

## CHAPTER 165

# ZONING REGULATIONS DEFINITIONS AND GENERAL REGULATIONS

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**165.01 TITLE; INTERPRETATION OF STANDARDS.** Chapters 165 through 169 of this Code of Ordinances shall be known and may be cited and referred to as the Zoning Regulations of the City of Waukee, Iowa, and may be referred to in these chapters and elsewhere in this Code of Ordinances as “the zoning regulations” or “the zoning ordinance.” In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements. Where any zoning regulation imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of these zoning regulations shall control. If any other statute, ordinance, or regulation imposes higher standards than are required by these zoning regulations, such statute, ordinance or regulation shall control. Any regulation adopted under the authority of these zoning regulations which relates to a structure, building, dam, obstruction, deposit, or excavation in or on the flood plains of a river or stream shall require prior approval of the Iowa Department of Natural Resources and the U.S. Army Corps of Engineers to establish, amend, supplement, change, or modify such regulation or to grant a variation or exception from it.

**165.02 DEFINITIONS.** For the purpose of these zoning regulations, certain terms and words are hereby defined. The words “used” and “occupied” include the words “intended, designed, or arranged to be used or occupied,” and the word “lot” includes the words “plot or parcel.”

1. “Accessory use or structure” means a use or structure subordinate to the principal use of another building on the lot or site with, and serving a purpose customarily incidental to, the use of the principal building.
2. “Administrative official” means the City official or his or her designee appointed by the Council to administer these zoning regulations. Administrative official and Zoning Administrator shall mean the same thing.
3. “Adult,” as used in these zoning regulations, refers to a person who has attained the age of 18 years.
4. “Adult entertainment business” means a business that, as a part of or in the process of delivering goods and services, displays to its patrons specified sexual activities or specified anatomical areas in printed form or through any form of

photographic medium or by use of male or female models. In reference to adult entertainment businesses, the following definitions apply:

A. “Adult art studio” or “adult modeling studio” means an establishment or business that provides the services of modeling for the purpose of viewing and/or reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing, or otherwise. Entrance to such establishment and such services are available only to adults.

B. “Adult artist - body painting studio” means an establishment or business that provides the services of applying paint or other substance whether transparent or nontransparent to or on the human body when such body is wholly or partially nude. Entrance to such establishment and such services are available only to adults.

C. “Adult bath house” means an establishment or business that provides the services of baths of all kinds, including all forms and methods of hydrotherapy, and not including such services provided by a medical practitioner or professional physical therapist licensed by the State of Iowa. Entrance to such establishment and such services are available only to adults.

D. “Adult book store” means an establishment or business having a substantial part of its stock in trade, books, magazines, photographs, pictures and other periodicals that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, and limited in sale of such sexual materials to adults.

E. “Adult cabaret” means a cabaret which features go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

F. “Adult mini-motion picture theater” means an enclosed building with a capacity for less than 50 persons which is used for presenting motion pictures, slides, or photographic reproductions distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by patrons therein.

G. “Adult motel” means a motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

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

I. “Adult motion picture theater” means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas for observation by patrons therein.

J. “Massage” means any method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand, other parts of the body, or any instrument, for any consideration or gratuity.

K. “Massage establishment” means any establishment having a fixed place of business where massages are administered for any form of consideration or gratuity, including, but not limited to, massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include an establishment employing: (i) persons licensed by the State of Iowa under the provisions of Chapters 148, 148A, 148B, 151, 152, 157 or 158 of the *Code of Iowa*, when performing massage services as a part of the profession or trade for which licensed; (ii) persons performing massage therapy or massage services under the direction of a person licensed as described in (i) above; (iii) persons performing massage therapy or massage services upon a person pursuant to the written instruction or order of a licensed physician; (iv) nurses, aides, technicians and attendants at any hospital or health care facility licensed pursuant to Chapter 135B, 135C or 145A of the *Code of Iowa*, in the course of their employment and under the supervision of the administrator thereof or of a person licensed as described in (i) above; (v) an athletic coach or trainer in any accredited public or private secondary school, junior college, college or university, or employed by a professional or semi-professional athletic team or organization, in the course of his or her employment as such coach or trainer. This definition shall not be construed to include a volunteer fire department, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, or recreational and athletic facilities, and facilities for the welfare of the residents of the area.

L. “Model” means any person who, for consideration or gratuity, appears either nude or seminude to be either viewed, photographed, sketched, drawn, sculptured; to dance; to provide reading or counseling sessions; for body painting; to deliver a service or other activities in connection with the sale of merchandise; or to present materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

M. “Model studio” means any establishment where, for any form of consideration or gratuity, models who display specified anatomical areas are provided to be observed, or, subject to lawful tactile conduct, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, or where, for any form of consideration or gratuity, nude or seminude dancing, readings, counseling sessions, body painting and other activities that present materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas are provided for observation by or communication to persons paying such consideration or gratuity.

N. “Nude encounter parlor” means an establishment having a fixed place of business where any person therein engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on, any business of viewing any person or persons or the actual encounter of any person or persons

depicting, describing or relating to specified sexual activities as defined herein.

O. “Nude photographic parlor” means an establishment having a fixed place of business where any person, association, firm or corporation therein engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on any business of photographing any person or persons depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein.

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

Q. “Specified sexual activities” means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of one person and the genitalia of another person or by use of artificial sexual organs or substitute therefor in contact with the genitalia or anus.

R. “Substantial” means more than 25 percent of the book, magazine, film or video tape inventory is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

5. “Agriculture” means the use of land for purposes of growing the usual farm products, including vegetables, fruit, trees and grains; pasturage; dairying; animal and poultry husbandry; and the necessary accessory uses for treating or storing the produce, provided that the operation of such accessory uses is secondary to that of the regular agricultural activities.

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

7. “Assisted living residential facility” means a building consisting of individual dwelling units where means and assistance for daily living activities are provided for residents, who are primarily elderly persons. Such facility must be licensed as a residential care facility or skilled nursing facility under Chapter 135C of the *Code of Iowa*.

8. “Automobile wrecking” means the dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot, parcel or tract of land, of three or more vehicles that, for a period exceeding 30 days, have not been capable of operating under their own power, and from which parts have been removed or are to be removed for reuse, salvage, or sale, shall constitute prima facie evidence of an automobile wrecking yard.

9. “Balcony” means a platform that projects from the wall of a building and is surrounded by a railing or balustrade. A balcony can be covered or uncovered and enclosed or unenclosed.

10. “Basement” means a story having part, but not more than one-half of its height below grade. A basement is counted as a story for the purpose of height regulation.

11. “Bed and breakfast home” means a private single-family residence that provides lodging and meals for guests, in which the host and/or hostess resides and in which no more than three guest families are lodged at the same time; and which, while it may advertise and accept reservations, does not hold itself out to the public to be a restaurant, hotel or motel, does not require reservations, and serves food only to overnight guests.
12. “Board” means the Board of Adjustment of the City.
13. “Boarding house” means a building other than a hotel or motel where, for compensation, meals, or lodging and meals are provided for four or more persons.
14. “Buffer zone” means an area of land used to visibly separate one use from another or to shield or block noise, lights, or other nuisances.
15. “Building” means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards.
16. “Building, height of” means the vertical distance from the average finished grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof. (See Section 165.20 of these zoning regulations for illustrations.)
17. “Building line” means the outer boundary of a building established by the location of its exterior walls or any projections other than steps, unenclosed balconies, or unenclosed porches.
18. “Building, temporary” means a building that is not permanently affixed to the property, and is permitted to exist for a specific reason for no more than two years.
19. “Bulk stations” means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than 12,000 gallons.
20. “Brewpub” means a restaurant that brews ales, beers and similar beverages on site for either consumption on premises or offsite in hand capped or sealed containers in quantities up to one-half barrel or 15.5 gallons sold directly to the consumer.
21. “Café” means an informal establishment engaged in the preparation of food and beverages for consumption on premises that may or may not have an outdoor seating area.
22. “Carport” means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For the purpose of these zoning regulations, a carport attached to a principal building is considered as part of the principal building and subject to all yard requirements of these zoning regulations.
23. “Cellar” means that portion of a building having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.
24. “Clinic, medical or dental” means a building or buildings in which physicians, dentists, or physicians and dentists, and allied professionals are associated for the purpose of carrying on their profession.
25. “Commission” means the Planning and Zoning Commission of the City.

26. “Consumer fireworks” means first-class consumer fireworks and second-class consumer fireworks as set forth under Chapter 100 of the *Code of Iowa*.
27. “Consumer fireworks sales” means an establishment used for the retail display and sale of consumer fireworks. For the purposes of the Zoning Ordinance, a retail operation in which less than 50 percent of the retail floor space is devoted to the sale or display of second-class consumer fireworks shall not be considered a consumer fireworks sales use.
28. “Convenience store” means an establishment for retail sale of petroleum products and other supplies for motor vehicles, as well as for the retail sale of a variety of other items typically sold in grocery stores but not including the repair or sale of vehicles.
29. “Day nursery” or “nursery school” means any private or public agency, institution, establishment, or place that provides supplemental parental care and/or educational work, other than lodging overnight, for six (6) or more unrelated children of the owners or operators, of preschool age, for compensation.
30. “Display fireworks sales” means an establishment used for the manufacturing, storage or distribution of any firework classified as a 1.3G Firework by the American Pyrotechnics Association.
31. “Distillery” means a place where alcoholic beverages (whiskey, vodka, gin, etc.) are produced typically in small quantities.
32. “District” means a section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
33. “Driveway” means a permanently surfaced area providing vehicular access between a street and an off-street parking or loading area.
34. “Dwelling” means any stationary, permanent building, or portion thereof, which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer or mobile home.
35. “Dwelling, condominium” means a multiple dwelling as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each owner having an undivided interest in the common real estate.
36. “Dwelling, multiple” means a residence designed for or occupied by three or more families, with separate housekeeping, bathroom, and cooking facilities for each.
37. “Dwelling, row” means any one of three or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls, and is also referred to as a “townhouse.”
38. “Dwelling, single-family” means a detached residence designed for or occupied by one family only.
39. “Dwelling, single-family, split foyer” means a dwelling in which living space is on two levels with a foyer between the two levels.

40. “Dwelling, single-family, split level” means a dwelling having living space on three or more levels, no part of which is more than two stories in height, and in which each successive level is less than a full story higher than the next.

41. “Dwelling, townhouse” means a dwelling unit which is detached or attached horizontally, and not vertically, to one or more other dwelling units, wherein the land or lot beneath each dwelling, may be individually owned by the owner of the dwelling. A townhouse subdivision shall have common elements, which are specified in or determined under the rules and regulations set forth by recorded covenants. Covenants for townhouse subdivision shall establish the guidelines for maintenance of common elements and permit free movement through common areas by member of the homeowners association to assure access to the structural exterior of each townhouse unit by the individual owner.

42. “Dwelling, two-family” means a residence designed for or occupied by two families only, with separate housekeeping, bathroom, and cooking facilities for each.

43. “Dwelling unit” means a room or group of rooms arranged, designed, or used as living quarters for the occupancy of one family and containing bathroom and kitchen facilities.

44. “Family” means a person living alone or in a group living as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking and eating facilities up to a maximum occupant dwelling load as provided in chapter 169 of this title. For the purposes of this definition, anyone who spends more than 90 nights within a 12 month period will be counted as an occupant. The definition of family does not include and is not intended to provide an exclusion for any of the following:

- A. More than eight people who are:
  - a. Residents of a “family home” as defined in section 414.22 of the Iowa Code; or
  - b. “Handicap” as defined in the Fair Housing Act, 42 USC section 3602(h)
- B. Any group of individuals who are in a group living arrangement as a result of criminal offenses;
- C. Any group of individuals whose association is temporary, seasonal in nature or limited to the duration of an educational school year cycle;
- D. Any society, club, fraternity, sorority, association, lodge or like organization.

