

CHAPTER 165

ZONING REGULATIONS

165.01 Short Title	165.14 Special Provisions
165.02 Purpose	165.15 Additional Requirements; Exceptions and Modifications
165.03 Definitions	165.16 Enforcement
165.04 General Provisions	165.17 Board of Adjustment
165.05 Districts Established	165.18 Applications and Appeals to Board of Adjustment
165.06 R-1 - One Family Residence District	165.19 Special Exceptions and Interpretation of Map
165.07 R-2 - One and Two-Family Residence District	165.20 Administrative Review and Variances
165.08 R-3 - One to Six-Family Residence District	165.21 Review by Council
165.09 B-1 - Retail Business District	165.22 Judicial Review
165.10 B-2 - General Business District	165.23 District Changes and Ordinance Amendments
165.11 I-1 - Industrial District	165.24 Placement, Fastening and Construction of Living Units
165.12 Planned Development	
165.13 Signs	

165.01 SHORT TITLE. This chapter shall be known and may be cited as “The City of Wapello, Iowa, Zoning Ordinance.”

165.02 PURPOSE. The purpose of this chapter 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 to promote the health, morals, safety, and general welfare in the City of Wapello, Iowa.

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

1. “Accessory use or structure” means a use or a structure subordinate to the principal use or building on the same lot and serving a purpose customarily incidental thereto.
2. “Alley” means a public or private way less than 21 feet in width affording secondary means of access to abutting property.
3. “Automobile repair, major” means general repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning.
4. “Automobile repair, minor” means minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and trucks not exceeding one and one-half (1½) tons capacity, but not including any operation specified under “automobile repair, major.”
5. “Basement” means a story having part but not more than 50 percent of its height below the average grade of the adjoining ground. A basement shall be counted as a story for purpose of height measurement.
6. “Building” means any structure for the shelter or enclosure of persons, animals, or chattels.

7. “Car port” means a roof structure, having one or more sides open, for shade and shelter of private vehicles, and may be an accessory structure or attached to the main building. A car port must follow all applicable zoning and building regulations.
8. “Deck” means any flat floored, roofless structure at or no greater than 36 inches above the finished grade, adjoining or directly adjacent to a building. The average grade of the ground shall also be subject to the required yard setback and to grade requirements.
9. “Dwelling” means a building or portion thereof occupied or intended to be occupied exclusively for residence purposes, but not including a tent, cabin, trailer or trailer coach, or a room in a hotel or motel.
10. “Dwelling, group” means two or more detached dwellings located on a parcel of land in one ownership and conforming to the special conditions and requirements set forth in Section 165.12(1).
11. “Essential services” means the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.
12. “Family” means one or more persons related by blood, marriage or adoption, together with his or her caretakers, maintaining a common household in a dwelling.
13. “Garage, private” means a detached accessory building or portion of a principal building used for the storage of self-propelled passenger vehicles, trailers or trucks of the occupants of the premises, and no trucks of a rated capacity not to exceed one ton.
14. “Grade” means the average elevation of the finished ground of the exterior walls of the main building. Grade will not be greater than two (2) feet higher than address side street grade.
15. “Height” means, in the case of a wall, or part of a building, the vertical distance from the average finished grade at the building line, if higher, to the average height of the top of the cornice of a flat roof, or roof line, or to the deck line of a mansard roof, or to the middle height of the highest gable or dormer in a pitched or hipped roof, or if there are no gable or dormers, to the middle height of such pitched or hipped roof.
16. “Highway” or “primary thoroughfare” means an officially designated Federal or State numbered highway or other road designated as a highway or primary thoroughfare on the Transportation Plan as officially adopted and amended from time to time by the Planning and Zoning Commission and City Council.
17. “Land Use Plan” means the comprehensive long-range plan for the desirable use of land in the community, as officially adopted and as amended from time to time by the Planning and Zoning Commission and Council, the purpose of such plan being, among other things, to serve as a guide for the subdividing and use of undeveloped

land, and in the acquisition of land for such public purposes as streets, parks, schools, and other public buildings or public uses.

18. “Lot” means a parcel of land, abutting on a street, whose area, in addition to the parts thereof occupied or hereafter to be occupied by a building and its accessory buildings, is sufficient to provide the yards and courts required by this chapter.

19. “Lot area” means the horizontal area within the lot lines of the lot.

20. “Lot, corner” means a lot of which at least two adjacent sides abut for their full lengths upon a street, provided the interior angle at the intersections of such two sides is less than 135 degrees. A corner lot will have two front yards. The side(s) will adjoin the front. (See also definition of “yard, front,” and Figures A and B.)

21. “Lot coverage” includes the perimeter area of all structures covered by roof, including garage, sheds, carports, porches, and other primary and accessory buildings. This does not apply to paving or uncovered decks and patios.

22. “Lot depth” means the mean horizontal distance between the front and rear lot lines.

23. “Lot width” means the mean horizontal distance across the lot between side lot lines at the building line measured at right angles to the depth.

24. “Motor fuel station” means a place where minor automobile repair is conducted and where gasoline, diesel, oil, kerosene, or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles including greasing and oiling and the sale of automobile accessories on the premises.

25. “Nonconforming use” means a building, structure, or premises lawfully occupied at the time of the enactment of these regulations by a use that does not conform with the provisions of this chapter for the district in which it is located; also, such use resulting from changes in zoning districts or in textual provisions made hereafter.

26. “Parking area, accessory” means an area of one or more parking spaces located on the same property as the building, structure, or premises it is intended to serve, or on adjoining or nearby property other than the public right-of-way, and of such shape and nature as to be appropriate and usable for the parking or storage, loading and unloading of self-propelled vehicles of not more than one-ton capacity.

27. “Patio” means an unenclosed, roofless structure adjoined to the principal building and elevated less than one (1) foot above the ground.

28. “Porch” means a roofed open area, which may be screened, usually attached to or part of – and with direct access to or from – the main structure.

29. “Sign” means any structure or device for visual communication and which is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or government agency.

30. “Sign, gross surface area of” means the entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.

31. “Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or the ceiling or roof next above such floor; provided that for the purpose of determining the required dimensions of yards and courts, when the average story height of a building exceeds 12 feet, each 12 feet or fraction thereof of the total building height shall be considered a separate full story or fractional story respectively, except the first story which may be 15 feet high.
32. “Story, half” means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story; provided, however, that any partial story used for residence purposes, other than for a janitor or caretaker and his or her family, shall be deemed a full story.
33. “Street” means any public way set aside as a permanent right-of-way for vehicular or pedestrian access 21 feet or more in width if it existed at the time of the enactment of these regulations; and any such public way created after enactment of these regulations, provided it is 60 feet or more in width.
34. “Structural alteration” means any change in the supporting members of a building including but not limited to bearing walls, load-bearing partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.
35. “Structure” means anything constructed, the use of which requires permanent location on the ground, or attached to something having permanent location on the ground.
36. “Wind (Generator) Energy Conversion System” (WECS) means any device that converts wind power to another form of energy, such as electricity or heat, including wind chargers, wind turbines, and windmills.
37. “Yard, front” has the meaning illustrated hereinafter in Figure D. A corner lot shall have two front yards.
38. “Yard, front (least depth)” means the shortest distance, measured horizontally, between any part of a building, other than such parts as hereinafter excepted, and the front lot line.
39. “Yard, rear” means an open space extending the full width of a lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.
40. “Yard, rear (least depth)” means the shortest distance, measured horizontally, between any part of a building, other than such parts as hereinafter excepted, and the rear lot line. In the case of an irregular, triangular, or gore-shaped lot, a line 10 feet in length entirely within the lot, parallel to and a maximum distance from the front lot line shall be considered the rear lot line.
41. “Yard, side” means an open space extending from the front yard to the rear yard between a building and the side lot line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.
42. “Yard, side (least width)” means the shortest distance, measured horizontally, between any part of a building, other than such parts as hereinafter excepted, and the nearest side lot line.

43. “Zero lot line” means the location of a building on a lot in such a manner that one or more of the building’s sides rest directly on a lot line. (See Figure C.)

