessory use in all zoning classifications where structures of any sort are allowed, subject to certain requirements as set forth below. Active solar energy systems that do not meet the visibility standards in C below will require a special use permit, except as provided in Section 170.31(2)(B).

A. Height. Active solar energy systems must meet the following height requirements:

1. Building- or roof- mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building mounted mechanical devices or equipment.
2. Ground- or pole-mounted solar energy systems shall not exceed 20 feet in height when oriented at maximum tilt.

B. Set Back. Active solar energy systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located.

1. Roof-mounted Solar energy systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
2. Ground-mounted Solar energy systems. Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt.

C. Visibility. Active solar energy systems shall be designed to blend into the architecture of the building or be screened from routine view from public right-of-ways other than alleys. The color of the solar collector is required to be consistent with other roofing materials.

1. Building Integrated Photovoltaic Systems. Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.
2. Solar Energy Systems with Mounting Devices. Solar energy systems using roof mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way other than an alley. However roof-mount systems that are visible from the nearest edge of the street frontage right-of-way shall not have a highest finished pitch steeper than the roof pitch on which the system is mounted, and shall be no higher than twelve (12) inches above the roof.
3. Coverage. Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access to the south-facing or flat roof upon which the panels are mounted. The surface area of pole or ground mount systems shall not exceed half the building footprint of the principal structure.

4. Historic Buildings. Solar energy systems on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) will require a special use permit.

D. Approved Solar Components. Electric solar energy system components must have a UL listing and solar hot water systems must have an SRCC rating.

E. Plan Approval Required. All solar energy systems shall require administrative plan approval by the zoning official.

1. Plan Applications. Plan applications for solar energy systems shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.
 - a. Pitched Roof Mounted Solar Energy Systems. For all roof-mounted systems other than a flat roof the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
 - b. Flat Roof Mounted Solar Energy Systems. For flat roof applications a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.
2. Plan Approvals. 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 or Electric Code.

F. Compliance with Building Code. All active solar energy systems shall meet approval of local building code officials, consistent with the State of Iowa Building Code and solar thermal systems shall comply with HVAC-related requirements of the Electric Code.

G. Compliance with State Electric Code. All photovoltaic systems shall comply with the Iowa State Electric Code.

H. Compliance with State Plumbing Code. Solar thermal systems shall comply with applicable Iowa State Plumbing Code requirements.

I. Utility Notification. All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

203.02 **Special Use:** The city encourages the installation of productive solar energy systems and recognizes that a balance must be achieved between character and aesthetic considerations and the reasonable desire of building owners to harvest their renewable energy resources. Where the standards in 170.31(1)(A), 170.31(1)(B), or 170.31(1)(C) cannot be met without diminishing the minimum reasonable performance of the solar energy system, a special use permit may be sought from the Board of Adjustment. A special use permit shall be granted if the standards set out in paragraph B, below are met.

- A. Minimum Performance Design Standards. The following design thresholds are necessary for efficient operation of a solar energy system:
 - 1. Fixed-Mount Active Solar Energy Systems. Solar energy systems must be mounted to face within 45 degrees of south (180 degrees azimuth).
 - 2. Solar Electric (photovoltaic) Systems. Solar collectors must have a pitch of between 20 and 65 degrees.
 - 3. Solar Hot Water Systems. Solar collectors need to be mounted at a pitch between 40 and 60 degrees.
 - 4. System Location. The system is located where the lot or building has a solar resource.
- B. Standards for a Special Use Permit. A special use permit shall be granted by the Board of Adjustment if the applicant meets the following safety, performance and aesthetic conditions:
 - 1. Aesthetic Conditions. The solar energy system must be designed to blend into the architecture of the building or be screened from routine view from public right-of-ways other than alleys to the maximum extent possible while still allowing the system to be mounted for efficient performance.
 - 2. Safety Conditions. All applicable health and safety standards are met.
 - 3. Non-Tracking Ground-Mounted Systems. Pole-mounted or ground-mounted active solar energy systems must meet set-back requirements.

