

## CHAPTER 165

# SUBDIVISION REGULATIONS

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**165.01 PURPOSE.** The purpose of this chapter is to provide minimum standards for the design, development, and improvement of all new subdivision and resubdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, and to promote the public health, safety, and general welfare of the citizens of the City.

**165.02 APPLICATION.** Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract or parcel into two or more parts, for the purpose of laying out an addition, subdivision, building lot, or lots, acreage or suburban lots within the City or, pursuant to the authority of Section 354.9 of the *Code of Iowa*, within two miles from the corporate limits of the City, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

**165.03 RECORDING OF PLAT.** No subdivision plat, resubdivision plat or street dedication within the City or within two miles of the corporate limits of the City shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision or street dedication has been reviewed and approved in accordance with the provisions of this chapter. Upon the approval of the final plat by the Council, it shall be the duty of the subdivider to file such plat immediately with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after 30 days, unless such plat has been duly recorded and evidence thereof filed with the City Clerk within such 30 days.

**165.04 FEES ESTABLISHED.** The Council shall from time to time at their discretion establish, by resolution, fees for the review of plats. No plat for any subdivision or resubdivision shall be considered filed with the Clerk, unless and until said plat is accompanied by the fee, as established by resolution of the Council, and as required by this chapter.

**165.05 PENALTIES.** Any person who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this chapter, until the plat thereof has been approved by the Council, and recorded as required by law, shall be in violation of this chapter and shall be subject to the City's schedule of civil penalties for each lot or part of lot sold, disposed of or offered for sale. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this chapter.

**165.06 BUILDING PERMIT TO BE DENIED.** No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this chapter, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter, and until the improvements required by this chapter have been accepted by the City.

**165.07 DEFINITIONS.** For use in this chapter, the following terms and words are defined.

1. "Alley": means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
2. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.
3. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the Council or approved by the Council.
4. "Commission" means the Planning and Zoning Commission of the City of Shellsburg, Iowa.
5. "Cul-de-sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turnaround.
6. "Easement" means an authorization by a property owner for another to use a designated part of such owner's property for a specified purpose.
7. "Flood hazard area" means any area subject to flooding by a one percent probability flood, otherwise referred to as a 100 year flood, as designated by the Iowa Department of Natural Resources or the Federal Insurance Administration.
8. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of 100 year flood without cumulatively raising the waterway surface elevation more than one foot.
9. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street surfacing, curb paving, sidewalks, walkways, water mains, sewer, drainageways, and other public works and apparatus.
10. "Lot" means a portion of a subdivision or other parcel or tract intended as a unit for the purpose, whether immediate or future of transfer of ownership or for building development.
11. "Lot, corner" means a lot situated at the intersection of two streets.
12. "Lot, double frontage" means any lot which is not a corner lot which abuts two streets.
13. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.

14. "Plat" means a map, drawing, or chart on which a subdivider's plan for the subdivision of land is presented, which the subdivider submits for approval and intends, in final form, to record.
15. "Resubdivision" means any subdivision of land which has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
16. "Street" means public property, not any alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
17. "Street, arterial" means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.
18. "Street, major" means an arterial street or other street which has or is planned to have continuity to carry traffic from one section of the City to another.
19. "Subdivider" means the owner of the property being subdivided or such other person or entity empowered to act on the owner's behalf.
20. "Subdivision" means the division of land into two or more parts, for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, may refer to the process of subdividing or to land subdivided. However, the sale or exchange of small parcels of land to or between the owners of adjacent platted lots, where such sale or exchange does not create any additional lots and where the land sold or exchanged constitutes less than 50 percent of the area of the enlarged lot after such transfer, is not considered a subdivision.
21. "SUDAS" means Iowa Statewide Urban Design and Specifications.
22. "Utilities" means systems for the distribution or collection of water, gas, electricity, wastewater, stormwater, communications systems, etc.

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**165.08 IMPROVEMENTS REQUIRED.** The subdivider shall, at the subdivider's expense, install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

**165.09 INSPECTIONS.** All improvements shall be inspected by the City Engineer or a designated representative, to insure compliance with the requirements of this chapter. The cost of such inspection shall be borne by the subdivider, and shall be the actual cost of the inspection to the City.

**165.10 MINIMUM IMPROVEMENTS.** The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety, and welfare.

1. Streets. The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley, or public place and provide appropriate road surface approved by the Council. All streets or alleys shall be of such width and shall be so constructed as to meet the standards of the City. Under some circumstances the City may require, as a condition for approval of the plat, dedication and improvement of a street having a width greater than necessary to complete the City street system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of improving the wider street and the street width reasonable to meet foreseeable needs of the subdivision taken alone. The streets shall, upon final approval and acceptance by the City, become the property of the City.
2. Sanitary Sewer Systems. The subdivider of the land being platted shall make adequate provisions for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. There shall be constructed, at the subdivider's expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, manholes, and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City's sanitary sewers. The sanitary sewer system shall be constructed in accordance with the plans and specifications of the City and at the sewer grades as established by the City. Under some circumstances the City may require, as a condition for approval of a plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the platted area, but necessary to complete the needs of the City sanitary sewer as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area. The above-mentioned facilities for the collection and disposal of sanitary sewage from the platted area shall, upon final approval and acceptance by the City become the property of the City.
3. Storm Sewer System. The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve the additional areas. The sewers shall, upon inspection, approval, and acceptance by the City, become the property of the City. A development or subdivision shall have a stormwater drainage analysis completed and included with the submission of the preliminary plat. The drainage analysis shall be signed and sealed by a licensed Professional Engineer, P.E., in the State of Iowa. The drainage analysis

shall meet the requirements of the “Project Drainage Report” as outlined in *Chapter 2 - Stormwater* of the current SUDAS Design Manual.

4. **Water Main System.** The subdivider of land being platted shall install and construct a water main system to adequately serve all lots or parcels of land within the platted area, with due regard to the present and reasonably foreseeable needs of the entire area, and shall connect the same to the City’s existing water main. The water main system shall be constructed in accordance with the plans and specifications of the City. Under some circumstances the City may require, as a condition for approval of the plat, installation of a water main that is larger than necessary to meet the needs of the platted area, but necessary to complete the City water distribution system as it relates to both the area being platted and other areas. In such event the City will pay the subdivider the difference in cost of pipe and installation between the larger water main and the diameter of water main reasonable to meet the foreseeable needs of the area. The water mains shall, upon installation, approval, and acceptance by the City, become the property of the City.

5. **Other Improvements:** The owner and subdivider of the land being platted shall be responsible for the installation of sidewalks within the street area; the installation of walkways as necessary; grading, seeding or sodding of all lots; the planting of any required trees in the parking; the installation of street signs, and the provision of street lighting. All such improvements shall be under the direction of the City Engineer, a designated representative, or director of the electric utility, as appropriate.

#### **165.11 EASEMENTS REQUIRED.**

1. **Public Utilities.** Where alleys are not provided, or where otherwise required by the present or future placement of public utilities, easements of not less than 16 feet in width shall be granted by the owner along rear, and where necessary, alongside lot lines for public utility requirements. Except, where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines, or across lots when necessary for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.

2. **Drainage Easements:** Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at the subdivider’s own expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement along said stream or watercourse as necessary for the proper maintenance of the watercourse, and as approved by the City.

**165.12 MAINTENANCE BOND REQUIRED.** The owner and subdivider of the land being platted shall be required to provide to the City, proper maintenance bonds, satisfactory to the City, so as to insure that for a period of two years from the date of acceptance of any improvement, the owner and subdivider shall be responsible to maintain such improvement in good repair.

**165.13 ALTERNATIVE SYSTEMS FOR SEWER AND WATER.** Where connection to the City sewer or water system cannot reasonably be made, the City may approve alternate facilities for the distribution of water or the collection and disposal of sanitary wastes. Such alternate systems shall be designed to fully protect the public health, safety and welfare, and shall meet all requirements of state, county, or other applicable health regulations. Prior to granting approval of such alternate systems, the City shall require the owner and subdivider

provide to the City a waiver of assessment protest or such other legally binding documents necessary to protect the City from the expense of subsequent installation of sewer or water facilities.

**165.14 MINIMUM DESIGN STANDARDS PRESCRIBED.** The standards set forth in this chapter shall be considered the minimum standards necessary to protect the public health, safety, and general welfare. Unless otherwise noted, the most current version of the SUDAS Design Manual and Specifications Manual shall be followed for all design.

**165.15 LAND SUITABILITY.** No land shall be subdivided which is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City. If land is found to be unsuitable for subdivision for any of the reasons cited in this section the Council shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Council may reaffirm, modify or withdraw its determination regarding such unsuitability. A development or subdivision shall have an engineering study on water drainage included in the preliminary plat.

**165.16 LANDS SUBJECT TO FLOODING.** No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City without the approval of the Iowa Department of Natural Resources. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the floodway or flood hazard area suitable for development. A development or subdivision shall have a stormwater drainage analysis completed and included with the submission of the preliminary plat. The drainage analysis shall be signed and sealed by a licensed Professional Engineer, P.E., in the State of Iowa. The drainage analysis shall meet the requirements of the "Project Drainage Report" as outlined in *Chapter 2 - Stormwater* of the current SUDAS Design Manual. Land located within a flood hazard area or a floodway may be included within a plat as follows, subject to the approval of the City:

1. Included within individual lots in the subdivision, subject to the limitations of this section;
2. Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners;
3. If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.

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**165.17 CONSTRUCTION STANDARDS FOR IMPROVEMENTS.** In addition to the standards set forth in this chapter, the Engineer shall from time to time prepare and the Council shall from time to time adopt by resolution, technical standards for public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of public improvements. Such technical standards may vary for classes of improvements, giving due regard to the classification of streets or other improvements, and the extent and character of the area served by the improvements. Unless otherwise noted in this chapter or as adopted by Council resolution, the most current version of the SUDAS Design Manual and Specifications Manual shall be followed for the design and construction of all public improvements.

**165.18 STREET STANDARDS.** In addition to meeting SUDAS standards, the following standards apply to all streets to be located within the subdivision:

1. Streets shall provide for the continuation of major streets from adjoining platted areas, and the extension of major streets into adjoining unplatted areas.
2. Street grades shall align to existing streets, and all grades for streets shall be as approved by the City.
3. Arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.
4. Street right-of-way widths and surface widths shall be as specified in the technical standards for public improvements.
5. Half-streets are prohibited, except, where an existing platted half-street abuts the subdivision, a platted half-street to complete the street shall be required.
6. Minor streets should be designed to discourage through traffic while safely connecting to major collector or arterial streets.
7. Street jogs with centerline offsets of less than 125 feet are prohibited, except where topography, or other physical conditions make such jogs unavoidable.
8. Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than 60 degrees.
9. At intersections of major streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.
10. Dead-end streets are prohibited, except where a street is planned to continue past the subdividers' property, a temporary dead end may be allowed.
11. Streets which connect with other streets, or loop streets, are preferred for maintenance, fire protection and circulation, but cul-de-sacs may be permitted. When permitted, cul-de-sacs shall be no longer than 600 feet and shall be provided with a turnaround having a minimum right-of-way diameter of 100 feet.
12. In general, alleys shall be prohibited in residential areas and required in commercial areas with normal street frontage. Dead-end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of 100 feet.
13. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets

and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Council, be made a requirement of the plat.

14. Streets which are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the Council.

15. Private streets, not dedicated to the City, shall be avoided. The Council may approve a private street where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.

**165.19 BLOCK AND LOT STANDARDS.** The following standards shall apply to the layout of blocks and lots in all subdivisions, and to the extent possible in all resubdivisions.

1. No residential block shall be longer than 1,320 feet or shorter than 300 feet measured from street line to street line. The width of blocks should be arranged so as to allow two tiers of lots, with utility easements.

2. In blocks over 750 feet in length the Council may require a public way or an easement at least 10 feet in width, at or near the center of the block, for use by pedestrians.

3. The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements.

4. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.

5. The size and shape of all lots shall comply with all requirements approved by the Council.

6. All lots shall abut a public street, or upon an approved private street, with a minimum frontage of at least 60 feet measured as a straight line between the two front lot corners, except cul-de-sacs, minimum width shall be 50 feet or 60 feet at the building line.