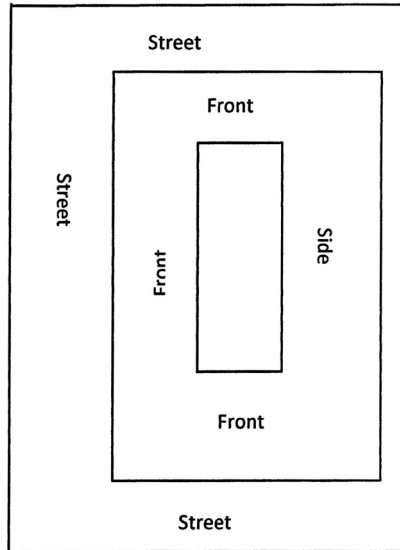


FIGURE A

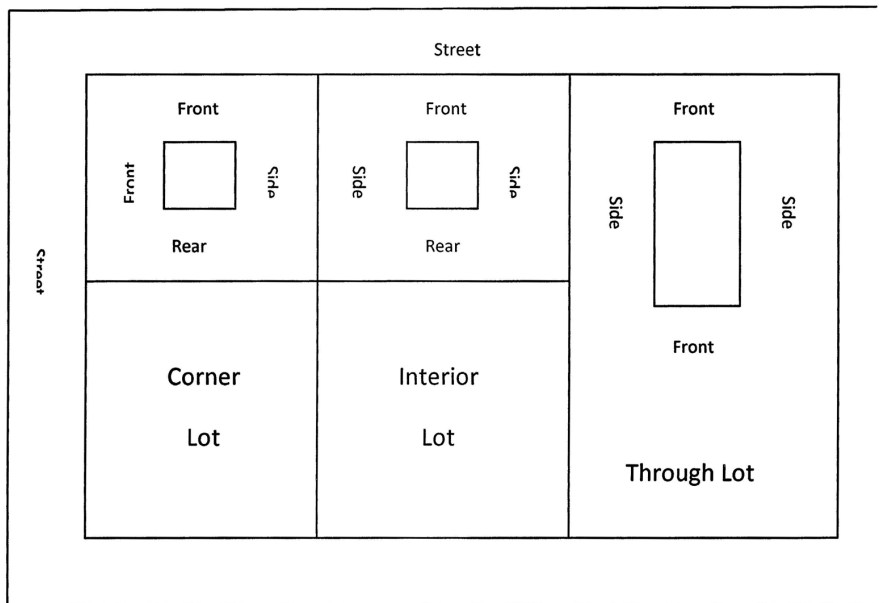
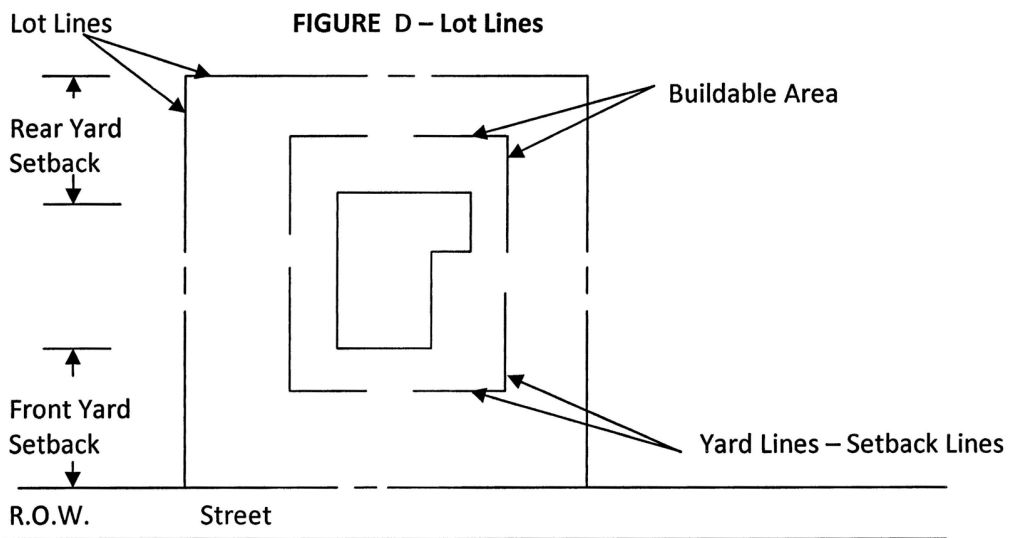
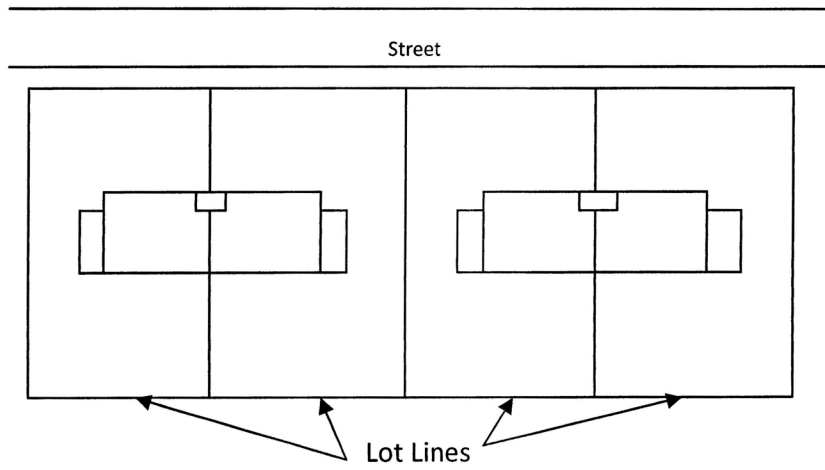


FIGURE B

Figure C - Zero Lot Line



165.04 GENERAL PROVISIONS.

1. Zoning Affects Every Structure and Use. Except as hereinafter provided, no building, structure or land shall hereafter be used and no building or part thereof or structure shall be erected, constructed, reconstructed, occupied, moved, altered, or repaired, except in conformity with the regulations herein specified for the class of district in which it is located.
2. Continuing Existing Uses. Any building, structure, or use lawfully existing at the time of enactment of these regulations may be continued, provided:
 - A. Any nonconforming building or structure which has been or may be damaged by fire, flood, explosion, earthquake, war, riot, or act of God, may be reconstructed and used as before if it is done within 12 months of such calamity, unless damaged more than 50 percent of its fair market value, as determined by the Board of Adjustment, at the time of such damage, in which case reconstruction shall be in accordance with the provisions of this chapter.
 - B. No building, structure or premises where a nonconforming use has been or may be discontinued for more than one year, or has been or may be changed to a use permitted in the district in which it is located, shall again be devoted to a nonconforming use.
 - C. Any nonconforming use of land not involving any structure, and any nonconforming outdoor advertising sign or outdoor advertising structure may be continued for a period not to exceed three years after enactment of these regulations, whereupon such nonconforming use shall cease or structure shall be removed.
 - D. Any building or structure devoted to a nonconforming use with a fair market value of less than \$500.00, as determined by the Board of Adjustment, may be continued for a period not to exceed three years after enactment of these regulations, whereupon such nonconforming use shall cease and thereafter such building or structure shall be removed or changed to a conforming use.
 - E. The foregoing provisions under this subsection, insofar as they limit reconstruction or require certain uses to cease or buildings or structures to be removed or changed, shall not be applicable where any such building, structure, or use would be conforming under the Land Use Plan.

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Zoning Administrator.

3. Street Frontage, Minimum Requirement. No lot created after the adoption of these regulations shall contain any building used as a dwelling unless it abuts at least 37.5 feet on a street or has a permanent exclusive non-obstructed easement of access not less than 37.5 feet wide to a street.
4. Lot Area Requirements.
 - A. Existing Lots of Record. In any district where dwellings are permitted, a one-family detached dwelling may be constructed on any lot of official record at the time of enactment of these regulations, the owner of which does not own any adjoining property, provided that proposed yard

spaces satisfy requirements stipulated for the district in which said lot is located, or requirements as may be modified by the Board of Adjustment.

B. Number of Uses on One Lot. No lot shall contain more than one principal use.

5. Accessory Buildings in Residence Districts.

A. No accessory building shall be erected in any yard other than a rear yard and it shall occupy less than 30 percent of a required rear yard. Accessory buildings shall be limited to 18 feet in height, and shall be a distance of at least 6 feet from all lot lines of adjoining lots which are in any "R" District and at least 6 feet from any other building or structure on the same lot. *(Ord. 2015-01 – Feb. 16 Supp.)*

B. Where the natural grade of a lot at the front wall of the principal building is more than 8 feet above the average established curb grade in front of the lot, a private garage may be erected within any yard or court, but not within 10 feet of any street line, provided that at least one-half (½) of the height of such private garage shall be below the level of the yard or the court.

C. An accessory building may exceed the 18 feet height requirement if the building conforms to the general architecture of the house. It may not exceed 30 feet in height. *(Ord. 2015-01 – Feb. 16 Supp.)*

6. Required Yard Cannot Be Reduced or Used by Another Building.

A. No lot, yard, court, parking area or other open space shall be so reduced in area or dimension as to make any such area or dimension less than the minimum required by this chapter, and if already less than the minimum required it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another building or structure.

B. The space occupied by a required private garage or parking area shall be considered the same as any required open space provided about a principal building, and such space shall not be reduced or included as any part of any required open space for another building or structure.

7. Conversion of Dwellings. The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under these regulations, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, dimensions of yards and other open spaces, and off-street parking. Each conversion shall be subject also to such further requirements as may be specified hereinafter within the section applying to such district.

8. Transitional Uses in "R" Districts. In any "R-1" or "R-2" District a transitional use shall be permitted on a lot, the side lot line of which adjoins, either directly or across an alley, any "B" or "I" District. The permitted transitional uses for any such lot in an "R-1" District shall be any use permitted in the "R-2" District; for any such lot in an "R-2" District any use permitted in the "R-3" District. In the case of any such lot in an "R-1" or "R-2" District, the requirement governing lot area per dwelling unit, off-street parking, yards and other open spaces shall not extend more

than 100 feet from the side lot line of the lot abutting on the zoning district boundary line.