45. “Feed lot” means any parcel of land or premises on which the principal use is the concentrated feeding within a confined area of livestock. Livestock includes cattle, horses, sheep, swine, poultry, goats, rabbits, and any other animals or fowl that are being produced primarily for use as food or food products for human consumption, or for laboratory or testing purposes. The feed lot does not include areas that are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

46. “Fences, walls and hedges” means decorative and/or enclosing devices used along boundary lines of lots. Fences, walls, and hedges may be constructed up to the lot line in accordance with the height rules set out in these zoning regulations.

47. “Garage, private” means an accessory building or an accessory portion of the main building, designed and/or used for the shelter or storage of vehicles owned or operated by the occupants of the principal building. A private garage, of less than four-car capacity, may be rented for the private vehicles of persons not resident on the premises.

48. “Garage, public” means a structure, other than a private garage, used for the shelter or storage of motor powered vehicles and in which the care, minor servicing, and washing are accessory to the principal use.

49. “

50. “Grade” means the average elevation of the finished ground at the exterior walls of structures.

51. “Home occupation” means a business, profession, occupation, or trade conducted for gain or support entirely within a residential building, or a structure accessory thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building.

52. “Hotel/motel” means a building or buildings in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boarding house or rooming house.

53. “Interior Self Storage” means a building containing varying sizes of individualized, compartmentalized, and controlled stalls or lockers for the storage of customers’ goods or wares, excluding explosive or flammable materials, and other noxious or dangerous materials; which shall only be accessed from the interior of the building with no individual unit doors being visible from adjoining properties.

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54. “Junk” means old and dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, wagons and other kinds of vehicles and parts thereof, scrap, used building material, scrap contractors’ equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds, or bedding or any other kind of scrap or waste material which is stored, kept, handled, or displayed for barter, resale, reuse, salvage, stripping, or trade.

55. “Junkyard” means any area where junk is bought, sold, exchanged, baled or packed, disassembled or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking or structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded or salvaged materials necessary as a part of manufacturing operations. The presence on any property of four or more motor vehicles (as defined by Section 321.1 of the *Code of Iowa*) without current registration which for a period exceeding 30 days have not been capable of operating under their own power, and/or from which parts have been removed for re-use, salvage, or sale, shall constitute prima facie evidence of a junk yard.

56. “Kennel” means the keeping of any dogs, cats, or other household pets of mammal group regardless of number, for sale, breeding, boarding or treatment purposes, except in an animal hospital, veterinary clinic, or pet shop, as may be permitted by law, or the keeping of more than one dog or cat on vacant property or on

property used for business or commercial purposes, shall constitute a kennel. The keeping of not more than three dogs and three cats in a residential district shall not be deemed to be a kennel, unless kept for sale, breeding, boarding or treatment purposes. Any person keeping more than three dogs and three cats in a residential district on the effective date hereof (September 10, 2001), licensed as required by ordinance, may continue to keep such dogs or cats during the pet's lifetime.

57. "Living space" means that part of the building which is enclosed and supported upon the main foundation system of the structure excluding garage and cellar.

58. "Lodging or rooming house" means a building where a room or rooms are provided for compensation for four or more persons.

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

- A. A single lot of record;
- B. A portion of a lot of record;
- C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; or
- D. A parcel of land described by metes and bounds; provided, that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of these zoning regulations.

60. "Lot, corner" means a lot abutting upon two or more streets at their intersection.

61. "Lot, depth" means the mean horizontal distance between the front and rear lot lines.

62. "Lot, double frontage" means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

63. "Lot, interior" means a lot other than a corner lot.

64. "Lot lines" means the lines bounding a lot, including the right-of-way line of any public road, highway, or alley acquired by easement.

65. "Lot of record" means a lot that is part of a subdivision, or a plat of survey, the deed of which is recorded in the office of the County Recorder of Dallas County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

66. "Lot, reversed frontage" means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first platted lot to its rear. (See Section 165.20 of these zoning regulations for illustrations of lot types.)

67. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.

68. "Manufactured home" means a factory-built, single-family structure, which is manufactured or constructed under the authority of 42 USC section 5403, *Federal*

*Manufactured Home Construction and Safety Standards*, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home. For the purpose of these zoning regulations, “manufactured home” shall be considered the same as any site built single-family detached dwelling.

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

70. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets or highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is factory-built housing built on a chassis. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. Nothing in these zoning regulations shall be construed as permitting a mobile home in other than an approved mobile home park.

71. “Mobile home park” means any lot or portion of a lot upon which one or more trailers or mobile homes, occupied for dwelling or sleeping purposes, are located regardless of whether or not a charge is made for such accommodation. (See Section 165.20 of these zoning regulations for illustration of mobile home park setback lines.)

72. “Modular home” means factory-built housing certified as meeting the State Building Code and federal requirements applicable to modular housing. Once certified, modular homes shall be subject to the same standards as site built homes.

73. “Motel motor lodge” means a building or a group of attached or detached buildings containing individual sleeping or living units for overnight tourists, with garage attached or parking facilities conveniently located to each such unit.

74. “Nonconforming use” means use of a building or of land that does not conform to the regulations as to use for the district in which it is situated.

75. “Nonprofit institution” means a nonprofit establishment maintained and operated by a society, corporation, individual, foundation or public agency for the purpose of providing charitable, social, educational, or similar services to the public, groups, or individuals. Cooperative nonprofit associations, performing a service normally associated with retail sales or trade such as cooperative groceries, granaries, equipment sales, etc., are not considered nonprofit institutions under these zoning regulations.

76. “Nursing or convalescent home” means a building or structure having accommodations and where care is provided for three or more invalid, infirmed, aged, convalescent, or physically or mentally disabled or injured persons.
77. “Parabolic or dish type antenna” means a concave, circular or dish-shaped device designed for receiving communications or television signals from a satellite.
78. “Parking space, off-street” means a permanently surfaced area of not less than 171 square feet (9' x 19') plus necessary maneuvering space for the parking of a motor vehicle. Space for maneuvering, incidental to parking or leaving the parking space, shall not encroach upon any public right-of-way. (See Section 165.20 of these zoning regulations for parking illustration.)
79. “Porch, unenclosed” means a roofed projection which has no more than 50 percent of each outside wall area permanently enclosed by a building or siding material other than meshed screens.
80. “Principal building” means any structure designed and used (or intended to be used) for one of the principal permitted uses listed in each of the zoning districts as set out in these zoning regulations.
81. “Principal use” means the main use of land or structures as distinguished from an accessory use.
82. “Restaurant” means an establishment that is principally engaged in the preparation and retail sale of food and beverages, including the sale of alcoholic beverages when conducted as a secondary feature of the use, producing less than 50 percent of the establishment’s gross income.
83. “Rooming house” means a building where a room or rooms are provided for compensation to four or more persons.
84. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling or roof next above it is considered a story.
85. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than four feet above the top floor level.
86. “Street line” means the right-of-way line of a street, alley, or road.
87. “Street or road, private” means any private right-of-way 20 feet or more in width which is approved by the Council after recommendation by the Commission.
88. “Street or road, public” means any thoroughfare or public way not less than 20 feet in width, which has been dedicated to the public or deeded to or acquired by the City or County for street purposes; and also, any such public way as may be created after enactment of these zoning regulations, provided it is 50 feet or more in width.
89. “Structural alterations” means any replacement or change in the type of construction or in the shape or size of a building or of the supporting members of a building or structure such as bearing walls, columns, beams, arches, girders, floor joists, or roof trusses, beyond ordinary repairs and maintenance.
90. “Structure” means anything constructed or erected with a rigid or fixed location on the ground, or attached to something having a fixed location on the

ground. Among other things, structures include buildings, walls, fences (more than 6 feet in height), billboards, solar collectors, and dish antennas.

91. “Travel trailer” means a recreational vehicle, with or without motive power, designed as a temporary dwelling, not exceeding 8 feet in width and 40 feet in length, exclusive of separate towing unit. The term “travel trailer” includes pickup coach, motor home, camp trailer, tent trailer, or other similar mobile and temporary dwellings commonly used for travel, recreation, or vacation quarters.

92. “Travel trailer park” means a parcel of land upon which two or more spaces are provided, occupied or intended for occupancy by travel trailers for transient purposes.

93. “Vehicle, antique” means a motor vehicle 25 years old or older, as provided and regulated by Section 321.115 of the *Code of Iowa*.

94. “Vehicle, inoperable” means any motor vehicle that lacks current registration or two or more wheels or other component parts the absence of which renders the vehicle unfit for legal use on streets.

95. “Vehicle, motor” means a self-propelled device used for transportation of people or goods over land surfaces and licensed as a motor vehicle.

96. “Yard” means an open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from 36 inches above the general ground level of the graded lot upward, except as may be provided by other sections of these zoning regulations. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used, except that in no case shall any eaves or overhang (or any other projection) extend into the said front, side, or rear yard by more than 24 inches. If eaves or overhangs exceed 24 inches, then the building shall be set back into the permissible building area as necessary to eliminate any eaves or overhangs from extending more than 24 inches.

97. “Yard, front” means a yard extending across the full width of the lot and measured between the front lot line and the front of the building other than the projection of the usual steps or unenclosed porches. The narrow frontage on a corner lot is considered the front lot line regardless of where the building entrance is located. See the definition of “yard” for eaves or overhang limitations.

98. “Yard, rear” means a yard extending across the full width of the lot and measured between the rear lot line and the building other than steps, unenclosed balconies or unenclosed porches. An unenclosed balcony or porch is one in which 50 percent or less of the side walls of said balcony or porch are enclosed by screen, glass, or other material and includes a deck. On both corner lots and interior lots, the rear yard is the opposite end of the lot from the front. See definition of “yard” for eaves and overhang limitations.

99. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building. See definition of “yard” for eaves or overhang limitations.

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**165.03 NONCONFORMING USES AND STRUCTURES.** Within the various districts established by these zoning regulations or amendments that may later be adopted, there exist structures and uses of land and structures that were lawful prior to the adoption of these zoning regulations but which would be prohibited, regulated, or restricted under the provisions of these zoning regulations. It is the intent of these zoning regulations to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by these zoning regulations to be incompatible with permitted uses in the districts involved.

1. Nonconformities In Any Residential District.

A. Nonconforming Use of Land. The lawful use of land upon which no building or structure is erected or constructed, which becomes nonconforming under the terms of these zoning regulations as adopted or amended, may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of these zoning regulations.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel which was not occupied by such use at the effective date of adoption or amendment of these zoning regulations.

(3) If any such nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.

B. Nonconforming Use of Structures. If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of these zoning regulations, which would not be allowed in the district under the terms of these zoning regulations, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted entirely or in part to a use not permitted by these zoning regulations in the district in which it is located, except when required by law, shall be enlarged, extended, reconstructed, moved, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of these zoning regulations. No such use shall be extended to occupy any land outside such building.

(3) If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use within the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

(4) In the event that a nonconforming use of a structure (or structure and land in combination) is discontinued or abandoned for a period of six months, the use of the same shall thereafter conform to the uses permitted in the district in which it is located. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(5) Any structure devoted to a use made nonconforming by these zoning regulations which is destroyed by any means to an extent of 60 percent or more of its assessed value cost at the time of destruction, exclusive of the foundations, shall not be reconstructed and used as before such happening. If the structure is less than 60 percent destroyed above the foundation, it may be reconstructed and used as before, provided it is done within six months of such happening, and is built of like or similar materials.

