

ZONING AND SUBDIVISION

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Ordinances pertaining to
billboards and signs

Billboards are a permitted use in Commercial (166.03)
and Industrial (166.04) Districts

CHAPTER 165

ZONING REGULATIONS — GENERAL PROVISIONS

165.01 Interpretation
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165.01 INTERPRETATION. In their interpretation and application, the provisions of the Zoning Regulations contained in Chapters 165 through 170 of this Code of Ordinances shall be held to be minimum requirements. Where these regulations impose a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of these Zoning Regulations shall control.

165.02 APPLICABILITY. The regulations within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter in these Zoning Regulations provided.

165.03 DEFINITIONS. For use in these Zoning Regulations, the word "lot" includes the words "plot" and "parcel," and the words "used" and "occupied" include the words "intended, designed or arranged to be used or occupied." In addition, the following terms and words shall be interpreted as follows:

1. "Accessory use or structure" means a use or structure subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to use of the principal building.
2. "Alley" means a public way other than a street, twenty feet or less in width, affording secondary means of access to abutting property.
3. "Basement" means a story having more than one-half of its height below grade. A basement shall not be counted as a story for the purpose of height regulation.
4. "Billboard" includes all structures, regardless of the material used in the construction of the same, that are erected, maintained or used for the public display of posters, painted signs or wall signs (whether the structure is placed on the wall or painted on the wall itself), pictures, or other pictorial reading matter which advertises a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.

5. "Block" means that property abutting on one side of a street and lying within the two nearest intercepting or intersecting streets, or lying within the nearest intercepting or intersecting streets and unsubdivided acreage or railroad right-of-way.
6. "Board" means the Board of Adjustment.
7. "Boardinghouse" means a building other than a hotel where, for compensation, meals and lodging are provided for four or more persons.
8. "Building height" means the vertical distance from the average natural grade at the building line to the highest point of the roof of a flat roof, or to the deck line of a mansard roof, or to the mean height level (between eaves and ridge) for gable, hip and gambrel roofs.
9. "Building line" means the line of the outside wall of the building or any enclosed projection thereof nearest the street.
10. "Bulk stations" means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than twelve thousand gallons.
11. "Court" means an open, unobstructed and unoccupied space, other than a yard, which is bounded on two or more sides by a building on the same lot.
12. "District" means a section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
13. "Dwelling" means any building or portion thereof which is designed or used exclusively for residential purposes, but the term does not include tents, cabins, trailers or mobile homes.
14. "Dwelling, multiple" means a building or portion thereof designed for or occupied exclusively for residence purposes by more than two families.
15. "Dwelling, single-family" means a building designed for or occupied exclusively for residence purposes by one family.
16. "Dwelling, two-family (duplex)" means a building designed for or occupied exclusively for residence purposes by two families.
17. "Factory-built housing" means a factory-built structure designed for residential use. For the purpose of these regulations, factory-built

housing may consist of three types: modular homes, mobile homes and manufactured homes.

18. "Factory-built structure" means any structure which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation, or assembly and installation, on a building site.

19. "Family" means one or more related persons occupying a single housekeeping unit and using common cooking facilities, but the term does not include more than four individuals not related by blood, marriage or adoption.

20. "Farm" means an area of ten acres or more which is used for the growing of the usual farm products, such as vegetables, fruits, trees and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term "farming" includes the operating of such an area for one or more of the above uses, including the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities, and provided further, that farming does not include the feeding of garbage or offal to swine or other animals.

21. "Garage, private" means an accessory building housing motor-driven vehicles of the residents of the premises. Not more than one vehicle per family shall be used for business purposes.

22. "Garage, public" means any building or premises other than a private garage used for equipping, refueling, servicing, repairing, hiring, selling or storing motor-driven vehicles.

23. "Grade" means the average elevation of the finished ground at the exterior walls of the main building.

24. "Home occupation" means any use customarily conducted entirely within the dwelling, and carried on by the inhabitants thereof, which is clearly incidental and secondary to its use for dwelling purposes and which does not change the character thereof; and provided that no article is sold or offered for sale except such as may be produced on the premises by members of the immediate family residing on the premises. The following, without limitation thereto, are not deemed home occupations: clinics, doctors' offices, hospitals, barber shops, beauty parlors, dress shops, real estate offices, millinery shops, tearooms, tourist homes, nursing homes, animal hospitals and kennels.

25. "Hotel" means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boardinghouse or lodging house.
26. "Junkyard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including places or yards for the storage of salvaged house wrecking and structural steel materials and equipment, but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.
27. "Lodging house" means a building where lodging or boarding is provided for compensation for five or more, but not exceeding twenty persons not members of the family residing there.
28. "Lot," for zoning purposes, means a parcel of land of at least sufficient size to meet the minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are required in these regulations. Such lot shall have frontage on a dedicated or private street and may consist of:
- A. A single lot of record or a portion of a lot of record;
 - B. A combination of complete lots of record and/or portions of lots of record;
 - C. A parcel of land described by metes and bounds; provided, that in no case of subdivision shall any residual lot or parcel be created which does not meet the requirements of these regulations.
29. "Lot depth" means the mean horizontal distance between the front and rear lot lines.
30. "Lot line" means the property line bounding a lot.
31. "Lot of record" means a lot which is part of a subdivision which is recorded in the office of the County Recorder or a lot or parcel described by metes and bounds, the deed to which has been so recorded.
32. "Lot Types." Terminology used in these regulations with reference to various types of lots is as follows:
- A. "Corner lot" means a lot located at the intersection of two or more streets.
 - B. "Double-frontage lot" means a lot other than a corner lot with frontage on more than one street other than an alley. Lots

33. "Lot width" means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the minimum building setback line.

34. "Manufactured home" means a factory built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

(Code of Iowa, Sec. 435.1)

35. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

(Code of Iowa, Sec. 435.1)

36. "Mobile home park" means any site, lot, field or tract of land under common ownership upon which two (2) or more occupied mobile homes, manufactured homes, modular homes (or a combination of such homes) are harbored, either free of charge or for revenue purposes, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park. The term "mobile home park" is not to be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The mobile home park shall meet the requirements of any zoning regulations that are in effect.

(Code of Iowa, Sec. 435.1)

37. "Modular home" means a factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures, and must display the seal issued by the State Building Code Commissioner.

38. "Motel" or "motor lodge" means a building or group of attached or detached buildings containing individual sleeping or living units for

overnight auto tourists, with a garage attached or parking facilities conveniently located to each such unit.