7. Unless unavoidable, lots shall not front, or have direct access to arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.

8. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the Council, a variation to this provision will provide a better street and lot layout.

9. Corner lots shall have sufficient extra width to permit the required front yard setback as specified in this Code of Ordinances, oriented to either street.

10. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.

11. Any lot not to be served by a sanitary sewage system shall have sufficient area to allow for a satisfactory drain field. No subdivision to be served by septic system shall be approved by the Council until percolation tests have been performed and the results of said tests have been provided to, and reported on, by the City Engineer.

**165.20 PUBLIC SERVICE AREAS, PARKS, AND OPEN SPACES.** All residential developments should be designed so that adequate open spaces and sites for public uses may be properly located and preserved as the community develops. In order that the cost of providing parks, playgrounds and recreational facilities and sites necessary to serve the additional families brought into the community by subdivision development may be most equitably apportioned on the basis of the additional need created by the individual subdivision development, the following provisions shall apply to all future residential developments or subdivisions or planned unit developments greater than one-half acre in size within the City.

1. Where it is determined by the Council that public service areas, open space and recreational areas are necessary and required, the subdivider or developer shall be required to dedicate or reserve such an area without cost to the City.
2. Within the corporate limits of the City, where it is determined by the Council that open space and recreational areas are necessary and required and where feasible and compatible for development of the community, the subdivider or developer shall provide and dedicate to the public adequate land to provide for said public service areas, open space and recreational needs of the subdivision or development. Provided, however, said open space and recreational facilities may be reserved and held by private persons or home owners associations or like entities under a Planned Unit Development (PUD) if same satisfies the requirements of this chapter. Provided further, however, should open space and recreational facilities be required of a PUD development in another ordinance, law or statute with minimum areas which are greater than those provided herein, then said other ordinance, law or statute shall govern.
3. Where land or property is to be reserved and ownership of same retained or held in the name of a private person or association, same shall be permanently reserved for public use, as directed by the Council, and held for the purpose of open space and recreational facilities and its purpose or use shall not be altered.
4. The amount of land shall be determined by first calculating the entire size of the land area of the proposed development as shown on the preliminary plat or site plan and then to require dedication or reservation of five percent of said land area as hereinafter provided.
5. Where such dedication or reservation is not feasible or compatible as determined by the Council, the subdivider or developer shall, in lieu thereof, pay to the City a fee or combination of fee and land, equivalent to the value of the required dedication or reservation.
6. Such fee shall be used exclusively for immediate or future site acquisition and development and shall be used only for the purpose of providing public service areas, open space lands and other recreational facilities to serve the subdivision or development for which received. The location of the land and the amount of the fee shall bear reasonable relationship to the use of the open space lands and other recreational facilities by future inhabitants of the subdivision or development for which received as well as those inhabitants of the surrounding areas.
7. In all cases where the Council shall direct and determine that cash is to be deposited, or that a combination of cash and land is to be deposited, dedicated or reserved for public service areas, park, playground or recreational purposes or a combination of uses, the cash value shall be determined in the following manner:

- A. The Council shall first determine the size of the land area which it would have required to set aside for such purposes, which shall be five percent of the total land area of the proposed subdivision or development.
- B. The cash value of said land shall be determined by taking the total purchase price or cost of all the land in the proposed subdivision or development and charge the owner the proportionate value of the land area so designated based upon such purchase price or cost, provided such purchase price or cost is the current fair and reasonable value of the lands. If such purchase price or cost does not reflect the current fair and reasonable value of the land, the fair value of said land shall be determined by an impartial appraisal and, in such manner as may be designated by the Council, cost for said appraisal to be shared equally between developer and City.
8. All funds so levied, assessed and collected by the City shall be deposited in a special fund to be known and designated as “Special Fund for the Acquisition and Development of Public Service Areas, Open Spaces and Recreational Facilities”, (Special Fund) and said funds so levied and collected shall be used for such purposes at such places and in such manner as shall be approved by the Council and which shall be consistent with this chapter, and authorization for creation of said fund is hereby granted. Any and all interest accumulated upon such funds shall be added to the Special Fund and be used only for acquisition and development of open space and recreational facilities.
9. The procedure for determining whether the subdivider or developer is to dedicate or reserve land, pay a fee, or both, shall be as follows: At the time of filing a preliminary plat or site plan with the Council, the owner or developer of the property shall, as a part of such filing, indicate whether said person desires to dedicate or reserve property for public service areas, open space and recreational purposes, or whether said person desires to pay a fee in lieu thereof. If the owner or developer desires to dedicate or reserve land for this purpose, said person shall designate the area thereof on the preliminary plat or site plan as submitted.
10. At the time the preliminary plat or site plan is approved by the Council, the Council shall determine as a part of such approval, whether to require a dedication or reservation of land within the subdivision or development, payment of a fee in lieu thereof, or a combination of both. Provided, however, the City shall determine which land shall apply to the dedication or reservation and the requirements contained herein.
11. Where a dedication is required it shall be accomplished by providing the Council with a properly executed Warranty Deed dedicating the required land to the City without cost to the City. Where fees in lieu of dedication are required, the same shall be deposited with the Clerk prior to the approval of the final plat or site plan.
12. The Council shall determine whether dedication, reservation or cash in lieu thereof or a combination of cash, dedication and reservation shall be required and in making said decision said Council shall consider the following:
- A. Topography and geologic conditions and access and location of land in subdivision or development available for dedication.
- B. Size and shape of the subdivision or development and land available for dedication.

- C. The character and recreational needs of the neighborhood in which the subdivision or development is located.
- D. The unsuitability in the subdivision or development for open space and recreational purposes by reason of location, access, greater cost of development and maintenance.
- E. The possibility that land immediately adjoining the subdivision or development will serve in whole or in part the public service areas, open space and recreational needs of such subdivision or development.
- F. Any and all other information relevant to a proper determination.

The determination of the Council as to whether land shall be dedicated or reserved or a fee shall be charged or a combination thereof shall be final and conclusive.

13. It shall be the duty of the Council to properly develop and maintain the dedicated area for open space and recreational facilities and the owner who dedicated said land shall in no way be responsible for its development, maintenance, or liability thereon except that said owner shall not depreciate the purpose, use or value of the dedicated property. Where the owner is allowed to retain the land required for open space and recreational purposes and facilities in private ownership, it shall be the owner's responsibility to properly develop and maintain said area.

14. The requirements of this section are not applicable to:
- A. Existing subdivisions or developments which are presently constructed;
  - B. Developments for which building permits have been issued; or
  - C. In the case of plats, where preliminary approval has been granted;
    - 1. at the time of the enactment of the ordinance codified herein. If such building permits or plats expire prior to completion of the subdivision or development for which it was issued or approved, renewal or reissuance of the building permit or extension of time for the preliminary plat shall not be deemed to bring such subdivision or development within the terms of this section.

**165.21 EROSION CONTROL.** The owner shall control erosion occurring in the subdivision by such methods as seeding, earth dikes, sediment basins to trap runoff water or by other methods as approved by the City Engineer and as required by the State of Iowa. This includes controlling erosion during construction with temporary measures as well as installing permanent erosion control measures that will remain after the project is completed.

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**165.22 PREAPPLICATION CONFERENCE.** Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the Clerk. The conference should be attended by the Clerk and such other City or Utility representatives as is deemed desirable; and by the owner's engineer, and/or planner, as deemed desirable. The purpose of such conference shall be to acquaint the City with the proposed subdivision and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

**165.23 SKETCH PLAN REQUIRED.** For the preapplication conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

**165.24 PRESENTATION TO COUNCIL.** The subdivider may present the sketch plan to the Planning and Zoning Commission or the City Council for review prior to incurring significant costs preparing the preliminary or final plat.

**165.25 SUBDIVISION CLASSIFIED.** Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision.

1. Minor Subdivision: Any subdivision which contains not more than two lots fronting on an existing street and which does not require construction of any public improvements, and which does not adversely affect the remainder of the parcel shall be classified as a minor subdivision.
2. Major Subdivision: Any subdivision which, in the opinion of the Council, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.
3. Minor Boundary Change: Any change in boundary between two (or more) parcels that does not result in any additional lots or parcels.
4. Plat of Survey: means a graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a licensed professional land surveyor.

**165.26 PLATS REQUIRED.** In order to secure approval of any proposed subdivision, the owner and subdivider shall submit to the City, plats and other information as required by this chapter. The owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision may elect to omit the submission of a preliminary plat if no part of the parcel has been the subject of a previous Minor Subdivision or Minor Subdivision approval.

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**165.27 MINOR BOUNDARY CHANGE.** The purpose of this section is to prescribe uniform procedures allowing for approval of minor changes to the boundaries of parcels between owners of two adjacent parcels of land without subdividing the parcel or parcels as minor or major subdivisions as set out in Section 165.25.

1. The Minor Boundary Change procedure may be used when all of the following conditions are met:
  - A. The minor boundary change does not create any additional lots or parcels.
  - B. The minor boundary change does not cause the need for the extension of streets, utilities, or any other additional public improvements.
  - C. Each lot resulting from the Minor Boundary Adjustment is in the same zoning district.
  - D. Each lot resulting from the Minor Boundary Adjustment will conform fully to all requirements of the zoning district in which the parcels of land are located; and each lot or parcel is developable according to the site development regulations of the zoning and subdivision ordinances.
  - E. The owners demonstrate that all site and structure requirements for the zoning district in which the parcels of land are located can be maintained after the sale or exchange of property.
  - F. No new violations of this chapter would be created by the action.
  - G. Such subdivision of land is not in conflict with any other State of Iowa or lawful municipal regulations regarding subdivision of land.
2. Prior to submission of the application, the owners may request a planning conference or provide a copy of the site plan to the City Engineer for review. Applications shall include a completed application form; the Plat of Survey; a Site Plan and the necessary supporting documents as established by Table 1 below; and an application filing fee as established by the City Council. The owners shall prepare and file with the Clerk 20 copies of the plat and related documents.
  - A. The Plat of Survey shall be prepared by a land surveyor licensed by the State of Iowa and shall encompass the outside boundary of all parcels adjusted.
  - B. Prior to consideration of the application, the parcels must be staked to show existing and proposed property lines so that City officials may verify dimensions on said site plan.
3. An application for a minor boundary change with no change in the number of lots shall require City Council action only. Upon completion of its consideration, the Council shall approve or disapprove the application.
4. Upon approval of the minor boundary change by the City Council, the owners shall record the Plat of Survey within six months of approval of said plat.

| <b>TABLE 1: Minor Boundary Change Site Plan Requirements</b>                   |
|--|
| Name and address of all land owners involved.                                  |
| Names of all adjoining property owners.  |
| All proposed lot lines, lot dimensions, and lot areas in square feet.          |
| Zoning of all parcels involved.  |
| North arrow, date, and graphic scale.  |
| Existing and proposed monumentation.   |
| Legal description prepared by a land surveyor registered in the State of Iowa. |
| Existing buildings.  |
| Mature trees.  |
| Location, dimensions, and names of existing streets, driveways, and sidewalks. |
| Existing utilities.  |
| Existing and proposed easements.   |

[The next page is 1155]

**165.28 REQUIREMENTS OF THE PRELIMINARY PLAT.** The subdivider shall prepare and file with the Clerk 20 copies of the preliminary plat, drawn at a scale of one inch equals 100 feet or larger. Sheet size shall not exceed 24 inches by 36 inches. Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin. The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

1. Title, scale, north point, and date.
2. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.
3. The name and address of the owner and the name, address and profession of the person preparing the plan.
4. A key map showing the general location of the proposed subdivision in relation to surrounding development.
5. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located within 200 feet of the subdivision boundary shall be attached.
6. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.
7. Existing and proposed land use of the proposed subdivision and adjoining property.
8. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater.
9. The legal description of the area being platted.
10. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.
11. The layout, numbers and approximate dimensions of proposed lots.
12. The location, width, dimensions and preliminary alignment and grades of all streets and alleys proposed to be dedicated for public use.
13. The proposed names for all streets in the area being platted.
14. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities.
15. Proposed easements showing locations, widths, purposes and limitations, as well as letters from the appropriate utilities approving the easements as shown.
16. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
17. Sidewalks shall be installed whenever development of undeveloped or redeveloped land occurs, particularly when: (i) platted under the current subdivision ordinance; or (ii) granted a conditional use under the current ordinance. The Council

shall not waive the requirement for sidewalks but may consider granting a delay in their installation under the following conditions:

- A. When sidewalks are to be located along streets developed as a rural cross section, which are those streets that have gravel shoulders, open ditches which parallel the driving surface, and right-of-way grades which do not allow for construction of sidewalks without extensive grading.
  - B. When they are to be located along streets lacking curb and gutter which would require substantial grade changes from the existing road surface if curb and gutters were to be installed, thus requiring the removal and reinstallation of any sidewalks constructed prior to such grading.
  - C. Other limited situations when it can be clearly demonstrated that no pedestrian health, safety, or other related problems will occur for those living, working or traveling in the immediate area.
1. The Council may agree to such delay only through acceptance of an “agreement to install” sidewalks at a later date when so mandated by the Council. Said agreement shall be recorded in the records of the County Recorder and shall become part of the Abstract of Title, and the petitioners for deferment consent and agree to be bound by the terms and conditions of any assessment, whether special or otherwise, relating to the construction or modification of sidewalks and petitioners waive any right to object or protest to the petition of said assessment. The City’s costs and expenses associated with the consultation, preparation and negotiations of petition for sidewalk deferment, including, but not limited to, attorney’s fees and the costs of recording, shall be paid by the petitioner.
  18. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
  19. Any other pertinent information, as necessary.
  20. The fee, as required by this chapter.