203.03 **Renewable Energy Conditions for Certain Permits**

- A. Condition for Rezoning or Special Use Permit. The City may, in an area where the local electric distribution system was installed more than twenty years ago, or where the local electric utility has documented a near-term need for additional distribution substation or conductor capacity, require on-site renewable energy systems as a condition for a rezoning or a special use permit.
 - 1. The renewable energy condition may only be exercised for new construction or major reconstruction projects.
 - 2. The renewable energy condition may only be exercised for sites that have 90% unimpeded solar or wind energy access, and for which the renewable energy system can reasonably meet all performance standards and building code requirements.
- B. Condition for Planned Unit Development (PUD) Approval. The City may require onsite renewable energy systems as a condition for approval of a PUD permit, in order to mitigate for:
 - 1. Risk to the performance of the local electric distribution system,
 - 2. Increased emissions of greenhouse gases,
 - 3. Other risks or effects inconsistent with the City's Comprehensive Plan.

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CHAPTER 3: ADMINISTRATION

301 PLANNING & ZONING COMMISSION

301.01 **Commission Created:** There is hereby created a city Planning and Zoning Commission, hereinafter referred to as the Commission, composed of five residents of the City, who shall be qualified by knowledge and experience to act in matters pertaining to the development of city planning and zoning, none of whom shall hold any elective position in said city. Such members shall be appointed by the city council.

301.02 **Terms:** The term of office of members of the commission shall be 5 years. The terms of not more than 1/3 of the commission will expire in any one year.

301.03 **Officers:** The commission shall elect at its first meeting of the calendar year, one of its members to act as chairperson and another as vice-chair, who shall perform all the duties of the chairperson during their absence or disability.

301.04 **Compensation.** All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to approval of the Council.

301.05 **Meetings/Quorum:** Meetings of the Commission shall be open to the public. Three members of the Commission shall constitute a quorum. Without a quorum, no business will be transacted and no official action on any matter will take place. An affirmative vote of three members of the Commission will be required for the exercise of powers or functions conferred or imposed on the commission.

301.06 **Vacancies:** Vacancies caused by resignation or otherwise shall be filled by a successor appointed by the Council in the same manner as the original appointee for the remainder of the original term.

301.07 **Powers & Duties:** The Commission shall have and exercise the following powers and duties:

- A. **Adopt Rules & Regulations.** The Commission shall adopt such rules and regulations governing its organization and procedure as it may deem necessary.
- B. **Comprehensive Plan.** The Commission shall have full power and authority to make such surveys, studies, maps, plans or plats of the whole or any portion of the city and of any land outside thereof, which in the opinion of the Commission bears relation to a comprehensive plan, and shall submit such plan to the council with its studies and recommendations, and it may publish the same.
 1. Preparation. For the purpose of making a comprehensive plan for the physical development of the City, the Commission shall make careful and comprehensive studies of present conditions and future growth of the City and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing coordinated, adjusted, efficient, and harmonious development of the City, which will, in accordance with the present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.
 2. Public Hearing. The Commission shall hold at least one public hearing before adopting a Comprehensive Plan, any part of it, or substantial amendment thereof, thereon. Notice of said public hearing(s) shall be given by one publication in a

newspaper of general circulation in the City not less than 7 or more than 20 days before the date of the hearing.

3. Amendments. The Commission may recommend to the city council, from time to time, as conditions require, amendments, supplements, changes or modifications in the comprehensive plan prepared by it. When the Comprehensive Plan has been adopted, no substantial amendment or modification thereof shall be made without such proposed change first being referred to the Commission for its recommendations. If the Commission disapproves the proposed change, the Council may adopt it only by the affirmative vote of at least four (4) of the members of the said Council.

C. Review & Comment on Plats. All plans, plats or re-plats of subdivision or re subdivision of land embraced in the city or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the city, shall first be submitted to the Commission and its recommendations obtained before approval by the Council.

D. Review & Comment on Street Improvements. No plan for any street, park, parkway, boulevard, traffic way, river front, or other public improvement affecting the city plan shall be finally approved by the city or the character or location thereof determined, unless such proposal shall first have been submitted to the commission and the latter shall have had thirty days within which to file its recommendations thereon.