39. "Nonconforming use" means any building or land lawfully occupied by a use at the time of passage of the ordinance codified herein, or any amendment thereto, which does not conform after the passage of such ordinance or amendment thereto with the use regulations of the district in which it is situated.

40. "Nursing home" or "convalescent home" means a building or structure having accommodations, and where care is provided for invalid, infirm, aged, convalescent or physically disabled persons not including the insane and other mental cases, inebriate cases or contagious cases.

41. "Parking space" means a surfaced area, enclosed or unenclosed, of not less than two hundred fifty (250) square feet, either within a structure or in the open, exclusive of driveways or access drives for the parking of a motor vehicle.

42. "Sign, on-site" means a sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

43. "Story" means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and the ceiling or roof next above it.

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

45. "Structural alteration" means any replacement or change in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.

46. "Structure" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, billboards and poster panels.

47. "Tourist home" means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers.

48. "Yard" means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in these regulations.

49. "Yard, front" means a yard extending across the full width of the lot, and measured using the least distance between the front lot line and the building or any projection thereof other than the projection of the usual steps or unenclosed porches. The narrow frontage on a corner lot is considered the front lot line, regardless of where the building entrance is located.

50. "Yard, rear" means a yard extending across the full width of the lot, and measured using the least distance between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as adjoining the street upon which the lot has its greater dimension. On both corner lots and interior lots, the rear yard is the opposite end of the lot from the front yard.

51. "Yard, side" means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building.

165.04 COMPLIANCE REQUIRED. After the effective date of the ordinance codified herein, no building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, reconstructed or structurally altered, unless in conformity with all of these zoning regulations for the district in which it is located.

165.05 ALTERATION OR ERECTION TO CONFORM. After the effective date of the ordinance codified herein, no building or other structure shall be erected or altered to exceed the height herein established; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; to have narrower or smaller rear yards, front yards, side yards or other open spaces; or to be in any other manner contrary to the provisions of these Zoning Regulations.

165.06 SPACE REQUIREMENTS. Yards, parts of a yard, other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with the Zoning Regulations

shall not be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

165.07 YARDS AND LOTS MUST MEET MINIMUM REQUIREMENTS. Yards or lots existing at the time of the passage of the ordinance codified herein shall not be reduced in dimension or area below the minimum requirements set forth in these regulations. Yards or lots created after the effective date of such ordinance shall meet at least the minimum requirements established by these regulations.

165.08 CHANGES AND AMENDMENTS.

1. **Petition Requirements.** The Council may, on its own motion or on petition, after public notice and hearing as provided by law, and after report by the Planning and Zoning Commission, amend, supplement or change the boundaries or regulations in these Zoning Regulations or subsequently established. Any owner or owners of property may present a petition duly signed and verified, requesting an amendment, supplement or change in the regulations prescribed for a district or part thereof. Such petition shall be signed by the owners of at least fifty percent (50%) of the area included in such proposed change and by the owners of fifty percent (50%) of the property within three hundred (300) feet therefrom, and said petition shall be filed with the Planning and Zoning Commission.

2. **Procedure for Passage of Amendments.** The Commission shall make a report to the Council within sixty (60) days from the date of receipt of such petition. In case the proposed amendment, supplement or change is disapproved by the Commission, or in case of a protest against any proposed amendment or change signed by the owners of twenty percent (20%) 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 two hundred (200) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths ($\frac{3}{4}$) of all the members of the Council.

165.09 ADMINISTRATION AND ENFORCEMENT.

1. **Zoning Administrator's Duties.** The provisions of these Zoning Regulations shall be enforced and administered by the Zoning Administrator. If the Zoning Administrator finds that any of the provisions of these regulations are being violated, he or she shall notify in writing the person responsible for such violations, indicating the

nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions, or alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by these regulations to insure compliance with or to prevent violation of its provisions.

2. Complaints Regarding Violations. Whenever a violation of these regulations occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Administrator, who shall record properly such complaint, and shall immediately investigate and take action thereon as provided by these regulations.

3. Questions of Interpretation and Enforcement. It is the intent of these regulations that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Adjustment shall be to the courts, as provided by law. It is further the intent of these regulations that the duties of the Council in connection with these regulations shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in these Zoning Regulations, and under these regulations, the Council shall have only the duties of considering and adopting or rejecting proposed amendments to or the repeal of these regulations as provided by law; considering applications for special permits for special uses as specified in Chapter 168, and considering applications for uses listed in the M industrial district.

4. Enforcement Authority. All departments, officials and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure or purpose if the same would not conform to the provisions of these regulations.

5. Violation; Penalty. Violation of the provisions of these Zoning Regulations, or failure to comply with any of its requirements, shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00) or be imprisoned for not more than thirty (30) days, or both, and in addition

shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this subsection.

165.10 DISTRICTS ESTABLISHED. For the purpose of these Zoning Regulations, the four classes of districts set out in this section are established within the City, as shown on the official zoning map which, together with all explanatory matter thereon, is adopted by reference and declared to be a part of these Zoning Regulations. The district classifications are as follows:

A — Agricultural District

R — Residence District

C — Commercial District

M — Industrial District.

165.11 ZONING MAP.[†]

1. Certification. The official zoning map shall be identified by the signature of the Mayor and attested by the Clerk under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 4 of Ordinance 149 of the City of Hamburg, Iowa, adopted on this 9th day of June, 1970."

2. Changes To Be Recorded. If, in accordance with the provisions of these regulations and Chapter 414 of the Code of Iowa, changes are made in district boundaries on the official zoning map, copies of such changes shall be filed with the official zoning map promptly after the amendment has been approved by the Council.

3. Final Authority. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

[†] The current zoning map is on file in the office of the Clerk.

4. Interpretation of Boundaries. Where there is uncertainty as to the boundaries of districts as shown on the official zoning map, the Board of Adjustment shall interpret the district boundaries.

5. Replacement. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of use, the Council may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereto. The new official zoning map shall be identified by the signature of the Mayor, attested by the Clerk, under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. 149 of the City of Hamburg, Iowa."

EDITOR'S NOTE	
The following ordinances have been adopted amending the Official Zoning Map described in Section 165.11 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.	
ORDINANCE NUMBER	DATE ADOPTED
--	March 2, 1981
--	July 7, 1986
95-2	August 21, 1995
95-5	December 4, 1995

[The next page is 641]

CHAPTER 166

ZONING — DISTRICT REGULATIONS

166.01 Agricultural Districts
166.02 Residence Districts

166.03 Commercial Districts
166.04 Industrial Districts
166.05 Exceptions

166.01 AGRICULTURAL DISTRICTS. In A districts, the regulations set out in this section shall apply except as otherwise provided in these Zoning Regulations.

