

NONCONFORMITIES

165.10 NONCONFORMITIES. Within the districts established by this chapter there exist:

1. lots,
2. structures,
3. uses of land and structures, and
4. characteristics of use,

which were lawful before this chapter was passed or amended, but which are prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

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

165.11 NONCONFORMING LOTS OF RECORD. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, provided other limitations imposed by this chapter are complied with. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, if the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through the action of the Board of Adjustment.

165.12 NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY). Where at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
3. If any such nonconforming use of land ceases for any reason for a period of six (6) months or twelve (12) months during any three (3) year period, then any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located. Any changes of use to a more restrictive and less nonconforming use shall only be allowed if approved by special exception of the Board of Adjustment.
4. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

165.13 NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No such nonconforming structure may be enlarged or altered in such a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means or to any extent equal to less than sixty (60) percent of its replacement value, it shall be allowed to be reconstructed to its previous dimensions or to dimensions which decrease the nonconformity, except in conformity with the provisions of this chapter. Said reconstruction shall be started within six (6) months of the destruction and be completed within two (2) years or the nonconforming

status shall be removed. If destruction is greater than sixty (60) percent, reconstruction must conform to current regulations/ordinances.

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

165.14 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION. If lawful use involving individual structures with a replacement cost of one thousand dollars (\$1,000.00) or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, or structurally altered except in changing the use of the structure to a use permitted in the district in which it 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 this chapter, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months or for eighteen (18) months during any three (3) year period (except when government action impedes access to the premises)

the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located except by special exception of the Board of Adjustment.

6. When nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of the subsection is defined as damage to an extent of more than sixty (60) percent of the replacement cost at time of destruction. Replacement shall conform with current regulations/ordinances.

165.15 REPAIRS AND MAINTENANCE. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, provided that the square footage of floor area of the building as it existed at the time of passage or amendment of this chapter shall not be increased.

DISTRICT REGULATIONS

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

- AG Agricultural District
- CN Conservation District
- RS Residential Single-Family District
- RM Residential Multi-Family District
- MH Mobile Home District
- AC Arterial Commercial District
- BC Business Commercial District
- LI Light Industrial District
- AX Adult Use District

These districts are established as identified on the Official Zoning Map which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be part of this chapter.

(HI Heavy Industrial District Removed by Ord. 557 – Oct. 10 Supp.)

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165.22 AG – AGRICULTURAL DISTRICT.

1. Intent. This district is intended to provide for areas in which agriculture and related uses are encouraged as the principal use of land. However, uses which may be offensive to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic or physical appearance or other similar factors are not permitted. The district prohibits urban density residential use until these areas may be served by utilities and services of the City. This district is also intended to preserve land suited for eventual development into other uses, pending proper timing for economical and practical provisions of streets, utilities, schools and other facilities, so that reasonably compact development will occur and the fiscal integrity of the City is preserved. All newly annexed areas to the City will automatically be placed into this district classification unless otherwise suitably classified.

2. Permitted Uses. The following uses are permitted in the AG District:

- A. Agriculture, including the usual agricultural buildings, dwellings and structures and excluding offensive uses.
- B. Home occupations.

3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the AG District:

- A. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.
- B. Private garages, barns and other farm buildings.
- C. Roadside stands offering for sale only agricultural products or other products produced on the premises.
- D. Temporary buildings for the uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- E. Satellite dishes.

4. Special Exceptions. Certain uses may be permitted in the AG District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:

- A. Cemeteries, crematories or mausoleums.
- B. Commercial kennels.

- C. Stables, private or public.
 - D. Greenhouses and nurseries.
 - E. Publicly operated sanitary landfills.
 - F. Private recreational camps, golf courses and recreational facilities.
 - G. Public or private utility substations, relay stations, etc.
 - H. Churches or accessory facilities (on or off site).
 - I. Publicly owned and operated buildings and facilities.
 - J. Extraction of minerals or raw materials.
 - K. Off-premises signs, excluding real estate and political signs.
5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the AG District:

Min. Lot Area	Min. Lot Width (feet)	Min. Front Yard (feet)	Min. Side Yard (feet)	Min. Rear Yard (feet)	Max. Height: The Lesser Of
5 acres	300	50	30	50	2½ stories or 35 feet

6. Off-street Parking. The following off-street parking requirements shall apply in the AG District:
- A. Dwellings: two (2) parking spaces on the lot for each living unit in the building.
 - B. Churches: one (1) parking space on the lot for each five (5) seats in the main auditorium.
 - C. Public buildings and facilities: one (1) parking space for each three hundred (300) square feet of gross floor area or one (1) parking space for each five (5) seats in the main assembly area.
 - D. Roadside stands: one (1) parking space for each fifty (50) square feet of enclosed floor area.
 - E. Greenhouses and nurseries: one (1) parking space per one thousand (1,000) square feet of enclosed floor area.

7. Off-street Loading. The following off-street loading requirements shall apply in the AG District:

A. All activities or uses allowed in the AG District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the AG District:

A. On-premises signs are permitted as well as real estate or political signs.

B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.

D. No sign may imitate or resemble an official traffic control sign, signal or device.

E. Signs shall not encroach or extend over public right-of-way.

F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.

G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipality or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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165.24 CN – CONSERVATION DISTRICT.

1. Intent. This district is intended to prevent, in those areas which are subject to periodic or potential flooding, such development as would result in a hazard to health or safety or be otherwise incompatible with the public welfare. This district is also intended to provide for water conservation, erosion control, protection of wildlife habitat, protection of natural erosion control, protection of natural drainage ways and generally to provide for ecologically sound land use of environmentally sensitive areas.
2. Permitted Uses. The following uses are permitted in the CN District:
 - A. Undeveloped and unused land in its natural condition.
 - B. Public parks and recreation open space.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the CN District:
 - A. Agriculture, exclusive of dwelling units.
 - B. Agricultural or recreational buildings or structures whose use or value would not be impaired by being flooded.
 - C. Flood control structures.
 - D. Roadside stands offering for sale only agricultural products or other products produced on the premises.
 - E. Temporary buildings for the uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the CN District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:
 - A. Cemeteries, crematories or mausoleums.
 - B. Stables, private or public.
 - C. Greenhouses and nurseries.
 - D. Private recreational uses.
 - E. Public or private utility substations, relay stations, etc.
 - F. Publicly owned buildings and facilities.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the CN District:

Min. Lot Area	Min. Lot Width (feet)	Min. Front Yard (feet)	Min. Side Yard (feet)	Min. Rear Yard (feet)	Max. Height: The Lesser Of
2 acres	150	50	30	50	2½ stories or 35 feet, excluding farm buildings

6. Off-street Parking. The following off-street parking requirements shall apply in the CN District:

- A. Roadside stands: one (1) parking space for each fifty (50) square feet of floor area.
- B. Greenhouses and nurseries: one (1) parking space per one thousand (1,000) square feet of enclosed floor area.

7. Off-street Loading. The following off-street loading requirements shall apply in the CN District:

- A. All activities or uses allowed in the CN District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the CN District:

- A. Off-premises signs, except for real estate or political signs, are not permitted.
- B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- D. No sign may imitate or resemble an official traffic control sign, signal or device.

E. Signs shall not encroach or extend over public right-of-way.

F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.

G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipality or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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165.26 RS – RESIDENTIAL SINGLE-FAMILY DISTRICT.

1. Intent. This district is intended to provide for a variety of single-family and two-family residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety and welfare. Low and medium population density neighborhoods are recognized and provided for. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various single-family residential areas of the City.

2. Permitted Uses. The following uses are permitted in the RS District:

- A. Single-family detached dwellings.
- B. Two-family dwellings.
- C. Family homes.
- D. Home occupations.
- E. Elder homes.

3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RS District:

- A. Private garages and storage sheds.
- B. The keeping or raising of pigs, fowl, sheep, goats, cattle or horses is prohibited. The raising and keeping of other animals is prohibited on a commercial basis.
- C. Private Swimming Pools. Private swimming pools shall have a non-climbable fence which means a solid wall, chain link with squares maximum size of two and three-eighths (2 3/8) inches, or other fence of similar rigidity with vertical spacing less than two (2) inches and horizontal spacing less than four (4) inches. All openings in any fence are to be small enough not to allow the passage of a four (4) inch diameter sphere. The fence must be at least six (6) feet in height and be secured against public access. All enclosure gates or doors immediately opening to the swimming pool shall be equipped with a self-closing and self-latching device with locking provisions for keeping the gate or door securely closed at all times when not in actual use. A temporary pool may have a freestanding fence that meets these standards. Pools in place for six (6) months or more will need to

have a permanent fence. All ladders or step apparatus used for access to any aboveground pool or temporary wading pool as defined in Section 165.06(61) shall be removed when the pool is not in actual use. *(Ord. 532 – Oct. 08 Supp.)*

D. Temporary buildings for uses incidental to construction work, which buildings shall be removed within thirty (30) days of the completion or abandonment of the construction work.