E. Zoning. The commission shall have and exercise all the powers and duties and privileges in preparing and amending the city zoning code as provided by Chapter 414 of the Code of Iowa.

301.08 Fiscal Responsibilities & Debts. The Commission shall have authority to expend for and on behalf of the City all sums of money appropriated to it by the Council. The Commission shall have no power to contract debts.

302 BOARD OF ADJUSTMENT

302.01 Board of Adjustment: A five-person Board of Adjustment is hereby established for the purpose of providing a body to safeguard the most appropriate development within the community. The Board shall adopt, from time to time, subject to the approval of the Council, rules and regulations as it deems necessary to carry in effect the provisions of this chapter, and to have those powers granted by Chapter 414 of the Code of Iowa and any amendment thereto.

302.02 Terms: The term of office of members of the Board shall be 5 years. The term of not more than one of the Board members will expire in any one year.

302.03 Officers: The Board shall elect annually at its first meeting of the year, one of its members to act as chairperson and another as vice-chair, who shall perform all the duties of the chairperson during their absence or disability. The Board shall also appoint a Secretary, who shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be public record. All actions of the Board concerning special exceptions or variances shall also be recorded in the office of the County Recorder, and it shall be the responsibility of the appellant to record said action(s) and all corresponding stipulations and further said action shall take effect upon the Board receiving sufficient confirmation of the same.

302.04 Compensation: All members of the Board shall serve without compensation, except their actual expenses, which shall be subject to approval of the Council.

302.05 **Meetings/Quorum:** Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. Meetings of the Board shall be open to the public. Three members of the Board shall constitute a quorum. Without a quorum, no business will be transacted and no official action on any matter will take place. An affirmative vote of three members of the Board will be required for the exercise of powers or functions conferred or imposed on the Board.

302.06 **Vacancies:** Vacancies caused by resignation or otherwise shall be filled by a successor appointed by the City Council in the same manner as the original appointee for the remainder of the original term.

302.07 **Rules & Regulations:** The Board shall adopt rules and regulations as it may deem necessary to carry into effect the provisions of this Ordinance. Said rules and regulations shall be consistent with law and the provisions of this Ordinance.

302.08 **Assistance From Municipal Departments/Staff:** The Board may call on municipal departments or staff for assistance in the performance of its duties, and it shall be the duty of such departments or staff to render such assistance to the board as may reasonably be required.

302.09 **Powers & Duties of the Board:** The Board shall have the following powers and duties:

A. **Appeals.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning/Building Administrator in the enforcement of this Ordinance or any amendment thereto. Appeals shall be reviewed according to the following provisions:

1. **Procedure.** Appeals to the Board may be taken by any person aggrieved, or by any officer, department, or board of the City affected by any decision of the Zoning/Building Administrator. Such appeal shall be taken within 60 days by filing with the Zoning/Building administrator and the Board a notice of appeal specifying the grounds thereof. The Zoning/Building Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.

2. **Stay of Proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning/Building Administrator certifies to the Board that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the Zoning/Building Administrator from whom the appeal was taken on due cause shown.

3. **Hearing.** The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within 30 days. At said hearing, any party may appear in person, by agent, or by attorney.

B. **Special Exceptions.** To hear and decide only such special exceptions as the Board is specifically authorized to pass as detailed in this Ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance. The board shall review requests for special exceptions according to the following provisions:

1. **Application.** A written application for special exception shall be submitted to the Board indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.