1. Permitted Uses. In A districts, permitted uses shall be as follows:
 - A. Agriculture; crop and tree farming; truck gardening;
 - B. One-family and two-family dwellings, subject to the following standards:
 - (1) For all building permits issued after June 6, 1985, the principal structure shall have a floor area of not less than 640 square feet; and a minimum width for any building elevation of not less than 20 feet.
 - (2) All principal structures shall be roofed in the gable or hip styles and shall include an overhang of at least 12 inches.
 - (3) All principal structures shall be sided with material other than flat or corrugated sheet metal.
 - (4) All principal structures shall be placed upon a permanent foundation consisting of poured concrete or fully mortared concrete block or brick.
 - C. Plant nurseries and greenhouses;
 - D. Public and private schools and educational institutions of academic instruction;
 - E. Public museums, libraries, parks, playgrounds or community centers and similar uses;
 - F. Golf courses, country clubs, tennis courts and similar recreational uses, provided that any such use is not operated primarily for commercial gain;
 - G. Swimming pools, public and private;

- H. Churches and accessory buildings;
 - I. Hospitals, nursing homes and charitable institutions (not including penal or correctional institutions);
 - J. Nursery schools and child-care centers.
2. **Accessory Uses.** In A districts, accessory uses shall be as follows:
- A. Customary accessory uses incidental to the permitted use;
 - B. **The following on-site signs:**
 - (1) Only one sign, not exceeding 80 square feet in area, pertaining to the lease, hire or sale of the building or premises on which such sign is located;
 - (2) Outdoor identification signs or bulletin boards for hospitals, churches, schools and other public buildings.
 - C. Private garage.
3. **Building Height Limit.** The building height limit in A districts shall be 2½ stories or 35 feet maximum.
4. **Minimum Lot Area.** The minimum lot area in A districts shall be 20,000 square feet, exclusive of road right-of-way.
5. **Minimum Lot Width.** The minimum lot width in A districts shall be 100 feet.
6. **Front Yard Depth.** In A districts, the minimum front yard depth shall be 35 feet from the proposed right-of-way line as shown on the major thoroughfares plan.
7. **Side Yard Width.** In A districts, the minimum side yard width shall be 10 feet and shall be 15 feet for any other principal building.
8. **Rear Yard Width.** In A districts, the minimum rear yard width shall be 35 feet; 45 feet for any other principal building.

166.02 RESIDENCE DISTRICTS. In the R districts, the regulations set out in this section shall apply except as otherwise provided in these Zoning Regulations.

1. **Permitted Uses.** In the R districts, permitted uses shall be as follows:
- A. One-family and two-family detached dwellings, subject to the following standards:

(1) For all building permits issued after June 6, 1985, the principal structure shall have a floor area of not less than 640 square feet; and a minimum width for any building elevation of not less than 20 feet;

(2) All principal structures shall be roofed with a non-metal type of roofing material, in the gable or hip styles and shall include an overhang of at least 12 inches;

(3) All principal structures shall be sided with material other than flat or corrugated sheet metal;

(4) All principal structures shall be placed upon a permanent foundation consisting of poured concrete or fully mortared concrete block or brick.

B. Multiple-family dwellings;

C. Churches and accessory buildings;

D. Public museums, libraries, parks, playgrounds or community centers and similar uses;

E. Golf courses, country clubs, tennis courts and similar recreational uses, provided that any such use is not operated primarily for commercial gain;

F. Swimming pools, public and private;

G. Hospitals;

H. Public and private schools and educational institutions of academic instruction;

I. Nursery schools and child-care centers;

J. Boardinghouses and/or lodging houses, provided that there are no conspicuous advertising signs;

K. Governmental buildings, except maintenance and storage buildings;

L. Clinics, sanitariums, dispensaries, homes for the aged, nursing homes, and institutions of an educational, religious, philanthropic or charitable nature.

2. **Accessory Uses.** In the R districts, accessory uses shall be as follows:

A. Customary accessory uses and structures incidental to the permitted principal uses;

B. The following on-site signs:

(1) Only one sign not exceeding 8 square feet in area, appertaining only to the lease, hire or sale of the building or premises on which such sign is located;

(2) Only one sign, appurtenant to a home occupation or a permitted use, not exceeding 2 square feet in area, provided that no such sign or nameplate shall emit any flickering, flashing or glaring light, and provided that these signs shall conform to the setback line required of any principal building; and

(3) Outdoor signs or bulletin boards for churches, schools and other public buildings not exceeding 16 square feet and not erected within 25 feet of a street line;

C. Private garage.

3. Building Height Limit. The building height limit in the R district shall be 2½ stories, but not exceeding 35 feet in height. No accessory structure shall exceed one story or 12 feet in height.

4. Minimum Lot Area. In the R district, the minimum lot area, in square feet, shall be as follows:

MINIMUM LOT AREA IN "R" DISTRICT			
	One-Family	Two-Family	Multiple-Family
No water or public sewer	9,240	12,320	12,320 min.
Water, but no sewer	9,240	12,320	12,320 min.
Water and sewer available	9,240	12,320	12,320 min.

5. Minimum Lot Width. In the R district, the minimum lot width, in feet, shall be:

MINIMUM LOT WIDTH IN "R" DISTRICT			
	One-Family	Two-Family	Multiple-Family
No water or public sewer	66	66	66
Water, but no sewer	66	66	66
Water and sewer available	66	66	66

6. Minimum Front Yard Depth. The minimum front yard depth in the R district shall be 30 feet.

7. Minimum Side Yard Width. The minimum side yard within the R district shall be:

- A. 8 feet on each side for a dwelling;
- B. 20 feet on each side for any other principal building;
- C. On lots of record at the time of adoption or amendment of the ordinance codified herein having a width less than 65 feet, the side yards may be reduced for single-family dwellings only as follows:

- (1) Each side yard may be reduced to not less than ten percent (10%) of the lot width;

- (2) On corner lots, only the interior side yard may be reduced below 8 feet.

8. Minimum Rear Yard Depth. The minimum yard depth in the R district shall be 35 feet for a dwelling and 45 feet for any other building.