C. Nonconforming Structures. Where a structure exists at the effective date of adoption or amendment of these zoning regulations, which could not be built under the terms of these zoning regulations by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in a way that increases its nonconformity.

(2) Should such structure be destroyed by any means to an extent of 60 percent or more of its assessed value at time of destruction, it shall not be reconstructed except in conformity with the provisions of these zoning regulations.

2. Nonconformities In Any District Other Than Residential.

A. Nonconforming Use of Land. The regulations described in subsection 1(A) of this section shall also apply to this subsection.

B. Nonconforming Use of Structures. The regulations described in subsection 1(B) of this section shall also apply to this subsection, with the following exception: Any structure in any district other than a residential district devoted to a use made nonconforming by these zoning regulations may be structurally altered or enlarged in conformity with the lot area, lot coverage, frontage, yard, height, and parking requirements of the district in which located, provided such construction is limited to buildings on land owned, of record, by the owner of the land devoted to the nonconforming use prior to the effective date hereof. Such structural alteration or enlargement shall not authorize the substitution of a nonconforming use that is less restrictive than the one to which the structure was devoted at the time of adoption of these zoning regulations.

C. Nonconforming Structures. The regulations described in subsection 1(C) of this section shall also apply to this subsection.

3. Required Repairs and Unauthorized Nonconformities.
  - A. Nothing in these zoning regulations shall be deemed to prevent the restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
  - B. Any use of land, use of structure, or structure, in existence at the time of adoption of these zoning regulations, which was not an authorized nonconformity under any previous zoning ordinance or similar regulations, shall not be authorized to continue its nonconforming status pursuant to these zoning regulations or amendments thereto.

**165.04 CONFORMANCE REQUIRED.** Except as hereinafter specified, no building, sign, or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by these zoning regulations for the district in which the building or land is located.

**165.05 STREET FRONTAGE REQUIRED.** Except as permitted in Section 165.19 of this chapter, no lot shall contain any building used in whole or in part for single-family or two-family residence purposes unless such lot abuts for at least 40 feet on at least one public street. An exclusive unobstructed ingress/egress easement of access or right-of-way of at least 24 feet wide to a public street may be used to satisfy this requirement in unique circumstances as approved by the Council upon recommendation of the Commission.

**165.06 ACCESSORY BUILDINGS.**

1. Occupancy of Yard Area. Accessory buildings, regardless of height, which are constructed above the normal ground surface in any yard area shall not occupy more than 30 percent of the yard area in which it is located, except in an R-6 District; however, this regulation shall not be interpreted to prohibit the construction of a 440 square foot garage. The 30 percent maximum shall include the total of all accessory buildings and structures.
2. Location.
  - A. No accessory building shall be erected in any front yard.
  - B. Accessory buildings must be erected separately from, and a minimum horizontal distance of six feet from, any principal building projection and may not be connected by a breezeway or similar structure.
  - C. Accessory buildings shall not be constructed in such a way to impede drainageways or interfere with overland flowage easements.
3. Setback.
  - A. Accessory buildings shall be distanced at least two feet from lot lines and easement lines, except within the R-6 District.
  - B. In the case of a corner lot or a double frontage lot, accessory buildings shall be restricted to the building setback lines as shown on the approved plat.
  - C. In no case shall any eaves or overhang extend closer than 12 inches to a rear or side yard line or an easement line.

4. Height. No accessory building shall exceed 14 feet in height. Height is measured as the vertical distance from the average finished grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.
5. Design Characteristics.
  - A. In all cases, accessory buildings shall be constructed of materials similar to the principal structure and in character with the surrounding built environment as determined by the administrative official.
  - B. If any unenclosed balcony or unenclosed porch, including any deck, shall be constructed within six feet from any accessory building, the adjacent wall of said accessory building shall be not less than a two-hour fire wall. No unenclosed balcony or unenclosed porch or deck shall be constructed closer than three feet to any accessory building.
6. Principal Building Relationship.
  - A. Any building so connected to the principal building shall be considered a part of the said principal building and must meet the space requirements thereof.
  - B. No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used unless the administrative official has issued a certificate of occupancy for the principal building.

#### **165.07 ACCESSORY STRUCTURES**

1. Occupancy of Yard Area. Accessory structures that are constructed in any required yard area shall not occupy more than 30 percent of the yard area in which it is located. The 30 percent maximum shall include the total of all accessory structures and accessory buildings.
2. Location:
  - A. Accessory structures shall be permitted in any yard unless specified herein.
  - B. Accessory structures shall not be constructed in such a way to impede drainageways or interfere with overland flowage easements.
3. Setback. A minimum rear yard setback of five feet and a minimum side yard setback of two feet shall be maintained for accessory structures unless specified elsewhere in this title.
4. Decks:
  - A. Decks not exceeding 50 square feet in area shall be permitted in any yard, provided a minimum side yard setback of five feet is maintained.
  - B. Decks larger than 50 square feet shall be permitted only in rear yards.

5. Miscellaneous Structures. Permanent uses, including but not limited to sport courts, tennis courts, and metal batting cages shall maintain a minimum rear yard setback of five feet and a minimum side yard setback of two feet.

6. Domesticated Animal Run. In residential districts, domesticated animal runs are permitted within the limits of rear yards. A five foot setback is required from all lot lines and adequate screening (landscaping and/or opaque fencing) shall be provided to reduce visibility and noise to the adjoining property owners. Pet runs/kennels shall not exceed six feet in height.

7. Domesticated Animal Exercise Yard. In commercial or industrial districts, a domesticated animal exercise yard, a structure for the exercise of domesticated animals, may be constructed adjacent to or as part of the principal structure, may be indoors or outdoors, and need not be climate controlled. Such structure shall not be utilized as the primary enclosure for any animal. If outdoors, such structure shall be screened with solid fencing and shall be set back at least 10 feet from any adjacent property.

8. Swimming Pools. Swimming pools, hot tubs and saunas are permitted in any rear or side yard, provided a five foot setback shall be maintained from all side and rear property lines.

**165.08 CORNER LOTS.** For corner lots, platted or placed of record after December 29, 1981, the front yard regulation shall apply to each street side of the corner lot. (See Section 165.20 of this chapter for illustrations.)

**165.09 YARDS AND OPEN SPACE.**

1. Front Yard. In all residential districts, there shall be a minimum front yard required as stated in the bulk regulations for that particular district; provided, however, where lots comprising 30 percent or more of the frontage within 200 feet of either side lot line are developed with buildings at a greater or lesser setback, the front yard requirement shall be the average of these building setbacks and the minimum front yard required for the undeveloped lots. In computing the average setback, buildings located on reverse corner lots or entirely on the rear half of lots shall not be counted. The required front yard as computed herein need not exceed 50 feet in any case. (See Section 165.20 of this chapter for illustrations.)

2. Reduction of Required Yard or Open Space Prohibited. No yard or lot existing at the time of the effective date hereof shall be reduced in dimension or area below the minimum required by these zoning regulations. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of these zoning regulations, shall be included as part of a yard, open space, or off-street parking or loading space required under these zoning regulations for another building, structure, or use.

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

**165.11 ZONING DISTRICTS DIVIDING PROPERTY.** Where one parcel of property is divided into two or more portions by reason of different zoning district classifications, each of these portions shall be used independently of the other in its respective zoning classification, and for the purpose of applying the regulations of these zoning regulations, each portion shall be considered as if in separate and different ownership.

**165.12 HOME OCCUPATIONS.** Subject to the limitations of this section, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit. Any question of whether a particular use is permitted as a home occupation, as provided herein, shall be determined by the administrative official pursuant to the provisions of these zoning regulations. The regulations of this section are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in the home. This section recognizes that, when properly limited and regulated, such activities can take place in a residential structure without changing the character of either the neighborhood or the structure.

1. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

A. Not more than one person who is not a resident on the premises shall be employed or independently contracted to conduct work on the premises unless specifically permitted elsewhere in this chapter.

B. No more than 50 percent, including storage area, of no more than one floor of the dwelling unit, shall be devoted to the home occupation.

C. No alteration of the principal residential building shall be made which changes the character and appearance thereof as a dwelling.

D. No stock of goods shall be displayed or sold on the premises in excess of storage area available as defined in paragraph B of this subsection.

E. The home occupation shall be conducted entirely within the principal dwelling unit or an approved accessory structure, and in no event shall such use be apparent from any public way.

F. There shall be no outdoor storage of equipment or materials used in the home occupation.

G. Not more than two commercially licensed vehicles used in connection with any home occupation shall be parked on the property.

H. No mechanical, electrical, or other equipment that produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisance outside the residence shall be permitted.

I. No home occupation shall be permitted which is noxious, offensive, or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation, or other harmful, objectionable emissions.

2. Home Occupations Permitted. Customary home occupations include, but are not limited to, the following list of occupations; provided, however, each such home occupation shall be subject to the use limitations set out in subsection 1 of this section.

A. Providing instruction to not more than four students at a time. For private swim lessons, the following provisions shall be observed:

(1) Hours of operation shall be limited to 8:00 a.m. through 5:00 p.m., Monday through Friday, and 10:00 a.m. through 4:00 p.m. on Saturdays and 1:00 p.m. through 4:00 p.m. on Sundays.

(2) In addition to the residents of the premises, no more than three outside employees or independent contractors shall be permitted on the premises at any given time.

B. Office facilities for accountants, architects, brokers, doctors, dentists, engineers, lawyers, insurance agents, and real estate agents.

C. Office facilities for ministers, priests, and rabbis.

D. Office facilities for salespersons, sales representatives, and manufacturer's representatives when no retail or wholesale sales are made or transacted on the premises.

E. Studio of an artist, photographer, craftsperson, writer, or composer.

F. Homebound employment of a physically, mentally, or emotionally handicapped person who is unable to work away from home by reason of his or her disability.

G. Shop of a beautician, barber, hair stylist, dressmaker, or tailor.

H. Bed and breakfast establishments limited to not more than three guest rooms.

#### **165.12 OUTDOOR STORAGE RESTRICTIONS.**

1. Unlicensed Motor Vehicles. Outdoor storage of motor vehicles not currently licensed shall be prohibited in all zoning districts, except motor vehicles held for sale by a licensed motor vehicle dealer at the dealer's place of business in a zoning district where motor vehicle sales are permitted.

2. Miscellaneous Vehicles, Junk and Debris. No person shall park, place, keep or store, or permit the parking or storage of a stock car, racing car, inoperable vehicle, vehicular component parts, or miscellaneous junk and debris on any public or private property unless it is in a completely enclosed building. This regulation does not apply to legitimate businesses operating in a lawful place and manner; provided, however, such outside areas shall be screened from public view.

**165.13 VISIBILITY AT INTERSECTIONS.** On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 25 feet from the point of intersection of right-of-way lines.

#### **165.14 FENCES, WALLS AND HEDGES.**

1. Specifications. Notwithstanding other provisions of these zoning regulations, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard; provided, no fence, wall, or hedge shall exceed four feet in height within the building setback area adjacent to any public right-of-way. Six-foot-high fences are allowed only outside front yard building setback areas. (A "front" yard may be along the side or the rear of a home, if adjacent to the street.) Fences, walls, and hedges in any district other than M-1, M-1A and M-

2 districts not exceeding six feet in height are permitted within limits of side and rear yards. In M-1, M-1A and M-2 districts, fences and walls shall not exceed a height of eight feet.

2. Attractiveness of Face of Fence. For all new fences, the face of the fence shall be equally attractive on both sides. However, if one side of the fence is considered less attractive because of structural members, etc., the less desirable side of the fence shall be directed toward the developing property or away from the public right-of-way.