9. Minimum Ground Floor Area for Dwellings.
 - A. A one-story dwelling shall contain not less than 800 square feet of usable ground floor area, exclusive of open porches, garages, or steps.
 - B. A 1½- or 2-story dwelling shall contain not less than 600 square feet of ground floor area, exclusive of open porches, garages, or steps.
10. Traffic Visibility Across Corner Lots. In any “R” District on any corner lot, no fence, structure, or planting shall be erected or maintained within 20 feet of the curb so as to interfere with traffic visibility across the corner.
11. Essential Services. Essential services shall be permitted as authorized and regulated by law and other ordinances of the community, it being the intention hereof to exempt such essential services from the application of these regulations.
12. Off-Street Parking and Loading. In any district spaces for off-street parking and for loading or unloading shall be provided in accordance with the provisions of Section 165.14.
13. Validity of Existing Building Permits. Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any developed building, structure, or part thereof, for which official approvals and required building permits have been granted before the enactment of these regulations, the construction of which, conforming with such plans, shall have been started prior to the effective date of these regulations and completion thereof carried on in a normal manner within the subsequent 12-month period, and not discontinued until completion, except for reasons beyond the builder’s control.
14. Basement Living Quarters. Living quarters in a basement shall have an egress window in an outside wall which opens out onto an unobstructed area. The bottom of the window shall be a maximum of 44 inches above the floor and shall have a minimum of 5.7 square feet of opening. The width shall be a minimum of 24 inches and the height a minimum of 20 inches.

165.05 DISTRICTS ESTABLISHED. The City is herewith divided into the following districts:

- “R-1” One-Family Residence District
- “R-2” One- and Two-Family Residence District
- “R-3” One- to Six-Family Residence District
- “B-1” Retail Business District
- “B-2” General Business District
- “I-1” Industrial District

The boundaries of these districts are hereby established as shown on a map entitled “Zoning Map,” which is hereby made a part of this chapter. The district boundary lines on said map are intended to follow lot lines, the centerlines of streets or alleys, the centerlines of streets or alleys projected, railroad right-of-ways, or the corporate limit lines, all as they existed at the time of enactment of these regulations; but where a district boundary line does not clearly coincide with lot lines, it shall be determined by scaling. Where a district boundary line divides a lot which was in single ownership and a record at the time of enactment of these regulations, the use authorized on and the other district requirements applying to the less

restricted portion of such lot shall be considered as extending to the entire lot provided that where the more restricted portion of such lot is more than 50 feet beyond said dividing district boundary line, such less restricted use shall be limited to the portion of the lot lying within 50 feet of said boundary line. Questions concerning the exact location of district boundary lines shall be determined by the Board of Adjustment according to rules and regulations which it may adopt, as hereinafter provided under Subsection 165.19(4). All territory which may hereafter be annexed to the community shall be classed automatically as being in an "R-1" One-Family Residence District until such classification shall have been changed by amendment of these regulations as provided hereinafter. *(See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)*

165.06 “R-1” – ONE-FAMILY RESIDENCE DISTRICT.

1. Permitted Principal Uses.
 - A. One-family detached dwellings.
 - B. Public parks, playgrounds, and recreational areas.
 - C. Essential services as defined in Section 165.03 and municipal administrative or public service buildings or properties, except such uses as storage yards, warehouses, garages, or other uses customarily conducted as gainful business, provided any building is located not less than 20 feet from any lot in any “R” District.
 - D. Cemeteries of 10 acres or more in size.
 - E. Churches, chapels, or parish houses located not less than 20 feet from any side lot line in any “R” District.
 - F. Any building or structure occupied or used for elementary, junior high or high schools, public libraries, and similar public cultural uses located not less than 20 feet from any side lot line.
 - G. Transformer stations and booster or pressure regulating stations, without service yard or storage.
 - H. When authorized by the Board of Adjustment the following uses are permitted: privately operated country clubs, golf courses, swimming clubs, riding stables, and similar recreation uses, provided that any principal accessory building in connection therewith shall be located not less than 200 feet from any lot in an “R” District.
2. Permitted Accessory Uses.
 - A. Private garages or parking area.
 - B. Office of a physician, dentist, lawyer, architect, engineer, clergy, or accountant within his or her dwelling.
 - C. Home occupations are permitted, provided the use is located within the dwelling unit or accessory building, and the dwelling unit is the bona fide primary residence of the owner and operator of the home occupation in which said owner resides during non-business hours, subject to the following conditions:
 - (1) Motor vehicle repair, towing, or storage, machine shops, medical and dental offices, kennels, welding and mini storage facilities are prohibited as home occupation uses, as well as any home occupation use which changes the fire safety rating.
 - (2) No commodities may be sold on the premises except that which is produced on the premises or accessory to the home occupation conducted on the premises.
 - (3) The home occupation does not require the paving of any additional parking spaces and generates no greater volume or type of traffic than that which is normally expected in a residential neighborhood.

- (4) There shall be no indication (except a permitted sign) from the exterior of the dwelling unit or accessory building, such as noise, smoke, dust, or outdoor storage of materials, that there is a home occupation use on the premises. There shall be no visitors or deliveries to the home occupation use before 7:00 a.m. or after 10:00 p.m.
 - (5) The home occupation use shall comprise no more than 25 percent of the gross floor area of the principal dwelling unit, excluding area devoted to an attached garage.
 - (6) Nonresident employees are prohibited, except one nonresident employee may be permitted if approved by the Council as a minor modification of the home occupation use.
 - (7) Anyone operating a legal home business as pertains to the previous City of Wapello Chapter 165.05, "R-1" – One-Family Residence District, Section 2, Permitted Accessory Uses, paragraph C, is grandfathered in as long as such person continue to operate by provisions of the previous ordinance.
 - (8) One unlighted sign not exceeding 18" by 18" shall be permitted. Sign may not be placed higher than 36".
3. Height Regulations. No principal structure shall exceed 2½ stories or 30 feet in height, and no accessory structure shall exceed one story or 15 feet, except as provided in Section 165.15(1).
 4. Lot Area, Frontage, and Yard Requirements. Please refer to the requirements as specified in Section 165.10(4).

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165.07 “R-2” – ONE- AND TWO-FAMILY RESIDENCE DISTRICT.

1. Permitted Principal Uses.
 - A. Any use or structure permitted and as regulated in Section 165.06, except as hereinafter modified.
 - B. Two-family dwellings.
 - C. Single-family attached dwelling.
 - D. Bed and breakfast that consists of a home with no more than four (4) rental rooms.
 - E. Dwelling groups. *See Section 165.12(1).*
 - F. Parking areas accessory to a use in an adjoining less restricted district, when abutting or directly across an alley, subject to the applicable conditions stipulated in Section 165.14, and such further conditions as may be stipulated by the Board.
 - G. Hospitals, sanitariums, and nursing homes, provided that any such buildings shall be at least 50 feet from any lot in any “R” District. Hospitals shall be located on lots of five acres or more, sanitariums on lots of ten acres or more and nursing homes on lots of 20,000 square feet or more.
 - H. Residence development projects exempt from district height regulations. *See Section 165.12(2).*
2. Permitted Accessory Uses.
 - A. “R-1” Residence District accessory uses.
 - B. Signs as regulated by Section 165.13.
3. Height Regulations. No principal structure shall exceed 2½ stories or 30 feet in height, and no accessory structure shall exceed one story or 15 feet in height, except as provided in Section 165.15(1).
4. Lot Area, Frontage, and Yard Requirements. Please refer to the requirements as specified in Section 165.10(4).
5. Standards for Single-Family Attached Dwelling.
 - A. A dwelling unit with zero side yard shall have no openings on the side abutting the common lot line.
 - B. The common wall dividing a single-family attached dwelling shall be constructed with a minimum of two separate 2 by 4-inch stud wall with 5/8-inch drywall on each side of each 2 by 4-inch stud wall.

(Ord. 2015-01 – Feb. 16 Supp.)

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165.08 “R-3” – ONE- TO SIX-FAMILY RESIDENCE DISTRICT.