4. Special Exceptions. Certain uses may be permitted in the RS District subject to specific conditions and requirement intended to make them compatible with and acceptable to adjacent uses:

- A. Preschools and child care centers.
- B. Public or private utility substations, relay stations, etc.
- C. Churches.
- D. Publicly owned and operated buildings and facilities.
- E. Senior high schools, elementary and junior high schools and equivalent private and parochial schools.
- F. Golf courses but not miniature courses or separate driving tees.
- G. Bed and breakfast houses.
- H. Hospitals.
- I. Home occupations in accessory buildings.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RS District:

Zoning Symbol	Min. Lot Area (sq. ft.)	Min. Lot Width (feet)	Min. Front Yard (feet)	Min. Side Yard (feet)	Min. Rear Yard (feet)	Max. Height: The Lesser Of
5 RS*	5,000	40	20	6	20	2½ stories or 35 feet
10 RS	10,000	75	35	8	35	2½ stories or 35 feet

*Applies to existing lots of record at the time of adoption of this chapter.

6. Off-street Parking. The following off-street parking requirements shall apply in the RS District:

A. Dwellings: two (2) parking spaces on the lot for each living unit in the building. For dwellings not consisting of living units: two (2) parking spaces on the lot for each two thousand (2,000) square feet of floor area.

B. Churches: one (1) parking space within four hundred (400) feet of the lot for each five (5) seats in the main auditorium.

C. Public buildings and facilities: one (1) parking space for each three hundred (300) square feet of gross floor area or one (1) parking space for each five (5) seats in the main assembly area.

D. Elementary, junior high and equivalent private or parochial schools: one (1) parking space for each classroom and office plus one (1) parking space per each three hundred (300) square feet of gross floor area in auditorium or gymnasium.

E. Senior high schools and equivalent private or parochial schools: one (1) parking space for each employee and one (1) parking space for each ten (10) students.

F. Colleges, universities, institutions of higher learning, and equivalent private or parochial schools: one (1) parking space for each employee and one (1) parking space for each five (5) students.

G. Public buildings and facilities: one (1) parking space for each three hundred (300) square feet of gross floor area.

H. Preschools and child care centers: one (1) parking space per employee.

7. Off-street Loading. The following off-street loading requirements shall apply in the RS District:

A. All activities or uses allowed in the RS District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the RS District:

- A. Off-premises signs, except real estate or political signs, are not permitted.
- B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- D. No sign may imitate or resemble an official traffic control sign, signal or device.
- E. Signs shall not encroach or extend over public right-of-way.
- F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipality or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

165.28 RM – RESIDENTIAL MULTI-FAMILY DISTRICT.

1. Intent. This district is intended to provide for a variety of multi-family residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety and welfare. Medium and high population density neighborhoods are recognized and provided for. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various multi-family residential areas of the City.

2. Permitted Uses. The following uses are permitted in the RM District:

- A. Single-family detached dwellings.
- B. Two-family dwellings.
- C. Multi-family dwellings.
- D. Home occupations.
- E. Family homes.
- F. Elder homes.

3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RM District:

- A. Private garages and storage sheds.
- B. Parking lots.
- C. The keeping or raising of pigs, fowl, sheep, goats, cattle or horses is prohibited. The raising and keeping of other animals is prohibited on a commercial basis.
- D. Private Swimming Pools. Private swimming pools shall have a non-climbable fence which means a solid wall, chain link with squares maximum size of two and three-eighths (2 3/8) inches, or other fence of similar rigidity with vertical spacing less than two (2) inches and horizontal spacing less than four (4) inches. All openings in any fence are to be small enough not to allow the passage of a four (4) inch diameter sphere. The fence must be at least six (6) feet in height and be secured against public access. All enclosure gates or doors immediately opening to the swimming pool shall be equipped with a self-closing and self-latching device with locking provisions for keeping the gate or

door securely closed at all times when not in actual use. A temporary pool may have a freestanding fence that meets these standards. Pools in place for six (6) months or more will need to have a permanent fence. All ladders or step apparatus used for access to any aboveground pool or temporary wading pool as defined in Section 165.06(61) shall be removed when the pool is not in actual use. *(Ord. 532 – Oct. 08 Supp.)*

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

4. Special Exceptions. Certain uses may be permitted in the RM District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:

- A. Preschools and child care centers.
- B. Public or private utility substations, relay stations, etc.
- C. Churches and publicly owned and operated buildings and facilities.
- D. Senior high schools, elementary and junior high schools and equivalent private and parochial schools.
- E. Lodging houses, dormitories, fraternities and sororities.
- F. Bed and breakfast houses.
- G. Health care facilities.
- H. Home occupations in accessory buildings.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RM District:

Zoning Symbol	Min. Lot Area (sq. ft.)	Min. Lot Area per Unit (sq. ft.)	Max. Units Per Acre	Min. Lot Width (feet)	Min. Front Yard (feet)	Min. Side Yard (feet)	Min. Rear Yard (feet)	Max. Height: The Lesser Of
5 RME*	5,000	2,500	17	45	20	6	20	3 stories or 45 feet
5 RM	10,000	5,000	8	75	25	8	30	3 stories or 45 feet
3 RM	10,000	3,000	14	75	25	8	30	3 stories or 45 feet

*Applies to existing lots of record at the time of adoption of this chapter.

6. Off-street Parking. The following off-street parking requirements shall apply in the RM District:

A. Single-family dwellings: two (2) parking spaces on the lot.

B. Multi-family dwellings: one (1) parking space on the lot for each dwelling unit.

C. Churches: one (1) parking space within four hundred (400) feet of the lot for each five (5) seats in the main auditorium.

D. Elementary, junior high and equivalent private or parochial schools: one (1) parking space for each classroom and office plus one (1) parking space per each three hundred (300) square feet of gross floor area in auditorium or gymnasium.

E. Senior high schools and equivalent private or parochial schools: one (1) parking space for each employee and one (1) parking space for each ten (10) students.

F. Colleges, universities, institutions of higher learning, and equivalent private or parochial schools: one (1) parking space for each employee and one (1) parking space for each five (5) students.

G. Public buildings and facilities: one (1) parking space for each three hundred (300) square feet of gross floor area or one (1) parking space for each five (5) seats in the main assembly area.

H. Preschools and child care centers: one (1) parking space per employee.

7. Off-street Loading. The following off-street loading requirements shall apply in the RM District:

A. All activities or uses allowed in the RM District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the RM District:

A. Off-premises signs, except real estate or political signs, are not permitted.

- B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- D. No sign may imitate or resemble an official traffic control sign, signal or device.
- E. Signs shall not encroach or extend over public right-of-way.
- F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipality or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

165.30 MH – MOBILE HOME DISTRICT.

1. Intent. This district is intended to provide for certain medium density residential areas in the City now developed as mobile home parks which by reason of their design and location are compatible with surrounding residential areas and areas of the City where similar development seems likely to occur. This district has useful application as a transition zone between shopping areas and residential areas and is normally located along thoroughfares where direct access to the site is available.
2. Permitted Uses. The following uses are permitted in the MH District:
 - A. Mobile homes located in an approved mobile home park.
 - B. Home occupations.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the MH District:
 - A. Private garages and storage sheds.
 - B. The keeping or raising of pigs, fowl, sheep, goats, cattle or horses is prohibited. The raising and keeping of other animals is prohibited on a commercial basis.
 - C. Private recreational facilities.
 - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the MH District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:
 - A. Public or private utility substations, relay stations, etc.
 - B. Preschools and child care centers.
 - C. Churches or accessory facilities on or off site.
 - D. Home occupations in accessory buildings.
5. Bulk Regulations. A mobile home park permit shall be required for construction of any mobile home park. Permits shall be issued by the Planning and Zoning Commission after plans have been submitted which conform to the following bulk requirements. Fees for said permit shall

be established by Council resolution. Construction shall comply with the following:

- A. The minimum mobile home park area shall be at least four (4) acres.
- B. Density is limited to eight (8) mobile homes per acre.
- C. No mobile home shall be located within five (5) feet of any driveway or parking space, within seventy-five (75) feet of the right-of-way line of a public street, or less than thirty-five (35) feet from the side or rear lot lines of the mobile home park.
- D. Each mobile home site shall be provided with a stand consisting of a reinforced, four (4) inch, poured Portland cement concrete apron not less than eight (8) feet wide and forty-five (45) feet long.
- E. A greenbelt, at least twenty-five (25) feet in width, shall be located along all boundaries of each mobile home park, except where it is crossed by driveways.
- F. Each mobile home shall be located on a lot having an area of at least five thousand (5,000) square feet provided.
- G. All minimum street widths in mobile home parks shall be approved as private streets and further comply with the following:

(1) No parking on street	1 way	14 feet
	2 way	24 feet
(2) Parallel parking on one side	1 way	18 feet
	2 way	27 feet
(3) Parallel parking both sides	1 way	14 feet
	2 way	34 feet
- H. An approved sanitary sewer and water system shall be provided.

6. Off-street Loading. The following off-street loading requirements shall apply in the MH District:

- A. All activities or uses allowed in the MH District shall be provided with adequate receiving facilities accessible by motor vehicle from any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

7. Signs. The following sign regulations shall apply to the MH District:

- A. Off-premises signs, except real estate or political signs, are not permitted.
- B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- D. No sign may imitate or resemble an official traffic control sign, signal or device.
- E. Signs shall not encroach or extend over public right-of-way.
- F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipality or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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165.32 AC – ARTERIAL COMMERCIAL DISTRICT.