2. Hearing. The Board shall fix a reasonable time for the hearing of the special exception, give public notice thereof, as well as due notice to the parties in interest and decide the same within 30 days. At said hearing, any party may appear in person, by agent, or by attorney. The public hearing shall be held.
3. Findings and Standards. The special exception shall not be granted unless the Board finds that it is empowered under the section of this Ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest based on the following standards:
 - a) The establishment, maintenance, or operation of the special exception will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare of the community.
 - b) The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for a purpose already permitted, nor substantially diminishes and impairs property values within the neighborhood.
 - c) The approval of the special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - d) Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided, and adequate measures have been taken or will be taken to provide ingress and egress so designed to minimize traffic congestion on public streets.
 - e) The special exception will not cause noise or other vibration which is objectionable due to volume, frequency, or beat unless muffled, damped, or otherwise controlled.
 - f) The special exception will not cause any emission of malodorous gas or other pollution of the air by ash, dust, vapors, or other substance which is harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation.
 - g) The special exception will not involve any direct or reflected glare which is visible from any adjoining property or from other public street or highway.
 - h) The special exception will not involve any activity that would substantially increase the burden on any public utilities or traffic congestion on a public street unless measures are taken to provide relief for the affected utility or street.

C. Variances Application and Fee: A request for variances shall be submitted by the property owner or authorized agent, to be accompanied by adequate drawings and other descriptive materials essential to understanding the variance or special use, the application for either to be accompanied by a check for \$20.00, with at least seven (7) days' notice given to record owners of properties abutting the lot or parcel in which the variance or special use is requested , said filing to be with the Clerk on a form prescribed by the Clerk.

1. Hearing. The Board shall fix a reasonable time for the hearing of the variance request, give public notice thereof, as well as due notice to record owners of property abutting the lot or parcel of land on which the variance is requested or record owners of any other lot or land parcel which may be affected by the proposed variance. Decisions by the Zoning/Building Administrator as to those persons affected by the proposed variance shall not be subject to appeal.

At said hearing, any party may appear in person, by agent, or by attorney. The variance may be granted, refused, or tabled subject to further investigation.

2. Findings. The Board shall make their final decision within 30 days of the hearing. The variance shall not be granted unless the Board finds beyond a reasonable doubt that the conditions detailed in the application actually exist, that reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure. The Board shall, in order to grant the variance, further find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting the variance, the Board may attach conditions that it feels are necessary to protect the public interest and carry out the purposes of this Ordinance. A concurring vote of three members of the Board shall be necessary to grant a variance and the Zoning/Building Administrator shall notify the applicant in writing of the Board's action within 7 days after the Board has rendered its decision.

3. Condition not Recurrent or Typical. No variance shall be granted unless the board specifically finds the condition or situation of the specific piece of property for which the variance is sought is not of so typical or recurrent a nature as to make reasonably practicable the formulation of a general regulation, under an amendment of the ordinance, for such conditions or situations.
4. No Power to Establish Variance for Non-conforming use. The board shall have no power to authorize a variance for the establishment of a non-conforming use where none previously existed.
5. Review by Council. The Council may provide for its review of variances granted by the Board of Adjustment before their effective date. The Council may remand a decision to grant a variance to the Board of Adjustment for further study. The effective date of the variance is, in such case, delayed for 30 days from the date of remand.

302.10 Judicial Review: All final administrative decisions of the board of adjustment shall be subject to judicial review pursuant to the provisions of Chapter 414, Code of Iowa, and all amendments and modifications thereof, and the rules adopted pursuant thereto.

303 ZONING/BUILDING ADMINISTRATOR

303.01 Zoning Administrator: The City Clerk is the Zoning Administrator of the City and has the duty to issue all zoning certificates, all building permits, occupancy permits and to maintain permanent and current records thereof as well as to forward to the Council and Board of Adjustment all required documents for use by them. The Zoning Administrator is authorized to inspect buildings and use of lands to determine compliance with the Zoning Regulations.

303.02 Powers & Duties: The Administrator shall:

- A. Be familiar with this Zoning Ordinance and all terms and provisions contained herein;
- B. Work with the Council to review all completed building permit applications;
- C. Conduct inspection of buildings, structures, and use of land to determine compliance with the terms of this Ordinance, including setback provisions;
- D. Make preliminary reviews of applications for variances and special exceptions, and provide assistance to the Board of Adjustment in determining the validity of such requests;
- E. Initiate, direct, and review from time to time a study of the provisions of the Ordinance and make reports of recommendations to the Planning & Zoning Commission and Council;

F. Notify, in writing, persons responsible for violations of the provision of this Ordinance, including the nature of the violation and the necessary action to correct it. The Administrator shall also notify the City Attorney, when necessary, who shall take any action necessary to remedy uncorrected violations.