1. Permitted Principal Uses.
 - A. Any use or structure permitted and as regulated in Section 165.07, except as hereinafter modified.
 - B. Three- to six-family dwellings.
 - C. When authorized by the Board of Adjustment, any use as regulated in Section 165.07(1)(C-G), except as hereinafter modified.
 - D. Kindergartens, preschools, daycare centers, day nurseries, or nursery schools, provided that any play lot used in connection therewith be suitably fenced and screened in accordance with requirements of the Board.
 - E. Motels or motor hotels on lots abutting on State or Federal highways, subject to the applicable provisions of Section 165.14(3).
 - F. The following on lots abutting on State or Federal highways: office of civic, religious or charitable organizations and financial or insurance institutions conducting their activities primarily by mail and not handling merchandise or rendering services on the premises; offices devoted to real estate, insurance, management, and similar enterprises when conducting their activities primarily by mail or telephone and not displaying or handling merchandise on the premises; professional offices of architects, engineers, and lawyers.
 - G. Mobile home parks or trailer courts subject to the following conditions:
 - (1) The mobile home park shall be located on a parcel of ground at least five (5) acres in size and each boundary line of the park shall be at least 200 feet from any residential structure located outside the park unless separated therefrom by a natural or artificial barrier.
 - (2) The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
 - (3) Each trailer home space shall be large enough to provide a distance of 10 feet between any trailer or structure on the space and the lot line, a front yard of 15 feet and a rear yard of 10 feet.
 - (4) All trailer home spaces shall abut upon a driveway of not less than 20 feet in width which shall have unobstructed access to a public street.
 - (5) Walkways not less than 2 feet wide shall be provided from the trailer spaces to the service buildings.
 - (6) All driveways and walkways in the park shall be hard surfaced and lighted at night with electric lamps of not less than 25 watts each, spaced at intervals of not more than 100 feet.
 - (7) Each trailer park shall provide service buildings to house such toilet, bathing and other sanitary facilities and such laundry facilities as may be prescribed.

- (8) An electrical outlet supplying at least 110 volts shall be provided for each trailer space.
 - (9) Each park shall comply with the regulations set forth by the General Assembly of Iowa.
2. Permitted Accessory Uses.
 - A. "R-2" Residence District accessory uses.
 - B. Signs as regulated by Section 165.13.
 3. Height Regulations. No principal structure shall exceed three stories or 35 feet in height, and no accessory structure shall exceed one story or 15 feet in height, except as provided in Section 165.15(1).
 4. Lot Area, Frontage, and Yard Requirements. Please refer to the requirements as specified in Section 165.10(4).

[The next page is 751]

165.09 “B-1” – RETAIL BUSINESS DISTRICT.

1. Permitted Principal Uses.
 - A. Any use or structure permitted and regulated in Section 165.08, except as hereinafter modified.
 - (1) Uses or structures permitted and regulated in Section 165.08 are not permitted in the following area unless above a retail business establishment or other permitted use within this section:

The East half of Block 47 and Block 48 of England’s Addition and Blocks 11 and 12 of the Original Town, all in the City of Wapello, Louisa County, Iowa.
 - B. Any retail business establishment, such as appliance store, auto accessory store, bakery with baking limited to goods for retail sales on the premises, book or stationery store, cafe or restaurant, camera or photographic supply shop, candy or ice cream store, delicatessen, drug store, fabric shop, floor-covering store, florist shop, furniture store including incidental upholstery, gift shop, grocery store, haberdashery or women’s ready-to-wear shop, hardware or paint store, hobby shop, jewelry store, meat market, shoe store and variety store.
 - C. Any service establishment, such as a bank or other financial enterprise, barber or beauty shop, business or professional office, clothes cleaning or laundry pick-up station, funeral home, theater, and self-service laundry.
 - D. Bus terminal.
 - E. Business or trade school.
 - F. Commercial parking lot.
 - G. Department store.
 - H. Hotel.
 - I. Meeting hall, club, and fraternal organization.
 - J. Public parking lot or customer and other accessory parking area, subject to the applicable provisions of Section 165.14.
 - K. Dance hall, bar or cocktail lounge, or nightclub, which may include adjacent fenced or walled area for outside services, when occupying a completely enclosed area located at least 100 feet from any “R” District:
 - L. Other business, professional or service establishment.
2. Permitted Accessory Uses. Other accessory uses customarily incidental to a permitted use, including signs as regulated by Section 165.13.
3. Height Regulations. No structure shall exceed three stories or 45 feet in height, except as provided in Section 165.15(1).
4. Yard Requirements. Please see requirements as specified in Section 165.10(4).

[The next page is 757]

165.10 “B-2” – GENERAL BUSINESS DISTRICT.

1. Permitted Principal Uses.
 - A. Any use or structure permitted and as regulated in Section 165.09 except as hereinafter modified.
 - B. Bed and breakfast homes.
 - C. Building material sales yards, if enclosed on all sides by an eight-foot high solid fence.
 - D. Wholesale businesses and warehouses.
 - E. Motels or motor hotels, subject to the provisions of Section 165.14(3).
 - F. Drive-in eating establishments.
 - G. Motor fuel stations subject to the conditions stipulated in Section 165.14(2).
 - H. Greenhouses.
 - I. Animal hospitals, veterinary clinics or kennels, provided that buildings or enclosures in which animals are kept shall be at least 100 feet from any lot in any “R” District.
 - J. Commercial baseball field, bath house, or boat house, golf driving range, skating rink, swimming pool, or similar open air recreational uses and facilities, but not within 200 feet of any “R” District.
 - K. The following uses provided no part of a building where any activity is conducted shall have any opening other than stationary windows or required fire exits within 100 feet of any “R” District:
 - (1) Automobile truck, trailer, and garden implement establishments for display, hire, sales, including sales lots.
 - (2) Bottling of soft drinks or milk, or distribution stations.
 - (3) Bowling alley, pool hall or billiard parlor, dance hall, bar or cocktail lounge, nightclub, and similar enterprises.
 - (4) Carpenter shop, electrical, heating, ventilating or plumbing shop, furniture upholstery shop, printing, publishing, engraving or lithographing plant, laundry and dry cleaning shop, sign painting shop, and similar establishments.
 - L. Any other use that is determined by the Board of Adjustment to be of the same general character as the foregoing permitted uses, but not including any use which may become noxious or offensive in a “B-2” District.
2. Permitted Accessory Uses.
 - A. “B-1” Retail Business District accessory uses.
 - B. Other accessory uses customarily incidental to a permitted principal use, including signs as regulated by Section 165.13.
3. Height Regulations. No structure shall exceed three stories or 45 feet in height, except as provided in Section 165.15(1).

4. Lot Area, Frontage, and Yard Requirements. The following minimum requirements shall be observed for one- to six-family residence districts and businesses as specified in the following table, subject to the additional requirements, exceptions and modifications in Sections 165.15(3) and 165.15(4), inclusive.

A. “R-1” One-Family Residence Districts. Each lot shall have a minimum lot area of 10,000 square feet.

Stories	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Least Width Side Yard (feet)	Sum of Least Width for Side Yards (feet)	Minimum Rear Yard (feet)
1-1½	80	30	7	16	30
2-2½	80	30	9	20	30

B. “R-2” One- and Two-Family Residence Districts. Minimum lot area 6,000 square feet per one-family residence. Each structure containing more than one family shall be located on a lot having an area of 5,000 square feet for each family.

Stories	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Least Width Side Yard (feet)	Sum of Least Width for Side Yards (feet)	Minimum Rear Yard (feet)
1-1½	60	30	6	14	30
2-2½	60	30	8	18	30

C. “R-3” One- to Six-Family Residence Districts. Each one-family residence shall be located on a lot containing at least 5,000 square feet. Each two-, three-, four-, five-, or six-family structure shall be located on a lot having an area of 3,000 square feet for each family to be housed in the structure.

Stories	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Least Width Side Yard (feet)	Sum of Least Width for Side Yards (feet)	Minimum Rear Yard (feet)
1-1½	50	30	6	13	30
2-2½	50	30	7	15	30
3	55	30	8	20	30

D. "B-1" Retail Business Districts.

Minimum Front Yard Depth	Minimum Side Yard Width	Minimum Rear Yard Depth
None	None, except where adjoining an "R" District, then same as the least width required in that "R" District.	10 feet, except when adjoining an "R" District, then same as "R" District

E. "B-2" General Business Districts.

Permitted Uses	Minimum Lot Area	Minimum Lot Area Per Family	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Side Yard Width	Minimum Rear Yard Depth
Dwellings	(same as "R-3" Districts)	(same as "R-3" Districts)	(same as "R-3" Districts)	(same as "R-3" Districts)	(same as "R-3" Districts)	(same as "R-3" Districts)
Other	None	None	50	25	None, except where adjoining an "R" District, then same as the least width required in that "R" District	10 feet, except where adjoining an "R" District, then same as "R" District

F. Single-Family Attached Dwelling.

Stories	Minimum Width Side Yard
1 – 1½	12 feet*
2 – 2½	16 feet*
* A dwelling unit with zero side yard on one side shall have a minimum width side yard on opposite side lot line.	

[The next page is 765]

165.11 “I-1” – INDUSTRIAL DISTRICT.