166.03 COMMERCIAL DISTRICTS.

1. Permitted Uses. Permitted uses in the C district shall be as follows:

- A. Uses permitted in the R district;
- B. Any local retail business or service establishment such as the following:

- Animal hospital, veterinary clinics or kennels,
 - Antique shops,
 - Automobile, truck, farm implement and mobile home sales and repair,
 - Baby store,
 - Barbershops or beauty parlors,
 - Ballrooms and dance halls,
 - Bars and taverns,
 - Bicycle and motorcycle shop, sales and repair,
 - Billboards,
 - Billiard parlors and pool halls,
 - Bookbinding,
 - Bowling alleys,
 - Candy shops,
 - Clothes dry-cleaning,
 - Cocktail lounges,
 - Contractor's shop and warehouse,
 - Commercial parking lots,

Dairy store, retail,
Dance and/or music studios,
Drive-in eating and drinking establishments,
Drugstores,
Electric substations,
Florist shops,
Fruit and vegetable markets,
Funeral homes,
Furniture stores,
Garages, public,
Gasoline service stations,
Golf driving range and miniature golf course,
Gift shops,
Grocery and delicatessen,
Hardware stores,
Hobby shops,
Hotel, motel or motor lodge,
Household appliances and equipment, sales and repair,
Ice storage and distribution station of not more than five-ton capacity,
Jewelry shops,
Launderette and similar businesses,
Laundry,
Lawnmower repair shops,
Locker plants,
Monument sales and engraving,
Office buildings,
Packaging of candy, confections and/or frozen foods,
Paint and wallpaper stores,
Photographic studios,
Post office substations,
Printing and/or publishing business,
Radio and television sales and repair,
Real estate offices,
Restaurants, cafes and soda fountains,
Sheet metal shops,
Shoe repair shops,
Sign painting shops,
Sporting goods and camping equipment,
Storage warehouses,
Tailor shops,

Tire repair shops,
Truck terminals,
Variety stores.

C. Business or professional offices, supplying commodities or performing services.

2. Accessory Uses. Accessory uses in the C districts shall be as follows:

A. Accessory uses as permitted in the R district;

B. Accessory uses and structures customarily incidental to any permitted principal uses.

3. Building Height Limit. The building height limit for the C district shall be 3 stories, but not exceeding 45 feet in height.

4. Minimum Lot Area. The minimum lot area in the C district shall be as follows:

A. For single-family dwellings, same as in the R district;

B. No requirement for any other building; except, after the effective date of the ordinance codified herein, where living facilities are erected or altered above stores or other commercial uses, there shall be provided a lot area of not less than 1,000 square feet per dwelling unit.

5. Minimum Lot Width. The minimum lot width in the C district for a dwelling and any building containing any dwelling units shall be the same as in the R district. There is no requirement for any other building.

6. Minimum Front Yard Depth. The minimum front yard depth in the C district shall be 25 feet. When fronting on the right-of-way of a major thoroughfare shown on the official major thoroughfare plan, the front yard shall be measured from the proposed right-of-way line.

7. Minimum Side Yard Width. There is no required minimum side yard width in the C district except as follows:

A. Side yards shall be required for a dwelling and any building containing any dwelling units, as required in the R district.

B. A side yard of not less than 8 feet shall be required on that side of a lot which adjoins the R district.

8. Minimum Rear Yard Depth. The minimum rear yard depth in the C district shall be 35 feet. For each foot that the front yard is increased

over 25 feet, the rear yard may be decreased proportionately; except that where the rear yard adjoins the side lot line of a lot in the R district, there shall be a minimum rear yard of 8 feet required adjacent to said lot line.

166.04 INDUSTRIAL DISTRICTS. In the M district, the regulations set out in this section shall apply, except as otherwise provided in these Zoning Regulations.

1. Permitted Uses. In the M district, principal permitted uses shall be:

A. Uses permitted in the C district, provided that no dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including the families of such employees when living with them;

B. Any of the following uses:

Grain elevators, feed mixing and grinding,
Storage of junk or nonoperable motor vehicles, but only within a painted-type fence or masonry wall not less than 8 feet in height,

Automobile assembly and major repair,
Creamery, bottling, ice manufacturing and cold storage plant,

Manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals and food products, except fish and meat products, sauerkraut, vinegar, yeast, and the rendering or refining of fats and oils,

Manufacturing, compounding, assembling or treatment of articles of merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastics, metals, stone, tobacco, wax, yarns and wood,

Manufacture of musical instruments, novelties and molded rubber products,

Manufacture or assembly of electrical appliances, instruments and devices,

Manufacture of pottery or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas,

Laboratories, experimental, film or testing,

Manufacture and repair of electric signs, advertising structures, and light sheet-metal products, including heating and ventilating equipment,
Blacksmith, welding or other metal shop,
Foundry,
Bag, carpet and rug cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust,
Enameling, lacquering or japanning,
Crematory, if located not less than 200 feet from the R district,
Concrete mixing plants, gravel, sand and concrete storage and sales, concrete products manufacture,
Sawmill, planing mill, including the manufacture of wood products not involving chemical treatment.
Building material sales yard, lumberyard, contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors, and storage yards for vehicles of a delivery or draying service,
Inflammable liquids,
Truck terminal or yard, including repair,
Milk processing and canning factories,
Hatcheries of all kinds;

C. Any other use not otherwise prohibited by law; provided, however, that the following uses shall be permitted subject to approval by the Council after public hearing and after report and recommendation by the Zoning Commission:

Garbage, offal or dead animal reduction or dumping,
Acid manufacture,
Cement, lime, gypsum, or plaster of paris manufacture,
Distillation of bones, coal, tar, petroleum, refuse, grain or wood,
Drilling for or removal of oil, gas, or other hydrocarbon substance,
Explosives manufacture or storage,
Fat rendering,
Fertilizer manufacture,
Gas manufacture,
Glue manufacture,

Hog ranch,
Mineral extraction, including sand and gravel,
Petroleum or petroleum products refining,
Rubber goods manufacture,
Salvage yards, including auto wrecking and salvage, used
parts sales and junk, iron or rags, storage or baling,
provided no portion of the front yard is used for the
conduct of business in any manner whatsoever
except for parking of customer or employee vehicles
and any premises on which such activities are
carried on are wholly enclosed within a building or
by a wooden, metal or masonry fence or wall not
less than 6 feet in height and so constructed that it
completely obscures the view of the operations on
the premises from surrounding streets or private
property,
Smelting of ores,
Stockyard or slaughter of animals, except poultry or
rabbits,
Tannery, livestock-buying stations,
Any other use which is objectionable by reason of emission
of odor, dust, smoke, gas, vibration or noise, or
which may impose hazard to health or property.