304 CITY CLERK

304.01 Powers & Responsibilities in Regards to Zoning: In regards to the administration of this Zoning Ordinance, the City Clerk shall:

- A. Make available to the public applications for appeals, building permits, variances, special exceptions, special uses, and zoning changes;
- B. Accept all completed applications as described in the preceding paragraph and forward as appropriate per the provisions of this ordinance to the Zoning/Building Administrator, City Council, Planning & Zoning Commission, and/or the Board of Adjustment for review;
- C. Assist the Zoning/Building Administrator, City Council, Planning & Zoning Commission, and/or the Board of Adjustment in the scheduling of meetings or inspections and with the necessary mailing, posting, and publishing of notices as relating to said meetings or inspections;
- D. Maintain permanent and correct records of the Ordinance, including, but not limited to, all maps, amendments, uses on review, variances, appeals, and applications thereof;
- E. Provide and maintain a public information service relative to all matters rising out the Ordinance.

305 ENFORCEMENT & PENALTY

305.01 Interpretation & Enforcement: The Zoning/Building Administrator shall have the power and duty to interpret and enforce the provisions of this Ordinance. Any appeal from a ruling of the Zoning/Building Administrator shall be made to the Board of Adjustment. It is the intent of this Ordinance that all questions on interpretations and enforcement shall first be presented to the Zoning/Building Administrator.

305.02 Violations and Penalties: Any person who violates or resists enforcement of any provision of this chapter shall be guilty of a simple misdemeanor and upon conviction shall be for each offense, fined a sum not exceeding \$100.00 or imprisonment in the county jail for a term not to exceed 30 days. Each day that the violation continues shall be considered a separate offense.

305.03 Complaints Regarding Violations: Any person may file a written complaint when a violation of this Ordinance has occurred or is alleged to have occurred. Such complaint shall state fully the causes and basis thereof, and be filed with the Zoning/Building Administrator, who shall properly record said complaint, immediately investigate, and take appropriate action thereon as provided by this Ordinance.

305.04 Remedies: In case any building, structure, or other physical improvement is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of the provisions of the ordinance, the municipal attorney, in addition to other remedies under the Code of Iowa is hereby authorized to institute an action to enjoin, or any other appropriate action or proceeding to prevent, stop, or reverse such erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.

306.01 Building Permit: No Building or addition thereto and no addition to a previous existing building shall be constructed until there has been approval of a building permit, the application therefor to be accompanied by plans or sketches in duplicate, and a plot plan drawn to scale, showing the shape and dimensions of the lot to be built upon, exact location and size of the building or structure to be erected or altered, and the intended use of each building or addition thereto. A permit is needed anytime a change is made in a structure and anytime that ground is broken, whether it is for a new building, an addition, a sidewalk, or driveway. There is no cost for the permit; however, if changes are made and no permit has been issued, there will be a penalty assessed of twenty five dollars (\$25.00), plus any costs incurred by the city to cover damages to utility owned property. The Clerk has the authority to issue or deny building permits pursuant to the terms of the Zoning Regulations, this chapter, this Code of Ordinances and the Code of Iowa. Appeals for denial may be taken to the Council within thirty (30) days.

306.02 Application Form Approved/Information Required: Building permits in a form so approved by the City Council and the Zoning/Building Administrator shall be available from the City Clerk. Every application for a permit shall be accompanied by a detailed drawing or plan drawn to scale, or a blueprint, showing the actual shape and dimensions of the lot to be built upon, the exact location, size and height of the building or structure to be erected or altered, the location of all lot/property lines, streets, and alleys, the required setbacks (based on the zoning district requirements), the existing and intended use of each building or part, the proposed number of units, the approximate cost of the project; types and kinds of material to be used. Building permit applicants may be required, at the discretion of the Zoning/Building Administrator, to set stakes showing their property line boundaries, and stakes where the proposed building will be placed, prior to the inspection and before any action on the permit is taken. Such other information with regard to the lot and neighboring lots as may be necessary for the enforcement of the ordinance shall also be provided.