**165.29 PROCEDURES FOR REVIEW OF PRELIMINARY PLATS.** The Clerk, upon receipt of 20 copies of the preliminary plat, shall file one copy in the records of the City, shall retain one copy for public inspection; and shall forward the remaining copies of the plat to the Planning and Zoning Commission, City Engineer, the Council, the Mayor, and such other persons as necessary to review the plat; and shall schedule the plat for consideration, first by the Planning and Zoning Commission, then by Council. The Planning and Zoning Commission shall examine the plat, the report of the City Engineer, the report of other such information as it deems necessary or desirable. Upon such examination, the Commission shall ascertain whether the plat conforms to the ordinances and standards of the City, other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City; in order to protect the public health, safety, and welfare. Following such examination, the Commission may recommend approval, recommend approval subject to conditions, or recommend disapproval of the plat. The Commission’s recommendation shall be forwarded to the City Council for their approval. The Council shall consider all of the above, including the Commission’s recommendation prior to the Council’s approval, approval subject to conditions or disapproval. If the decision of the Council is to disapprove the plat, or approve the plat subject to conditions, the reasons therefor shall be set forth in writing in the official records of the Council, and such decisions shall be provided to the applicant. Action on the preliminary plat by the Council shall be taken within 60 days of the filing of the plat with the Clerk, unless

such time period is extended by agreement between the subdivider and the City. The 60 days shall include the following:

1. Original Plat, Plans, and Fees Submitted by Developer.
2. Pre-application Conference is held.
3. City Engineer and Attorney Review and Issue Letter of Report.
4. Revisions and Resubmittals by Subdivider Based on Letter of Report.
5. Planning and Zoning Commission Meeting (Public Hearing).
6. City Council Meeting (Public Hearing)

**165.30 DURATION OF APPROVAL OF PRELIMINARY PLAT.** The approval of a preliminary plat by the Council shall be valid for a period of one year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity by the Council.

**165.31 AUTHORIZATION TO INSTALL IMPROVEMENTS.** The approval of the preliminary plat shall constitute authorization by the Council for the installation of improvements as required by this chapter, and as shown on the preliminary plat; provided, no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications for the construction of such improvements has been submitted to, and approved in writing by the City Engineer.

**165.32 COMPLETION AND ACCEPTANCE OF IMPROVEMENTS.** Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between the subdivider and the City.

**165.33 PERFORMANCE BOND PERMITTED.**

1. In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond with the City, guaranteeing that improvements not completed, shall be completed within a period of two years from the date of approval of such final plat; but such approval of the plat shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed.
2. As an alternative, at the sole discretion of the Council, the owner shall enter into an agreement with the City, which agreement shall be binding upon the owner and all subsequent purchases of any portion of the subdivision and shall run with the land, to accept an assessment equal to the actual cost of constructing said improvement and furthermore will waive the limitation provided in Section 384.62 of the *Code of Iowa* that an assessment may not exceed 25 percent of the value of the lot, as said which Agreement shall be duly acknowledged by the owner and filed of record with the County Recorder as part of the platting proceeding.

[The next page is 1169]

**165.34 REQUIREMENT OF THE FINAL PLAT.** The subdivider shall within one year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the Clerk, 20 copies of the final plat and required attachments, as set forth in this chapter. Except for a final plat for a minor subdivision as set forth herein, no final plat shall be considered by the Planning and Zoning Commission and City Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. The final plat shall be drawn at a scale of one inch equals 100 feet or larger. Sheet size shall be eight and one-half inches by 14 inches as required by the County Recorder. The sheet shall include a blank rectangular space three and three-quarters inches by two and one-half inches for the County Recorder to place their stamp or sticker. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin. The final plat shall be clearly marked “Final Plat” and shall show the following:

1. Name, address, phone number, and email address of the owner, subdivider, and preparer
2. Scale, and a graphic bar scale, north arrow and date on each sheet.
3. All monuments to be of record, as required by Chapter 354 of the *Code of Iowa*.
4. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other areas shown on the plat, as well as the outer boundaries of the subdivided lands. Boundary lines shall be tied to a minimum of two section corners or two monuments of record.
5. All distance, bearing, curve, and other survey data, as required by Chapter 354 of the *Code of Iowa*.
6. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part of the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivision shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.
7. Street names and clear designation of public alleys.
8. Block and lot numbers.
9. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
10. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
11. All interior excepted parcels, clearly indicated and labeled, “not a part of this plat.”
12. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.

13. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.

14. A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal; and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

**165.35 ATTACHMENTS TO THE FINAL PLAT.** The following shall be attached to and accompany any final plat:

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. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.

*(Code of Iowa, Sec. 354.11(1)(a))*

2. 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.

*(Code of Iowa, Sec. 354.11(1)(b))*

3. 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. Utility easements shall not be construed to be encumbrances for the purpose of this section.

*(Code of Iowa, Sec. 354.11(1)(c))*

4. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

*(Code of Iowa, Sec. 354.11(1)(d))*

5. A statement by the County Auditor approving the name or title of the subdivision plat.

*(Code of Iowa, Sec. 354.11(1)(e))*

6. 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*.

*(Code of Iowa, Sec. 354.11(1)(f))*

7. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.

8. A certificate by the City Engineer that all required improvements have been satisfactorily completed in substantial accordance with the construction plans as approved and in substantial compliance with the approved preliminary plat. Prior to such certification, construction record drawings for all improvements shall have been

provided to the City Engineer. In lieu thereof, the Clerk may certify that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

9. Where required improvements have been satisfactorily completed, a resolution accepting and approving such improvements, along with the maintenance bond required by this chapter.

10. If private streets or other private improvements have been approved, an agreement in the form of a covenant running with the land, in a form approved by the City Attorney, providing for the construction or reconstruction of any improvements to meet City standards, and the assessment of all costs to the property owners in the event of annexation, dedication, and acceptance shall be required.

11. The applicable fee, if any.

#### **165.36 PROCEDURES FOR THE REVIEW OF FINAL PLATS.**

1. The Clerk, upon receipt of 20 copies of the final plat, shall file one copy in the records of the City, shall retain one copy for the public inspection, and shall forward the remaining copies to the Planning and Zoning Commission, City Engineer, Council, the Mayor, and such other persons as are necessary to review the plat; and shall schedule the plat for review by the Council.

2. The Clerk and the City Engineer shall examine the plat as to its compliance with the ordinances and standards of the City, and its conformance with the preliminary plat; and shall set forth their findings in writing. A copy of the findings shall be provided to the subdivider.

3. Upon receipt of the plat and written reports thereon, the Planning and Zoning Commission shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the City and other duly adopted plans, all as of the date of approval of the preliminary plat, and is found to substantially conform to the preliminary plat, the Planning and Zoning Commission shall recommend to the City Council approval the plat, and The City Council shall cause its approval to be entered on the plat as required by law.

4. Action on the final plat by the Council shall be taken within 60 days of the date of filing of the plat with the City Clerk, unless such time period is extended by agreement between the subdivider and the City. If the action is to disapprove the plat, the reasons therefore shall be set forth in the official records of the Council and such decision shall be provided to the subdivider.

[The next page is 1181]

**165.37 FILING DEADLINE.** All plats to be submitted hereunder shall be filed with the Clerk, no later than 5:00 p.m. on the second Friday preceding the Council meeting, at which the owner requires the plat to be considered.

**165.38 VARIANCES.** Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements as necessary to eliminate the hardship. In so granting a variance the Council may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified, or waived.

**165.39 CHANGES AND AMENDMENTS.** This chapter or any provision of this chapter may be changed or amended from time to time by the Council, provided, however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been published at least once, not less than four nor more than 20 days, before the date of the hearing.

[The next page is 1201]

## CHAPTER 166

# ZONING REGULATIONS

|  |  |
|--|--|
| 166.01 Short Title   | 166.12 Class C-1 District (Commercial)                           |
| 166.02 Purpose   | 166.13 Class C-2 District (Central Business District Commercial) |
| 166.03 Definitions   | 166.14 Class I District (Industrial)                             |
| 166.04 Applicability of Regulations                                | 166.15 Class A District (Agricultural)                           |
| 166.05 Districts Established                                       | 166.16 Class P District (Public Use)                             |
| 166.06 Zoning Map  | 166.17 Sign Regulations  |
| 166.07 Amendment   | 166.18 Fence Regulations   |
| 166.08 Class R-1 District (Single-Family Residential)              | 166.19 Enforcement   |
| 166.09 Class R-2 District (High-Density Single-Family Residential) | 166.20 Planning and Zoning Commission                            |
| 166.10 Class R-3 District (Multi-Family Residential)               | 166.21 Board of Adjustment                                       |
| 166.11 Class RPUD District (Residential Planned Unit Development)  | 166.22 Non-conforming Uses                                       |
|  | 166.23 Fees and Permit Required                                  |

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

**166.02 PURPOSE.** The purpose of this chapter is to establish reasonable rules and regulations for adequate light and air, to prevent over-crowding of land, to avoid undue concentration of population, to regulate the use of land and to promote the health, morals, safety and general welfare in the City.

**166.03 DEFINITIONS.** For the purpose of this chapter certain terms or words used herein shall be interpreted and defined as follows, unless the context requires otherwise:

The following definitions are for the purpose of administering and enforcing the zoning ordinance:

1. “Abutting: means having property or district lines in common.
2. “Access” means a way of approaching or entering a property from a public street.
3. “Accessory building, structure, or use” means a building, structure, or use subordinate to the principal use of a building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land. Example: garage or storage shed.
4. “Administrative Official” means the local official responsible for the enforcement of this chapter. Decisions of the official may be appealed to the Board of Adjustment.
5. “Adult entertainment establishment” means any establishment having as all or a portion of its business the offering of entertainment, stocks in trade of materials, scenes or other presentations characterized by the emphasis on the depiction or description of sexual activities or the showing of human genitals and/or female breasts. Establishments may include adult book stores, “juice” bars, “topless” bars, “strip” clubs, etc. An adult entertainment establishment as defined herein is not limited to an establishment with a liquor license.