1. Permitted Principal Uses.
 - A. Any use or structure permitted and as regulated in Section 165.10, except as hereinafter modified.
 - B. The following uses if located not less than 100 feet from any “R” District:
 - (1) Builder’s or contractor’s plant or storage yard.
 - (2) Building material sales and storage yard, including concrete mixing.
 - (3) Lumber yard, including millwork.
 - (4) Open yard for storage and sale of feed, fertilizer, or fuel.
 - C. The following uses, providing no part of a building occupied by such uses shall have opening other than stationary windows or required fire exits within 100 feet of any “R” District:
 - (1) Automobile repair garage doing major repair, including tire retreading or recapping, battery service and repair.
 - (2) The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries, milk, and food products.
 - (3) The manufacture or assembly of electrical appliances, electronic instruments and devices, phonographs, radio and television sets, electric and neon signs, refrigerators and stoves.
 - (4) Laboratory, experimental, film, or testing.
 - D. Railroad freight stations, trucking or motor freight terminals, provided that service yards or docks are at least 100 feet from any lot in an “R” District.
 - E. Any other use that is determined by the Board of Adjustment to be of the same general character as the foregoing permitted uses, but not including any use which may become noxious or offensive in an “I-1” District. In determining the character of such use, the Board shall refer to the Subsection 165.19(3).
2. Permitted Accessory Uses.
 - A. “B-2” Business District accessory uses.
 - B. Other accessory uses customarily incidental to a permitted principal use, including signs as regulated by Section 165.13.
3. Prohibited Uses.
 - A. Dwellings, except for watchman or caretaker on premises.
 - B. Schools, hospitals, clinics, and other institutions for human care, except when incidental to a permitted principal use.

- C. Auto salvage and wrecking operations, industrial metal and waste salvage operations, and junk yards.
- 4. Yard Requirements. The following minimum requirements shall be observed, subject to the additional requirements, exceptions, and modifications in Sections 165.15(2) - 165.15(4), inclusive.

Height of Permitted Uses	Minimum Front Yard Depth	Minimum Side Yard Width	Minimum Rear Yard Depth
3 stories or 50 feet in height	25 feet	Equal to building height	Height of building but not less than 20 feet

[The next page is 785]

165.12 PLANNED DEVELOPMENT. The following requirements shall be considered minimum for planned developments.

1. Dwelling Groups.

A. In the case of a project consisting of a group of two or more buildings to be constructed on a plot of ground not subdivided into the customary streets and lots and which will not be so subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of these regulations to the individual building units in such project, the applying of such requirements to such project shall be done by the Board of Adjustment in a manner that will insure substantially the same character of occupancy, maximum intensity of use, and minimum standard of open spaces as permitted by these regulations in the district in which the proposed project is to be located.

B. In no case shall the Board authorize a use or a building height prohibited in the district in which the project is to be located, or a smaller lot area per family than the minimum required under these regulations in such district. Nor shall the Board authorize a building coverage exceeding that which would be obtained if the same area were to be developed by the customary subdivision thereof into streets and lots in conformance with the adopted Subdivision Regulations, and by the type of buildings of these regulations. The Board shall not authorize the erection of a project on a parcel of ground occupied by another principal structure.

2. Residence Development Projects.

A. A Residence Development Project consisting of any number of buildings, the contemplated arrangement of which makes it impossible to apply the requirements of these regulations to the individual buildings, may be authorized by the Board of Adjustment in districts in which such projects are permitted. In so doing, the Board shall first refer the plans for such project to the Planning and Zoning Commission for study, public hearing and report upon finding that the plans of such project meet the following conditions:

- (1) The tract of land on which the project is to be erected meets minimum size requirements as specified in Subsection 165.12(2)(B).
- (2) The buildings are to be used only for residential purposes and the customary accessory uses, such as private garages, storage spaces, recreational and community activities.
- (3) 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 ninety percent (90%) of the lot area per family required in the district in which the project is to be located.
- (4) There are to be provided within the tract, or immediately adjacent thereto, parking spaces in private garages or off-street parking areas as specified in Section 165.14.

(5) There are to be provided, as a part of the project, adequate recreation areas to serve the needs of the anticipated population to be housed therein.

(6) Drives, access ways, and parking areas are developed to a standard equal to that required for public use.

(7) Such drives and access ways are protected by recorded deed covenants assuring their availability to all residents of the project.

(8) The proposed project will constitute a residential environment of a sustained desirability and stability; it will be in harmony with the character of the surrounding neighborhood and insure substantially the same type of occupancy as obtained or may be expected to be obtained in said neighborhood; 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 bulk regulations for the district in which to project is to be located.

(9) The project will be consistent with the intent and purpose of these regulations to promote public health, safety, and general welfare.

B. Height, yards, and lot coverage shall be regulated by the following schedule and in no case shall the Board authorize standards less than:

	Detached One Family	Town House	High Rise Apartment
Minimum size of development (1 acre = 43,560 sq. ft.)	3 acres	5 acres	10 acres
Garage & parking area (per dwelling unit)	600 sq. ft.	600 sq. ft.	600 sq. ft.
Height of main building	30 feet	35 feet	80 feet
Setback from any dedicated public right-of-way	25 feet	25 feet	Height of building
Distance between buildings face-to-face	80 feet	120 feet	150 percent of building height
Distance between buildings face-to-rear or face-to-side	60 feet	80 feet	150 percent of building height
Distance between buildings side-to-side	20 feet	30 feet	Height of building
Distance between buildings rear-to-rear	80 feet	50 feet	Height of building

C. Any change in an approved plan shall be referred by the Board of Adjustment to the Planning and Zoning Commission for study and report, prior to any action by the Board.

D. The Board of Adjustment shall approve or disapprove any plan or revision of an approved plan within 60 days of the filing of all elements of the plan.

[The next page is 793]

165.13 SIGNS.

1. Standard of Measurement.
 - A. The total area of all signs permitted on a lot shall include:
 - (1) The total area of the faces visible from a public way of all permanent exterior signs, plus
 - (2) The area of permanent signs placed upon the surface of windows and doors, plus
 - (3) The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.
 - B. A building or use having frontage on a second street may include 20 percent of the length of the lot facing the second street.
2. Signs Permitted in the “R-1” District.
 - A. Real estate signs of a temporary nature, not exceeding two in number per lot, nor larger than 6 square feet set back 20 feet from any highway, street, or road.
 - B. A sign or signs flat against a building appertaining to a nonconforming use on the premises, not exceeding in the aggregate 50 square feet in area except as may be authorized by the Board of Adjustment.
 - C. Small announcement or professional signs, not over 6 square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of non-residential nature.
 - D. One nameplate not exceeding 2 square feet for each dwelling.
3. Signs Permitted in the “R-2” District. Signs as permitted and regulated in Section 165.13(2).
4. Signs Permitted in the “R-3” District.
 - A. Signs as permitted and regulated in Section 165.13(3).
 - B. Signs flat against the building, appertaining to any of the permitted principal uses of a nonresidential character.
5. Signs Permitted in the “B-1” District.
 - A. Signs as permitted and regulated in Section 165.13(4), except as hereinafter modified.
 - B. The total area of all signs permitted on any one lot shall not exceed two times the number of linear feet the lot abuts on the street.
6. Signs Permitted in the “B-2” District.
 - A. Signs as permitted and regulated in Section 165.13(5), except as hereinafter modified.

B. Billboards and signboards subject to the same height and location requirements as other structures in the “B-2” District and also subject to the following conditions and restrictions.

- (1) No billboard, signboard or similar advertising signs shall be located at intersections so as to obstruct vision, hearing or interfere with pedestrian or vehicular safety.
- (2) No billboard, signboard of similar advertising signs shall be located within 50 feet of any lot in an “R-1” District or within 40 feet of any lot in an “R-2” District.
- (3) No billboard or signboard shall exceed 300 square feet in area.
- (4) No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- (5) Elevated signs at least 5 feet from any lot line.
- (6) Projecting signs at least 8 feet above the sidewalk and extending no further than 5 feet from the building to which it is attached.

7. Signs Permitted in the “I-1” District. Signs as permitted and regulated in Section 165.13(6).

[The next page is 805]

165.14 SPECIAL PROVISIONS.

1. Off-Street Parking Areas and Loading Spaces.

A. In all districts, in connection with every building or part thereof hereafter erected, having a gross floor area of 2,500 square feet or more, which is to be occupied by uses requiring the receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained on the same premises with such building at least one off-street loading space accessible from an alley, easement of access, or, when there is no such alley or easement of access, from a street, plus one additional such loading space for each 10,000 square feet or major fraction thereof of gross floor area so used in excess of 15,000 square feet. Such space may occupy all or any part of a required rear yard or, with authorization of the Board of Adjustment, part of any other yard or court space on the same premises.

B. In all districts except "B-1" off-street accessory parking areas, in the open or in a garage, shall be provided in connection with the uses set forth hereinafter and to the extent indicated therewith, in addition to the above required loading and unloading spaces. Such areas, in the case of "R" Districts and for dwellings in other districts, shall be on the premises intended to be served; and in the case of "B-2", or "I-1" Districts, and in connection with uses other than dwellings, such areas shall be on the premises intended to be served or on adjoining or nearby properties within 100 feet of any part of said premises and in the same or less restricted district.