1. Intent. This district is intended to provide for certain areas of the City for the development of service, retail, and other non-residential uses which, because of certain location requirements and operational characteristics, are appropriately located in close proximity to arterial and other main thoroughfares. Residential-type structures are also permitted. The district is further characterized by a typical need for larger lot sizes, off-street parking, adequate setbacks, clear vision, safe ingress and egress, and access to other adjacent thoroughfares.

2. Permitted Uses. The following uses are permitted in the AC District:

A. Sales and display rooms and lots, including yards for the storage or display of new or used building materials but not for any scrap or salvage operation storage or sales.

B. Offices and clinics.

C. Churches and publicly owned and operated buildings and facilities.

D. Hotels and motels.

E. Any other retail or service sales business, including food preparation for sale off-premises.

F. Publicly owned and operated buildings and facilities.

G. Dwellings, single-family, two-family and multi-family.

(Ord. 441 – Sep. 01 Supp.)

3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the AC District:

A. Private recreational facilities.

B. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.

C. Private garages and storage sheds.

D. Parking lots.

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

4. Special Exceptions. Certain uses may be permitted in the AC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:

- A. Public or private utility substations, relay stations, etc.
- B. Warehouses.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and building in the AC District:

Min. Lot Area (sq. ft.)	Min. Lot Width (feet)	Min. Front Yard (feet)	Min. Side Yard (feet)	Min. Rear Yard (feet)	Max. Height: The Lesser Of
10,000	75	50	If adjacent to a residential district, the side yard shall be equal to the minimum side yard required in the adjacent district, but in no instance less than 6 feet.	If adjacent to a residential district, the rear yard shall be equal to the minimum rear yard required in the adjacent district, but in no instance less than 20 feet.	4 stories or 60 feet

6. Off-street Parking. The following off-street parking requirements shall apply in the AC District:

- A. Sales and service building: one (1) parking space per three hundred (300) square feet of gross floor area.
- B. Offices/clinics: one (1) parking space per three hundred (300) square feet of gross floor area.
- C. Churches: one (1) parking space within four hundred (400) feet of the lot for each five (5) seats in the main auditorium.
- D. Public buildings and facilities: one (1) parking space per three hundred (300) square feet of gross floor area or one (1) parking space for each five (5) seats in the main assembly area.
- E. Hotels and motels: one (1) parking space per room plus one (1) parking space for each employee.

7. Off-street Loading. The following off-street loading requirements shall apply in the AC District:

- A. All activities or uses allowed in the AC District shall be provided with adequate receiving facilities accessible by motor

vehicle from any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the AC District:

A. Off-premises and on-premises signs are permitted.

B. Off-premises signs shall comply with the setbacks of the districts they are located in. Other bulk regulations do not apply. Off-premises signs are governed by State and Federal regulations along highways, where zoning exists.

C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.

E. No sign may imitate or resemble an official traffic control sign, signal or device.

F. Signs shall not encroach or extend over public right-of-way.

G. No sign may obscure or physically interfere with an official traffic control sign, signal or device.

H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipality or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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165.34 BC – BUSINESS COMMERCIAL DISTRICT.

1. Intent. This district is intended to provide for certain areas of the City for the development of service, retail, and other non-residential uses, excluding industrial and agricultural uses.

2. Permitted Uses. The following uses are permitted in the BC District:

A. Business sales and services conducted entirely within the building, including those with incidental manufacturing or processing of goods or products.

B. Offices and clinics.

C. Publicly owned and operated buildings and facilities.

D. Multi-family dwellings, but under no circumstances may a dwelling be located on the first floor of a building. No new or current building may be converted to violate this section.

(Ord. 477 – Jul. 03 Supp.)

3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the BC District:

A. Private recreational facilities.

B. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.

C. Private garages.

D. Parking lots.

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

4. Special Exceptions. Certain uses may be permitted in the BC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:

A. Public or private utility substations, relay stations, etc.

B. Warehouses.

C. Churches or accessory facilities on or off site.

D. Hotels and motels.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the BC District:

Min. Lot Area (sq. ft.)	Min. Lot Width (feet)	Min. Front Yard (feet)	Min. Side* Yard (feet)	Min. Rear* Yard (feet)	Max. Height: The Lesser Of
None	None	None, except 20 feet where provided	None, except if a side yard is provided, it shall be a minimum of 6 feet.	None, except if a rear yard is provided, it shall be a minimum of 20 feet.	4 stories or 60 feet

*Where this district abuts a lower intensity district, the greater side and rear yard setbacks apply.

6. Off-street Parking. The following off-street parking requirements shall apply in the BC District:

- A. Sales and service buildings: one (1) parking space per three hundred (300) square feet of gross floor area.
- B. Offices/clinics: one (1) parking space per three hundred (300) square feet of gross floor area.
- C. Churches: one (1) parking space within four hundred (400) feet of the lot for each five (5) seats in the main auditorium.
- D. Public buildings and facilities: one (1) parking space per three hundred (300) square feet of gross floor area or one (1) parking space for each five (5) seats in the main assembly area.
- E. Hotels and motels: one (1) parking space per room plus one (1) parking space for each employee.
- F. Dwellings: two (2) spaces per unit.

7. Off-street Loading. The following off-street loading requirements shall apply in the BC District:

- A. All activities or uses allowed in the BC District shall be provided with adequate receiving facilities accessible by motor vehicle from any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the BC District:

- A. Off-premises and on-premises signs are permitted.
- B. Off-premises signs shall comply with the setbacks of the districts they are located in. Other bulk regulations do not apply. Off-premises signs are governed by State and Federal regulations along highways, where zoning exists.
- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way except by special exception of the Board of Adjustment.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipality or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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165.36 LI – LIGHT INDUSTRIAL DISTRICT.

1. Intent. This district is intended to provide for areas of development by industrial firms that have high standards of performance and that can locate in close proximity to residential and business uses. The district regulations are designed to permit the development of any manufacturing or industrial operations which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic, physical appearance or other similar factors. All industrial operations must be in an enclosed building. No residential uses are permitted in this district.
2. Permitted Uses. The following uses are permitted in the LI District:
 - A. Any nonresidential building or use which would not be hazardous, obnoxious, offensive or unsightly by reason of odor, sound, vibrations, radioactivity, electrical interference, glares, liquid or solid waste, smoke, or other air pollutants.
 - B. Storage, manufacture, compounding, processing, packing and/or treatment of products, exclusive of the rendering or refining of fats and/or oils.
 - C. Manufacture, compounding, assembly and/or treatment of articles or merchandise derived from previously prepared materials.
 - D. Assembly of appliances and equipment, including manufacture of small parts.
 - E. Wholesale distribution of all standard types of prepared or packaged merchandise.
 - F. Sale and storage of building materials. Outdoor or open storage shall be allowed.
 - G. Contractors' offices and storage of equipment.
3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the LI District:
 - A. Accessory buildings and uses customarily incidental to a permitted use.
 - B. Living quarters for watchmen or custodians of industrial properties.

- 4. **Special Exceptions.** No special exceptions are allowed at the current time.
- 5. **Bulk Regulations.** The following requirements shall provide for light and air around permitted uses and buildings in the LI District:

Min. Lot Area (sq. ft.)	Min. Lot Width (feet)	Min. Front Yard (feet)	Min. Side Yard (feet)	Min. Rear Yard (feet)	Max. Height: The Lesser Of
10,000	75	50	None, except if adjacent to "RS" or "RM" Districts, then it shall be 50 feet	None, except if adjacent to "RS" or "RM" Districts, then it shall be 50 feet	4 stories or 60 feet

- 6. **Off-street Parking.** The following off-street parking requirements shall apply in the LI District:
 - A. All commercial uses shall provide one (1) parking space on the lot for each three hundred (300) square feet of floor area.
 - B. All industrial uses shall provide one (1) parking space on the lot for each two (2) employees of maximum number employed at any one time.
- 7. **Off-street Loading.** The following off-street loading requirements shall apply in the LI District:
 - A. All activities or uses allowed in the LI District shall be provided with adequate receiving facilities accessible by motor vehicle from any adjacent service drive or open space on the same zoning lot.
 - B. Loading shall not be permitted to block public right-of-way.
- 8. **Signs.** The following sign regulations shall apply to the LI District:
 - A. Off-premises signs are permitted.
 - B. Off-premises signs shall comply with the setbacks of the districts they are located in. Other bulk regulations do not apply. Off-premises signs are governed by State and Federal regulations along highways, where zoning exists.

- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipality or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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165.38 HI - HEAVY INDUSTRIAL DISTRICT. *(Repealed by Ordinance No. 557 - Oct. 10 Supp.)*

[The next page is 921]

165.39 AX – ADULT USE DISTRICT.

1. Intent. Adult uses in business districts, commercial districts, arterial commercial districts which are immediately adjacent to and which serve residential neighborhoods have a deleterious effect on both the business and the residential segments of the neighborhood. The establishment of more than two (2) adult uses within one thousand (1,000) feet of each other compounds this deleterious effect. Control of the location of adult uses is needed to allow an acceptable level of such uses while maintaining neighborhoods which meet the expectations of the general public.

2. Permitted Uses. The following uses are permitted in the AX District:

A. Adult uses.

3. Bulk Regulations. The following minimum requirements shall be observed in the AX District:

A. An adult use shall not be located within one thousand (1,000) feet of another adult use, nor shall they be located within one thousand (1,000) feet of any public or parochial school, licensed day care facility, church, public park, residential district, or any dwelling (one family, two family or multiple dwelling).