6. “Agriculture” means the use of land for the purpose of raising and harvesting crops; or for the raising, breeding, or management of livestock, poultry, fish, or honeybees; or for dairying, truck gardening, forestry, nurseries, or orchards; for the noncommercial on-farm storage or processing of agricultural products; or for any similar agricultural, horticultural, silvicultural, or aquacultural use. For the purpose of this chapter, farms do not include operations for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals, except such animals as have been raised on the premises or have been maintained on the premises for the use and consumption of persons residing on the premises.
7. “Alley” means any dedicated public way affording a secondary means of vehicular access to abutting property, and not intended for general traffic circulation with a width of 20 feet or less.
8. “Alterations, structural” means any change in the supporting members of a building such as bearing walls, columns, beams, or girders.
9. “Alternative energy devices” means (but is not limited to) outdoor wood burners, solar panels installed on the ground, wind turbines or wind mills, or any other device that functions to create energy.
10. “Apartment” means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there is a multiple of these units. (See also, “Dwelling, multi-family”)
11. “Assisted care facility” means a use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Typical uses include nursing homes.
12. “Basement” means that portion of a building which is partly below grade but having more than one-half its height above the average grade of the adjoining ground. For the purpose of this chapter, a basement shall not be considered a story unless designed or used for habitable space or business purposes.
13. “Bed and breakfast” means any single-family or multi-family dwelling unit used for the purpose of overnight or temporary lodging wherein meals may also be provided and in which the operator lives.
14. “Board” means the Board of Adjustment as described in Chapter 414.7 of the *Code of Iowa* and this Code of Ordinances.
15. “Boarding house” means a building other than a hotel or motel where, for compensation and by prearrangement for definite periods, meals, or lodging, are provided for four or more persons.
16. “Building” means any structure designed or built for the support, enclosure, shelter or protection of persons, animals, or property of any kind.
17. “Building envelope” means the area of lot which remains after the minimum yard setbacks, height requirements, and open space requirements of this chapter have been complied with.
18. “Building, height of” means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height level between eaves and ridge for gable, hip, and gambrel roofs.

19. “Building line” means a line formed by the face of the building, and for the purposes of this chapter, a minimum building line is the same as a front set-back line.
20. “Building, main or principal” means a building in which is conducted the principal use of the lot on which it is situated.
21. “Cellar” means that portion of a building partially or wholly underground, having half or more than half its clear height below the grade plane. A cellar may be habitable provided proper escape exits and egress windows exists. A cellar shall not be counted as a story.
22. “Communication tower” means a metal structure that is used primarily as a communication antenna or as a communication antenna support structure; A structure for the commercial transmittal or broadcast of radio, television, radar, or microwaves.
23. “Conditional use” means the use allowed in a zoning district after approval has been granted by the Zoning Board of Adjustment according to the provisions set forth in this chapter. A special exception is the same as a conditional use for the purposes of this chapter.
24. “Construction” means that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, or stockpiling of materials on the site shall not constitute construction.
25. “Child day care facility” means a facility in which six or more children are received for part or all of a day for care or instruction and approved and licensed by the State of Iowa. The term “child day care facility” includes, but is not limited to, the following: nursery schools, child care centers, day nurseries, kindergartens, preschools, and play groups.
26. “Deck” means a covered or uncovered platform area projecting from the wall of a building, accessible at or from above grade, and attached to the ground.
27. “District” means a section of the City within which the regulations governing the use of buildings and property are uniform.
28. “Dwelling unit” means any building or portion thereof which is designed for and used exclusively for residential purposes.
  - A. “Dwelling, multi-family” means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there is a multiple of these units.
  - B. “Dwelling, single-family” means a building designed with accommodations for exclusive occupancy by one family.
  - C. “Dwelling, two-family” means a building designed with accommodations in order to be occupied exclusively by two families living independently of each other, sharing a common wall. Commonly called a duplex.
29. “Family” means one or more persons, related or non-related, occupying a dwelling unit as a single housekeeping organization.
30. “Family group care home” means a community-based residential home which is licensed as a Residential Care Facility under Chapter 135C of the *Code of Iowa* (1999) or as a child Foster Care Facility under Chapter 237 of the *Code of Iowa* (1999),

to provide room and board, personal care, rehabilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. Family home does not mean an individual foster care home licensed under Chapter 237 of the *Code of Iowa* (1999).

31. “Farm” means an area of not less than 10 acres which is used for the growing of the usual farm products such as vegetables, fruits, and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals.

32. “Fence” means a freestanding structure providing privacy, prevent escape or intrusion or to redirect a person’s direction of travel. A fence may be constructed of posts, wire, boards, stone or any standard building materials.

33. “Foundation” means the definition of foundation contained in the adopted *International Building Code*. Please reference that definition.

34. “Frontage” means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

35. “Garage, private” means a building, constructed according to the City’s setback regulations, that is subordinate or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory and in which no occupation or business for profit is carried on.

36. “Garage, storage” means a building or portion thereof designed or used exclusively for term storage by pre-arrangement of motor driven vehicles, as distinguished from daily storage furnished transients and personal belongings, and at which motor fuels and oils are not sold, and motor driven vehicles are not equipped, repaired, hired, or sold.

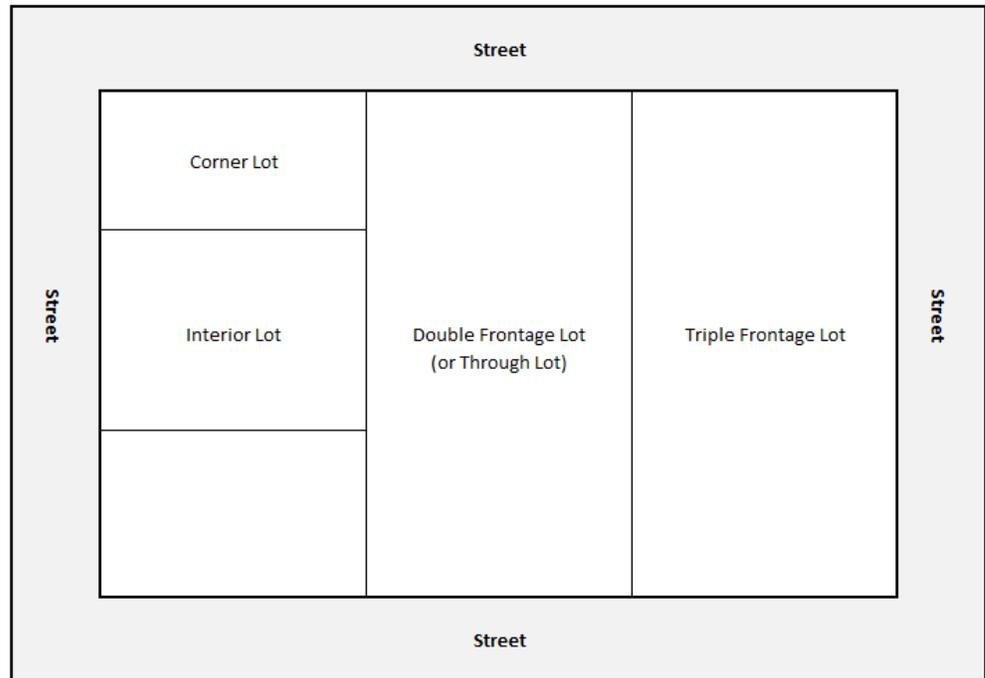
37. “Home occupation” means any occupation or activity carried on within a principal dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character thereof. No signs are allowed for home occupations.

38. “Junk yard” or “salvage yard” means any enclosed or fenced-in lot or portion thereof where waste, discarded, or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, or handled, including the dismantling or “wrecking” of automobiles or other machinery, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.

39. “Kennel” means an establishment where small animals are bred, raised, trained, groomed and boarded for compensation, sale or other commercial purposes.

40. “Landscape buffer” means any landscape designed with an earth berm and predominant plantings of evergreen type trees, shrubs, and plants so as to ensure a year around solid and impenetrable screen. The height and density of the plantings shall be adequate to ensure effectiveness.

41. “Lot” means a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.



- 42.
- A. “Lot, corner” means a lot abutting upon two streets at their intersections.
  - B. “Lot, depth of” means the average horizontal distance between the front and rear lot lines.
  - C. “Lot, double or triple frontage” means a lot having a frontage on two non-intersecting streets (double frontage lot) and a lot that has frontage on three streets (triple frontage lot), as distinguished from a corner lot.
  - D. “Lot, interior” means a lot other than a corner lot.
  - E. “Lot, reversed corner” means a corner lot, the rear of which abuts the side of another lot.
43. “Lot lines” means the lines bounding a lot as defined herein:
- A. “Front lot line” means (in the case of an interior lot) that line separating said lot from the street. In the case of a corner lot, or double frontage lot, “front lot line” shall mean that line separating said lot from that street which is designated as the front street in the plat.
  - B. “Rear lot line” means that lot line opposite and most distant from the front lot line. In the case of a lot pointed at the rear or triangular-shaped, the rear lot line shall be an imaginary line parallel to the front lot line not less than 10 feet long farthest from the lot line and wholly within the lot.

- C. “Side lot line” means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
44. “Lot of record” means a lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder.
45. “Lot width” means the width of a lot measured at the building line and at right angles to its depth where the minimum building line or setback intersects the side lot lines.
46. “Main building” means a building in which is conducted the principal use of the lot upon which it situated.
47. “Main use” means the principal use to which the premises are devoted and the principal purpose for which the premises exists.
48. “Manufactured home” means a factory-built dwelling, which is manufactured or constructed under the authority or 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home constructed to the Federal Manufactured Home Construction and Safety Standards is not a manufactured home unless it has been converted to real property and is taxed as a site built dwelling as is provided in *Code of Iowa* (1999), Section 435.26. For the purpose of any of these regulations, manufactured homes shall be considered the same as a single-family detached dwelling.
49. “Mobile home” means a vehicle without motive power used, or so originally constructed as to permit being used, as a conveyance upon the public streets or highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof for human habitation, capable of dwellings, or sleeping quarters and which is being moved, towed, or transported by another vehicle. This definition shall also include and apply to such vehicles or structures that are located on a permanent or temporary foundation.
50. “Mobile home park” means any site, lot, field, or tract of land upon which two or more occupied mobile homes are harbored whether free of charge or for revenue purposes and intended for such use and shall include any building, structure, tent, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.
51. “Mobile home converted to real estate” means a mobile home which has been attached to a permanent foundation on real estate owned by the mobile home owner, rendering it totally immobile, and which has been inspected by the assessor, the mobile home vehicle title, registration, and license plates collected from the owner, and the property entered upon the tax rolls of the County.
52. “Nonconforming building” means a building or portion thereof which lawfully does not conform to the provisions of this chapter relative to height, bulk, area, or yard size requirements for the district in which it is located.
53. “Nonconforming use” means a use which occupied a building or land but lawfully does not conform to the use regulations of the district in which it is located.

54. “Open space” means the land area of a site not covered by buildings, rights-of-way, parking structures, or accessory buildings, except recreational structures, and which is available to all occupants of units for whose use the space is intended.
55. “Parking space” means a surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than 171 square feet, permanently reserved for the temporary storage of vehicles and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for vehicles.
56. “Plan” means the 2018 *Comprehensive Plan* of the City.
57. “Principal use” means the primary use of land or structures as distinguished from secondary or accessory use. For example, a house is a principal use in a residential area; a garage or pool is an accessory use.
58. “Private” means (in reference to a building, structure, utility, facility, or use), owned by someone other than a unit of government, or an agency of government, unless the context clearly indicates that “private” is being used in a broader sense of something not open or available to the general populace.
59. “Public” means (in reference to a building, structure, utility, facility, or use), owned and/or operated by a unit of government or an agency thereof, unless the context clearly indicates that “public” is being used in the broader sense of something available to the general populace.
60. “Setback” means the distance required to obtain the front, side, or rear yard open space provisions of this chapter.
61. “Shipping container” means an enclosed metal structure designed to facilitate the transportation or storage of goods by several different means of transportation, and shall include intermodal shipping containers, transport truck trailers, and straight truck boxes, but does not include any vehicle as defined herein. Shipping containers shall not be allowed within the City, either for storage or living quarters. Exceptions may include:
- A. Portable moving containers or moving pods placed on private property for no more than 30 days in any 12-month period shall not be regulated by this chapter.
  - B. Temporary construction offices or storage units using shipping containers shall be allowed on the construction site during the life of the construction project but shall be removed when the project is complete.
62. “Signs” means any advertising device or surface out-of-doors, on or off premises, on which letters, illustrations, designs, figures, or symbols are printed or attached and which conveys information or identification. Signs shall include both display area and attached support devices.
- A. “Signs, on-premises” means an advertising device concerning the sale or lease of the property upon which they are located and advertising devices concerning activities conducted or products sold on the property upon which they are located.
  - B. “Signs, off-premises” means an advertising device including the supporting structure which directs the attention of the general public to a business, service, or activity not usually conducted or a product not usually sold

upon the premises where such a sign is located. Such a sign shall not include: on-premises signs, directional or other official sign or signs which have a significant portion of their face devoted to giving public service information (date, time, temperature, weather, information, etc.)