2. Required Conditions.

A. In the M district, the best practical means known for the disposal of refuse matter or water-carried waste, and the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance shall be employed.

B. All principal buildings and all accessory buildings or structures in the M district, including loading and unloading facilities shall be located at least 100 feet from an R district boundary, except where adjoining a railroad right-of-way.

3. Building Height Limit. The building height limit in the M district shall be 3 stories but not more than 50 feet.

4. Minimum Lot Area. There is no minimum lot area in the M district.

5. Minimum Lot Width. There is no minimum lot width in the M district.

6. Minimum Front Yard Depth. The minimum front yard depth in the M district shall be 30 feet. When fronting on the right-of-way of a major thoroughfare shown on the official major thoroughfare plan, the front yard shall be measured from the proposed right-of-way line.

7. Minimum Side Yard. There is no required minimum side yard in the M district, except adjacent to the R district, in which case the requirement is not less than 100 feet, except where adjoining a railroad right-of-way.

8. Minimum Rear Yard Depth. The minimum rear yard depth in the M district shall be 40 feet, unless the rear lot line adjoins a railroad right-of-way, in which case none is required.

166.05 EXCEPTIONS. For exceptions to the regulations of this chapter, see Sections 167.10 and 168.01.

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CHAPTER 167

ZONING — GENERAL REGULATIONS

167.01 Lots of Record
167.02 Corner Lots
167.03 Building Lines on Approved Plats
167.04 Street Frontage Required
167.05 Front Yard Exceptions

167.06 Open Space and Lot Area Per Family
167.07 Mobile Homes and Temporary Buildings
167.08 Accessory Buildings and Garages
167.09 Home Occupations
167.10 Exceptions and Modifications

167.01 LOTS OF RECORD. Any lot of record on the effective date of the ordinance codified herein which is located in any residence district and which does not comply in area and/or minimum dimensions with the requirements of the district in which it is located may be used for a single-family structure, provided that all setback and other requirements of these Zoning Regulations are complied with.

167.02 CORNER LOTS.

1. For corner lots platted after the effective date of the ordinance codified herein, the street side yard shall be equal in width to the setback regulation of the lots to the rear having frontage on the intersecting street.
2. On corner lots platted and of record at the time of the effective date of the ordinance codified herein, the side yard regulation shall apply to the longer street side of the lot except in the case of reverse frontage where the corner lot faces an intersecting street. In this case, there shall be side yard on the longer street side of the corner lot of not less than fifty percent (50%) of the setback required on the lots to the rear of such corner lot, and no accessory building on said corner lot shall project beyond the setback line of the lots in the rear; provided further, that this regulation shall not be interpreted so as to reduce the buildable width of the corner lot facing an intersecting street and of record or as shown by the existing contract or purchase at the time of the effective date of said ordinance to less than 28 feet, nor to prohibit the erection of an accessory building.

167.03 BUILDING LINES ON APPROVED PLATS. Whenever the plat of a land subdivision approved by the Zoning Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in

these regulations unless specific yard requirements in these regulations require a greater setback.

167.04 STREET FRONTAGE REQUIRED. Lots containing any building used in whole or in part for residence purposes shall abut for at least 40 feet on at least one street, or have an exclusive unobstructed private easement of access or right-of-way of at least 20 feet wide to a street; and there shall be only one single-family dwelling for such frontage or easement.

167.05 FRONT YARD EXCEPTIONS. In areas where some lots are developed with a front yard that is less than the minimum required for the district by these regulations, or where some lots have been developed with a front yard greater than required by these regulations, the following rule shall apply. The front yard depth for a principal building located on a lot within 250 feet measured along the street line from the nearest corner of the lot under consideration to any portion of two or more lots in the same block, and which lots are occupied by dwellings that front on the same street as the proposed principal dwelling, shall be the average front yard depth of such existing dwellings. For the purpose of this rule, the following shall apply:

1. Buildings located entirely on the rear half of a lot shall not be counted.
2. Buildings shall not be required to have a front yard greater than 50 feet nor less than that required in the zoning district in which they are located.
3. If no building exists on one side of a lot within 250 feet of the lot in question, the minimum front yard shall be the same as that of the building on the other side.

167.06 OPEN SPACE AND LOT AREA PER FAMILY. Yards or other open space provided about any building for the purpose of complying with the provisions of these Zoning Regulations shall not be considered as providing a yard or open space for any other building. The lot area per family shall not be reduced in any manner except in conformity with the area regulations established in these regulations for the district in which such building is located.

167.07 MOBILE HOMES AND TEMPORARY BUILDINGS. Temporary buildings, trailers, mobile homes, tents, and portable or potentially portable structures shall not be used for dwelling purposes in any district except when located within a mobile home park.

167.08 ACCESSORY BUILDINGS AND GARAGES.

1. Accessory buildings shall be erected in any yard other than a front yard, as provided hereinafter. Accessory buildings shall be distant at least two feet from all lot lines, and on a corner lot they shall conform to the setback regulations on the side street. Accessory buildings, except buildings housing animals or fowl, may be erected as a part of the principal building, or may be connected thereto by a breezeway or similar structure; provided said buildings comply with all yard requirements for a principal building. An accessory building which is not a part of the main building may occupy a maximum of thirty percent (30%) of the rear yard but shall not exceed 12 feet in height and shall be distant at least 10 feet from other separate buildings on the lot.

2. In the R district, a private garage is permitted in the side or rear yard on the same lot with a dwelling, either as a separate building or in a separate room within, or attached to the dwelling, provided that space for not more than three motor vehicles is permitted on one lot. When wholly or partially within the limits of the side yard and attached to a principal building, such garage shall be considered as a part of such principal building and shall conform to all yard and space requirements as specified in these regulations for principal buildings.

167.09 HOME OCCUPATIONS. Home occupations can be conducted entirely within a dwelling and carried on by the inhabitants thereof, provided that any such activity shall not occupy more than fifty percent (50%) of the floor area of one story of such building; provided, further, that only the proprietor and one additional person shall be regularly employed; provided, further, there may be a small nonilluminated sign not exceeding two square feet in area; and provided, further, that there is no mechanical equipment except such as normally used for domestic or household purposes.