B. The one thousand (1,000) foot restrictions shall be computed by measurement from the residential zone or from the nearest property line of the land used for another adult use or any public or parochial school, licensed day care facility, church, public park, residential district, or any dwelling to the nearest entrance of the building in which adult uses are to occur, using a route of direct measured horizontal distance.

C. All building openings, entries, windows, etc., shall be covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area. Advertisements, displays, or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks, walkways, or from other public, or semi-public areas.

D. In addition, the bulk regulations of the AC District also apply to the AX District.

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SUPPLEMENTARY DISTRICT REGULATIONS**165.40 SUPPLEMENTARY DISTRICT REGULATIONS.**

1. Building Lines on Approved Plats. Where, on the effective date of this chapter in any RS, RM and AC District, forty percent (40%) or more of a frontage was occupied by two (2) or more buildings, then the front yard is established in the following manner: *(Ord. 480 – Oct. 03 Supp.)*

A. Where the building furthest from the street provides a front yard not more than ten (10) feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.

B. Where Subsection A is not the case and a lot is within one hundred (100) feet of a building on each side, then the front yard is a line drawn from the closest front corners of these two adjacent buildings.

C. Where neither Subsection A or B is the case and the lot is within one hundred (100) feet of an existing building on one (1) side only, then the front yard is the same as that of the existing adjacent building.

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

3. Erection of More Than One Principal Structure on a Lot. In any district, more than one (1) structure, housing a permitted or permissible principal use, may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

4. Accessory Buildings. The following restrictions apply to the location and use of accessory buildings:

A. No accessory building may be erected in any required front yard, and no separate accessory building may be erected within ten (10) feet of a main building.

B. No accessory building in a residential district shall be closer than five (5) feet to any other lot line as measured from building foundation, nor shall any accessory building have side walls greater than ten (10) feet in height.

C. Accessory buildings located in the rear yard may not occupy more than thirty-five (35) percent of the rear yard, except by special exception of the Board of Adjustment.

D. No accessory building shall be used without occupancy of the principal building.

E. No more than two (2) accessory building may be placed on a lot. *(Ord. 450 – Mar. 03 Supp.)*

5. Fences. No fence or hedge more than thirty (30) percent solid or more than three (3) feet high may be located within twenty-five (25) feet of a street intersection. Fences or hedges less than four (4) feet high may be located on any remaining part of a lot. Fences or hedges less than six (6) feet high may be erected on those parts of a lot that are as far back or further back from a street than the main building. Higher fences may be allowed by special exception only.

6. Height Limits. Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, tank, water towers, or necessary mechanical appurtenances are exempt from height regulations in Sections 165.22 through 165.38. *(Ord. 507 – Oct. 07 Supp.)*

7. Projections. Sills, belt courses, cornices, and ornamental features may project only two (2) feet into a required yard.

8. Fire Exits and Chimneys. Open fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard for a distance of not more than three and one-half (3½) feet when so placed as not to obstruct light and ventilation, may be permitted by the Zoning Administrator.

9. Porches. Open, unenclosed porches may extend ten (10) feet into a front yard.

10. Terraces. Terraces which do not extend above the level of the ground (first) floor may project into a required yard, provided these projections are distant at least two (2) feet from the adjacent side lot line.

11. Service Lines. Nothing in this chapter shall have the effect of prohibiting utility service lines.

12. Yards and Visibility. On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of three (3) and ten (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 twenty-five (25) feet from the point of the intersection. (See diagram on following page)

13. **Parking Spaces.** All areas for the parking of motor vehicles within public or private areas and in either commercial or residential districts, shall be a created surface of brick, stone, concrete or asphalt.

14. **Sidewalks.** Sidewalks, when required, shall be constructed, repaired, or replaced in accordance with the standards contained in the Sidewalk Regulations chapter of the City's Code of Ordinances. Sidewalks shall be a minimum of forty-eight (48) inches in width and of concrete material, except by variance of the Zoning Administrator, for that portion which crosses driveways of alternate materials. The concrete thickness shall be a minimum of four (4) inches except that sidewalks within the apron of a driveway shall be six (6) inches in thickness.

15. **Satellite Dishes.** Satellite dishes less than two (2) meters in diameter are not regulated by this chapter. Satellite dishes larger than two (2) meters in diameter shall be allowed in all districts except in front yards. The placement of such satellite dish antennas, either permanent or temporary, shall be treated as accessory structures. When such dish is attached to a main building or other structure, the owner must adhere to the Uniform Building Code. No satellite dish shall exceed a diameter of twelve (12) feet except for commercial use.

16. **Residential Dwelling Standards.** All single-family dwelling units shall meet the following minimum standards:

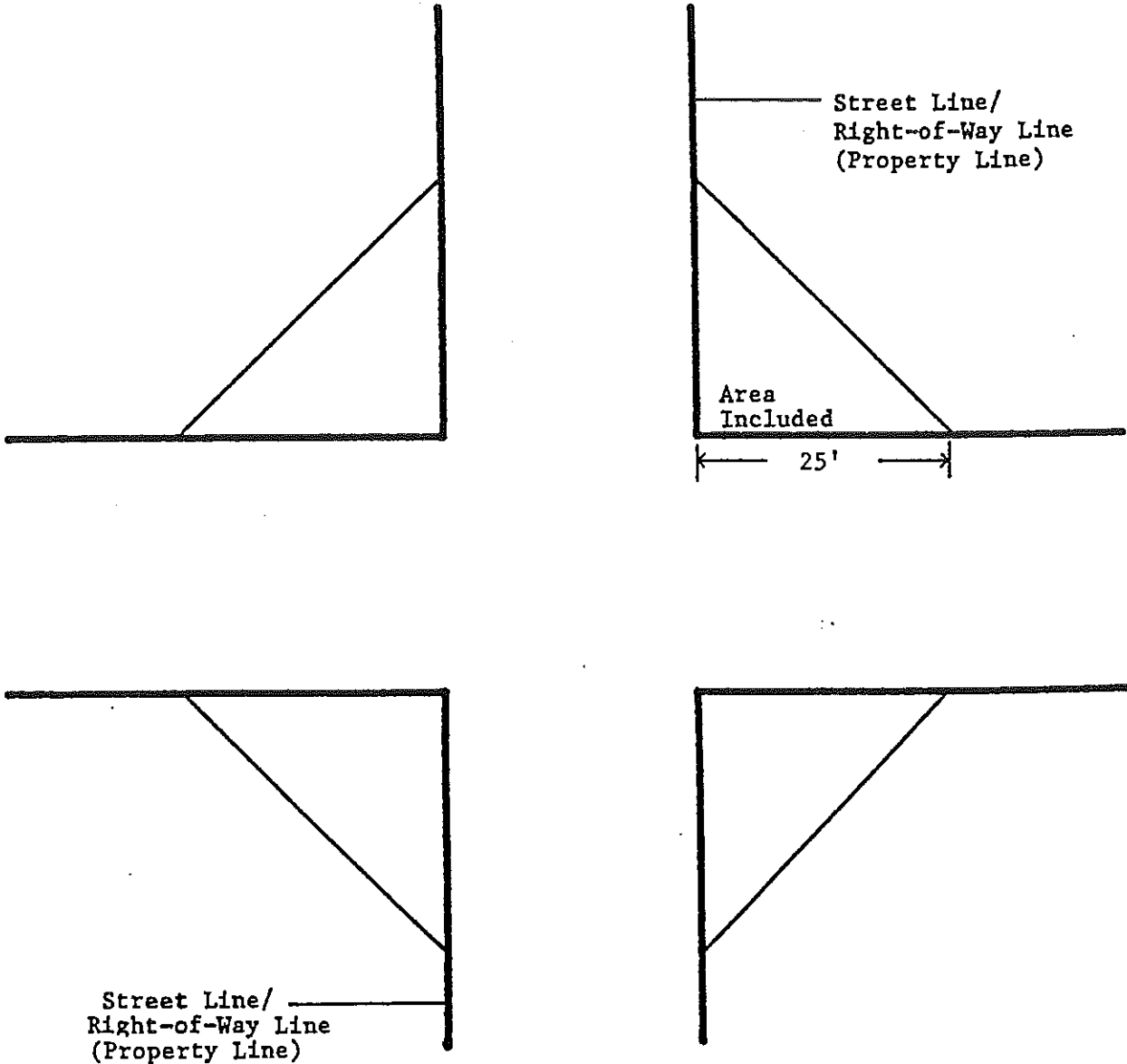
A. The minimum dwelling width shall be twenty-two (22) feet, on two (2) contiguous sides, at the exterior dimension at its narrowest point with year-round living space.

B. All dwelling units, including attached garages, shall be placed on a permanent continuous frost-free foundation which extends a minimum of four (4) inches above grade.

C. All dwelling units shall provide for a minimum of nine hundred (900) square feet of floor space, excluding porches and garages.

DIAGRAM

Corner Lots - Yards and Visibility



16.1 Residential Dwelling Standards for lots less than fifty (50) feet wide. All single-family dwelling units shall meet the following minimum standards:

- A. The minimum dwelling width shall be twenty (20) feet, on two (2) contiguous sides, at the exterior dimension at its narrowest point with year-round living space.
- B. All dwelling units, including attached garages, shall be placed on a permanent continuous frost-free foundation which extends a minimum of four (4) inches above grade.
- C. All dwelling units shall provide for a minimum of seven hundred and sixty (760) square feet of floor space, excluding porches and garages.
- D. All single-family dwelling units that fall under these standards must be approved by the Planning and Zoning Commission before construction starts.