C. “Temporary signs” means legal temporary signs designed and intended to be displayed for a short period of time. Temporary signs shall include: political, real estate, construction, and garage sale signs.

63. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it then the space between the floor and the ceiling next above it.

64. “Story, half” means a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for janitor or caretaker or his/her family, or by a family occupying the floor immediately below it, shall be deemed a full story.

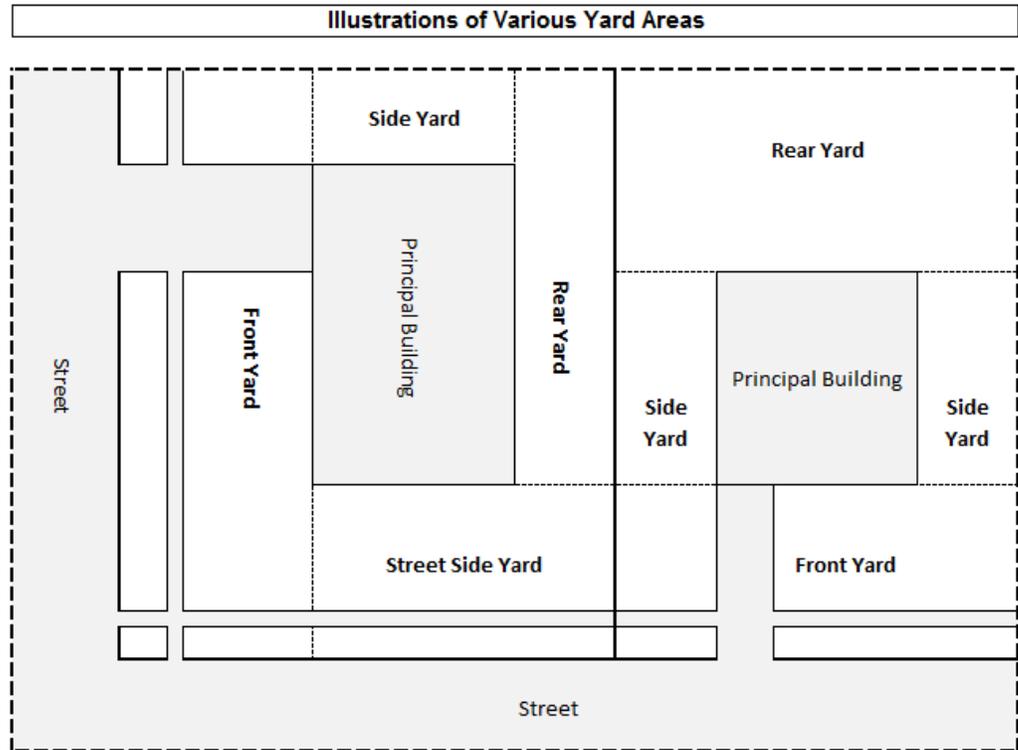
65. “Street” means an approved public or private thoroughfare which provides the principal means of vehicular access to abutting property or for vehicular passage.

66. “Structure” means anything constructed or erected, the use of which requires more or less permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, gazebos, fences, towers, ground-based satellite dishes, decks, pools, and buildings, including garages and storage sheds.

67. “Townhome” means a dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.

68. “Variance” means a modification of the literal provisions of the Zoning Ordinance which would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The authority to grant variances is vested in the Board of Adjustment pursuant to Chapter 414 of the *Code of Iowa*.

69. “Yard” means an area between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building line shall be used.



70.

- A. “Yard, front” means the space extending the full width of a lot between the principal building and the front lot line. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its greater dimension.
- B. “Yard, rear” means the space extending the full width of a lot between the principal building and the rear lot line. On all lots the rear yard shall be in the rear of the front yard.
- C. “Yard, side” means the space extending from the front yard to the rear yard between the principal building and the side lot line. On a corner lot, the space extending from the front yard to the rear lot line, between the principal building and the street side lot line.

[The next page is 1221]

**166.04 APPLICABILITY OF REGULATIONS.** Except as otherwise specifically provided by this chapter:

1. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
2. No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, side yards, front yards, inner or outer courts, than are specified herein for the district for which such building is located, including accessory buildings and structures.
3. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building (i.e. no overhangs, sills, eaves, decks or other projections from any building shall extend into the required setbacks).
4. No building or buildings shall be erected, moved, altered, used, or occupied in a district for purposes or uses other than are allowed herein for that district.
5. All residential dwellings constructed or placed on a lot or parcel of land in the City shall be built on, or placed on, and appropriately secured to, a permanent foundation.
6. No more than one principal use shall be allowed upon any lot.
7. All land which may be annexed to the City after adoption of this chapter shall be classified as Class A (Agricultural). Any future development on said land shall require an appropriate rezoning request from the developer or landowner.
8. All buildings and structures shall meet required setbacks regardless of whether they require a building permit.

**166.05 DISTRICTS ESTABLISHED.** For purposes of this chapter the City is hereby divided into the following Districts:

1. Class R-1 District (Single Family Residential)
2. Class R-2 District (High-Density Single Family Residential)
3. Class R-3 District (Multi-Family Residential)
4. Class RPUD District (Residential Planned Unit Development)
5. Class C-1 District (Commercial)
6. Class C-2 District (Central Business District Commercial)
7. Class I District (Industrial)
8. Class A District (Agricultural)
9. Class P District (Public)

**166.06 ZONING MAP.**

1. The boundaries of these districts are shown upon the map made part of this chapter, which map is designated as the "City of Shellsburg Zoning Map." The District Map made a part of this chapter is on file in the office of the City Clerk. All notations,

references, and other information shown thereon are a part of this chapter and have the same force and effect as if the District Map and all such notations, references, and other information shown thereon were fully set forth or described in metes and bounds herein.†

2. Where there is uncertainty as to the boundaries of the districts as shown on the District Map, the following rules shall apply.
  - A. Where boundaries are shown approximately following street and alley lines, such street and alley lines shall be interpreted to be the boundaries.
  - B. Where boundaries are indicated so that they approximately follow lot lines and are not more than 15 feet distant therefrom, such lot lines shall be interpreted to be the boundaries.
  - C. In unsubdivided property where a district boundary divides a parcel of land, the boundary shall be determined by the use of the scale appearing thereon.
  - D. Whenever any street, alley or other public way is vacated by action of the Council of the City, the zoning district adjoining each side of such street, alley or public way shall be extended automatically to the center of such vacated area.
  - E. Streets, alleys, places, and public ways are not included within any district.

**166.07 AMENDMENT.** The regulations, restrictions, and boundaries may from time to time, be amended, supplemented, changed, modified, or repealed, but no such amendments shall be made without public hearing before the Council and after a report has been made upon the amendment by the Planning and Zoning Commission. However, the regulation, restriction, or boundary shall not become effective until after a public hearing at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published not less than seven days nor more than 20 days in advance of the public hearing in a newspaper of general local circulation, but in no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice. In case the Planning and Zoning Commission does not approve the change, or, in the case of a protest filed with the City Council against such change signed by the owner of 20 percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed 200 feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots, such amendment shall not be passed except by the favorable vote of three-fourths of all members of the City Council. As part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the City 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 that hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change in zoning district.

[The next page is 1229]

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† **EDITOR'S NOTE:** See Page 1362 at the end of this chapter for ordinances amending the Zoning Map.

**166.08 CLASS R-1 DISTRICT (SINGLE FAMILY RESIDENTIAL).**

1. The areas designated and shown on the City Zoning Map, a certified copy of which is on file in the office of the City Clerk, shall be zoned Class R-1.
2. Permitted Uses. The following permitted uses shall be allowed in any Class R-1 District:
  - A. Single-family dwelling units.
  - B. Home occupations.
3. Accessory Uses. The following accessory uses shall be allowed in any Class R-1 District:
  - A. Garages.
  - B. Storage sheds.
  - C. Swimming pools.
  - D. Alternative energy devices.
  - E. Other uses, which in the opinion of the Board of Adjustments, are of the same general character as those listed above as permitted uses, and which will not be detrimental to the district in which they are located.
4. Conditional Uses. The following accessory uses shall be allowed in any Class R-1 District:
  - A. Child day care.
  - B. Townhomes.
  - C. Two- and multi-family dwelling units.
  - D. Churches, places of worship, and parochial schools.
  - E. Public schools, public libraries, parks, and playgrounds.
  - F. Assisted care facility.
  - G. Other uses, which in the opinion of the Board of Adjustment, are of the same general character as those listed above as conditional uses, and which will not be detrimental to the district in which they are located.

5. The following regulations shall apply to any structure, building or dwelling constructed or altered in any Class R-1 District:

|  | Minimum Lot Area (sq. ft.) | Minimum lot width and depth (feet) | Minimum front yard (feet) | Minimum street side yard (Corner Lot) (feet) | Minimum side yard (feet) | Minimum rear yard (feet) | Maximum height           |
|--|----------------------------|------------------------------------|---------------------------|--|--------------------------|--------------------------|--------------------------|
| Single-family dwelling   | 8,000                      | 80 (width)<br>100 (depth)          | 25                        | 25   | 5                        | 20                       | 2 ½ stories or 37.5 feet |
| Two-family dwelling  | 11,000                     | 100 (width)<br>100 (depth)         | 30                        | 30   | 7                        | 25                       | 2 ½ stories or 37.5 feet |
| Multi-family dwelling  | 12,000                     | 100 (width)<br>100 (depth)         | 30                        | 30   | 10                       | 25                       | 2 ½ stories or 37.5 feet |
| Townhome dwelling  | 15,000                     | 100 (width)<br>100 (depth)         | 30                        | 30   | 10                       | 25                       | 2 ½ stories or 37.5 feet |
| Non-residential uses   | 20,000                     | 100 (width)<br>100 (depth)         | 30                        | 30   | 20                       | 30                       | 2 ½ stories or 37.5 feet |
| Accessory Uses *   | N/A                        | N/A                                | N/A                       | N/A  | 5**                      | 5**                      | 2 ½ stories or 37.5 feet |
| * Accessory uses may be built only in the rear yard, except that an approved garage may be built in the side yard provided it meets all applicable setbacks. No other accessory use shall be built in the side or front yard. Accessory uses shall not occupy more than 30 percent of the rear yard. |                            |                                    |                           |  |                          |                          |                          |
| ** Accessory uses shall not be nearer than five feet to a lot line, except that when a garage is entered from an alley it shall not be located closer than 10 feet to the alley line.  |                            |                                    |                           |  |                          |                          |                          |

- A. Percentage of Lot Covered by Buildings, Dwellings, and Other Structures. No dwelling or other structure including accessory buildings and parking areas, shall cover more than 60 percent of the area of the entire lot.
- B. Size of Structure. No principal structure shall be built having a width or length less than 26 feet.
- C. Parking Space. One space per number of bedrooms for two- or multi-family dwellings, but not less than two spaces per unit.
- D. Corner lots (see definitions) will require setbacks per the above chart.

[The next page is 1241]

**166.09 CLASS R-2 DISTRICT (HIGH-DENSITY SINGLE FAMILY RESIDENTIAL).**

1. The areas designated and shown on the City Zoning Map, a certified copy of which is on file in the office of the City Clerk, shall be zoned Class R-2.
2. Permitted Uses. The following permitted uses shall be allowed in any Class R-2 District:
  - A. Single-family dwelling units.
  - B. Home occupations.
3. Accessory Uses. The following accessory uses shall be allowed in any Class R-2 District:
  - A. Garages.
  - B. Storage sheds.
  - C. Swimming pools.
  - D. Alternative energy devices.
  - E. Other uses, which in the opinion of the Board of Adjustments, are of the same general character as those listed above as permitted uses, and which will not be detrimental to the district in which they are located.
4. Conditional Uses. The following accessory uses shall be allowed in any Class R-2 District:
  - A. Child day care.
  - B. Townhomes and two- and multi-family dwelling units.
  - C. Bed and breakfast home businesses.
  - D. Churches, places of worship, and parochial schools.
  - E. Public schools, public libraries, parks, and playgrounds.
  - F. Assisted care facility.
  - G. Other uses, which in the opinion of the Board of Adjustment, are of the same general character as those listed above as conditional uses, and which will not be detrimental to the district in which they are located.