167.10 EXCEPTIONS AND MODIFICATIONS.

1. Building Height Modifications. The building height limitations of these Zoning Regulations shall be modified as follows:

A. Chimneys, cooling towers, fire towers, grain elevators, monuments, penthouses, stacks, stage towers or scenery lofts, tanks, silos, water towers, ornamental towers and spires, radio or television towers or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances.

- B. Public, semipublic or public service buildings, hospitals, sanitariums or schools, when permitted in a district, may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line at least one foot, in addition to the minimum yard requirements, for each two feet of additional building height above the height limit otherwise provided in the district in which the building is constructed.
2. Double Frontage Lots. Buildings on double frontage lots extending through from street to street shall provide the required front yard on both streets.
3. Rear Yards Adjacent to Alleys. In computing the depth of a rear yard where the rear yard opens on an alley, one-half of the alley width may be included as a portion of the rear yard.
4. Exceptions to Yard Requirements. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard, and except for ordinary projections not to exceed 24 inches, including roof overhang.

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CHAPTER 168

ZONING — SPECIAL PERMIT AND NONCONFORMING USES

168.01 Authorization for Special Permit Uses; Hearing
168.02 Planning and Zoning Commission Review
168.03 Authority to Continue Nonconforming Use
168.04 Repairs and Alterations

168.05 Additions and Expansions
168.06 Discontinuation of a Nonconforming Building or Use
168.07 Restoration of Damaged Nonconforming Buildings
168.08 Special Exceptions and Permits

168.01 AUTHORIZATION FOR SPECIAL PERMIT USES; HEARING.

The Council may, by special permit after public hearing, authorize the location of any of the buildings or uses designated in this section in any district from which they are otherwise prohibited by these Zoning Regulations. Notice of time and place of hearing shall be given to all affected property owners at least ten (10) days in advance of the hearing by placing notices in the United States mail. Buildings and uses which may be permitted are as follows:

1. Any public building erected and used by any department of the City, Township, County, State or Federal government for maintenance or storage;
2. Airport or landing field;
3. Homes for the aged; nursing homes; nonprofit fraternal institutions, provided they are used solely for fraternal purposes; and institutions of an educational, religious, philanthropic or charitable character; provided that the building shall be set back from all yard lines a distance of not less than two feet for each foot of building height but not less than the yard requirements for the district in which it is located;
4. Mobile home parks, subject to the minimum development requirements as follows:

A. Park. Mobile home parks shall meet the following requirements:

- (1) Front yard, measured from all streets on which park abuts - 50 feet;
- (2) Side yard - 35 feet;
- (3) Rear yard - 35 feet;
- (4) Area - 2 acres;

(5) Drives - 25 feet in width, surfaced with asphaltic or portland cement concrete;

(6) Sanitary facilities - connection with the municipal sewer system or adequate private sewage disposal facilities;

B. Home Spaces. Mobile home spaces shall meet the following requirements:

(1) Space size - 50 feet by 80 feet;

(2) Space area - 4,000 square feet;

(3) Off-drive parking - one parking space for each home space;

(4) Front yard 15 feet;

(5) Rear yard - 10 feet;

(6) Side yard - 5 feet;

C. Illustration. The diagram on the following page illustrates mobile home park requirements.

5. Multiple dwellings, except in the M district, containing three or more dwelling units; provided the minimum lot area per dwelling unit shall be as follows:

A. With public sewer and water - 4,000 square feet;

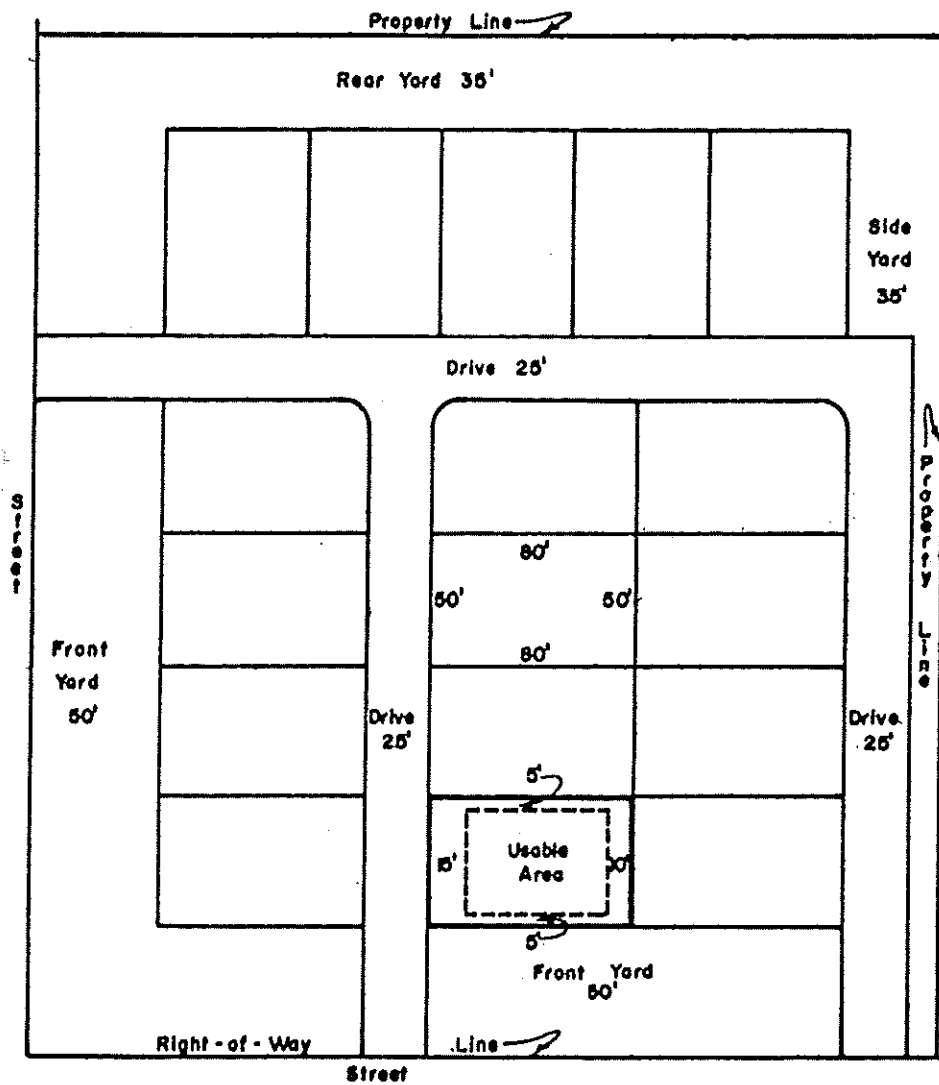
B. With public water and septic tanks - 6,000 square feet;

C. With private well and septic tanks - 10,000 square feet;

6. Preschools;

7. Public cemetery.

MOBILE HOME PARK REQUIREMENTS



168.02 PLANNING AND ZONING COMMISSION REVIEW. Before issuance of any special permit for any of the buildings or uses designated in Section 168.01, the Council shall refer the proposed application to the Planning and Zoning Commission. The Commission shall be given forty-five (45) days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities, and other matters pertaining to the general welfare. No action shall be taken upon any application for a proposed building or use referred to in Section 168.01 until and unless the report of the Commission has been filed; provided, however, that if no report is received from the Commission within forty-five (45) days, it shall be assumed that approval of the application has been given by the Commission.