(Ord. 521 – Oct. 08 Supp.)

16.2 Residential dwellings that meet the minimum dwelling width of twenty (20) feet, on two (2) contiguous sides, at the exterior dimension at its narrowest point with year-round living space of two (2) or more units on a lot which meets all bulk regulations in the area of zoning, and each unit must provide for a minimum of seven hundred and sixty (760) square feet of floor space, excluding porches and garages. Must be approved by the Planning and Zoning Commission and the City Council before construction starts.

(Ord. 521 – Oct. 08 Supp.)

17. Private Swimming Pools. Private swimming pools shall have a non-climbable fence which means a solid wall, chain link with squares maximum size of two and three-eighths (2 3/8) inches, or other fence of similar rigidity with vertical spacing less than two (2) inches and horizontal spacing less than four (4) inches. All openings in any fence are to be small enough not to allow the passage of a four (4) inch diameter sphere. The fence must be at least six (6) feet in height and be secured against public access. All enclosure gates or doors immediately opening to the swimming pool shall be equipped with a self-closing and self-latching device with locking provisions for keeping the gate or door securely closed at all times when not in actual use. A temporary pool may have a freestanding fence that meets these standards. Pools in place for six (6) months or more will need to have a permanent fence. All ladders or step apparatus used for access to any aboveground pool or

temporary wading pool as defined in Section 165.06(61) shall be removed when the pool is not in actual use. *(Ord. 532 – Oct. 08 Supp.)*

ADMINISTRATION

165.50 ADMINISTRATION AND ENFORCEMENT. A Zoning Administrator designated by the City Council shall administer and enforce this chapter. The Administrator may be provided with the assistance of such other persons as the City Council may direct.

165.51 ZONING/BUILDING PERMIT REQUIRED. No building or structure shall be erected, constructed, enlarged, moved, removed, converted, or demolished unless a separate permit for each building or structure has first been obtained from the Zoning Administrator. The owner of the property must apply for the zoning/building permit. No zoning/building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustment. Fees for zoning/building permits shall be as provided by City Council resolution. Zoning/building permits shall be applied for with the City Clerk and shall be approved by the Zoning Administrator and shall expire two (2) years after the date of issuance if work is begun within one (1) year of issuance or after one (1) year if no substantial beginning of construction has occurred. Extensions of time may be granted in writing by the Zoning Administrator for good cause. *(Ord. 449 – Mar. 03 Supp.)*

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BOARD OF ADJUSTMENT**165.60 BOARD OF ADJUSTMENT; ESTABLISHMENT AND PROCEDURE.**

1. Board Created. A Board of Adjustment is hereby established which shall consist of five (5) members. The terms of office of the members of the Board and the manner of their appointment shall be as provided by statute. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

A majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling of real estate.

2. Proceedings of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other time as the Board may determine. The Chairperson or, in the Chairperson's absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall, through its Secretary, keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All actions of the Board concerning special exceptions or variances shall also be recorded in the office of the County Recorder. It shall be the responsibility of the appellant to record said action and all corresponding stipulations and further said action shall take effect upon the Board receiving sufficient confirmation of the same. A copy of said action shall also be filed in the office of the Zoning Administrator.

165.61 BOARD OF ADJUSTMENT; POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

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

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

B. The Board shall fix a reasonable time for the hearing of the appeal, and give not less than seven (7) days nor more than twenty (20) days public notice. At said hearing, any party may appear in person, by agent or by attorney.

C. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal is filed with the Administrator, that by reason of facts stated in the certificate, a stay would, in the Administrator's opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

2. Special Exceptions: Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:

A. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

B. The Board shall fix a reasonable time for the hearing of the special exception, and give not less than seven (7) days nor more

than twenty (20) days public notice. At said hearing, any party may appear in person, by agent or by attorney.

C. The public hearing shall be held. Any party may appear in person, by agent or by attorney.

D. The Board of Adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception that the granting of the special exception will not adversely affect the public interest.

3. Variance, Conditions Governing Application; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

A. A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(3) That the special conditions and circumstances do not result from the actions of the applicant.

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of land, structures, or buildings in other districts may be considered grounds for the issuance of a variance.

B. The Board shall fix a reasonable time for the hearing of the variance, and give not less than seven (7) days nor more than

twenty (20) days public notice. At said hearing, any party may appear in person, by agent or by attorney.

C. The public hearing shall be held. Any party may appear in person, by agent or by attorney.

D. The Board of Adjustment shall make findings that requirements of Section 165.61(3)(A) have been met by the applicant for a variance.

E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under this chapter.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

4. Approved Action by Board. The concurring vote of a majority of all members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

165.62 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, or any taxpayer, department, board or bureau of the City, or other areas subject to this chapter aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 414, Code of Iowa.

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ENFORCEMENT AND AMENDMENTS

165.70 ENFORCEMENT AND INTERPRETATION. All questions of interpretation and enforcement shall be first presented to the Zoning Administrator, or that person's assistant, and such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Chapter 414, Code of Iowa.

165.71 AMENDMENTS. The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed, provided that at least seven (7) days' notice of the time and place of such hearing shall be published in a paper of general circulation in the City. In no case shall the notice be published more than twenty (20) days prior to the hearing.

Notwithstanding Section 414.2, Code of Iowa, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, a Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change.

In case, however, of a written protest against a change or repeal which is filed with the City Clerk and signed by the owners of twenty (20) percent or more of the area of the lots included in the proposed change or repeal, or by the owners of twenty (20) percent or more of the property which is located within two hundred (200) feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least four-fifths (4/5) of all the members of the Council. The protest, if filed, must be filed before or at the public hearing.

Proposed amendments not recommended by the Planning and Zoning Commission shall become effective only upon a favorable vote of four-fifths (4/5) of the members of the City Council. All zoning amendment application forms shall be approved by resolution of the City Council.

165.72 PENALTIES FOR VIOLATION. Violation of the provisions of this chapter with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a violation of this Code of Ordinances. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City from taking such other legal action as is necessary to prevent any violation.

165.73 SCHEDULE OF FEES, CHARGES, AND EXPENSES. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning district changes, zoning permits, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Zoning Administrator and the City Clerk and may be altered or amended only by the City Council, as recommended by the Zoning Administrator.

165.74 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Administrator. The Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map of the City, adopted by Ordinance No. 424 on April 10, 2000, and have not been codified herein, but are specifically saved from repeal and are in full force and effect.

ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
447	October 8, 2001		
480	August 11, 2003		
505	May 21, 2007		
518	March 10, 2008		
557	June 14, 2010		

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CHAPTER 166

SUBDIVISION REGULATIONS

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166.01 PURPOSE. It is deemed essential to establish minimum standards for the design and development of all new subdivisions so that existing developments will be protected and so that adequate provisions are made for public utilities and other public requirements and to improve the health, safety and general welfare in the City.

166.02 JURISDICTION. In accordance with the provisions of Section 354.9 of the Code of Iowa, and all amendatory acts thereto, these regulations are adopted by the City governing the subdivision of all lands within the corporate limits of the City and governing subdivision of all lands within two (2) miles of the corporate limits.

166.03 DEFINITIONS. For the purpose of this chapter, certain terms and words are herein defined:

1. "Access street" means a street that is parallel to and adjacent to a major thoroughfare or highway; and which provides access to abutting properties and protection from through traffic.
2. "Block" means an area of land within a subdivision that is entirely bounded by streets, highways, or ways, except alleys; or by streets, highways or ways, except alleys and the exterior boundary or boundaries of the subdivision.
3. "Building lines" shall be shown on all lots intended for residential use of any character, and on commercial and industrial lots when required by regulations. Such building lines shall not be less than required by the zoning regulations. Where the subdivided area is not

under zoning control, the Commission shall require building lines in accordance with the needs of each addition.

4. "City Engineer" means the City Engineer or an engineering firm appointed by the Council to act as a City Engineer.

5. "Collector streets" means those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such development.

6. "Commission" means the Planning and Zoning Commission of the City.

7. "Cul-de-sac" means a short, minor street, having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

8. "Easement" means a grant by the property owner of the use for a specific purpose, of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the owner of the fee shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easement which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees which interfere with the use of such easements.

9. "Engineer" means a registered engineer authorized to practice civil engineering, as defined by the Registration Act of the State of Iowa.

10. "Half street" means a one-half width street right-of-way on the boundary of a subdivision dedicated by the subdivider to the City, for future development when another subdivision is platted along the side of the half street. Half streets are not permitted

11. "Lot" means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.

12. "Major thoroughfare" means a street used primarily for fast, large-volume traffic.

13. "Minor street" means a street used primarily for access to the abutting properties.

14. "Performance bond" means a surety bond or cash deposit made to the City in an amount equal to the full cost of the improvements which are required by this chapter, such cost being estimated by the City

Engineer, and the surety bond or cash deposit being legally sufficient to secure to the City that the improvements will be constructed in accordance with this chapter.

15. "Plat" means a map, drawing or chart on which the subdivider's plan of the subdivision is presented and which the subdivider submits for approval and intends to record in final form.