306.03 Procedure for Application: Completed building/zoning permits shall be submitted to the City Clerk or Zoning/Building Administrator. Applications requiring review at a Council meeting shall be submitted to the City Clerk no later than 8:00 a.m. the Wednesday prior to the meeting. If the start of a project is imminent to the extent that the applicant desires to request a special Council meeting to review the application, the Council may require that the applicant pay the additional costs associated with the special meeting.

Upon receipt of all building permit applications, the Zoning/Building Administrator shall review said application, arrange for an inspection of the proposed project and site if necessary, and determine whether or not the proposed work meets all of the requirements of this Ordinance. Upon determination, the following shall occur:

- A. If additional information is required, the application shall be returned to the applicant for clarification.
- B. If the application does not meet the requirements of this Ordinance (i.e., setbacks are not sufficient), a variance or special exception may be required, in which case the applicant will be required to request a variance or special exception per the provisions of this Ordinance.
- C. If the application does meet the requirements of this Ordinance, the application shall be approved by the Zoning/Building Administrator or forwarded to the City Council for final review. The Zoning/Building Administrator shall consult with the Clerk so that the final review shall be placed on the Council agenda when necessary and copies of the completed applications are forwarded to the Council for review prior to the meeting.
- D. Building permit applications for projects costing up to \$5,000 may be reviewed and approved by the Zoning/Building Administrator. Permits reviewed and approved by the Administrator

shall be presented to the City Council and Mayor for information purposes at the next regularly scheduled meeting. The City Council shall make final review of all building permit applications for projects costing over \$5,000.00 at a regularly scheduled or special meeting.

- E. If an application is approved, the applicant shall be notified by the Clerk or Administrator so that work can proceed. If an application is returned for further information, the Zoning/Building Administrator shall review the additional information and proceed with the review process as outlined above. If an application is denied, the Administrator or Council shall provide the applicant with its reasons for denial.
- F. Building permits shall expire 18 months after the date of issuance if work is begun within 180 days or after 180 days if no substantial beginning of construction has occurred. The Zoning/Building Administrator may grant extensions of time in writing if the applicant shows good cause.

307 **SPECIAL USE PERMITS.** Allowable special uses may be permitted, enlarged, or altered upon submission of an application for a special use permit to the Board of Adjustment. The Board may grant or deny a special use permit in accordance with the standards set forth herein and the intent and purposes of this ordinance. In granting special use permits, the Board shall authorize the issuance of a special use permit and may prescribe and impose appropriate conditions and safeguards for the performance of the special use permit. Special use permits shall always have specified time limits, and therefore may also be referred to as "temporary use permits".

307.01 **Application Form/Information Required:** A request for a special use permit for a special use or modification of a special use may be initiated by a property owner or his authorized agent by filing an application with the City Clerk upon forms prescribed for the purpose. The application shall be accompanied by a site plan and such other plans and data showing the dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use or proposed modification in relation to the standards set forth herein.

307.02 **Meeting:** Before issuance of any special use permit, the Board of Adjustment will consider the application at a meeting held at the call of the chairman within 30 days after the filing of the application.

307.03 **Decisions:** The concurring vote of 3 members of the Board of Adjustment shall be necessary to grant a special use permit. Special use permits may generally be granted by the Board for no longer than 6 months, unless the Board specifically grants a longer period of time or a building permit is obtained within the 6 month period and construction is started.

307.04 **Standards:** No special use permit shall be granted by the Board unless the Board finds:

- A. That the establishment, maintenance, or operation of the special use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare of the community.
- B. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property valued within the neighborhood.
- C. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- D. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided, but that the use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustment.

- E. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets, and that the use will not involve any activity substantially increasing the movement on public streets unless procedures are instituted to limit traffic hazards and congestion.
- F. The use shall not include any activity involving the use or storage of flammable, or explosive materials unless protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
- G. The use shall not include noise that is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled, nor vibration that is discernable without measuring instruments on any adjoining lot or property.
- H. The use shall not involve any malodorous gas or matter which is discernable on any adjoining lot or property, nor any pollution of the air by fly ash, dust, vapors, or other substance which may be harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- I. The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public street, road, or highway.