3. Double Frontage Lots. In the case of double frontage lots, the minimum setback on the secondary front yard shall not be less than 10 feet provided no landscaping buffer exists for a fence up to six feet in height. In the case that a landscape buffer exists, the minimum setback shall not be less than the width of the landscape buffer easement. with an arterial or collector street forming the rear property line for a fence up to six feet in height. Corner Lots. In the case of fences on corner lots, fences not exceeding six feet in height are permitted in the secondary front yard provided a minimum setback of 20 feet from the property line is maintained.

**165.15 BUILDING LINES ON APPROVED PLATS.** Whenever the plat of a land subdivision approved by the City Council and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in these zoning regulations unless specific yard requirements in these zoning regulations require a greater setback. Building lines shall be measured at the foundation.

**165.16 WIND ENERGY CONVERSION SYSTEMS.**

1. Purpose. The purpose of this section is to allow and encourage the safe, effective, and efficient use of small wind energy systems; identify locations in areas of the City which would be least adversely impacted by the visual, aesthetic, and safety implications of their siting; and enhance the ability of the providers of wind energy services to provide such services to the community quickly, efficiently, and effectively.

2. Definitions.

A. “Blade” means an element of a wind turbine which acts as a part of an airfoil assembly, thereby extracting, through rotation, kinetic energy directly from the wind.

B. “Climbing apparatus” means a fixed piece of equipment used to move an individual up or down the tower.

C. “Height, total system” means the height above grade of the wind energy system, including the tower generating unit, and the highest vertical extension of any blades or rotors. Height shall be measured from the adjacent grade of the tower to the tip of the turbine (blade) at its highest point.

D. “Meteorological equipment” means equipment primarily used to measure wind speed and directions, including other data relevant to locating an operational wind energy conversion system.

E. “Qualified professional” means an individual certified by the manufacturer of a wind energy conversion system as qualified to install and/or maintain that manufacturer’s wind energy conversion system.

F. “Rotor diameter” means the diameter of the circle described by the moving rotor blades.

G. “Shadow flicker” means alternating changes in light intensity caused by the moving blade of a wind power generator casting shadows on the ground and stationary objects such as the window of a dwelling.

H. “Tower” means a vertical structure that supports the electrical generator, rotor blades, or meteorological equipment. Tower shall be limited to a single pole that is constructed without the support of guywires.

I. “Wind energy conversion system” means a system consisting of at least one of the following: a wind turbine, a tower, and associated control or conversion electronics, and which is intended to reduce on-site consumption of utility power, is incidental and subordinate to a permitted use on the same parcel, and has a rated capacity of up to 100 kilowatts. Wind energy conversion systems shall not be permitted within any R-1, R-2, R-4, R-5 or R-6 zoning district. No roof-mounted wind energy conversion system shall be allowed.

J. “Wind turbine” means any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy.

3. Accessory Use. A wind energy conversion system shall only be allowed as an accessory use to a permitted principal use and shall require approval of a site plan by the Council upon recommendation by the Commission prior to construction, installation, alteration, or location of such structure. The Commission and Council may review a site plan at any time if an approved system does not comply with the rules set forth in this section and the conditions imposed by the Council upon recommendation by the Commission. The Council, upon recommendation of the Commission, may set additional terms or time frame for compliance for the wind energy conversion system. The owner/operator of the wind energy system shall obtain all other permits required by federal, State, and local agencies prior to construction of the system.

4. Public Notification. Following review of the site plan request for completion, the director of development services shall set the Planning and Zoning Commission meeting date. Notice will be sent to the surrounding property owners within 200 feet of the property having the site plan considered. Notice shall be sent not less than seven days or more than 20 days prior to the Commission meeting at which the site plan is first considered. The notice shall contain the date, time, and location of the Commission meeting and Council meeting.

5. Site Plan Disapproval. In the case of a proposed site plan for a wind energy conversion system, if the Commission disapproves of the site plan, such site plan shall require the favorable vote of at least four-fifths of all of the members of the Council.

6. Bulk Regulations.

A. Minimum Lot Size. One acre minimum lot size required for any tower-mounted wind energy conversion system.

B. Minimum Setback Requirements. All wind energy conversion systems shall require a setback of 110 percent of the total system height from any property line.

C. Maximum Height. Height shall be measured from the adjacent grade of the tower to the tip of the turbine (blade) at its highest point.

(1) For lots of one and fewer than three acres, the maximum height shall be 60 feet.

(2) For lots of three to seven acres, the maximum height shall be 80 feet.

(3) For lots of more than seven acres, the maximum height shall be 100 feet.

D. Number of Systems Allowed. No more than one wind energy system may be placed on any parcel.

E. Location.

(1) Tower-mounted wind energy conversion systems shall only be located outside of any minimum building setback requirements.

(2) No part of a wind energy conversion system shall be located within or over drainage, utility or other established easements, or on or over property lines.

(3) A wind energy conversion system shall be in compliance with the guidelines of the federal aviation administration (FAA) regulations.

(4) No wind energy conversion system shall be constructed within 20 feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least five feet.

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

A. Color. The wind energy conversion system shall be white or light gray in color. Other neutral colors may be allowed at the discretion of the Council upon recommendation of the Commission. The surface of the structure shall be non-reflective.

B. Lighting. No lights shall be installed on the tower, unless required by the Federal Aviation Administration (FAA).

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

D. Clearance of Blade Aboveground. No portion of the tower mounted wind energy conversion system shall extend within 30 feet of the ground. No blades may extend over parking areas, driveways or sidewalks.

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

F. Noise. The wind energy conversion system shall not exceed the requirements established in Chapter 52 of this Code of Ordinances.

G. Use of Electricity Generated. A wind energy conversion system shall be used exclusively to supply electrical power for on-site consumption, except that when a parcel on which a wind energy conversion system is installed also receives electrical power supplied by a utility company, excess electrical power generated by the wind energy system and not

presently needed for on-site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code.

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

I. Electromagnetic Interference. All blades shall be constructed of a nonmetallic substance. No wind energy conversion system shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind energy conversion system shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

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

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

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

- (1) Map and describe within a 1,000-foot radius of the proposed dispersed wind energy system the topography, existing residences and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed.

- (2) Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations, calculate the total number of hours per year of flicker at all locations.

- (3) Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including (but not limited to) a change in siting of the wind energy conversion system, a change in the operation of the wind energy conversion system, or grading or landscaping mitigation measures.

M. Appearance. The property owner of any wind energy system shall maintain such system in a safe and attractive manner, including replacement of defective parts, painting, cleaning, and other acts that may be required for the maintenance and upkeep of the function and appearance of such a system. The owner shall maintain the ground upon which the

system is located in an orderly manner, such that is free of debris, tall grass and weeds, and any structures remain quality in appearance.

N. Climbing Apparatus. The tower must be designed to prevent climbing within the first 10 feet.

8. Application Process. All applicants who wish to locate a wind energy system must submit to the city's development services department a plan including the following information:

A. Complete property dimensions.

B. Location and full dimensions of all buildings existing on the property where the system is located, including exterior dimensions, height of buildings, and all uses on the property.

C. Location and distances of all buildings within 200 feet of the property and uses on property.

D. Location and dimensions of any other natural or manmade features within 200 feet of the property such as trees, ridges, highways, streets, bridges, and underpasses.

E. Location of all easements upon the property where the system is to be located.

F. Proposed location of tower, including height and setbacks from property lines.

G. Drawings, to scale, of the structure, including the tower, base, footings and guywires, if any, and electrical components. The drawings and any necessary calculations shall be certified by a licensed engineer as meeting the requirements of the City building codes.

H. Certification from a licensed engineer or qualified professional that the rotor and over speed controls have been designed for the proposed use on the proposed site.

I. Evidence that the proposed wind energy conversion system model has an operational history of at least one year.

J. Evidence that the applicant has notified the utility that the customer intends to install an interconnected customer owned generator, and that the generator meets the minimum requirements established by the utility and the Iowa Utilities Board. Off-grid systems are exempt from this requirement.

K. Evidence that the wind energy conversion system does not violate any covenants of record.

L. Evidence from a qualified professional that the site is feasible for a wind energy conversion system, or that covenants, easements, and other assurances to document sufficient wind to operate the wind energy conversion system have been obtained.

M. Evidence that the proposed wind energy conversion system will comply with applicable federal aviation regulations, including any necessary approvals from the Federal Aviation Administration.

N. Evidence that the applicant can obtain and maintain adequate liability insurance for the facility.

O. A noise study, if applicable.

P. A shadow flicker model, if applicable.

Q. Any other evidence or information as required by the Commission and Council.

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

10. New Technologies. Should new technology present itself within the term of any permit or lease that is more effective, efficient, and economical, the permit holder may petition the City to allow the upgrade, provided the upgrade does not alter the conditions set forth in this section.

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

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

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

14. Inspections. At least every 24 months, every tower shall be inspected by a qualified professional who is regularly involved in the maintenance, inspection and/or erection of towers. At a minimum, this inspection shall be conducted in accordance with the tower inspection checklist provided in the electronics industries association (EIA) standard 222, *Structural Standards for Steel Antenna Towers and Antenna Support Structures*. A copy of the inspection record shall be provided to the City.

**165.17 TEMPORARY USES.** The City recognizes that in certain instances, some flexibility to allow activities or uses on a limited duration out of the confines of a building can be beneficial to business interests, as well as the consumers and the City alike, provided such events continue to promote the public health, safety and general welfare. These regulations are intended to prescribe the conditions under which limited duration temporary sales may be permitted on private property, public property, parks, sidewalks and streets.

1. Definitions. For the purpose of this section, the following terms have or include the following meanings:

A. "Temporary use" means any sales in any nonresidential district, including (but not limited to) the sales of fresh fruits/vegetables, baked goods, and hand crafted items, provided such use is authorized in such Zoning District.

B. "Temporary structures" means any constructed or erected structure, including (but not limited to) a shed, building, vehicle, trailer, tent, or enclosure of any kind used for commercial or business purposes and which any person or business intends to place on the same lot with or on any lot adjacent to, any permanent structure used for business or commercial purposes.

C. "Garden center" means a place of business where retail and wholesale products and produce are sold. The items sold may include, but are not limited to, plants, nursery products, potting soil, and gardening tools and utensils.

D. "Produce stands" means a temporary structure used for the display and sale of raw fruits and vegetables.

E. "Food/beverage stand" means a temporary structure used for the display and sale of prepared food and beverages.

2. Uses Exempt from Temporary Use Permits.

A. Farmer's markets sponsored by the City of Waukee or the Downtown Business Association.

B. Produce stands that meet the following conditions:

(1) The temporary structure and sales area shall not exceed more than two parking spaces or 360 square feet.

(2) The site area shall be cleaned of debris, temporary structures, and any other objects associated with the temporary use at the end of each business day.

(3) No sign permit is required for temporary signage, provided the sign shall not be placed within the public right-of-way and the sign shall not exceed 12 square feet in total size.

(4) The vendor shall acquire permission from the property owner prior to any temporary use on the property.

(5) Produce stands shall conform to the requirements set forth in subsection 3 of this section.

3. General Regulations. The following regulations shall apply to all temporary uses:

A. Permitted Zones. A temporary sales use is authorized for consistent uses permitted in each respective nonresidential zoning district subject to the requirements of this chapter and all other federal, State and local ordinances and regulations.

B. No temporary use shall exceed a period of more than six months of a 12-month period, unless otherwise specified by the Administrative Official.

C. All temporary structures shall conform to the zoning setback requirements.

D. The proposed temporary use shall not affect the driveway access or traffic circulation on the property.

E. The applicant shall provide, as determined by the Administrative Official, adequate facilities for disposal of trash and waste, e.g. grease, associated with the temporary use.

F. Permanent sanitary facilities located within an adjacent building shall be made available to all employees of the activity during its operational hours, as approved by the Administrative Official, in concurrence with the County Health Department, unless stipulated otherwise in this chapter.