16. "Right-of-way" means the area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.

17. "Roadway" means that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.

18. "Subdivision" means the division of land into three (3) or more lots for the purpose, whether immediate or future, of transfer of ownership or building development; or any change in existing street lines or public easement. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or if a new street is involved, any division of land.

19. "Surveyor" means a registered surveyor authorized to practice surveying, as defined by the Registration Act of the State of Iowa.

166.04 PRELIMINARY PLAT PROCEDURE. In obtaining final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a preliminary plat in accordance with the following order and procedure:

1. The subdivider shall first prepare and file with the Clerk six (6) copies of the preliminary plat conforming in detail to the requirements set forth herein. Eight (8) copies of the preliminary plat shall be submitted for subdivisions outside the corporate limits of the City.
2. The City shall forthwith refer two (2) copies to the City Engineer and two (2) copies to the Commission. In the case of a subdivision outside the corporate limits of the City, the Clerk shall refer two (2) copies of the preliminary plat to the County Board of Supervisors and keep the County Engineer advised of the status of the plat and actions taken thereon.
3. The City Engineer shall carefully examine the plat as to its compliance with the regulations of the City, the existing street system,

and good engineering practices and shall, as soon as possible, submit findings in duplicate to the Commission.

4. After receiving the City Engineer's report, the Commission shall study the preliminary plat and other material for conformity to this chapter. The Commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made. The Commission shall approve or reject such plan within forty-five (45) days after the date of submission thereof to the Commission. If the Commission does not act within forty-five (45) days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time for a period not to exceed sixty (60) days. The approval of the preliminary plat by the Commission shall be null and void unless the final plat is presented to the Commission within one hundred eighty (180) days after date of approval.

5. Before approving a preliminary plat, the Commission may, at its discretion, hold a public hearing on the proposed plat, notice of which shall be given by publication in a local newspaper of general distribution, or by posting notices on the tract, or by sending notices to affected property owners by mail. Such notices shall be given at least seven (7) days prior to the public hearing.

6. Upon approval of the preliminary plat by the Commission, the subdivider may proceed with the preparation of the final plat, together with any detailed construction drawings and specifications for the improvements required under this chapter.

166.05 FINAL PLAT PROCEDURE. In obtaining final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a final plat in accordance with the following order and procedure:

1. Before submitting the final plat to the Commission for approval, the subdivider shall furnish all plans and information as listed in Section 166.08 of this chapter necessary for the detailed engineering consideration of the improvements required under this chapter and obtain approval of the City Engineer which shall be endorsed thereon.

2. The final plat shall be filed in duplicate together with a certificate from the City Engineer that the final plat is substantially in accord with the preliminary plat as approved by the Commission.

3. The Commission shall then consider the final plat and shall submit its recommendation to the Council, together with a certified copy of the resolution showing action of the Commission.

4. The Council shall then consider the plat and if the same is acceptable and in accordance with this chapter, the Council may accept the same. If said plat is disapproved by the Council, such disapproval shall point out in writing wherein said proposed plat is objectionable.

5. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder as provided in Chapter 354 of the Code of Iowa, and amendatory acts thereto, and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

166.06 PLATS OUTSIDE CORPORATE LIMITS. Procedure for approval of preliminary and final plats of land within two (2) miles of the corporate limits shall be the same as set out in Section 166.04 and 166.05 above, except that eight (8) copies of the plat shall be filed with the Clerk and the Clerk shall refer one (1) copy to the County Engineer and one (1) copy to the County Planning and Zoning Commission and request their recommendations to be submitted to the Commission. The Commission shall have forty-five (45) days to submit a recommendation to the Council and shall not take action on the plat prior to receiving the recommendations of the County, provided that the County shall submit its recommendations within thirty (30) days after the referrals of the plat to the County Engineer and the County Planning and Zoning Commission.

166.07 PRELIMINARY PLAT DATA. The preliminary plat of a subdivision is not intended to serve as a record plat. Its purpose is to show on a map all facts needed to enable the Commission to determine whether the proposed layout of the land in question is satisfactory from the standpoint of the public interest. The subdivider or a representative may call at the City offices in advance of submitting the preliminary plat in order to discuss the proposed subdivision and in order to obtain information as to the requirements necessary for approval of the plat.

1. **Number of Copies Required.** The required number of copies of the preliminary plat shall be submitted as prescribed for review. The scale of the map shall be fifty feet to one inch (1" = 50'), provided that if the resulting drawing would be over thirty-six (36) inches in shortest dimension, a scale of one hundred feet to one inch (1" = 100') may be used, unless otherwise approved by the Commission.

2. **Contents of Preliminary Plat.** The preliminary plat shall contain the following:

- A. Name of subdivision, date, point of compass, scale, and official description of the property being platted.
- B. Name and address of recorded owner and of developer.
- C. Name and address of engineer and/or land surveyor.
- D. Existing buildings, railroads, underground utilities and other rights-of-way.
- E. Location, names and widths of all existing and proposed roads, alleys, streets and highways in or adjoining the area being subdivided.
- F. Location and names of adjoining subdivisions, and the names of the owners of adjoining subdivisions, and the names of the owners of adjoining acreage parcels.
- G. Proposed lot lines with approximate dimensions and the square foot area of non-rectangular lots.
- H. Areas dedicated for public use, such as schools, parks and playgrounds.
- I. Contour lines at intervals of not more than five (5) feet.
- J. Building setback lines.
- K. Boundaries of the proposed subdivision shall be indicated by a heavy line.
- L. Zoning classification of the area.
- M. Proposed utility service, including location and size or capacity:
 - (1) Source of water supply.
 - (2) Provision for sewage disposal.
 - (3) Provision for storm water drainage, including proposed storm sewers, ditches, culverts, bridges and other structures.
- N. A vicinity sketch at a legible scale showing the relationship of the plat to its general surroundings.
- O. Lot numbers.
- P. A cross-section of the proposed streets showing the roadway location, type and width of surfacing, the type of drainage and other improvements to be installed.

3. **Accompanying Material.** The following shall accompany each plat:
 - A. An attorney's opinion in duplicate showing that the fee title to the subdivision land is in the owner's name as shown on the plat and showing any encumbrances that may exist against said land.
 - B. Any plat that cannot reasonably be served by public sewer shall show results of soil percolation tests made by the engineer preparing the plat. Such tests shall be made in accordance with specifications approved by the City Engineer.
 - C. Restrictions proposed, if any, to be included in the owner's dedication of the plat.
 - D. Written statement by the appropriate officials of the availability of gas and electricity to the proposed subdivision.
 - E. Written and signed statement explaining how and when the subdivider proposes to provide and install all required improvements required by this chapter. Such statement shall acknowledge required inspections and approvals by the City Engineer.

166.08 FINAL PLAT DATA. The final plat may include all or part of the preliminary plat.

1. **Number of Copies and Scale.** When and if the preliminary plat is approved, the subdivider shall submit six (6) copies of the final plat for review by the Commission. The scale of the map shall be fifty feet to one inch (1" = 50'), providing that if the resulting drawing would be over thirty-six (36) inches in shortest dimension a scale of one hundred feet to one inch (1" = 100') may be used.
2. **Contents of Final Plat.** The final plat shall contain the following:
 - A. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one (1) foot in three thousand (3,000) feet.
 - B. Accurate references to known or permanent monuments, giving the bearing and distance from some corner of a congressional division of the County.
 - C. Accurate location of all existing and recorded streets intersecting the boundaries of the tract.

- D. Accurate metes and bound description of the boundary.
 - E. Street names.
 - F. Complete curve notes for all curves included in the plat.
 - G. Street right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines.
 - H. Lot numbers and dimensions.
 - I. Accurate locations and descriptions of easements for utilities and any limitations on such easements.
 - J. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
 - K. Building lines and dimensions.
 - L. Location, type, material and sizes of all monuments or markers.
 - M. Name of the subdivision.
 - N. Name and address of owner and subdivider.
 - O. North point, scale and date.
 - P. Certification by a registered land surveyor of the State of Iowa.
3. Accompanying Material. The following material shall accompany the final plat:
- A. Plans and profiles of all streets and alleys at a 50-foot horizontal scale and 5-foot vertical scale. Profiles shall show location, size and grade of all conduits, sewers, pipelines, etc., to be placed under the streets and alleys. Profiles of east and west streets shall be drawn so that the west end of the profile shall be at the left side of the drawing. Profiles of north and south streets shall be drawn so that the south end of the profile shall be at the left side of the drawing.
 - B. Any protective covenants or restrictions to be imposed upon the plat shall be submitted for approval.
 - C. A dedication to the City, properly executed, for all streets intended as public streets, and for any other property intended for public use, except for areas outside the corporate limits.
 - D. The following documents:

(1) A certificate by the owner and spouse, if any, that the subdivision is with their free consent and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of deeds.

(2) Performance bond, if any.

(3) A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

(4) An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances.

(5) A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

(6) A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

E. Drainage plans for the positive removal of storm water.

166.09 SUBDIVISION DESIGN STANDARDS. The standards and details of design herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of a plat, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood.