307.05 Occupancy Permits: No such building or addition thereto or land vacant on the effective date of the ordinance codified in this chapter shall be used for any purpose until an occupancy permit has been issued by the Clerk, which occupancy permit shall be issued if the terms of the building permit have been complied with.

307.06 Violations: In the event that a building is initiated without the building permit or occupancy is taken without an occupancy permit, the Council, after being so advised by the Clerk, is authorized to enjoin the building or use, without bond. A similar injunction may ensue if building or occupancy is undertaken contrary to such permits.

307.07 Penalty: Any person who violates or refuses to comply with any provisions of this chapter shall be guilty of a simple misdemeanor, and each day the violation continues is considered a separate offense.

308 FEES. The Council may establish fees for various matters relating to this Ordinance including, but not limited to, the following:

- Building Permit Applications
- Application for Variance
- Application for Special Exception
- Application for Special Use
- Application for Change in Zoning Classification
- Appeals

The schedule of fees shall be available in the offices of City Clerk and Zoning/Building Administrator. The schedule may be altered or amended only by the Council, although the Planning & Zoning Commission may make recommendations. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application, action or appeal.

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CHAPTER 4: AMENDMENTS & CHANGES

401 AMENDMENTS

401.01 Amendments & Changes: The City Council may, from time to time, on its own initiative, on petition, or on recommendation by the Planning & Zoning Commission, after public notice and public hearings as provided by law, and after report by the Planning & Zoning Commission or after 30 days notice to said Commission, amend, supplement, or change the regulations or districts herein or subsequently established.

401.02 Petition: Whenever the owners of 50% or more of the area of the lots in any district or part thereof desire any amendment, supplement, or change in any of the provisions of this Ordinance applicable to the area, they may file a petition with the City Clerk requesting the City Council to make such amendment, supplement, or change.

401.03 Application: Such petition shall be accompanied by a map or diagram showing the area affected by the proposed amendment, supplement, or change, together with the boundaries of the said area and the names and addresses of all the owners of record in the office of the County Recorder, of lots therein and within a distance of 200 feet outside of the boundaries in said area so that said property owners may be notified of the proposed change. The Council shall approve all zoning amendment application forms. All applications and petitions shall be submitted with the appropriate fee, if applicable, as established for said application by the Council.

401.04 Planning & Zoning Commission Study: All applications & petitions for Zoning Ordinance or district changes shall be immediately forwarded to the Planning & Zoning Commission for study. The Commission shall, within 30 days, make and submit a report to the City Council detailing its recommendations approving, disapproving, or modifying the proposed amendment, supplement, or change.

401.05 Protest: If a written protest against any proposed amendment, supplement, or change is presented to the City Council signed by 20% or more of the owners, either of the area of the lots included in such proposed change or those immediately adjacent to the area, such amendments shall not become immediately effective except by the favorable vote of at least 4 of the members of the City Council.

401.06 Limitation: Whenever a petition requesting an amendment, supplement, or change of any regulation prescribed by this Ordinance has been denied by the City Council, such petition cannot be re-submitted for review for 6 months thereafter. This provision, however, shall not prevent the City Council from acting on its own initiative in any case or at any time as provided in this Ordinance.

401.07 Record: The Zoning/Building Administrator shall maintain a record of amendments to the text, the land use plans, and zoning maps in a form convenient for the use of the public and shall provide the City Clerk with a copy of each amendment to the text of this Ordinance and change to the maps and shall keep them as part of the public record.

402 REPEALER. All ordinances or parts of ordinances in conflict with this Zoning Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

403 SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance.

404 **EFFECTIVE DATE.** This Ordinance shall become effective upon its passage, approval, and publication as provided by law.

ADOPTED AND APPROVED by Ordinance No. 2025-12-1 by the City Council of the City of Breda, Iowa this 8th day of December, 2025.

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