- G. Demonstrate compliance with federal, State and local law.
- 4. Temporary Use Regulations. A permit may be issued for the following temporary uses when the following criteria are met:
  - A. Produce stands that do not meet the qualifications set forth in subsection 2 of this section.
  - B. Garden Centers.
    - (1) Maximum Square Footage. Site-by-site basis.
    - (2) Restrictions on Merchandise and Products. This use is limited to the display of green goods, i.e., plants, and associated garden products determined to be consistent with the intent of a garden center (may be extended to the sale of Christmas trees), with the approval of the Administrative Official.
    - (3) Safety Standards. In order to promote the safety of the patrons of these facilities, patrons of nearby permanent facilities, motorists and pedestrians the following shall be required.
      - a. All sales areas shall be separated from vehicular uses by the placement of a fence or barrier acceptable to the Administrative Official to prevent pedestrian and vehicular conflicts.
      - b. Temporary drive aisles shall be maintained at a minimum of 12 feet in width for one-way traffic and 24 feet in width for two-way traffic. Barriers, fencing, or some other physical markers shall clearly inform drivers at the end of the parking area and the start of the drive aisle. A clear line of sight shall be maintained at the entrance and exit of the temporary drive aisles.
      - c. Vehicle loading areas shall be located in an area that minimizes pedestrian and vehicle conflict and provides for the safe loading of merchandise and vehicles access to and from the traffic lanes to the loading area, preferably without backing movements.
  - C. Food/Beverage Stands.
    - (1) Maximum Square Footage. 360 square feet.
    - (2) Health Standards and Licensing. The applicant must obtain licensing, liquor permits, certificates of inspection, or other documentation necessary to comply with all applicable requirements of the State, County, or municipality regarding health standards.
      - a. Water Service. The structure used for dispensing of food and beverage shall provide self-contained hot and cold running water with appropriate holding facilities of wastewater.
      - b. Wastewater Disposal. Any wastewater shall be collected and disposed in a manner acceptable to the City and shall be explained in the application for a permit.

(3) Cleanup. The site area shall be cleaned of debris, temporary structures and any other objects associated with the temporary use within three days after the termination of sales.

(4) Signage. All signage associated with temporary uses shall comply with the regulations of Chapter 167 (Sign Regulations) of this Code of Ordinances.

(5) Parking Spaces. The number of additional parking spaces required and the location of such shall be determined by the Administrative Official. The maximum number of permanent parking spaces allowed to be used for operation of an extended use shall not exceed 20 percent of the parking on a site plan that was approved by the City to be counted toward the allowable size of the activity or 20 percent of the site area, whichever is more restrictive.

(6) Documentation. Proof of ownership or a signed letter from either the property owner or their authorized representative, for the property on which the activity is to take place, shall be presented at the time the temporary use permit is requested.

(7) Plan. A plan of the layout of the proposed temporary use shall be submitted to the Development Services Department with the application, to be reviewed and approved by the Administrative Official. The layout shall identify the following:

a. The area on the site proposed to be utilized as part of the temporary use and associated sales area.

b. Proposed modifications to the traffic patterns and methods proposed to notify patrons and identify the temporary traffic pattern changes, e.g., signage, traffic cones, fencing and barriers, etc.

c. Proposed vehicle loading zone.

d. Location of electrical connection and water connection, if applicable.

5. Other Temporary Uses. For any other temporary use for the sale of goods and services, which use has not been addressed previously in this chapter, a permit may be issued when the following criteria are met:

A. All other temporary uses shall conform to the requirements set forth in subsections 4(C)(3) through (7).

B. Temporary uses related to the sale of combustible materials shall not be located closer than 100 feet from the nearest permanent structure.

C. All applicants shall be responsible for submitting a site plan following the requirements set forth in Chapter 160 of this Code of Ordinances. Such site plan shall require approval by the City Council.

D. Maximum Space: 360 square feet.

E. Comply with all other requirements of federal, State and local law.

6. Violations and Penalties. The operation of a temporary use is a privilege allowed by this section. A temporary use permit may be revoked and terminated at any time by order of

the Administrative Official, Fire Chief, Police Chief, or Building Official if the temporary use is deemed to be a life safety hazard toward pedestrians, vehicles, or property, or if the temporary use fails to comply with the terms of the permit or other City Ordinances.

#### **165.18 SOLAR ENERGY SYSTEMS.**

1. Purpose. The purpose of this section is to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety and welfare of the community. The City finds these regulations are necessary to ensure that solar energy systems are appropriately designed, sited and installed.

2. Definitions.

A. “Collector panel” means an equipment assembly used for gathering, concentrating, or absorbing solar energy as useful thermal energy or to generate electric energy.

B. “Height, total building mounted system” means the height above the roof surface measured perpendicular to the roof specific to the installation on a sloped roof or the height above the roof surface specific to the installation on a flat roof.

C. “Height, total ground mounted system” means the height above grade of the system from the highest point, including the supporting structure, related equipment and the collector panels. Adjustable angle systems will be measured from the highest point when the system is at its maximum vertical extension.

D. “Large solar energy system” (LSES) means a solar energy system which has a nameplate rated capacity of over 15 kilowatts in electrical energy or 50 KBTU of thermal energy for non-single-family residential uses and districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered an LSES only if it supplies electrical power or thermal energy solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on-site use may be used by the utility company in accordance with 199 IAC 15.11(5), as amended from time to time.

E. “Off grid” means an electrical system that is not connected to a utility distribution grid.

F. “Small solar energy system” (SSES) means a solar energy system which has a nameplate rated capacity of up to 15 kilowatts in electrical energy or 50 KBTU of thermal energy for residential uses and districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered an SSES only if it supplies electrical power or thermal energy solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on-site use may be used by the utility company in accordance with 199 IAC 15.11(5), as amended from time to time.

G. “Solar access” means a property owner’s right to have sunlight shine on his land.

H. “Solar energy” means radiant energy received from the sun at wavelengths suitable for heat transfer, photosynthetic use or photovoltaic use.

I. “Solar energy system, building integrated” means a solar photovoltaic system that is constructed as an integral part of a principal or accessory building and where the collector component maintains a uniform profile or surface with the building’s vertical walls, window openings, and roofing. Such a system is used in lieu of an architectural or structural component of the building. A building integrated system may occur within vertical facades,

replacing glazing or other facade material; into semitransparent skylight systems; into roofing systems, replacing traditional roofing materials; or other building or structure envelope systems. To be considered a building integrated solar energy system, the appearance of the collector components must be consistent with the surrounding materials.

J. “Solar energy system, building mounted” means a solar energy system which is securely fastened to any portion of a building roof, whether attached directly to the principal or accessory building.

K. “Solar energy system, ground mounted” means a solar energy system which is not located on a building and is ground mounted.

L. “Solar energy system” (SES) means an aggregation of parts including the base, supporting structure, photovoltaic or solar thermal panels, inverters and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert radiant energy from the sun into mechanical or electrical energy.

M. “Utility scale solar energy system” means a solar energy system which supplies electrical power or thermal energy solely for use by off-site consumers.

3. General Regulations. A solar energy system (SES) shall only be allowed as an accessory use to a permitted principal use as follows:

A. A building integrated system.

B. A building mounted system attached to the roof of an accessory or primary structure.

C. A ground mounted system as a detached accessory structure to a primary structure shall only be allowed on property zoned commercial or industrial with a minimum lot size of two acres.

D. Large solar energy systems (LSES) shall only be allowed on property zoned industrial.

E. Utility scale solar energy systems are not allowed.

4. Permit Required. It is unlawful to construct, erect, install, alter or locate any solar energy system (SES) within the City of Waukee, unless approved with:

A. Building permit in A-1, R-1 and R-2 zoning districts.

B. Site plan, major or minor modification to a site plan permit for all other zoning districts.

C. The owner/operator of the SES must also obtain any other permits required by other federal, state and local agencies/departments prior to erecting the system.

5. Installation. Installation must be done according to manufacturer’s recommendations. All work must be completed according to the applicable building, fire and electric codes. All electrical components must meet code recognized test standards.

6. Engineer Certification. Applications for any SES shall be accompanied by standard drawings of the receiving structure if newly constructed, including the supporting frame and footings. For systems to be mounted on existing buildings, an engineering analysis showing sufficient structural capacity of the receiving structure to support the SES per the applicable code regulations, certified by an Iowa licensed professional engineer shall be submitted.

7. Color. The SES shall be a neutral color. All surfaces shall be nonreflective to minimize glare that could affect adjacent or nearby properties. Measures to minimize

nuisance glare may be required including modifying the surface material, placement or orientation of the system, and if necessary, adding screening to block glare.

8. Lighting. No lighting other than required safety lights or indicators shall be installed on the SES.

9. Signage. No advertising or signage other than required safety signage and equipment labels shall be permitted on the SES.

10. Maintenance. Facilities shall be well maintained in an operational condition that poses no potential safety hazard. Should the SES fall into disrepair and be in such dilapidated condition that it poses a safety hazard or would be considered generally offensive to the senses of the general public, the SES may be deemed a public nuisance and may be abated in accordance with Chapter 50 of this Code of Ordinances.

11. Displacement of Parking Prohibited. The location of the SES shall not result in the net loss of required parking as specified in Chapter 168 of this Code of Ordinances.

12. Utility Notification. No SES that generates electricity shall be installed until evidence has been given that the utility company has been informed of and is in agreement with the customer's intent to install an interconnected customer owned generator. Off grid systems shall be exempt from this requirement.

13. Interconnection. The SES, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa utilities board.

14. Restriction on Use of Energy Generated. An SES shall be used exclusively to supply electrical power or thermal energy for on-site consumption, except that excess electrical power generated by the SES and not presently needed for on-site use may be used by the utility company in accordance with 199 IAC 15.11(5).

15. Shutoff. A clearly marked and easily accessible shutoff for any SES that generates electricity will be required as determined by the Fire Department.

16. Electromagnetic Interference. All SESs shall be designed and constructed so as not to cause radio and television interference. If it is determined that the SES is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the appropriate City authority. A permit granting an SES may be revoked if electromagnetic interference from the SES becomes evident.

17. Solar Access Easements. The enactment of this section does not constitute the granting of an easement by the City. The owner/operator may need to acquire covenants, easements, or similar documentation to assure sufficient solar exposure to operate the SES unless adequate accessibility to the sun is provided by the site. Such covenants, easements, or similar documentation is the sole responsibility of the owner/operator. Should the owner/operator pursue a solar access easement, the extent of the solar access should be defined and the easement document executed in compliance with the regulations contained in Chapter 564A (access to solar energy) of the *Code of Iowa*.

18. Compliance with *National Electric Code*. Applications for SESs shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

19. Removal. If the SES remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned. The owner/operator shall remove the

abandoned system at their expense. Removal of the system includes the entire structure, collector panels and related equipment from the property excluding foundations. Should the owner/operator fail to remove the system, the SES will be considered a public nuisance and will be abated in accordance with Chapter 50 of this Code of Ordinances.

20. Screening. SESs that are visible from the public thoroughfare or adjacent properties that are located on flat roofs will require screening in accordance to regulations for screening of mechanical units noted in Chapter 160, Site and Building Development Standards, of this Code of Ordinances. The need for and type of screening to be used shall be identified as part of the building permit, major or minor modification to a site plan or site plan permit submittal. SESs located on a sloped roof shall not be required to be screened.

21. Nonconforming Systems. An SES that has been installed on or before the effective date of this section and is in active use and does not comply with any or all of the provisions of this section shall be considered a legal nonconforming structure and will be regulated by the provisions noted in Section 165.03 of this Code of Ordinances.