166.10 STREET DESIGN STANDARDS. Street design standards are as follows:

1. **Comprehensive Plan.** All proposed plats and subdivisions shall conform to the comprehensive plan. All proposed plats and subdivisions shall also conform to additional proposed street plans as set out by the City.
2. **Continuation of Existing Streets or Planned Streets.** Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) or any streets which are part of an approved preliminary subdivision plan, in adjoining property, at equal or greater width, but not less than fifty (50) feet in width, and in similar alignment, unless variations are recommended by the Commission.
3. **Circulation.** The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the Commission. In a case where a street will eventually be extended beyond the plat, but is temporarily dead ended, an interim turnaround may be required.
4. **Street Intersections.** Street intersections shall be as nearly at right angles as possible.
5. **Cul-de-sac.** Whenever a cul-de-sac is permitted, such street shall be no longer than six hundred (600) feet and shall be provided at the closed end with a turnaround having a street property line diameter of at least one hundred thirty (130) feet in the case of residential subdivisions. The right-of-way width of the street leading to the turnaround shall be a minimum of fifty (50) feet. The property line(s) at the intersection of the turnaround and the lead-in portion of the street shall be rounded at a radius of not less than one hundred fifty (150) feet; or equal straight approach lines. A turnaround diameter greater than one hundred thirty (130) feet may be required by the Commission in the case of commercial or industrial subdivisions if it is deemed necessary.
6. **Street Names.** All newly platted streets shall be named and in a manner conforming to the prevailing street naming system. A proposed street that is obviously in alignment with other existing streets, or with a street that may logically be extended although the various portions be at a considerable distance from each other, shall bear the same name. Names of new streets shall be subject to the approval of the Commission in order to avoid duplication or close similarity of names.

7. Physical and Cultural Features. In general, streets shall be platted with appropriate regard for topography, creeks, wooded areas, and other natural features which would lend themselves to attractive treatment.

8. Half Streets. Dedication of half streets will not be permitted. Where there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half may be platted if deemed necessary by the Commission.

9. Alleys. Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. Except where justified by unusual conditions, alleys will not be approved in residential districts. Dead-end alleys shall be provided with a means of turning around at the dead end thereof.

10. Neighborhood Plan. If any overall plan has been made by the Commission for the neighborhood in which the proposed subdivision is located, the street system of the latter shall conform in general thereto.

11. Land Not Platted. Where the plat to be submitted includes only part of the tract owned by the subdivider, the Commission may require topography and a sketch of a tentative future street system of the unsubdivided portion.

12. Major Thoroughfares. Where a new subdivision, except where justified by limiting conditions, involves frontage on a heavy trafficway, the street layout shall provide motor access to such frontage by one of the following means:

A. A parallel street, supplying frontage for lots backing onto the trafficway;

B. A series of cul-de-sacs or short loops entered from and planned at right angles to such a parallel street, with their terminal lots backing onto the highway;

C. An access drive separated by a planting strip from the highway to which a motor access from the drive is provided at points suitably spaced;

D. A service drive or alley at the rear of the lots.

Where any one of the above mentioned arrangements is used, deed covenants or other means should prevent any private residential driveways from having direct access to the trafficway.

13. Dedication. A dedication to the City shall be given for all streets before the same will be accepted for City maintenance.

14. Railroads. If a railroad is involved, the subdivision plat should:
 - A. Be so arranged as to permit, where necessary, future grade separations at highway crossings of the railroad.
 - B. Border the railroad with a parallel street at a sufficient distance from it to permit deep lots to go back onto the railroad; or form a buffer strip for park, commercial or industrial use.
 - C. Provide cul-de-sacs at right angles to the railroad so as to permit lots to back thereonto.
15. Street Grades. Streets and alleys shall be completed to grades which have been officially determined or approved by the City Engineer. All streets shall be graded to the full width of the right-of-way and adjacent side slopes graded to blend with the natural ground level. The maximum grade shall not exceed six percent (6%) for main and secondary thoroughfares, or ten percent (10%) for minor or local service streets. All changes in grades on major roads or highways shall be connected by vertical curves of a minimum length in feet equivalent to twenty (20) times the algebraic difference between the rates of grades, or greater, if deemed necessary to the City Engineer; for minor streets, fifteen (15) times. The grade alignment and resultant visibility, especially at intersections, shall be worked out in detail to meet the approval of the City Engineer.
16. Street Right-of-ways and Widths. Minimum right-of-ways shall be provided as follows:
 - A. Thoroughfares – 80 feet;
 - B. Collector streets – 80 feet;
 - C. Residential or Minor Streets – 60 feet;
 - D. Cul-de-sacs – 130 feet in diameter;
 - E. Alleys – 20 feet.

Streets shall have a width and cross-section as shown in the comprehensive plan for the type of street involved.

17. Other Considerations.
 - A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.
 - B. Street jogs of less than 150 feet shall be avoided.

- C. No dead-end streets or alleys will be permitted except at subdivision boundaries.
- D. Thoroughfare and collector streets in a subdivision shall extend through to the boundaries thereof, unless a terminal point within the subdivision is shown in the master street plan.
- E. Intersection of more than two streets at a point shall not be permitted.

166.11 DESIGN STANDARDS FOR EASEMENTS. The design standards for easements shall be as follows:

1. Easements not less than five (5) feet in width shall be provided along each side of the rear lot lines of all lots, and along such other lot lines as may be required by public and private utility companies.
2. Easements of greater width may be required for trunk lines, pressure lines, open drainage courses or high voltage lines and shall be provided as determined by the utility or Council.
3. Utility easements shall convey to the City, its successors and assignees the perpetual right within the areas shown on the plat and described in the easement to construct, reconstruct, operate and maintain electric lines consisting of poles, wires, cables, conduits, fixtures, anchors and other similar equipment, including the right to trim or remove trees within such areas where necessary to secure a clearance of four (4) feet from the wires or poles, together with the right to extend to any telephone, telegraph, electric or power company the right to use separately or jointly with the City the area included in the easement for the purposes above enumerated.
4. Whenever any stream or important surface water course is located in an area that is being subdivided, the subdivider shall, at his or her own expense, make adequate provision for widening the channel so that it will properly carry the surface water and shall provide and dedicate to the City an easement along each side of the stream, which easement shall be for the purpose of widening, improving or protecting the stream and for the purpose of installation of public utilities. The waterway easement shall be adequate to provide for these purposes and said easement shall be a minimum of twenty (20) feet on each side plus stream design width and a total width adequate to provide any necessary channel straightening or relocation.

166.12 DESIGN STANDARDS FOR BLOCKS. The design of blocks shall conform to the following:

1. No block shall be longer than 1,320 feet and not less than 500 feet.
2. At street intersections, block corners shall be rounded with a radius of not less than twenty (20) feet; unless at any one intersection a curve radius has been previously established, then such radius shall be used as standard.
3. Crosswalks may be required in blocks over 700 feet long or in areas where curved streets require excessive out of the way travel. If required, they shall be constructed by the developer. Right-of-way for crosswalks shall not be less than thirty (30) feet, or more than forty-five (45) feet.

166.13 DESIGN STANDARDS FOR LOTS. The design of lots shall conform to the following:

1. Corner lots shall not be less than twenty (20) feet greater in width than the minimum required interior lot width so as to permit adequate building setbacks on both front and side streets.
2. Double frontage lots, other than corner lots, shall be prohibited except where such lots back onto a major street or highway or except in the case of large commercial or industrial lots.
3. Each lot shall be provided with not less than twenty (20) feet of access frontage to a public street.
4. Each lot shall be provided by means of a public street with satisfactory access to an existing public street.
5. No lot shall be less in size or shape than that required to provide an adequate building site in compliance with the Zoning Ordinance.
6. For the purpose of complying with minimum health standards, the following minimum lot sizes shall be observed:
 - A. Lots which cannot be reasonably served by an existing public sanitary sewer system and public water mains shall have a minimum width of one hundred (100) feet, measured at the building line, and an area of not less than twenty thousand (20,000) square feet, or the minimum permitted by the Zoning Ordinance, whichever is larger.

B. Lots which are not within a reasonable distance of a public sanitary sewer system but are connected to a public water supply main shall have a minimum width of eighty (80) feet and an area of 10,000 square feet or the minimum permitted by the Zoning Ordinance, whichever is larger.

7. Side lot lines where possible shall be at right angles or radial to the street lines.

166.14 MONUMENTS. Monuments shall be placed at block corners, point of curves, change in direction along lot lines and at each lot corner in accordance with City specifications.

166.15 IMPROVEMENTS. Improvements shall be provided as follows:

1. The subdivider shall be responsible for the installation and/or construction of all improvements required by this chapter and shall warrant the design, material and workmanship of such improvements, installation and/or construction for a period of two (2) years from and after completion. Such warrant shall be by bond or other acceptable collateral, shall be subject to review by the City Attorney, shall specifically assure the expedient repair or replacement of defective improvements under warranty and shall indemnify the City from any and all costs or losses resulting from, contributed to, etc., such defective improvements.

2. Before the Council approves the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of the resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other requirements and agreements between the subdivider and the City.

3. This requirement may be waived if the subdivider will post a performance bond or certified check with the City guaranteeing that said improvements will be constructed within a period of two (2) years from final acceptance of the plat; however, if a performance bond is posted, final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed and no public funds will be expended by the City.

4. If a performance bond is posted, such bond shall be subject to review by the City Attorney prior to acceptance, shall specifically assure the expedient installation and completion of all improvements within the

specified construction time periods and shall indemnify the City from any and all costs or losses of the development and construction.