168.03 AUTHORITY TO CONTINUE NONCONFORMING USE. Any building, structure or use, lawfully established and existing on the effective date of the ordinance codified herein, which does not conform to all of the regulations of the district in which it is located, may be continued subject to the provisions of these Zoning Regulations. To avoid undue hardship, nothing in these regulations shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance codified herein, and upon which actual building construction has been diligently carried on. "Actual construction" is defined to include the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.

168.04 REPAIRS AND ALTERATIONS. Repairs and alterations may be made to a nonconforming building; provided that no structural alterations shall be made to a building which is designed or intended for a use not permitted in the district in which it is located, except that structural alterations may be made if they are required by law or are necessary to make the building and use thereof conform to the regulations of the district.

168.05 ADDITIONS AND EXPANSIONS. A nonconforming building which is nonconforming as to size, height or setbacks, or substantially all of which is designed or intended for a use not permitted in the district in which it is located, shall not be added to, expanded or enlarged unless such addition, expansion or enlargement conforms to all the regulations of the district in which

it is located and unless the entire building thereafter conforms to all of the regulations of the district as to size. A nonconforming use of land shall not be expanded or extended beyond the area it occupies at the date of adoption of the ordinance codified herein.

168.06 DISCONTINUATION OF A NONCONFORMING BUILDING OR USE. A building, substantially all of which is designed or intended for a use which is not permitted in the district in which it is located, which is or hereafter becomes vacant and remains unoccupied or is not used for a period of two (2) years shall not thereafter be occupied or used except in a manner which conforms to the use regulations of the district in which it is located. If a nonconforming use of land only is discontinued for a period of six (6) months, such use shall not thereafter be renewed, and any subsequent use of the land shall conform to the regulations of the district in which it is located.

168.07 RESTORATION OF DAMAGED NONCONFORMING BUILDINGS. A building, designed or intended for a use which is not permitted in the district in which it is located, which is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration shall exceed sixty percent (60%) of the cost of replacement of the entire building shall not be restored unless such building and the use thereof shall conform to all the regulations of the district in which it is located. If the cost of restoration of such damaged building does not exceed sixty percent (60%) of the cost of replacement of the entire building, no repairs or reconstruction shall be made unless such restoration is commenced within one year from the date of the fire or other casualty or act of God, and is diligently pursued until completion.

168.08 SPECIAL EXCEPTIONS AND PERMITS. Any use for which a special exception is permitted as provided in Section 168.01 and Section 167.10 shall not be deemed a nonconforming use but shall without further action be deemed a conforming use.

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CHAPTER 169

ZONING — BUILDING PERMITS AND CERTIFICATES OF COMPLIANCE

169.01 Building Permit Required	169.06 Record of Certificates of Compliance
169.02 Application; Information Required	169.07 Failure to Obtain Certificate
169.03 Certificates of Compliance Required For New and Altered Uses	169.08 Permits and Certificates Authorize Only Approved Plans
169.04 Application for Certificate	169.09 Fees
169.05 Temporary Issuance of Certificate	

169.01 BUILDING PERMIT REQUIRED. Buildings or other structures shall not be erected, moved, added to or structurally altered without a permit therefor, issued by the Zoning Administrator. Building permits shall be issued in conformance with the provisions of these Zoning Regulations, or upon written order from the Board of Adjustment.

169.02 APPLICATION; INFORMATION REQUIRED. All applications for building permits shall be accompanied by a plan showing the actual dimensions and shape of the lot to be built upon, and the location and dimensions of the existing or proposed building or alteration. The application shall include existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of these Zoning Regulations.

169.03 CERTIFICATES OF COMPLIANCE REQUIRED FOR NEW AND ALTERED USES. It is unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure after the effective date of the ordinance codified herein until a certificate of zoning compliance has been issued therefor by the administrative official stating that the proposed use of the building or land conforms to the requirements of these Zoning Regulations.

169.04 APPLICATION FOR CERTIFICATE. Certificates of zoning compliance shall be applied for coincidentally with the application for a building permit and shall be issued within ten (10) days after the lawful erection or alteration of the building is completed in conformity with the provisions of these regulations.

169.05 TEMPORARY ISSUANCE OF CERTIFICATE. A temporary certificate of zoning compliance may be issued by the administrative official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion; provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.

169.06 RECORD OF CERTIFICATES OF COMPLIANCE. The administrative official shall maintain a record of all certificates of zoning compliance, and copies shall be furnished upon request to any person.

169.07 FAILURE TO OBTAIN CERTIFICATE. Failure to obtain a certificate of zoning compliance shall be a violation of these regulations and shall be punishable under Section 165.09(5).

169.08 PERMITS AND CERTIFICATES AUTHORIZE ONLY APPROVED PLANS. Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of these regulations and shall be punishable as provided by Section 165.09(5).

169.09 FEES. Fees for a certificate of zoning compliance for a new structure shall be seventy-five cents (75¢) per one thousand dollars (\$1,000) (or any part thereof) valuation, with a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000) for a building permit. The building permit fee shall include the certificate of zoning compliance. For changes of use, the fees shall be as follows:

1. Residential use - \$2.50;
2. Any use other than residential - \$5.00.

CHAPTER 170

ZONING — BOARD OF ADJUSTMENT

170.01 Created; Members
170.02 Meetings; Quorum
170.03 Appeals; Filing of Notice
170.04 Effect of Appeal
170.05 Fee for Appeal
170.06 Hearing on Appeal

170.07 Powers of Administrative Review
170.08 Power to Permit Certain Special Exceptions
170.09 Variance Granting Powers
170.10 Decisions; Powers and Procedures
170.11 Appeals from Board Decisions

170.01 CREATED; MEMBERS. The Board of Adjustment is established which shall consist of five (5) members. Members are appointed by the Mayor with the approval of the Council for terms of four (4) years.