22. Unsafe Condition. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition any SES or associated building or structure, or part thereof declared to be unsafe by the appropriate authority.

23. Bulk Regulations.

A. Location of Ground Mounted SES:

- (1) No part of an SES shall be located within or over drainage, utility or other established easements, or on or over property lines.
- (2) The SES shall be located in accordance to the regulations for detached accessory structures in this chapter or not less than one foot from the property line for every one foot of the system height measured at its maximum height, whichever is most restrictive.
- (3) An LSES cannot be located in the front yard setback.
- (4) An SES shall not be located in any required buffer.
- (5) The setback from underground electric distribution lines shall be at least five feet.
- (6) No SES shall be located which may obstruct vision between a height of 30 inches and 10 feet on any corner lot within a vision triangle of 25 feet formed by intersecting street right-of-way lines.

B. Location of Building Mounted SES:

- (1) The solar energy system shall be set back not less than one foot from the exterior perimeter of the roof for every one foot the system extends above the parapet wall or roof surface.
- (2) Should the solar energy system be mounted on an existing structure that does not conform to current setback requirements, the solar energy system shall be installed to meet the current setback requirements applicable to the receiving structure.
- (3) The systems shall be designed to minimize their visual presence to surrounding properties and public thoroughfares. Panel arrangement shall take in account the proportion of the roof surface

and place the panels in a consistent manner without gaps unless necessary to accommodate vents, skylights or equipment.

(4) Access pathways for the SES shall be provided in accordance to all applicable building, fire and safety codes.

(5) The systems shall be located in such a manner that fall protection railings are not required or are not visible from the public thoroughfare.

C. Location of Building Integrated SES.

(1) No setback required.

(2) Access pathways for the SES shall be provided in accordance to all applicable building, fire and safety codes.

(3) Shall be located in such a manner that fall protection railings are not required or are not visible from the public thoroughfare.

D. No SES shall be constructed within 20 feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops).

E. Height of Ground Mounted SES. The maximum height of the SES shall not exceed 20 feet in height as measured from existing grade.

F. Height of Building Mounted SES:

(1) The collector panel surface and mounting system shall not extend higher than 18 inches above the roof surface of a sloped roof.

(2) The collector panel surface and mounting system shall not extend higher than seven feet above the roof surface of a flat roof.

G. Height of Building Integrated SES. The collector panel shall maintain a uniform profile or surface with the building's vertical walls, window openings, and roofing.

H. Calculation of Size. Size of the SES is calculated by measuring the total surface area of the collector panels for the system.

I. Size of Ground Mounted SES:

(1) The SES is restricted in size to no more than 50 percent of the area of the primary structure footprint.

(2) The maximum length of an individual ground mounted SES shall be restricted to 125 feet.

J. Size of Building Mounted SES. System size will be determined by the available roof area subject to the installation minus the required setbacks or access pathways.

K. Size of Building Integrated SES. System size will be determined by the available building surface area subject to the installation minus the required access pathways.

L. In no case shall an SSEs exceed the nameplate rated capacity of 15 kilowatts or 50 KBTU.

24. Application Required. Application for an SES shall be made on forms provided by the City of Waukee. No action may be taken regarding requests for SESs until completed applications have been filed and fees paid.

### **165.19 URBAN CHICKENS**

1. Definitions.

A. “Chicken” means a member of the subspecies *Gallus gallus domesticus*, a domesticated fowl.

B. “Chicken Run” means an enclosed, fenced area exclusively devoted to raising chickens.

C. “Chicken Tractor” means a lightweight portable chicken coop without a solid floor that allows the chickens to forage for weeds and insects.

D. “Henhouse” means a hen house or chicken coop structure where female chickens are kept.

E. “Permittee” means an applicant who has been granted a permit to raise, harbor, or keep chickens pursuant to this Chapter. If the applicant does not own the property where the chickens are to be kept, the owner of the property must be the joint permittee.

F. “Permitting Officer” means the Administrative Official or designee.

G. “Tract of land” shall mean a property with a R-1 Single Family Residential District or R-2 One and Two Family Residential District zoned lot that has one single family dwelling located on that property or zoned lot.

H. “Urban Chicken” means a chicken kept on a permitted tract of land pursuant to a permit issued under this chapter.

2. Administration – Permit Required.

A. Permit Required. No person shall raise, harbor or keep chickens within the City of Waukee without a valid permit obtained from the Permitting Officer under the provisions of this chapter.

B. Application. In order to obtain a permit, an applicant must submit a completed application on forms provided by the Permitting Officer and pay all fees required as approved from time to time by resolution of the City Council.

C. Requirements. The requirements to receive a permit shall include:

(1) All requirements of this chapter being met.

(2) All fees, as may be provided for from time to time by City Council resolution, for the permit are paid in full.

(3) All amounts owed to the city, including but not limited to liens, fines and judgements must be paid in full.

(4) The tract of land to be permitted shall contain only one single family dwelling occupied and used as such by the permittee. Owner permission shall be required if the single family dwelling is occupied by someone other than the owner.

(5) The applicant has successfully completed an approved class in raising chickens in an urban setting. A certificate or other documentation of completion shall be provided to the Permitting Officer. The Permitting Officer shall maintain a current list of such approved classes.

D. Issuance of Permit. If the Permitting Officer concludes as a result of the information contained in the application that the requirements for a permit have been met, then the officer shall issue the permit.

E. Denial, Suspension, Revocation, Non-Renewal. The Permitting Officer may deny, suspend, revoke, or decline to renew any permit issued for any of the following grounds:

(1) False statements on any application or other information or report required by this section to be given by the applicant;

(2) Failure to pay any application, penalty, re inspection or reinstatement fee required by this section or city council resolution;

(3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice;

(4) Failure to comply with the provisions of an approved mitigation/remediation plan by the Permitting Officer, or designee;

(5) Failure to comply with any provision of this chapter.

F. Notification. A decision to revoke, suspend, deny or not renew a permit shall be in writing, delivered by ordinary mail or in person to the address indicated on the application. The notification denial or revocation.

G. Effect or Revocation, etc. When an application for a permit is denied, or when a permit is revoked, the applicant may not re-apply for a new permit for a period of one (1) year from the date of the denial or revocation.

H. Appeals. No permit may be denied, suspended, revoked, or not renewed without notice and an opportunity to be heard is given the applicant or holder of the permit. In any instance where the Permitting Officer has denied, revoked, suspended, or not renewed a permit, the applicant or holder of Urban Chicken may appeal the decision to the City Administrator, or designee other than the Permitting Officer within ten (10) business days of receipt by the applicant or holder of the permit of the notice of the decision. The applicant or holder of the permit will be given an

opportunity for a hearing. The decision of the officer hearing the appeal, or any decision by the Permitting Officer which is not appealed in accordance to this chapter shall be deemed final action.

3. Number and Type of Chickens Allowed. A maximum of six female chickens (hens) are allowed for each tract of land one half (1/2) acre or less. For a tract of land greater than one-half (1/2) acre, an additional six female chickens (hens) are allowed for each additional one-half (1/2) acre up to a maximum of thirty (30) female chickens (hens).

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4. Zoning Districts Allowed. Permits will be granted only for tracts of land located in a R-1 or R-2 residential district as identified on the current Official Zoning Map on file with the City of Waukee.

5. Non-Commercial Use Only. A permit shall not allow the permittee to engage in chicken breeding or fertilizer production for commercial purposes.

6. Enclosures.

A. Chickens must be kept in enclosure or fenced area at all times. Chickens shall be secured within a henhouse or chicken tractor during non-daylight hours.

B. Enclosures must be kept in a clean, dry, odor-free, neat and sanitary condition at all times.

C. Henhouses, chicken tractors and chicken pens must provide adequate ventilation and adequate sun and shade and must be impermeable to rodents, wild birds and redators, including dogs and cats.

D. Henhouses and chicken tractors.

(1) Henhouses and chicken tractors shall be designed to provide safe and healthy living conditions for the chickens with a minimum of four (4) square feet per bird while minimizing adverse impacts to other residents in the neighborhood.

(2) A henhouse or chicken tractor shall be enclosed on all sides and shall have a roof and doors. Access doors shall be able to be shut and locked at night. Opening windows and vents shall be covered with predator and bird proof wire of one inch or smaller openings.

(3) The materials used in making a henhouse or chicken tractor shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal, or similar materials is prohibited. Henhouses and chicken tractors shall be well maintained.

(4) Henhouses, chicken tractors and chicken pens shall only be located in the rear yard.

(5) Henhouses, chicken tractors and chicken pens must be located at least ten (10) feet from the property line and at least twenty-five (25) feet from any adjacent residential principal structure and shall meet all other accessory structure provisions of the zoning ordinance.

7. Odor and Noise Impacts.

A. Odors from chickens, chicken manure or other chicken related substances shall not be perceptible beyond the boundaries of the permitted tract of land.

B. Noise from chickens shall not be loud enough beyond the boundaries of the permitted tract of land at the property boundaries to disturb persons of reasonable sensitivity.

8. Predators, Rodents, Insects and Parasites. The Permittee shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation may be removed by the City Health Officer.

9. Feed and Water. Chickens shall be provided with access to feed and clean water at all times. The feed and water shall be unavailable to rodents, wild birds and predators.

10. Waste Storage and Removal. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored on the permitted tract of land. All other manure not used for composting or fertilizing shall be removed. The henhouse, chicken tractor, chicken pen and surrounding area must be kept free from trash and accumulated droppings, Uneaten feed shall be removed in a timely manner.

11. Chickens at Large. The Permittee shall not allow the Permittee's chicken's to roam off the permitted tract of land. No dog or cat or other domesticated animal which kills a chicken off the permitted tract of land will, for that reason alone, not be considered a dangerous or aggressive animal or the city's responsibility to enforce its animal control provisions.

12. Unlawful Acts.

A. It shall be unlawful for any person to keep chickens in violation of any provision of this chapter or any other provision of the Waukee Municipal Code.

B. It shall be unlawful for any owner, renter or leaseholder of property to allow chickens to be kept on the property in violation of the provisions of this article.

C. No person shall keep chickens inside a single family dwelling unit or any other structure than an approved henhouse or chicken tractor.

D. No person shall slaughter any chickens within the City of Waukee outside of legally operating poultry production facilities.

E. No person shall keep a rooster.

F. No person shall keep chickens on a vacant or uninhabited tract of land.

13. Nuisances. Any violation of the terms of this chapter that constitutes a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under the general nuisance abatement provisions of the Waukee Municipal Code.

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**165.20 EXCEPTIONS, MODIFICATIONS AND INTERPRETATIONS.**

1. Structures Permitted Above Height Limit. No permit will be issued for any structure above district height limits, except as specifically approved by the City Council.

2. Double Frontage Lots. Buildings on through lots and extending through from street to street shall provide the required front yard on both streets.

3. Rear and Side Yards Adjacent to Alleys. In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens to an alley, one-half of the alley width may be included as a portion of the rear or side yard, as the case may be.

4. Other Exceptions to Yard Requirements. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard, and except for ordinary projections, not to exceed 24 inches, including roof overhang.

5. Front Yard; Exceptions. In areas where some lots are developed with a front yard that is less than the minimum required for the district by these zoning regulations or where some lots have been developed with a front yard greater than required by these zoning regulations, the following rule shall apply. Any new building or addition in front thereof shall not be closer to the street right-of-way than the average of the front yard of the first building on each side within a distance of 200 feet, measured from building to building, except as follows:

A. Buildings located entirely on the rear half of a lot shall not be counted.

B. No buildings shall be required to have a front yard greater than 50 feet.

C. If no building exists on one side of a lot within 200 feet of the lot in question, the minimum front yard shall be the same as the building on the other side.