5. The Council may waive the requirements of this chapter for the construction and installation of some or all of the improvements in cases of dedications of land or right-of-ways to public use where such dedication is in excess of the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation.

166.16 RESUBDIVISIONS. The Council may waive the requirements for the construction and installation of some or all of the foregoing improvements in cases of resubdivisions where only the size, shape and arrangement of the lots are being changed and no new streets are required and in case of dedications of land or right-of-ways to public use where such dedication is in excess of the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation.

166.17 REQUIRED IMPROVEMENTS. All plans, specifications, installation and construction required by this chapter shall be subject to the review, approval and inspection by the City Engineer or other authorized City representative. The subdivider shall furnish the City Engineer with a construction schedule prior to commencement of any and/or all construction and shall notify the City Engineer not less than twenty-four (24) hours in advance of readiness for required inspections.

1. Grading. The subdivider shall at his or her expense bring all streets and alleys within the platted area which are being dedicated for public use to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

2. Sanitary Sewers. The subdivider shall at his or her expense provide the subdivision with a complete sanitary sewer system including all necessary pumping stations, force mains, pumping equipment and other appurtenances, which shall connect with a sanitary sewer outlet or treatment facility approved by the Council. The sewers shall extend to the subdivision boundaries as necessary to provide for the extension of the sewers by adjacent property. Where sewers in excess of eight (8) inches in diameter are required, the additional cost shall be borne by the City.

3. Storm Drains. The subdivider shall at his or her expense provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes and manholes to provide the collection and removal of all surface waters. These improvements shall extend to the

boundaries of the subdivision so as to provide for extension by adjoining properties. Where oversized storm sewers or drainage structures are required to serve other areas of the watershed, the additional cost shall be borne by the City or assessed on an area basis to the properties served.

4. Water. The subdivider shall at his or her expense provide the subdivision with a complete water main supply system including hydrants, valves and other appurtenances which shall be extended into and through the subdivision to the boundary lines, and which shall provide a water connection for each lot, and shall be connected to the City water system. Fire hydrants shall be uniform throughout the subdivision and shall meet the standards and design approved by the Council. Where water mains in excess of six (6) inches are required, the additional cost shall be borne by the City.
5. Sidewalks. The subdivider may be required by the Council to provide, at his or her expense, a four-foot, eight-inch (4'8") wide concrete sidewalk along each lot frontage. Such walk need not be constructed until completion of site grading and construction on the lot, but shall be constructed prior to the occupancy of the structure.
6. Curb and Gutter. The subdivider shall at his or her expense install curb and gutter on all streets in the plat being dedicated for public use. Curb and gutter shall be constructed of portland cement concrete in accordance with designs and specifications and at grades approved by the Council.
7. Surfacing. The subdivider shall at his or her expense surface all streets being dedicated for public use from curb to curb. Surfacing shall consist of not less than six (6) inches of portland cement concrete over a prepared subgrade and shall be constructed in accordance with designs and specifications and at grades approved by the Council. Where a surface width in excess of thirty-one (31) feet is required, the cost of the additional surface width, which shall be assumed to be the center portion of the roadway surface, shall be paid by the City. On collector and thoroughfare streets, where a higher standard or greater thickness of street surfacing is deemed necessary by the Council than is herein required, the additional cost shall be borne by the City.
8. Markers or Monuments. The subdivider shall at his or her expense place in an iron rod not less than one-half ($\frac{1}{2}$) inch in diameter and twenty-four (24) inches in length as follows:

- A. Set in concrete three (3) feet deep at the intersection of all lines forming angles in the boundary of the subdivision and at all street intersections.
- B. At lot corners and changes in direction of block and lot boundaries.

166.18 UTILITIES. The Council may require that all utility lines except electric lines of nominal voltage in excess of 15,000 volts, be installed underground. The subdivider shall be responsible for making the necessary arrangements with the utility companies for installation of such facilities. If overhead utility lines or wires are permitted, they shall be placed in the easements provided in the rear of the lots. In their determination on whether or not to require underground utilities, the Council may consider that soil, topographical or other conditions make such installations within the subdivision unreasonable or impractical. Utilities shall be provided in rear lot easements wherever possible. When it is necessary to install utilities in street right-of-ways, the following requirements shall apply:

1. After grading is completed and approved and before any pavement base is applied, all of the in-street underground work (water mains, gas mains, etc., and all service connections) shall be completely installed and approved through the length of the street and across the flat section. Where the utility mains are outside the pavement area, the subdivider may be allowed to omit the installation of service connections provided that at such time as these service connections are needed, they may be jacked across the street without breaking or weakening the existing pavement.
2. Where rock is known to exist beneath the pavement area and at such depth as to interfere with the jacking of service connections, the complete installation of service connections before any base is applied shall be required. In cases where underground utilities must be provided within the right-of-way streets, they shall not be installed under the paved portions of such streets.

166.19 SPECIFICATIONS. The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the City of like work. Plans and specifications shall be submitted to the Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

166.20 ACCEPTANCE. All of the above improvements shall, upon their completion, inspection, approval and acceptance by the City, become the property of the City.

166.21 IMPROVEMENTS WITHIN EXTRATERRITORIAL JURISDICTION.

1. Improvements in the two-mile control area shall be the same as required above, provided they are not less than that required by the County subdivision policy, and provided further that all road and drainage construction plans shall be approved by the County Engineer, and complete roads shall be accepted by the Board of Supervisors for public maintenance.
2. Where the subdivision contains sewers, sewage treatment plants, water supply system, park areas, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made by trust agreements, made a part of the deed restrictions acceptable to any agency having jurisdiction over the location and improvement of such facilities, for the proper and continuous maintenance and supervision of such facilities.

166.22 SCHOOL AND PARK LAND DEDICATION REQUIREMENTS. Dedication and/or reservation of land for schools and recreation areas shall be required for all major subdivisions with sites designated in the comprehensive plan or other plans of the appropriate public body.

1. **Park and Open Spaces Dedication.** In subdivisions of one-half acre or larger, a minimum of five percent (5%) of the net area shall be dedicated by the subdivider to the City for public parks, playgrounds or open space. In lieu of such dedication, the Council may allow said park and open space to be reserved by the subdivider and held by private person or home owners association or like entity under a Planned Unit Development. Such reservation shall be permanent as directed by the Council and held for the purpose of open space and recreation facilities and its purpose or use shall not be altered.
2. **Payments In Lieu of Dedication.** Where such dedication is not feasible or compatible with the comprehensive plan as determined by the Council upon recommendation of the Commission, the subdivider shall, in lieu of dedication, pay to the City a fee or combination of fee and land equivalent to the value of the required dedication. All funds so collected by the City shall be deposited in a special fund designated as *Special*

Fund for the Acquisition and Development of Open Space and Recreation Facilities. Such funds collected shall be used for such purposes at such places to benefit residents of the subdivision.

3. School Reservations. Areas which are planned for public school use, either by Colfax-Mingo Community School District or in the comprehensive plan, shall be reserved for purchase by the school district within two (2) years from the endorsement date of the final plat. After such time or upon written waiver from the school district, the subdivider may re-plat such areas for the subdivider's own purposes.

4. Other Regulations.

A. Public open spaces shall, whenever possible, be located contiguous to other such areas in adjacent subdivisions, in order to provide for maximum use of the resulting area. Such areas shall be shown on the preliminary plat. The Council may not approve a site which is undesirable for the public or civic uses.

B. If the comprehensive plan requires a public open space larger than five percent (5%) of the net area of the proposed subdivision, the subdivider shall reserve the area excess of the dedication requirement for purchase by the appropriate public agency within the two (2) years from the endorsement date of the final plat. After such time, the subdivider may re-plat such acreage for the subdivider's own purposes.

C. Natural features, historic sites and similar community assets shall be preserved.

166.23 ADMINISTRATION AND ENFORCEMENT.

1. Fees. Each preliminary plat submitted for approval shall be accompanied by a fee of twenty-five dollars (\$25.00), which shall be credited to the General Fund of the City.

2. Variances. Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this policy.

3. Enforcement. In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall not be violated subject to the following:

A. No plat or subdivision of the City or within two (2) miles thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed herein.

B. No more than two building permits shall be issued for each separate tract existing at the effective date of the Ordinance codified in this chapter unless the tract shall have been platted in accordance with the provisions contained therein.

C. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements or other services in any area that has been subdivided after the date of the adoption of said ordinance unless such subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the Council as a public street.

D. Any persons who shall dispose of or offer for sale or lease any lots in the City, addition thereto or within two (2) miles thereof until the plat shall have been approved, acknowledged and recorded as provided by this chapter and Chapter 354 of the Code of Iowa, shall forfeit and pay fifty dollars (\$50.00) for each lot or part thereof sold, disposed of, leased or offered for sale.

E. No zoning compliance permit required by the Zoning Ordinance shall be issued until and unless all improvements required by this chapter have been made in accordance with the City plans and specifications and accepted by the Council.

4. Amendments. Any provisions of these regulations may be changed and amended from time to time by the Council; provided, however, such amendments shall first be submitted to the Commission for review and study. The Commission shall report within thirty (30) days, after which the Council shall give notice of and hold a public hearing on the proposed amendment. Such notice shall be published in a newspaper of general circulation at least fifteen (15) days prior to such hearing. The amendment shall become effective from and after its adoption and required publication.

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