C. Number of parking spaces required.

Use	Parking Spaces Required
Automobile or Machinery Sales and Service Garages	1 for each 1,000 sq. ft. of floor area plus 1 for each full-time employee
Banks, Business and Professional Offices	1 for each 200 sq. ft. of floor area
Bowling Alleys	6 for each alley
Churches and Schools	1 for each 4 seats in principal auditorium
Convenience Stores - Drug, Grocery, Hardware, and similar stores	1 for each 300 sq. ft. of floor area devoted to sales plus 1 for each full-time employee
Dance Halls and Assembly Halls without fixed seats	1 for each 50 sq. ft. of floor area used for assembly or dancing
Drive-In Eating Establishments	Not less than 1/3 of the total ground area be devoted exclusively to parking and accessways
Dwellings: Single-Family, Detached	2 for each dwelling unit
Dwellings: All Other	1½ for each dwelling unit
Food Pick-up Establishments	Minimum of 1 plus 1 for each 100 sq. ft. of floor area
Funeral Homes, Mortuaries	6 per chapel room or parlor or 1 per 50 sq. ft. of rooms used for services, whichever is greater
Hospitals, Nursing Homes and similar care centers	1 for each 5 beds plus 1 for each 2 doctors and employees
Manufacturing Plants, Research or Testing Laboratories, Bottling Plants	1 for each 3 employees on maximum working shift
Medical or Dental Clinics	1 for each 200 sq. ft. of floor area plus 1 for each full-time employee and 1 for each doctor
Motels or Motor Hotels	1 for each unit, plus 1 for each 2 employees on maximum shift
Motor Fuel Stations	1 for each employee on duty plus 2 for each service bay
Barber Shops	2 for each chair plus 1 for each 2 employees on maximum shift
Beauty Shops	1 for each dryer plus 1 for each 2 employees on maximum shift
Coin-Operated Laundries and/or Dry Cleaning Establishments	1 for each 3 washers and/or cleaning machines plus 1 for each 2 employees on maximum shift
Restaurants	1 for each 3 seats plus 1 for each 2 employees on maximum shift
Shoppers' Goods/Appliance Household Equipment, Furniture and similar stores	1 for each 500 sq. ft. of floor area plus 1 for each full-time employee
Taverns or Bars	1 for each 2 seats plus 1 for each 2 employees on maximum shift
Theaters	1 for each 4 seats
Wholesale Establishments	2 for each 4 employees on maximum work shift

In the case of any use which is not specifically mentioned herein, the provisions for a similar use which is mentioned shall apply.

D. Units of Measurement.

(1) Parking Space. Each parking space rectangular in shape shall not be less than 8½ feet wide and 20 feet long, or not less than 170 square feet in area exclusive of access drives or aisles.

(2) Loading Space. Each loading space shall not be less than 10 feet wide, 40 feet in length and 14 feet in height, exclusive of access and turning area.

(3) Floor Area. In the case of merchandising or service types of uses, "floor area" shall mean the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons or clients, but shall not include areas used principally for non-public purposes, such as toilet or rest rooms, utilities, or dressing rooms.

(4) Benches in Place of Public Assembly. In stadiums, sports arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for the purposes of determining requirements for off-street parking facilities under these regulations.

E. Developments Standards. Off-street accessory parking areas shall be of usable shape, and shall be improved, in accordance with requirements of the City Council, with a durable and dustless surface and so graded and drained as to dispose of all surface water accumulation within the area. Any lighting used to illuminate such parking areas shall be so arranged as to reflect the light away from adjoining premises in any "R" District.

F. Exceptions.

(1) The Board of Adjustment may authorize on appeal a modification, reduction or waiver of the foregoing requirements, if it should find that in the particular case the peculiar nature of the use, or other exceptional situation or condition would justify such modification, reduction or waiver.

(2) The Planning and Zoning Commission, in consultation with other City departments and agencies concerned, shall make studies as found advisable for various areas in the City for the purpose of determining the areas within which there is need for the establishment of off-street parking facilities to be provided by the City and to be financed wholly, or in part, by a special assessment district, or by other means. Where such need is found, the Planning and Zoning Commission shall report its recommendation for the acquisition of such off-street parking facilities to the Council. This report shall include recommendations on the type, size, location and other pertinent features of the proposed off-street parking facilities and the area they are intended to serve.

2. Garages, Motor Fuel Stations, and Car Washes.
 - A. No building, structure or premises shall be used, erected or altered which is intended or designed to be used as a public garage, automobile repair shop, motor fuel station or car wash having an entrance or exit for vehicles in the same block-front and having an entrance or exit for vehicles in the same block-front and within 200 feet of any school, public playground, church, hospital, public library or institution for dependents or for children, and no such entrance or exit shall be located within the same block-front and within 20 feet of any "R" District; nor shall any part of such public garage, automobile repair shop, motor fuel station, or car wash be located within 100 feet of any building or grounds of any of the aforesaid public or institutional uses.
 - B. All activities incidental to the sale of gasoline or oil such as battery and tire repair, car washing and greasing shall be conducted within the building and there shall be no storage or accumulation of miscellaneous equipment, machinery, or motor vehicles, disabled or otherwise, outside of the principal structure.
3. Hotels or Motor Hotels.
 - A. No vehicular entrance to or exit from any motel or motor hotel wherever such may be located shall be within 200 feet along streets from any school, public playground, church, hospital, library or institution for dependents or for children, except where such property is in another block or on another street, which the premises in question do not abut.
 - B. The following regulations shall be complied with:
 - (1) Any lot to be used for a motel or motor hotel shall be not less than 15,000 square feet in area and shall contain not less than 1,000 square feet of lot area per sleeping unit. All buildings and structures on the lot shall occupy in the aggregate not more than 25 percent of the area of the lot.
 - (2) All areas used for automobile access parking shall comply with the provisions of Subsection 165.14(1)(E).
 - (3) All areas not used for access, parking, circulation, buildings and services shall be completely landscaped and the entire site maintained in good condition.
 - (4) No enlargements or extensions to any motel or motor hotel shall be permitted unless the existing one is made to conform substantially with all the requirements for new construction for such an establishment.
4. Fencing.
 - A. The following provisions regarding fencing requirements shall apply in all "R-1," "R-2," and "R-3 Districts.
 - B. A "fence" means any barrier, boundary, or other device constructed of wood, steel, aluminum, plastic, brick, cement, stone, clay, rock or masonry. It specifically excludes the planting of vegetation along a borderline.
 - C. The following regulations shall be complied with:

- (1) All fencing must be one foot inside the property line and shall be of good appearance and properly maintained. However, a fence may be constructed on the property line between two adjoining lots by mutual agreement of the owners of those lots. The agreement must be in writing and recorded in the Louisa County Courthouse.
- (2) Fencing must not exceed four feet in height (except for pool fencing as defined below) at the frontage of the building, dwelling, or other structure. Fencing must not exceed eight feet in height at the side or rear yard of such building, dwelling, or structure.
- (3) Fencing at the rear of a building, dwelling, or other structure must be set back three feet from edge of City owned street or alley.
- (4) Fencing must not bear any lettering, words, signs, murals, advertisements, or pictures except or unless to protect person or persons from bodily harm from within the fence.
- (5) All fencing posts or supports must be placed to the inside face or center of said fence.
- (6) No electrical, barbed wire, or sharp corners, or fencing that can cause bodily harm will be permitted.
- (7) Fencing at any property corner, alleys, or intersections must comply with Section 165.04(10).
- (8) Panels can be replaced without replacing posts. If over 51% of posts are being replaced, then it will be considered a new fence. New fence regulations will be enforced.
- (9) All fences shall be maintained in a structurally sound condition and in good repair free from loose or rotting materials. Fences must not adversely affect adjacent property owner.

(Ord. 2015-01 – Feb. 16 Supp.)

D. A fence in the front yard shall be at least 4 feet from the front lot line, not over 4 feet high, and so constructed as to permit some visibility through the fence. In a corner lot, there must be clear sight across the corner from a point 20 feet distance along each curb from the intersection.

(Ord. 2015-01 – Feb. 16 Supp.)

5. A swimming pool, within the meaning of this section, shall be any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent, and either above or below ground in which water of more than 24 inches in depth is contained and which is used primarily for the purpose of bathing and swimming.

A. Swimming pools within the scope of this section not enclosed within a permanent building shall be completely enclosed by a fence of at least five feet in height and not more than eight feet in height to prevent access to the pool, and shall be constructed so as not to have voids, holes, or openings larger than four inches in one dimension. Gates or doors shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use.

B. Furthermore, the pool fencing shall be subject to the following restrictions:

- (1) Location of said fencing shall be subject to all other applicable ordinances;
- (2) No fence shall be located, erected, constructed, or maintained closer to a pool than three (3) feet;
- (3) The wall of the house or building faced to a pool may be incorporated as a portion of such fence;
- (4) All metal fences that could become electrically alive as a result of contact with broken overhead conductors or from any other cause shall be effectively grounded.