5. The following regulations shall apply to any structure, building or dwelling constructed or altered in any Class R-2 district:

|  | Minimum Lot Area (sq. ft.) | Minimum lot width and depth (feet) | Minimum front yard (feet) | Minimum street side yard (Corner Lot) (Feet) | Minimum side yard (feet) | Minimum rear yard (feet) | Maximum height          |
|--|----------------------------|------------------------------------|---------------------------|--|--------------------------|--------------------------|-------------------------|
| Single-family dwelling   | 5,000                      | 50 (width)<br>100 (depth)          | 20                        | 20   | 5                        | 20                       | 2½ stories or 37.5 feet |
| Two-family dwelling  | 6,000                      | 60 (width)<br>100 (depth)          | 30                        | 30   | 7                        | 25                       | 2½ stories or 37.5 feet |
| Multi-family dwelling  | 8,000                      | 80 (width)<br>100 (depth)          | 30                        | 30   | 10                       | 25                       | 2½ stories or 37.5 feet |
| Townhome dwelling  | 10,000                     | 100 (width)<br>100 (depth)         | 30                        | 30   | 10                       | 25                       | 2½ stories or 37.5 feet |
| Non-residential uses   | 10,000                     | 100 (width)<br>100 (depth)         | 25                        | 25   | 15                       | 25                       | 2½ stories or 37.5 feet |
| Accessory Uses *   | N/A                        | N/A                                | N/A                       | N/A  | 5**                      | 5**                      | 2½ stories or 37.5 feet |
| * Accessory uses may be built only in the rear yard, except that an approved garage may be built in the side yard provided it meets all applicable setbacks. No other accessory use shall be built in the side or front yard. Accessory uses shall not occupy more than 30 percent of the rear yard. |                            |                                    |                           |  |                          |                          |                         |
| ** Accessory uses shall not be nearer than five feet to a lot line, except that when a garage is entered from an alley it shall not be located closer than 10 feet to the alley line.  |                            |                                    |                           |  |                          |                          |                         |

- A. Percentage of Lot Covered by Buildings, Dwellings, and Other Structures. No dwelling or other structure including accessory buildings and parking areas, shall cover more than 70 percent of the area of the lot.
- B. Size of Structure. No principal structure shall be built having a width or length less than 26 feet.
- C. Parking Space. One space per number of bedrooms for two- or multi-family dwellings, but not less than two spaces per unit.
- D. Corner lots (see definitions) will require setbacks per the above chart.

[The next page is 1253]

**166.10 CLASS R-3 DISTRICT (MULTI-FAMILY RESIDENTIAL).**

1. The districts shown on the City Zoning Map and designated Class R-3 shall be zoned Class R-3.
2. Permitted Uses. The following uses shall be allowed in any Class R-3 District:
  - A. All uses permitted in any Class R-1 district.
  - B. Two-family dwellings (duplexes).
  - C. Multi-family dwellings (apartments).
  - D. Townhomes.
3. Accessory Uses. The following accessory uses shall be allowed in any Class R-3 District:
  - A. All accessory uses permitted in any Class R-1 District.
  - B. Alternative energy devices.
  - C. Other uses, which in the opinion of the Board of Adjustments, are of the same general character as those listed above as permitted uses, and which will not be detrimental to the district in which they are located.
4. Conditional Uses. The following accessory uses shall be allowed in any Class R-3 District:
  - A. Child day care.
  - B. Bed and breakfast home businesses.
  - C. Churches, places of worship, and parochial schools.
  - D. Public schools, public libraries, parks, and playgrounds.
  - E. Assisted care facility.
  - F. Other uses, which in the opinion of the Board of Adjustment, are of the same general character as those listed above as conditional uses, and which will not be detrimental to the district in which they are located.

5. The following regulations shall apply to any structure, building or dwelling constructed or altered in a class R-3 District:

|                        | Minimum Lot Area (sq. ft.) | Minimum lot width and depth (feet) | Minimum front yard (feet) | Minimum street side yard (Corner Lot) (feet) | Minimum side yard (feet) | Minimum rear yard (feet) | Maximum height          |
|------------------------|----------------------------|------------------------------------|---------------------------|--|--------------------------|--------------------------|-------------------------|
| Single-family dwelling | 8,000                      | 80 (width)<br>100 (depth)          | 25                        | 25   | 5                        | 20                       | 2½ stories or 37.5 feet |
| Two-family dwelling    | 11,000                     | 100 (width)<br>100 (depth)         | 30                        | 30   | 7                        | 25                       | 2½ stories or 37.5 feet |
| Multi-family dwelling  | 12,000                     | 100 (width)<br>100 (depth)         | 30                        | 30   | 10                       | 25                       | 2½ stories or 37.5 feet |
| Townhome dwelling      | 15,000                     | 100 (width)<br>100 (depth)         | 30                        | 30   | 10                       | 25                       | 2½ stories or 37.5 feet |
| Non-residential uses   | 20,000                     | 100 (width)<br>100 (depth)         | 30                        | 30   | 20                       | 30                       | 2½ stories or 37.5 feet |
| Accessory Uses *       | N/A                        | N/A                                | N/A                       | N/A  | 5**                      | 5**                      | 2½ stories or 37.5 feet |

\* Accessory uses may be built only in the rear yard, except that an approved garage may be built in the side yard provided it meets all applicable setbacks. No other accessory use shall be built in the side or front yard. Accessory uses shall not occupy more than 30 percent of the rear yard.

\*\* Accessory uses shall not be nearer than five feet to a lot line, except that when a garage is entered from an alley it shall not be located closer than 10 feet to the alley line.

6. Open Space Requirements. No dwelling or other structure including accessory buildings and parking areas, shall cover more than 40 percent of the area of the lot.

7. Parking Space. One space per number of bedrooms for two- or multi-family dwellings, but not less than two spaces per unit.

8. Corner lots (see definitions) will require setbacks per the above chart.

9. Special Requirements. When ownership of each single-family unit of a two-family or townhouse dwelling unit is to be separate or divided, the following requirements shall be met:

A. A two-family or townhouse dwelling unit shall consist of two laterally attached dwelling units (or more, regarding townhomes) with each unit having a separate access and separate utilities services including gas, water, sewer and electricity.

B. The division of the lot or parcel into two parcels shall be in such a manner as to result in one single-family dwelling unit being located on either side of a common boundary line with the common wall between the two laterally joined single-family dwelling units being on said common boundary line.

10. Site Plan Required. All two-family, multi-family and townhome proposals shall be required to submit a site plan for the Planning and Zoning Commission's review and City Council's approval. The site plan shall include the following:
- A. Legal property owners' names and description of property including requested land use and zoning.
  - B. Property lot lines, dimensions and total area.
  - C. Contour lines at intervals of not more than one foot.
  - D. The proposed location, size, shape, color, and material type of all buildings or structures. Building design should be visually harmonious and compatible with the neighborhood character.
  - E. Existing buildings, rights-of-way, streets, utilities (overhead or underground), easements, drainage courses, vegetation, and large trees, etc.
  - F. Location and type of all plants, grass, trees, or ground cover to be used in the landscape.
  - G. Walls, fences, or other artificial screens to be used as buffers shall be shown in elevation and color prospective with proposed height and structural material to be used indicated.
  - H. All required yard setbacks.

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**166.11 CLASS RPUD DISTRICT (RESIDENTIAL PLANNED UNIT DEVELOPMENT).**

1. Intent. The RPUD District is intended and designed to provide a means for the development of large tracts of land on a unit basis, allowing greater flexibility and building locations than the conventional single lot method provided in other sections of this chapter.
2. Procedure. The owner or owners of any tract or tracts of adjoining land comprising an area not less than one acre, may submit to the Planning and Zoning Commission for review and City Council for approval a request to change to the "RPUD" zoning district classification. The request shall be accompanied by a site plan for the use and development of the entire tract of land. The Planning and Zoning Commission may recommend approval of the site plan as submitted or, before approval, may require that the applicant modify, alter, adjust, or amend the plan as the Commission deems necessary to the end that it preserves the intent and purpose of this chapter to promote the public health, safety, morals, and the general welfare, or disapprove of the plan if it does not substantially conform with the requirements of this chapter or the Comprehensive Plan. The site plan as approved by the Commission shall then be sent to the City Council, whereupon the City Council may approve or disapprove said plan as reported or may require such changes thereto as it deems necessary to effectuate the intent and purposes of this chapter.
3. RPUD Site Plan Required. The site plan shall include in detail the location of all proposed:
  - A. Buildings and uses, the height and exterior design of typical dwellings, and the number of dwelling units in each. Building design should be visually harmonious and compatible with the neighborhood character.
  - B. Parking areas.
  - C. Access drives.
  - D. Streets abutting or within the proposed development.
  - E. Sidewalks or trails.
  - F. All proposed walls or fences.
  - G. Location and type of all plants, grass, trees, or ground cover to be used in the landscape.
  - H. Common land, recreation areas, and parks.
  - I. Existing and proposed utilities and public easements.
  - J. Property lot lines, dimensions, and total area.
  - K. Contour lines at intervals of not more than one foot.
4. Special Requirements. The site plan shall be accompanied by the following documents:
  - A. If the proposed development includes common land which will not be dedicated to the City, and the proposed development will not be held in single ownership, proposed by-laws of a homeowner's association fully defining the

functions, responsibilities and operating procedures of the association shall be included.

B. Covenant to run with the land, that the owner of the land or successors in interest will maintain all interior streets, parking areas, sidewalks or trails, common land, parks and plantings which have not been dedicated to the City in compliance with the City ordinance.

C. Any additional agreements required by the Council at the time of preliminary plat approval.

5. Permitted Uses and Structures. Permitted land uses, lot area, yard and height requirements shall be as set out below, which shall prevail over conflicting requirements of the City zoning ordinance.

A. Buildings shall be used only for two-family (duplex) residential, multi-family (apartment) residential or townhome dwelling purposes; occupant garages, occupant storage and similar accessory uses; noncommercial recreational facilities; and community activities including churches and schools.

B. The minimum lot and yard requirements of the zoning district in which the development is located shall not apply, except that individual buildings shall be no closer than 25 feet to the boundaries of the development. Individual buildings shall not be placed any closer than 25 feet to each other, at their closest point of contact. The Council may require open space or screenings be located along all or a portion of the development boundaries.

C. The density of the RPUD shall be the equivalent of five units per every acre.

D. Any land gained within the development because of the reduction in lot sizes, below minimum zoning ordinance requirements, shall be placed in common land to be dedicated to the City or retained in private ownership to be managed by a homeowner's association. "Common Land" as used in this section refers to land retained in private ownership for the use of the residents of the development, or to land dedicated to the general public.