6. Zoning of Annexed Areas. Any land annexed to the City after the effective date hereof shall be zoned A-1 Agricultural until the Commission and Council shall have studied the area and adopted a final zoning plan for the area in accordance with Section 166.20 of these zoning regulations.

7. Exceptions to Prohibited Uses. The Council may, by special permit after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by these zoning regulations. Notice of time and place of hearing shall be given to all affected property owners within 200 feet at least 7 days in advance of hearing by placing notice in the United States mail.

A. Any public building erected and used by any department of the City, Township, County, State or federal government.

B. Airport or landing field.

C. Community building or recreation center.

D. Hospitals, nonprofit fraternal institutions (provided they are used solely for fraternal purposes), and institutions of an educational, religious, or philanthropic character; provided,

the building shall be set back from all yard lines a distance of not less than two feet for each foot of building height, but not less than the yard requirements for the district in which located.

E. Public cemetery.

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

8. Use of Existing Lots of Record. In any district where dwellings are permitted, a dwelling may be located on any lot of record as of the effective date hereof irrespective of its area or width; provided, however:

A. The sum of the side yard widths of any such lot or plot shall not be less than 20 percent of the width of the lot, but in no case less than 10 percent of the width of the lot or five feet, whichever is greater, for any one side yard.

B. The depth of the rear yard of any such lot need not exceed 20 percent of the depth of the lot, but in no case less than 20 feet.

9. Water and Sewage Requirements.

A. In any district in which residences are permitted, except the A-1 and AR districts, and where neither public water supply nor public sanitary sewer is available, the minimum lot area and frontage requirements shall be as follows:

(1) Lot Area – 20,000 square feet;

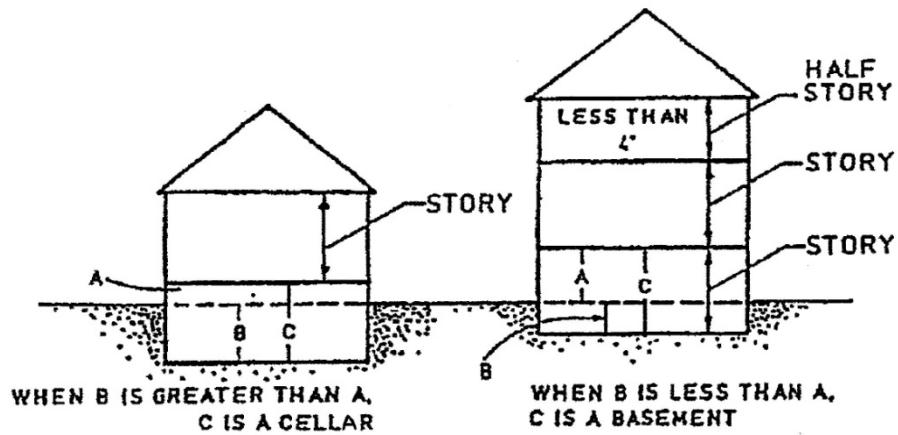
(2) Lot Width at Building Line – 100 feet;

provided, however, that where a public water supply system is available, these requirements shall be 15,000 square feet, and 100 feet, respectively.

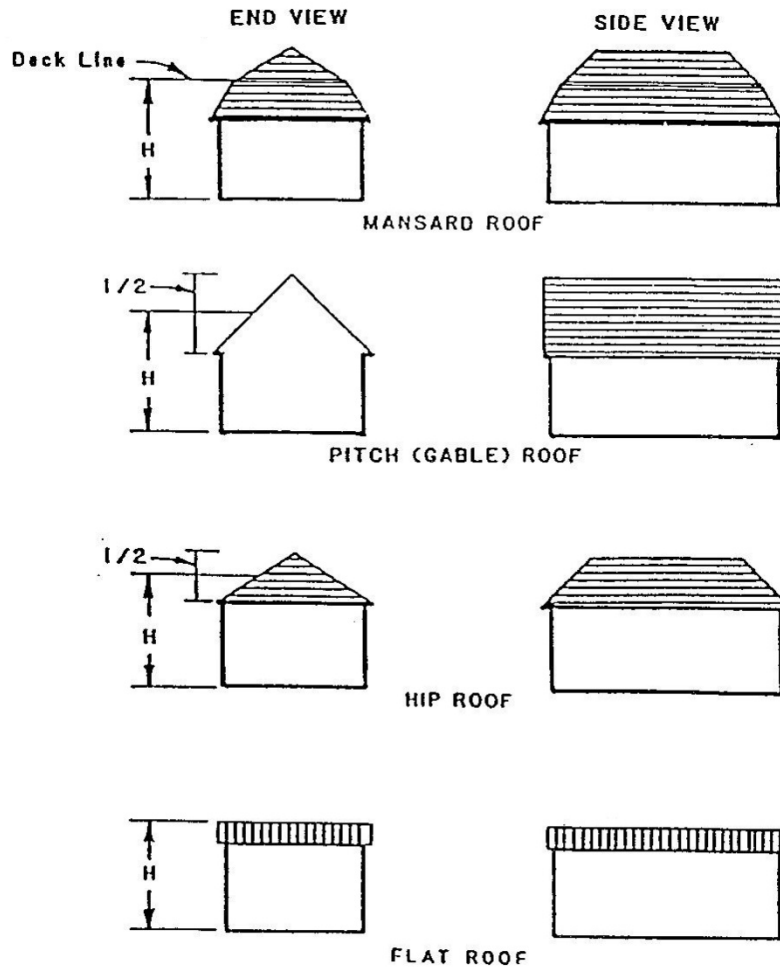
B. The above requirements shall not apply in subdivision developments providing private common water supply and sewage collection and disposal systems that have been approved by the Iowa Department of Natural Resources.

C. In all districts where a proposed building, structure, or use will involve the use of private sewage facilities, and public sewer and/or water is not available, the sewage disposal system and domestic water supply shall comply with all of the requirements and standards of the Dallas County Board of Health.

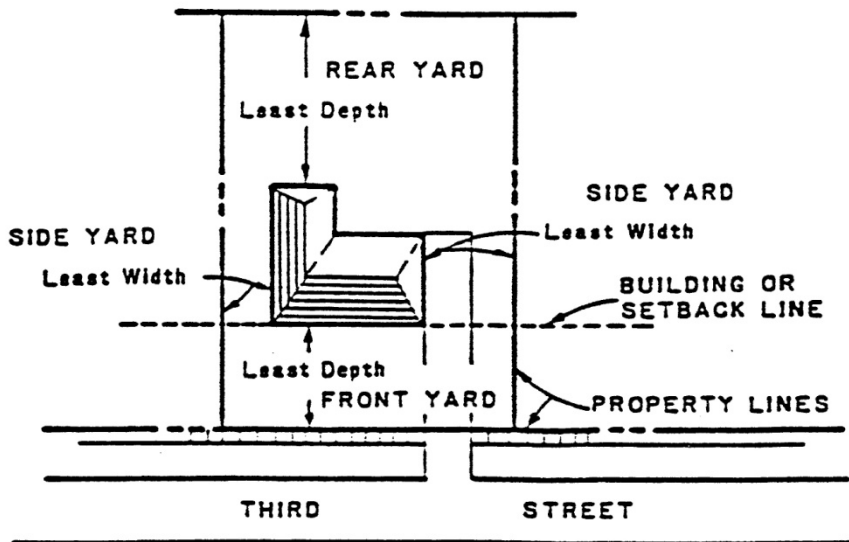
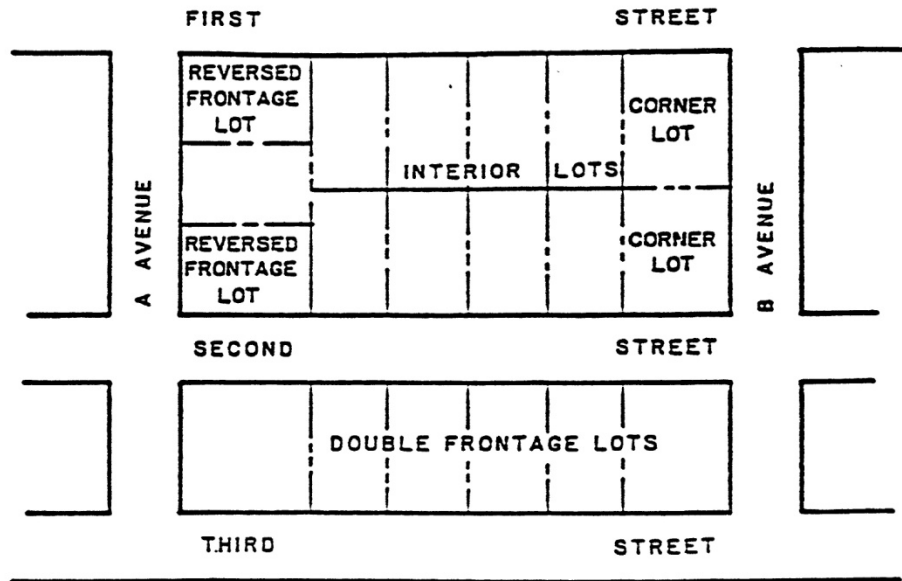
**165.21 ILLUSTRATIONS.** See the following pages for various illustrations, which are applicable to the provisions of these zoning regulations:



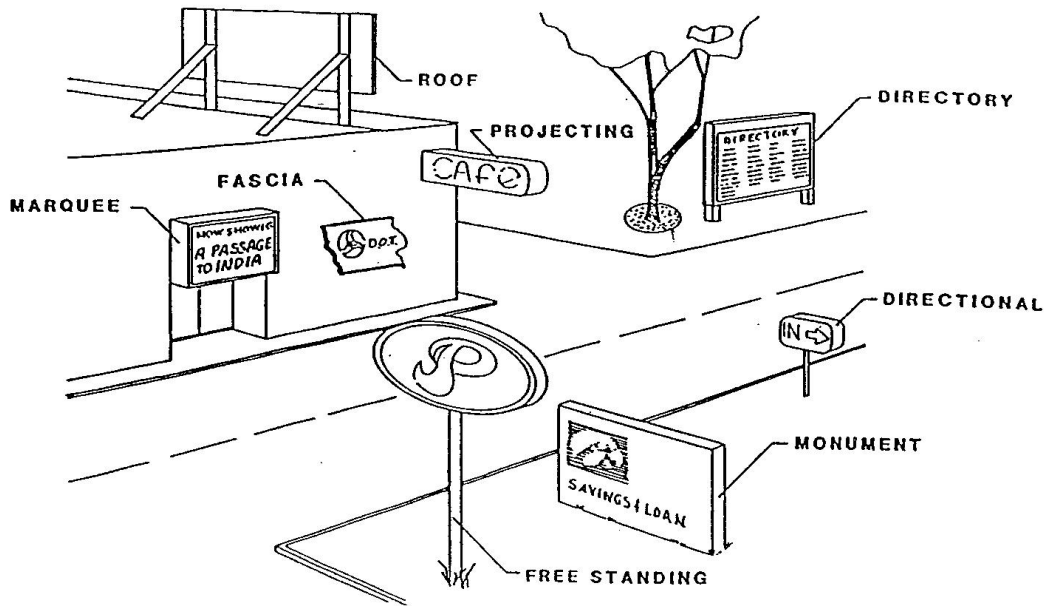
## CELLAR, BASEMENT, HALF STORY, STORY



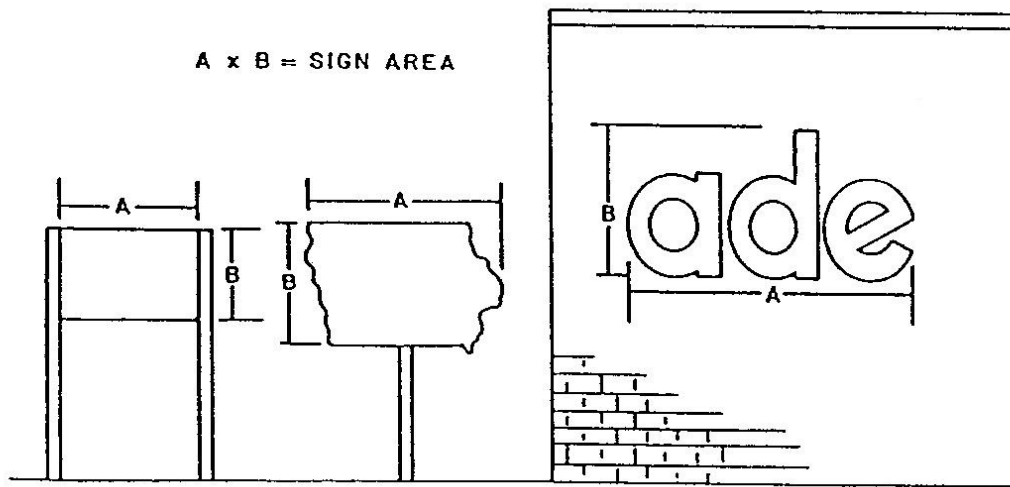
## BUILDING HEIGHTS



**LOT AND YARD DEFINITIONS**

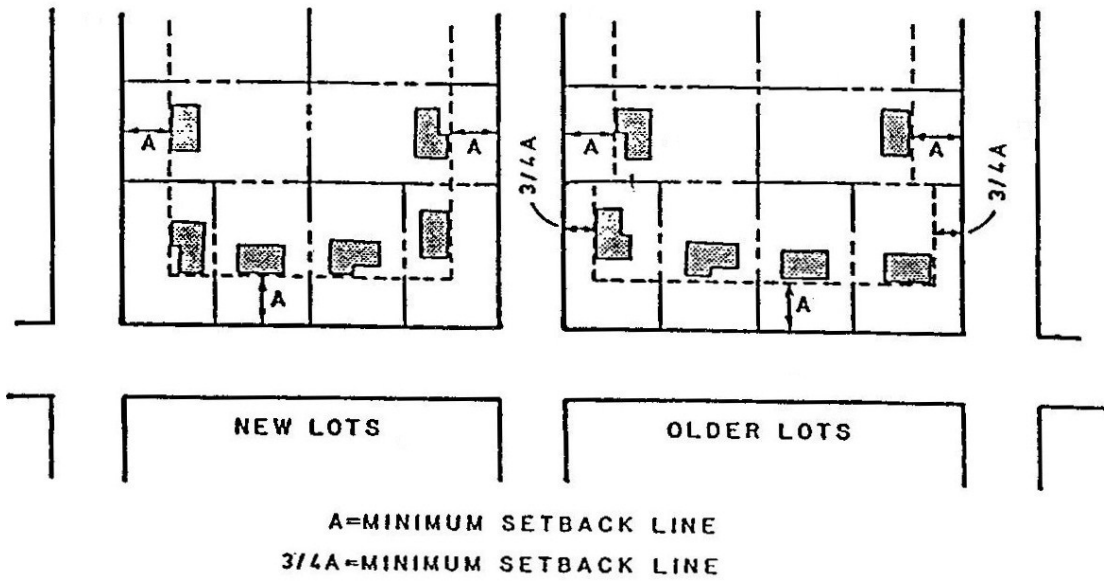


## SIGN TYPES

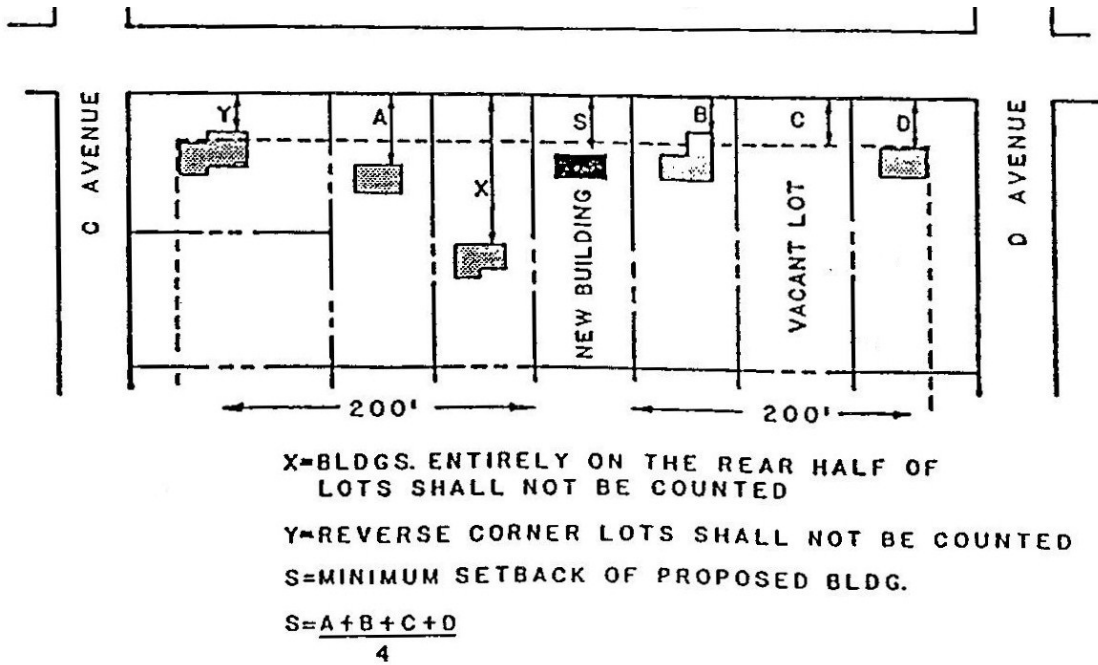


## SIGN AREAS

## MINIMUM SETBACK



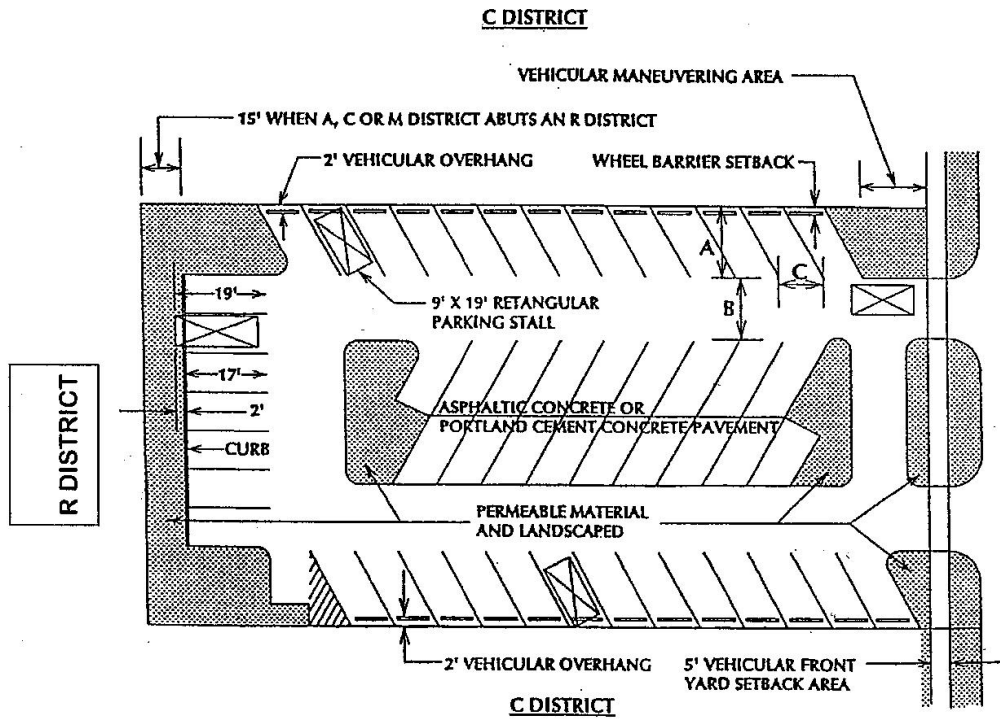
## AVERAGE SETBACK



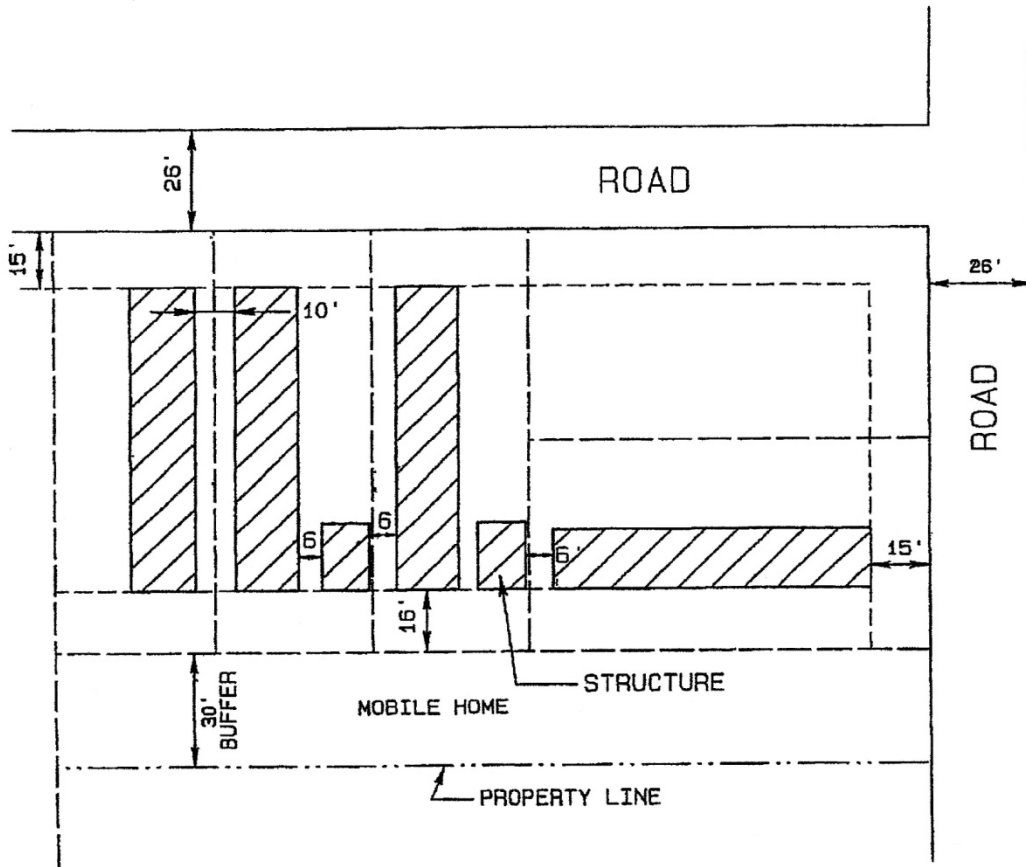
## BUILDING SETBACK LINES

## PARKING STALL REQUIREMENTS

Degree of Angle	Stall to Curb (A)	Aisle Width (B)	Curb Length (C)
0	9.0 feet	12 feet	20 feet
45	19.83 feet	13 feet	12.75 feet
60	21 feet	18 feet	10.5 feet
90	19 feet	24 feet	9 feet



## TYPICAL PARKING LOT LAYOUT



**MOBILE HOME PARK SETBACK LINES**

(repeal Chapter 301, replace in entirety) July 15, 2019 – Ordinance 2932