165.15 ADDITIONAL REQUIREMENTS; EXCEPTIONS AND MODIFICATIONS.

The requirements and regulations specified hereinbefore in this chapter shall be subject to the additional requirements, exceptions, modifications, and interpretations in the following:

1. Height Limits. Height limitations stipulated elsewhere in this report shall not apply:

A. To barns, silos, or other farm buildings or structures on farms, provided these are not less than 50 feet from every lot line; to church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, masts and aerials; to parapet walls extending not more than 4 feet above the limiting height of the building. However, if, in the opinion of the Zoning Administrator, such structures would adversely affect adjoining or adjacent properties, such greater height shall not be authorized except by the Board of Adjustment.

B. To places of public assembly such as churches, schools, and other permitted public and semi-public buildings not to exceed 6 stories or 75 feet, provided that for each foot by which the height of such building exceeds the maximum height otherwise permitted in the district its side and rear yards required for the highest building otherwise permitted in the district.

C. To bulkheads, conveyors, derricks, elevator penthouses, water tanks, monitors and scenery lots; to monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height. Where a permitted use requires greater heights than specified, such may be authorized by the Board of Adjustment.

2. Front Yard Exceptions and Modifications.

A. Front yard requirements do not apply to bay windows or balconies occupying in the aggregate not more than one-third of the front wall, provided that these projections come entirely within planes drawn from either main corner of the front wall, making an interior angle of 22½ degrees in the horizontal plane with the front wall; to chimneys, flues, belt courses, leaders, sills, pilasters, uncovered porches, plantings, or similar features not over 3 feet high above the average finished grade and distant 5 feet from every lot line.

- B. 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 or greater than the least front yard depth prescribed, front yards may be varied. The depth of the front yard 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 a front yard on a lot in any "R" District shall be at least 15 feet and need not exceed 50 feet.
3. Side Yard Exceptions and Modifications.
- A. Along any district boundary line, any abutting side yard on a lot in the less restricted district shall have at least width equal to that required in the more restrictive district. Where a lot in an "I" or "B" District abuts a lot in an "R" District, the side yard shall be increased by 3 feet for each story that the building proposed on such lot exceeds the height limit of the said "R" District.
- B. Side yards shall be increased in width by 2 inches for each foot by which the length of the side wall of the building, adjacent to the side yard, exceeds 40 feet in any "R-1" District, or 50 feet in any "R-2" District.
- C. Side yards may be reduced by 3 inches from the otherwise required least width of each side yard for each foot by which a lot of record at the time of enactment of these regulations is narrower than the lot width specified for the district in which the lot is located, in the case of buildings not higher than 2½ stories, and in case the owner of record does not own any adjoining property; provided, however, and irrespective of the provisions of subparagraph 165.15(2)(F)(4) that no side yard shall be narrower at any point than 3 feet.
- D. On a corner lot, the least width of a side yard along the side street lot line shall be equal to the required front yard along the side street.
- E. Structures or projections into side yards may be permitted as follows:
- (1) Fences or walls not over 8 feet above the average natural grade. *(Ord. 2015-01 – Feb. 16 Supp.)*
 - (2) Fire escapes, 3 feet from side lot line.
 - (3) Bays and balconies not more than 3 feet from the building, provided these projections are entirely within planes drawn from either main corner of the side wall, making an interior angle of 22½ degrees in the horizontal plane with the side wall. The sum of the lengths of such projection shall not exceed one-third of the length of the wall of the main building.
 - (4) Chimneys, flues, belt courses, leaders, sills, pilasters and lintels, ornamental features; cornices, eaves, gutters, and the like, into or over a required side yard not more than 1½ feet.
 - (5) Terraces, steps, uncovered porches, stoops, or similar features, not higher than the elevation of the ground story of the building and distant 3 feet from a side lot line.

4. Rear Yard Exceptions and Modifications.
 - A. Rear yards may be reduced by 3 inches from the required least depth for each foot by which a lot at the time of enactment of these regulations is less than 100 feet deep, in the case of a building not higher than 2½ stories, and in case the owner of record does not own adjoining property to the rear; provided, however, no required rear yard shall be less than 10 feet deep.
 - B. Rear yards may be measured to the centerline of adjoining alleys, but in no case shall a building or structure be erected within 10 feet of such an alley.
 - C. Structures or projections into rear yards may be permitted as follows:
 - (1) Fences or walls not over 8 feet above the average natural grade. *(Ord. 2015-01 – Feb. 16 Supp.)*
 - (2) Fire escapes, 6 feet.
 - (3) Bays and balconies, not more than 3 feet provided these projections are entirely within planes drawn from either main corner of the rear wall, making an interior angle of 22½ degrees in the horizontal plane with the rear wall. The sum of the lengths of such projections shall not exceed one-half of the width of the rear wall.
 - (4) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, into or over a required rear yard not more than 1½ feet.

165.16 ENFORCEMENT. It shall be the duty of the Zoning Administrator (to be appointed and approved by the City Council), with the aid of the City's law enforcement agency, to enforce these regulations in accordance with the administrative provisions of the building code and this chapter.

1. Every application for a building permit shall be accompanied by plans in duplicate and plot plan drawn to scale in ink or 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 existing and intended use of each building or part, the proposed number of families or housekeeping units, and such other information with regard to the lot and neighboring lots as may be necessary for the enforcement of this chapter. One copy of such plans shall be signed and returned to the applicant when approved by the Zoning Administrator together with such permit as may be granted.
2. Prior to building construction, lot pins based on actual survey by a registered Iowa land surveyor shall be set and if disturbed by construction or grading shall be reset in proper location.
3. Any person who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this chapter shall, upon conviction, be fined not less than \$25.00 or more than \$100.00 for each offense. Each day that a violation continues shall constitute a separate offense.
4. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of the provisions of this chapter, the City 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 such erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.

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165.17 BOARD OF ADJUSTMENT. A Board of Adjustment consisting of five members shall be appointed by the Mayor with approval of the Council in accordance with the provisions of Chapter 414, *Code of Iowa*. The appointing authority may remove any member of the Board for cause and after public hearing.

1. The Board shall elect its own Chairperson and shall have the power to adopt rules and regulations for its own government, not inconsistent with law or with the provisions of this chapter or any other ordinances of the City. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel attendance of witnesses. The Secretary of the Planning and Zoning Commission shall act as the Board's secretary.
2. Meetings of the Board shall be open to the public, minutes shall be kept of proceedings, showing the action of the Board and the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and records shall be made of the Board's examinations and other official actions, all of which shall be filed immediately in the office of the Board as a public record.
3. Three members of the Board shall constitute a quorum. The Board shall act by resolution, and the concurring vote of three members shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of an applicant any manner upon which it is required to pass under this chapter, or to effect any variation in the requirements of this chapter.
4. The Board may call on the City departments for assistance in the performance of its duties, and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required.

165.18 APPLICATIONS AND APPEALS TO BOARD OF ADJUSTMENT.

1. Applications. An application to the Board, in cases in which it has original jurisdiction under the provisions of this chapter, may be taken by any property owner, including a tenant, or by any governmental officer, department, board, or bureau. Such application, together with a fee as set by the Planning and Zoning Commission, shall be filed with the Zoning Administrator, who shall transmit the same, together with all the plans, specifications and other papers pertaining to the application to the Board. Should the application be withdrawn prior to publication of legal notice thereon, such fee will be returned upon written request of the applicant.
2. Notice of Appeal. An appeal to the Board may be taken by any property owner, including a tenant, or by any governmental officer, department, board, or bureau affected by any ruling of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as prescribed by the rules of the Board, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board such notice of appeal, together with all the plans and papers constituting the record upon which the action appealed from was taken. A fee of \$25.00 shall also accompany the appeal. Should the appeal be withdrawn prior to publication of legal notice thereon, such fee will be returned upon written request of the applicant.
3. Hearing on Application or Appeal. The Board shall fix a reasonable time for the hearing of an application or of an appeal. It shall give not less than 7 or more than 20 days' notice of the time and place of such hearing by insertion in a newspaper

published in the community, and shall also give notice delivered by first class mail at least 5 days before the time fixed for such hearing to the applicant or appellant and to the Zoning Administrator, and to the respective owners of record of property adjoining or adjacent to the premises in question. Any party may appear at such hearing in person or by agent or by attorney. The Board shall decide the application or appeal within a reasonable time.

4. Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order which may, on due cause shown, be granted by the Board on application, after notice to the Zoning Administrator, or by a court of record.

165.19 SPECIAL EXCEPTIONS AND INTERPRETATION OF MAP. The Board shall have the power to hear and decide, in accordance with the provisions of these regulations, requests, or applications for special exceptions or for interpretation of the Zoning Map or for decisions upon other special questions upon which the Board is authorized to pass. In addition to permitting the special exceptions heretofore specified in this chapter, the Board shall have authority to permit the following:

1. Nonconforming Uses. The substitution for a nonconforming use, another nonconforming use, if no structural alterations except those required by law or ordinance are made; provided, however, that any use so substituted shall be of the same or a more restricted classification.