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**166.12 CLASS C-1 DISTRICT (COMMERCIAL).**

1. The districts shown on the City Zoning Map and designated Class C-1 shall be zoned Class C-1.
2. Permitted Uses. The following uses shall be allowed in any Class C-1 District:
  - A. Retail business
  - B. Professional office (medical, accountant, lawyer, bank).
  - C. Restaurants, taverns, night clubs, and bars.
  - D. Post offices, police and fire departments, schools.
  - E. Wholesale shops (plumbing, construction, agricultural, warehouse).
  - F. Telephone offices.
  - G. Gas stations and convenience stores.
  - H. Grocery store.
  - I. Churches and cemeteries.
  - J. Assisted care facility.
  - K. Those which in the opinion of the Board of Adjustment are of the same general character as those listed above as permitted uses, and which will not be detrimental to the district in which they are located.
3. Conditional Uses. The following use shall be allowed in any Class C-1 District:
  - A. Adult entertainment establishments are allowed in any Class C-1 District providing they meet the following: Any adult entertainment establishment must be located 2,000 feet from any residential dwelling, church, park or daycare within the City. In addition, any other conditions may be set by the Board of Adjustment to ensure there is no negative impact with neighboring properties.
  - B. Communication towers are allowed in any Class C-1 District providing the setbacks on all sides shall be a distance equal to the height of the tower. In addition, any other conditions may be set by the Board of Adjustment to ensure there is no negative impact with neighboring properties.
4. The following regulations shall apply to any structure or building constructed or altered in any Class C-1 District:

|                | <b>Minimum Lot Area (sq. ft.)</b> | <b>Minimum Lot Width &amp; Depth (feet)</b> | <b>Minimum Front Yard (feet)</b> | <b>Minimum Side Yard (feet)</b> | <b>Minimum Rear Yard (feet)</b> | <b>Maximum Height</b> |
|----------------|-----------------------------------|---|----------------------------------|---------------------------------|---------------------------------|-----------------------|
| Commercial Use | 15,000                            | 100 (width)<br>100 (depth)                  | 25                               | 25                              | 25                              | 3 stories or 45 feet  |

- A. Percentage of Lot Covered by Buildings, Dwellings, and Other Structures. No dwelling or other structure including accessory buildings and parking areas, shall cover more than 70 percent of the area of the lot.
- B. Minimum Parking Requirements. Off-street parking for each use permitted in the Zoning Ordinance shall not be less than what is found in the

following table. Any fractional parking space shall be computed as a whole space. The Planning and Zoning Commission may recommend approval by City Council less off-street parking when a proponent of a use demonstrates that, because of special circumstances involved with a particular use, it is obvious that the off-street parking required by this code exceeds any reasonable need.

| Use in C-1 District *  | Number of Off-Street Parking Spaces Required                |
|--|---|
| Convenience Store  | 1 per 300 gross square feet plus 1 per employee             |
| Professional Office  | 1 per 200 gross square feet                                 |
| Retail Business  | 1 per 200 gross square feet                                 |
| Restaurant, tavern, night club, bar  | 1 per 100 gross square feet                                 |
| Dance Hall   | 1 per 100 gross square feet                                 |
| Warehouse and wholesale shops  | 1 per 2,000 gross square feet plus 1 per employee           |
| Place of Worship   | 1 per every 10 seats provided                               |
| Schools  | 1 per 3.5 seats in assembly rooms plus 1 per faculty member |
| <p>* Other uses which, in the opinion of the Planning and Zoning Commission and City Council, are of the same general character as those listed herein and which will not be detrimental to the district they are located in shall be required to utilize the equivalent number of off-street parking spaces as that of the similar use listed herein.</p> <p>Note: Gross square feet is measured for the portion of the site utilized for the use, storage yards and outbuildings, if applicable.</p> |   |

- (1) Location. The parking spaces required by this code shall be provided on the same lot as the use.
- (2) Size. Each parking space shall be at least nine feet by 19 feet.
- (3) Surface Material. All off-street parking areas shall be paved with asphalt or Portland cement concrete pavement as approved by the City Engineer, and shall be so graded and drained to dispose of all surface water accumulation within the area.
- (4) Screening. If a commercial parking space abuts a residential district, the adjoining lot line shall be buffered as defined herein and approved by the Planning and Zoning Commission and City Council. Buffering shall consist of landscaping and berming as defined herein. In addition, adequate screening of loading docks, outside storage areas, garbage dumpsters, HVAC units, etc. shall be required.

C. Minimum Off-Street Loading. Any building or part thereof erected, having a gross floor area of 10,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, retail or wholesale store, or other similar use which require the receipt or distribution by vehicles of merchandise or material, there shall be provided and maintained on the same lot with such building at least one off- street loading space and for multiple tenant

commercial/retail centers, one additional such loading space for each 20,000 square feet of gross floor area in excess of 10,000 square feet, provided that the total number of loading spaces is not required to be more than the total number of tenants. Each loading space shall meet the following standards:

- (1) Each loading space shall not be less than 10 feet in width and 20 feet in length for those spaces not requiring loading dock access, and 50 feet in length for loading dock access for trucks.
- (2) Such loading area shall meet all required setbacks.
- (3) Loading areas shall be buffered from the general public view, as approved by the Planning and Zoning Commission and City Council.
- (4) All loading areas shall be paved with asphalt or Portland cement concrete pavement as approved by the City Engineer.

D. Site Plan Required. All commercial proposals in the C-1 District shall be required to submit a site plan for the Planning and Zoning Commission's review and City Council's approval. The site plan shall include the following:

- (1) Legal property owners' names and description of property including requested land use and zoning.
- (2) Property lot lines, dimensions, and total area.
- (3) Contour lines at intervals of not more than one foot.
- (4) The proposed location, size, shape, color, and material type of all buildings or structures. Building design should be visually harmonious and compatible with the neighborhood character.
- (5) Existing buildings, rights-of-way, streets, utilities (overhead or underground), easements, drainage courses, vegetation, and large trees, etc.
- (6) Location and type of all plants, grass, trees, or ground cover to be used in the landscape.
- (7) Walls, fences or other artificial screens to be used as buffers shall be shown in elevation and color prospective with proposed height and structural material to be used indicated.
- (8) All required yard setbacks.
- (9) Complete parking plan.

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**166.13 CLASS C-2 DISTRICT (CENTRAL BUSINESS DISTRICT COMMERCIAL).**

1. The districts shown on the City Zoning Map and designated Class C-2 shall be zoned Class C-2.
2. Permitted Uses. The following uses are permitted in a Class C-2 District.
  - A. Retail business, including grocery stores, gas stations, and convenience stores.
  - B. Professional office (medical, accountant, lawyer, bank, telephone).
  - C. Restaurants, taverns, night clubs, and bars.
  - D. Post offices, police and fire departments.
  - E. Second-floor residential dwelling units.
  - F. Those which in the opinion of the Board of Adjustment are of the same general character as those listed above as permitted uses, and which will not be detrimental to the district in which they are located.
3. The following regulations shall apply to any structure or building constructed or altered in any Class C-2 District:

|                | Minimum Lot Area (sq. ft.) | Minimum Lot Width & Depth (feet) | Minimum Front Yard (feet) | Minimum Side Yard (feet) | Minimum Rear Yard (feet) | Maximum Height       |
|----------------|----------------------------|----------------------------------|---------------------------|--------------------------|--------------------------|----------------------|
| Commercial Use | 5,000                      | 50 (width)<br>100 (depth)        | 5                         | 0                        | 0                        | 3 stories or 45 feet |

4. Off-Street Residential Dwelling Unit Parking. Each second-floor residential dwelling unit in the C-2 District shall allow one space for each dwelling unit.
5. Off-Street Commercial Use Parking. The Minimum Parking Requirements for the C-1 District shall be used for parking within the C-2 District. However, the Zoning Administrator may approve less off-street parking when the proponent of a use demonstrates that, because of special circumstances involved with a particular use, it is obvious that the off-street parking required by this chapter exceeds any reasonable likely need.

[The next page is 1301]

**166.14 CLASS I DISTRICT (INDUSTRIAL).**

1. The districts shown on the City Zoning Map and designated Class I shall be zoned Class I.
2. The following uses shall be allowed in any Class I District:
  - A. All lawful uses allowed in District C-1 shall be permitted in any district zoned Class I.
  - B. Subject to Subparagraph 3 of this section, all lawful uses not permitted in any other class or district shall be permitted in any district zoned Class I.
3. **Prohibited Uses.** All uses of land, buildings and structures, or industrial processes, according to the Board of Adjustment, that may be noxious or injurious by reason of production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibrations, or similar substances or conditions, and uses that have been declared a nuisance in any court of record are prohibited in any district zoned Class I.
4. **Regulations.** Lot size, setbacks, and other requirements shall be set by the City Council via resolution.
5. **Percentage of Lot Covered by Buildings, Dwellings, and Other Structures.** No structure, including accessory buildings and parking areas, shall cover more than 70 percent of the area of the lot.
6. **Site Plan Required.** All industrial proposals shall be required to submit a site plan for the Planning and Zoning Commission's review and City Council's approval. The site plan shall include the following:
  - A. Legal property owners' names and description of property including requested land use and zoning.
  - B. Property lot lines, dimensions, and total area.
  - C. Contour lines at intervals of not more than one foot.
  - D. The proposed location, size, shape, color, and material type of all buildings or structures. Building design should be visually harmonious and compatible with the neighborhood character.
  - E. Existing buildings, rights-of-way, streets, utilities (overhead or underground), easements, drainage courses, vegetation, and large trees, etc.
  - F. Location and type of all plants, grass, trees, or ground cover to be used in the landscape.
  - G. Walls, fences, or other artificial screens to be used as buffers shall be shown in elevation and color prospective with proposed height and structural material to be used indicated.
  - H. All required yard setbacks.
  - I. Complete parking plan.
7. **Parking.** One space per 500 gross square feet of building space.
  - A. **Screening.** If an industrial parking space abuts a residential district, the adjoining lot line shall be buffered as defined herein and approved by the Planning and Zoning Commission and City Council. Buffering shall consist of

landscaping and berming as defined herein. In addition, adequate screening of loading docks, outside storage areas, garbage dumpsters, HVAC units, etc., shall be required.

B. Location. The parking spaces required by this chapter shall be provided on the same lot as the use.

C. Size. Each parking space shall be at least nine feet by 19 feet.

D. Surface Material. All off-street parking areas shall be paved with asphalt or Portland cement concrete pavement as approved by the City Engineer, and shall be so graded and drained to dispose of all surface water accumulation within the area.

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**166.15 CLASS A DISTRICT (AGRICULTURAL).**

1. Agricultural District zoning is intended to maintain and enhance agricultural operations and preserve agricultural lands utilized for crop production or the raising of livestock. The preservation of agricultural land is intended to prevent urban sprawl, control the public costs of providing urban services and reduce urban/rural conflicts which arise as a result of premature development of rural areas. The district is further intended to preserve open space and natural resource areas.
2. The following uses shall be allowed in any Class A District:
  - A. Agriculture, horticulture, dairy farming, poultry farming, livestock farming, general farming, and other agricultural activities.
  - B. Those structures essential to farming operations not otherwise restricted within this chapter.
  - C. Single family dwellings.
  - D. Parks, playgrounds, and recreation areas
  - E. Home occupations.
3. Conditional Uses. The following special exceptions may be permitted in the Class A District subject to the approval of the Board of Adjustment and any specific conditions and requirements intended to make them compatible with and acceptable to adjacent use.
  - A. Public utilities.
  - B. Recreational development for seasonal or temporary use.
  - C. Roadside stand for sale of produce raised on the premises.
  - D. Dog kennels and dog runs and stables.
  - E. Greenhouses and plant nurseries operated for commercial purposes.
  - F. Churches, including cemeteries.
  - G. Bed and breakfast houses.
  - H. Publicly owned and operated buildings and facilities.
  - I. Communication towers, subject to regulations contained in Section 166.12(3)(B).
4. The following regulations shall apply to any dwelling constructed or altered in any Class A District:
  - A. Density of Population. Lot area should be not less than 1 acre and lot width shall be not less than 100 feet.
  - B. Percentage of Lot Covered by Buildings, Dwellings, and Other Structures. No dwelling or other structure including accessory buildings, shall cover more than 40 percent of the area of the lot.
  - C. Yards, Courts, and Open Spaces. Every dwelling in any Class A District shall be required to have a front and rear yard with a minimum of 30 feet before any structure may be erected, and a side yard on each side with a minimum of 15 feet before any structure may be erected.

D. Size of Structure. No principal structure shall be built having a width or length less than 24 feet.

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**166.16 CLASS P DISTRICT (PUBLIC USE).**

1. It is intended that the Public Use district provide reference on the City Zoning Map to public uses of land. Thus, land owned by the City, United States government, the State, the County, and the School District will be designated Public Use. This district is also intended to provide for park and recreation areas, water conservation districts, erosion control, protection of wildlife habitat, protection of natural drainage ways and steep slopes, wetlands, and to generally provide for ecologically sound land use of environmentally sensitive areas.
2. The following uses shall be allowed in any Class P District:
  - A. Use of land, buildings or structures of the aforementioned governmental entities or political subdivisions thereof.
  - B. Agriculture and undeveloped and unused land in natural condition..
  - C. Public parks and other recreational open space.
  - D. Flood control structures.
3. The following regulations shall apply to any structure or building constructed or altered in any Class P District:

|            | <b>Minimum Lot Area (sq. ft.)</b> | <b>Minimum Lot Width &amp; Depth (feet)</b> | <b>Minimum Front Yard (feet)</b> | <b>Minimum Side Yard (feet)</b> | <b>Minimum Rear Yard (feet)</b> | <b>Maximum Height</b>   |
|------------|-----------------------------------|---|----------------------------------|---------------------------------|---------------------------------|-------------------------|
| Public Use | 15,000                            | 100 (width)<br>100 (depth)                  | 20                               | 15                              | 20                              | 3 stories or<br>45 feet |

1. No structure including accessory buildings and parking areas, shall cover more than 50 percent of the area of the lot.