2. Temporary Uses and Permits. The temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this chapter, provided that such use is of a true temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than a 12-month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare. The temporary use of a building or premises in undeveloped sections for a purpose that does not conform to the regulations prescribed by this chapter, provided that such structure or use is of a true temporary nature, is promotive of or incidental to the development of such undeveloped sections, and does not involve the erection of substantial buildings. Such permit shall be granted in the form specified under this subsection.

3. Certain Industries in "I-1" Districts. In determining whether certain uses shall be located in an "I-1" District, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a special exception, the Board shall determine whether the proposed exception or use would be hazardous, harmful, noxious, offensive, or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board may utilize and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering research organizations, and can be applied to the proposed uses to assist it in reaching a fair and objective decision. Upon authorizing a special use and/or exception, the Board may impose such requirements and conditions in addition to

those expressly stipulated in this report for the particular special use and/or exception as the Board may deem necessary for the protection of adjacent properties and public interest.

4. Interpretations of Map. Where the street or lot layout actually on the ground or as recorded, differs from the street and lot lines indicated on the Zoning Map, the Board, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purposes of the ordinance for the particular section or district in question.

165.20 ADMINISTRATIVE REVIEW AND VARIANCES. The Board of Adjustment also shall have the power:

1. Administrative Review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, grant or refusal made by the Zoning Administrator in the enforcement of the provisions of this chapter.

2. Variances. To authorize on appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done as follows:

A. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of these regulations, or by reason of exceptional topographic conditions, or other extraordinary and exceptional situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the provisions of this chapter would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property, unnecessary to carry out the spirit and purpose of these regulations, shall be observed and substantial justice done. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in the interest of the furtherance of the purposes of this chapter.

B. No such variance in the provisions or requirements of these regulations shall be authorized by the Board unless the Board finds beyond reasonable doubt that all of the following conditions exist:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district.

(2) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.

(3) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest.

C. No grant or variance shall be authorized 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 this chapter, for such conditions or situations.

D. The Board shall have no power to authorize a variance for the establishment of a nonconforming use where not previously existed.

E. In considering a request for a variance from the regulations concerning signs, the Board shall give consideration and arrive at a finding on the following:

- (1) Shape and area of lot in question.
- (2) Bulk and floor area of the main building or structure.
- (3) Setback of proposed sign from all property lines.
- (4) Zoning and use of surrounding parcels.
- (5) Unusual or exceptional topography.
- (6) Compatibility with general intent of the zoning ordinance to encourage development without detracting from the use and enjoyment of surrounding property.

In exercising its powers, the Board may, in conformity with the provisions of the Iowa Code and of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as, in the Board's opinion, ought to be made, and to that end has all the powers of the officer from whom the appeal is taken.

165.21 REVIEW BY COUNCIL. The Council may review any variance granted by the Board of Adjustment before its effective date and may reverse or affirm, in whole or in part, or may remand a decision to the Board of Adjustment for further study. Such review shall be taken within thirty (30) days of the decision of the Board of Adjustment.

165.22 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.

165.23 DISTRICT CHANGES AND ORDINANCE AMENDMENTS.

1. In accordance with the provisions of Chapter 414, *Code of Iowa*, the Council may from time to time amend or change by ordinance the number, shape or area of districts established on the Zoning Map or the regulations set forth in this chapter; but no such amendment or change shall become effective unless the ordinance proposing such amendment or change shall first be submitted to the Planning and Zoning Commission for approval, disapproval or suggestions and said Commission shall have been allowed a reasonable time, not less than 30 days, for consideration and report.

2. Before submitting its recommendations and report to the Council, the Planning and Zoning Commission shall hold a public hearing on the proposed amendment, supplement or change. It shall give not less than 7 or more than 20 days' notice of the time and place of such hearing by publication in a newspaper published

in the community and by mailing notices to all property owners directly involved, contiguous to or directly across a street or alley from the area proposed to be altered.

3. Any person desiring a change in zoning of property may make application therefor, and in so doing shall accompany the petition for such change in zoning, or the ordinance introduced for the purpose of changing such zoning, with a fee in the amount of \$75.00 toward the cost of processing the application. Should the application be withdrawn prior to publication of legal notice thereon, such fee will be returned upon written request of the applicant.

4. During the 7 to 20 days prior to the public hearing, the text or copy of the text of such ordinance or petition, together with the maps or plans or copies thereof, shall be on file for public examination in the office of the Secretary of the Planning and Zoning Commission. No ordinance which differs from the recommendation made by the Planning and Zoning Commission shall become effective unless passed by not less than three-fourths ($\frac{3}{4}$) of all members of the Council.

5. In case of a written protest against a proposed change in the boundaries of a district signed and acknowledged by the owners of 20 percent or more of either the frontage proposed to be altered, or of the frontage immediately adjoining or across an alley therefrom, or directly opposite the frontage proposed to be altered, is filed with the City Council such amendment shall not be passed or become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of all members of the Council.

6. The failure to notify, as provided by this section, shall not invalidate an ordinance, provided such failure was not intentional, and the omission of the name of any owner or occupant of property who may, in the opinion of the Planning and Zoning Commission, be affected by such amendment, supplement or change, unless such omission is intentional, shall not invalidate any ordinance passed hereunder, it being the intention of this section to provide so far as may be for notice to the persons substantially interested in the proposed change that an ordinance is pending before the Council, proposing to make a change in zoning.

165.24 PLACEMENT, FASTENING, AND CONSTRUCTION OF LIVING UNITS.

The purpose of this section is to provide for safe housing that complies with State and Federal laws and regulations and to provide protection and serviceability against threats to the health and safety of residents such as insect infestation, rodent infestation, fire, wind, flood, rollover, and other environmental risks. This section applies to locations outside of manufactured home communities and mobile home parks.

1. **Foundation Required.** Structures used for human habitation in the City, whether constructed on site or off site, shall not be placed upon any location within the City unless said structure is set upon a foundation, and said foundation meets one of the below described requirements, being either a slab style foundation, a basement style foundation, or a cinder block style foundation as described below.

2. **Slab Style Foundation.** Any structure, whether constructed on site or off site, used for human habitation by one or more persons, will meet the requirement of the City if placed upon a slab of solid concrete which is at least four inches thick, and extends to the full length and width of the structure.

3. **Basement Style Foundation.** Any structure, whether constructed on site or off site, used for human habitation by one or more persons will meet the requirements of the City if placed upon a basement foundation which is constructed of concrete walls

which are six inches or more thick and said walls extend beneath the surface of the ground 30 inches or more and the walls extend to the outer edges along the full length and width of the structure, with the home having at least one entrance to the space below the flooring which is large enough for human entry in an easy and unrestricted manner and which is closable in such a fashion as to prevent the entry of all pests including but not limited to rodents and insects. Said entry way will allow for inspection by officials and owners in the case of emergency or fire.

4. Cinder Block Style Foundation. Any structure, whether constructed on site or off site, used for human habitation by one or more persons will meet the requirements of the City if the structure is placed upon a foundation constructed of reinforced concrete or cinder block which is minimum of six inches thick and which extends to the outer edges along the full length and width of the structure as long as the side walls of said foundation extend to the height of at least 30 inches above the finished grade of the building lot, and there is an entranceway below the flooring which is large enough for human access in an easy and unrestricted manner and which is closable in such a way as to prevent the entry of pests such as rodents and insects and allows for easy access in the case of fire or emergency.

5. Fastening. Structures used for human habitation by one or more persons shall be attached to the above-stated foundations with metal bolts of no less than one-half inch in diameter or equivalent metal fasteners, and they shall occur no less than one every eight feet.

6. Width; Rollover Protection. All structures used for human habitation by one or more persons shall be constructed so there is a minimum width of 24 feet with a minimum of 800 square feet of usable ground floor area, exclusive of open porches, garages, or steps. This section is in harmony with existing zoning regulations, Section 165.04(9), minimum ground floor area for dwellings, and Section 414.28 of the *Code of Iowa*.

7. State and Federal Laws and Rules. All structures used for human habitation by one or more persons shall be constructed in such a fashion and placed in such a fashion and affixed to real estate in such a fashion as to comply with all laws, rules, and regulations with the State of Iowa and the United States of America.

8. Existing Residences. Structures existing on the date of the passage of the ordinance codified in this section (September 2, 2004) shall not be required to be moved outside the City or change the existing foundations, but any residence which burns down so that 60 percent or more of its value is lost or any structures which is not inhabited for a period of 18 months or longer shall only become inhabited or rebuilt upon complying with all requirements of this section, and any structure used for habitation of one or more persons started after such date shall comply fully with the requirements of this section.

9. Combination Foundations. It is acceptable for a structure used for human habitation by one or more persons to have a combination foundation which utilizes two or more of the three acceptable foundations for structures. For example, a portion of a residence may utilize the basement foundation style, while having an attached garage utilizing a slab foundation style.

10. Violations. Any structure established in violation of this section shall make the owner of the real estate guilty of a simple misdemeanor. It shall be a separate crime for each and every day said violation is maintained. Additionally, the City may

[The next page is 841]