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**166.17 SIGN REGULATIONS.** The following regulations shall apply to all zoning districts:

1. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle. No sign may obstruct the view of any roadway so as to render dangerous the use of the roadway.
2. 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, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
3. Signs shall not encroach or extend over public right-of-way.
4. No advertisement shall be posted or maintained on fences, trees, or other perennial plants.
5. No advertisements shall be allowed on, or attached to, a vehicle or trailer parked on public or private property. The prohibition of this section does not prohibit the identification of a firm or its principal product operating during the normal course of business or being taken home. In addition, the prohibition of this section does not prohibit the sales or rental of vehicles or trailers parked on public or private property with advertising of the sale on or attached to said vehicles or trailers.
6. No signs are allowed for home occupations.
7. All signs shall be non-flashing and non-strobing, and they shall not contain rotating, oscillating, or revolving beams or other similar types of light transmission.
8. All signs shall be kept in good repair. Repairs shall be made within 30 days of damage to said sign.
9. Signs bearing only property numbers, postal box numbers, names of occupants of premises, private parking, or other identification of premises are permitted within all districts; and
  - A. Shall not exceed two square feet in area.
  - B. E911 signs and numbers are specifically excluded from this section.
10. The following regulations shall apply to all A, R-1, R-2, R-3, and RPUD zoning districts:
  - A. Off-premises signs are not permitted, except for temporary signs such as political, real estate, garage sale, and certain construction signs, as specified in this paragraph. Political signs shall conform to State law. Real estate signs shall be removed upon the closing of the sale of the property. Construction signs relating to the vendor and services provided for the construction or remodeling of a dwelling unit on the premises shall be permitted during the time of construction and shall be removed upon project completion. All allowed temporary signs shall be located within the front yard. The total square feet of surface area of all temporary signs on any one property shall not exceed 32 square feet.

- B. Front Yard Setbacks. All signs shall be setback from the property line as follows:
    - (1) All “R” Districts: no requirement
    - (2) All “A” Districts: 20 feet
  - C. Height Requirements. All signs shall be no higher than the following:
    - (1) All “R” Districts: 5 feet
    - (2) All “A” Districts: 25 feet
  - D. Parade home signs are specifically excluded from this section.
11. The following regulations shall apply to all P, C and I zoning districts:
- A. Off-premises and on-premises signs are permitted as follows.
  - B. On-premises signs shall not exceed 75 square feet in area and shall be attached to the structure being advertised. On-premises signs shall not be within 30 feet of any residential district or use.
  - C. Off-premises signs are allowed in all C and I zoning districts and shall not exceed 100 square feet in area. Off-premises signs shall not be within 500 feet of any residential district or use. Off-premises signs shall meet all applicable IDOT highway sign requirements.
  - D. Front Yard Setbacks. All signs shall be setback from the property line as follows:
    - (1) All “P”, “C” and “I” Districts: 10 feet
  - E. Height Requirements. All signs shall be no higher than the following:
    - (1) All “P”, “C” and “I” Districts: 25 feet
12. Application for Permit. All permanent signs shall require a permit. Each application for a sign permit shall be submitted prior to the installation of the sign and shall be approved or denied by the Zoning Administrator. There will be no fee for a sign permit.
13. Non-Conforming Signs. Any sign in existence within the City prior to the effective date of this chapter, but that does not conform to the provisions hereof, shall be considered to be non-conforming. Any non-conforming sign shall be permitted to continue in its non-conforming state only provided as follows:
- A. No non-conforming signs shall be relocated or replaced with a new or different sign unless the same complies with the provisions of this chapter.
  - B. Any non-conforming sign associated with a business shall be removed upon the termination of that business, which shall be deemed to have occurred upon the closing of the business for at least 90 days. Seasonal businesses are exempt from this provision.
  - C. A non-conforming sign shall be maintained or repaired only in accordance with the following provisions:
    - (1) The size and structural shape of the sign shall not be changed or altered.

(2) The existing text or graphics of the sign may be repainted in the same colors, but may not otherwise be changed or altered, nor shall the total display area be enlarged.

(3) In the case where damage or decay occurs to the sign to the extent of 50 percent or more of either the structure or the replacement value of the sign, the sign shall be either removed or brought into compliance with this chapter within 30 days' written notice from the City regarding such damage or decay; and,

a. Where damage or decay to the sign is less than 50 percent of the structure or its replacement value, the sign may be repaired in keeping with its appearance upon the effective date of the ordinance codified in this chapter within 60-days' written notice from the City regarding such damage or decay. Otherwise, the sign shall be removed and brought into compliance with this chapter.

b. The City will consider a non-conforming sign to be damaged or decayed, for purposes of this provision, where: the use of the sign continues despite a lack of reasonable and adequate maintenance resulting in the deterioration of the sign and a blighting influence on nearby properties; the sign is structurally defective; or the sign presents a hazard to public safety.

[The next page is 1341]

**166.18 FENCE REGULATIONS.**

1. Building permits are required for all fences. Before installing any type of fence, all property lines shall be located and verified. It is the owners responsibility to identify property lines.
2. Fences may be constructed inside or on the property line, but are limited to four feet in height in front yards and seven feet in height in all other yards. No fence shall be erected within 30 feet of the intersection of two street lines. If you live on a corner lot, both sides that face a street are required to meet standards of a front yard, identified below. Fences shall meet the following yard requirements:
  - A. Front Yard. Fences are limited to four feet in height in the front yard and can only be chain link or open slat fencing (i.e. no privacy fencing).
  - B. Side Yard. Fences may be privacy fences, open slat, or chain link not more than seven feet in height. When abutting any alley, side yard fences must remain at least three feet away from the alley right-of-way.
  - C. Rear Yard. Fences may be privacy fences, open slat, or chain link not more than seven feet in height. When abutting any alley, side yard fences must remain at least three feet away from the alley right-of-way.
3. The following requirements shall apply to all fences located on the lot line of the parcel or tract adjoining a parcel or tract of different ownership:
  - A. If a fence is to be installed along a property line, each adjoining property owner of the respective property line where the fence is to be installed shall sign a fence agreement outlining responsibilities for ownership or maintenance of said fence, a copy of which shall be submitted with the building permit application. Before the building permit is issued, the fence agreement shall be recorded at the Benton County Recorder's office at the landowners expense.
  - B. A chain link, open slat, or privacy fence may be installed along a property line.
4. All fences located on a single parcel or tract and not located on a property line shall meet the following requirements:
  - A. The finished side of the fence shall face the lot line.
  - B. The front setback shall be two feet from the lot line.
  - C. The side or rear setback shall be three feet from the lot line.
5. There shall be no above ground electrical livestock fence or barbed wire fence located within the City limits. Underground electrical fences for pet control are allowed but shall not be located on a property line.
6. Non-Conforming Fences. All fences existing at the time of the adoption of the ordinance codified in this chapter shall not have to comply with this section, but if the fence is more than 50 percent destroyed or if it is replaced or added to, then the property owner shall comply with this section.

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**166.19 ENFORCEMENT.**

1. Administration and Enforcement. This chapter shall be enforced by the Zoning Administrator. No building permit or certificate of occupancy shall be issued by the Zoning Administrator except where the provisions herein have been complied with.
2. The City Clerk shall be appointed as the Zoning Administrator by the Council and shall have the following powers and duties:
  - A. The Zoning Administrator or the City Council shall issue building permits, when it has been shown to their satisfaction that such proposed building or extension will be in conformity with this chapter, and upon the payment of building permit, said fee shall be deposited in the general funds of the City. Amount of said permit shall be set by City Council resolution and can be amended from time to time.
  - B. The Zoning Administrator, with consultation of the Building Inspector, shall inspect buildings being erected or extended at any time and when the same have been completed and shall issue a certificate of occupancy if the provisions of this chapter have been complied with.
  - C. The Zoning Administrator, if other than the Clerk, shall receive compensation set by the Council to be paid from the fees collected for the issuance of building permits.
  - D. Decisions of the Zoning Administrator may be appealed to the Board of Adjustment.
3. Site Plan Procedure.
  - A. All two-family, multi-family, townhome, PUD, Commercial, and Industrial proposals shall be required to submit a site plan for the Planning and Zoning Commission's review and City Council's approval. The applicant shall submit 14 copies of the site plan to the Zoning Administrator. They shall be distributed as follows:
    - (1) One to the City Clerk
    - (2) One to the Mayor
    - (3) One to the City Engineer
    - (4) One to the City Planner
    - (5) Five to the Planning and Zoning Commission
    - (6) Five to the City Council
  - B. The Zoning Administrator, City Engineer, and City Planner shall review the Site Plan for conformance of the design to the standards required herein. If necessary, the applicant shall make revisions and resubmit the revised Site Plan to the Zoning Administrator.
  - C. The Planning and Zoning Commission shall act upon the Site Plan. The City Engineer and Planner shall submit to the Commission their recommendation. Action of the Commission shall be a recommendation of approval, approval subject to conditions or denial and it shall be forwarded to the City Council.

D. At the next regularly scheduled City Council meeting following Commission action, the Council shall act on the Site Plan and Commission's recommendation. Action of the Council shall be approval, approval subject to conditions, or denial.

E. Once approved, the applicant may then proceed with approval of building permit and accompanying material. In case of denial, a Site Plan may be revised by the applicant in accordance with Council action and 14 copies resubmitted to the Commission as before.

F. A Site Plan shall become effective upon certification of approval by the City Council. The approval shall remain valid for one year after the date of approval with the possibility of a one year extension as approved by the City Council. After which time the Site Plan shall be deemed null and void if the development has not been established or construction commenced.

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**166.20 PLANNING AND ZONING COMMISSION.** A Planning and Zoning Commission is hereby created. Matters of procedure, powers, and review relating to this commission are regulated by statute and contained in the Administrative Rules for the Planning and Zoning Commission as adopted by the City. (See also Chapter 23 of this Code of Ordinances.)

**166.21 BOARD OF ADJUSTMENT.**

1. Board of Adjustment Created. The Board shall consist of five members serving without compensation, appointed by the City Council. Initial appointments will be for a two-year term. All reappointment and new member appointments thereafter shall be for a three-year term. Any vacancy shall be filled by appointment by the City Council for the unexpired portion of the term.
2. Rules, Meetings, and General Procedures. The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this chapter. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Such chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be a public record.
3. Duties of Board of Adjustment. The Board of Adjustment shall have the following powers:
  - A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator or of any ordinance adopted pursuant thereto.
  - B. To hear and decide special exceptions to the terms of this chapter upon which such Board is required to pass under the ordinance codified in this chapter.
  - C. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
4. Appeals.
  - A. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within 30 days of the decision appealed from, by filing with the Zoning Administrator and with the City Clerk a notice of appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. Any person may appear and testify at the hearing, either in person or by his or her agent or attorney.

B. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

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

5. Vote Required. The concurring vote of three members of the Board of Adjustment 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 the ordinance codified in this chapter or to effect any variation in this chapter.

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**166.22 NON-CONFORMING USES.**

1. The lawful use of any building or land existing at the time of the enactment of this chapter may be continued although such use does not conform with the provisions of this chapter.
2. Whenever a non-conforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this chapter.

**166.23 FEES AND PERMIT REQUIRED.**

1. The applicant shall be responsible for just and reasonable costs incurred by the City for review of all matters pertaining to this chapter deemed necessary by the City to ensure proper conformance.
2. Therefore, the City Council shall establish a schedule of fees, charges, and expenses for all matters pertaining to this chapter. The schedule of fees shall be posted and may be amended from time to time by City Council resolution.
3. No action shall be taken on any application or appeal until all applicable fees, charges, or expenses have been paid by the applicant in full.
4. No building or other structure, including fences, decks, retaining walls, pools, and other structures requiring a permanent location on the ground shall be erected, altered, used or occupied within the City without first receiving a permit therefor. Permits shall be submitted according to provisions found in Chapter 156, Building Permits and Occupancy.
5. Building permits shall be valid for one year and work shall be started within three months of an approved permit. A three-month extension to the permit may be granted if conditions otherwise would not allow work to be completed within the first year.