170.02 MEETINGS; QUORUM. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in the absence of the Chairperson, 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 on each question or, if a member is absent or fails to vote, indicating such fact; and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The presence of three (3) members shall be necessary to constitute a quorum.

170.03 APPEALS; FILING OF NOTICE. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Zoning Administrator. Such appeal shall be taken within ten (10) days by filing with the Zoning Administrator and with the Board a notice of appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.

170.04 EFFECT OF APPEAL. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after notice of appeal has been filed that by reason of facts stated in the certificate a stay would, in the opinion of the Zoning Administrator, 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, on notice to the Zoning Administrator and on due cause shown.

170.05 FEE FOR APPEAL. The fee for appeals is five dollars (\$5.00).

170.06 HEARING ON APPEAL. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney.

170.07 POWERS OF ADMINISTRATIVE REVIEW. The Board shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the Zoning Regulations.

170.08 POWER TO PERMIT CERTAIN SPECIAL EXCEPTIONS.

1. The Board shall have the power, subject to the requirements of this section, to permit the following exceptions to the district regulations set forth in the Zoning Regulations:

A. To permit the erection and use of a building or the use of premises or to vary the height and the regulations in any location for a public service corporation for public utility purposes or for purposes of public communication, which the Board determines is reasonably necessary for the public convenience or welfare;

B. To permit the extension of a use into a district where it would otherwise be prohibited in a case where a district boundary line is so located that a lot or plot is in more than one district;

C. To hear and decide only such other special exceptions as the Board is specifically authorized to pass on by the terms of these regulations; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under these regulations; or to deny special exceptions when not in harmony with the purpose and intent of these regulations.

2. A special exception shall not be granted by the Board unless and until:

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

B. Notice of public hearing shall be given in advance of the public hearing. The owner of the property for which special exception is sought or an agent, and any other affected property owners, shall be notified by mail. Notice of the hearing may also be posted on the property for which a special exception is sought;

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

D. The Board shall make a finding that it is empowered under the section of the Zoning Regulations described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest;

3. In granting any special exception, the Board may pre-scribe appropriate conditions and safeguards in conformity with these regulations. Violations of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of the Zoning Regulations and punishable under Section 165.09(5). The Board may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

170.09 VARIANCE GRANTING POWERS.

1. The Board shall have the power to authorize, upon appeal in specific cases, such variance from the terms of the Zoning Regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Zoning Regulations would result in unnecessary hardship. A variance from the terms of these regulations shall not be granted by the Board unless and until the following requirements are met:

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

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

(2) That literal interpretation of the provisions of the Zoning Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations,

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

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

B. Notice of public hearing shall be given in advance of public hearing. The owner of the property for which the variance is sought or an agent and any other affected property owners shall be notified by mail;

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

D. The Board shall make findings that the requirements of this section have been met by the applicant for a variance;

E. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance;

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

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

3. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under Section 165.09(5).

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

170.10 DECISIONS; POWERS AND PROCEDURES. In exercising the powers mentioned in Sections 170.07, 170.08 and 170.09, the Board may, so long as such action is in conformity with the terms of the Zoning Regulations, reverse or affirm wholly or partly, or may modify the order, requirement,

decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have powers of the administrative officer from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations, or to effect any variation in the application of the Zoning Regulations.

170.11 APPEALS FROM BOARD DECISIONS. Any taxpayer, or any officer, department, board or bureau of the City, or any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) after the filing of the decision in the office of the Board. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.

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CHAPTER 175

SUBDIVISION REGULATIONS

175.01 General Provisions
175.02 Definitions
175.03 Design Standards Generally
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175.01 GENERAL PROVISIONS.

1. Title. The regulations set out in this chapter shall be known as the "Subdivision Ordinance of the City of Hamburg, Iowa."
2. Jurisdiction. In accordance with the provisions of Chapter 354.9 of the Code of Iowa, the ordinance codified in this chapter is adopted by the City, governing the subdivision of all lands within the corporate limits of the City and within one mile adjacent to said corporate limits.

175.02 DEFINITIONS. For the purpose of this chapter, certain terms and words are defined as set forth in this section.

1. "Block" means an area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.
2. "Building lines" shall be shown on all lots intended for residential use of any character, and on commercial and industrial lots when required by ordinance. Such building lines shall not be less than required by the Zoning Regulations. Where the subdivided area is not under zoning control, the Commission shall require building lines in accordance with the needs of each addition.
3. "Collector streets" means those streets which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.
4. "Commission" means the Planning and Zoning Commission of the City.
5. "Cul-de-sac" means a short, minor street, having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

6. "Easement" means a grant by the property owner of the use for a specific purpose of a strip of land, by the general public, a corporation or a certain person or persons, and within the limits of which the owner of the fee shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easement which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees which interfere with the use of such easements.
7. "Engineer" means a registered engineer authorized to practice civil engineering, as defined by the Registration Act of the State.
8. "Lot" means a portion of a subdivision or parcel of land intended for the purpose, whether immediate or future, of transfer of ownership, or for building development.
9. "Major thoroughfare" means a street used primarily for fast, large-volume traffic.
10. "Marginal access street" means a street that is parallel to and adjacent to a major thoroughfare or highway, and which provides access to abutting properties and protection from through traffic.
11. "Minor street" means a street used primarily for access to the abutting properties.
12. "Performance bond" means a surety bond or cash deposit made out to the City in an amount equal to the full cost of the improvements which are required by the provisions set forth in Section 175.06 of this chapter, said cost being estimated by the City Engineer and said surety bond or cash deposit being legally sufficient to secure to the City that such improvements will be constructed in accordance with this chapter.
13. "Plat" means a map, drawing or chart on which the subdivider's plan of the subdivision is presented and which the subdivider submits for approval and intends to record in final form.
14. "Roadway" means that portion of the street available for vehicular traffic and, where curbs are laid, the portion from back to back of curbs.
15. "Subdivision" means the division of land into three or more lots for the purpose, whether immediate or future, of transfer of ownership or building development; or any change in existing street lines or public easements. The term, when appropriate to the context, relates to the process of sub-dividing or to the land subdivided, or to the resubdivision of land heretofore divided or platted into lots or other divisions of land; or, if a new street is involved, to any division of land.

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

175.03 DESIGN STANDARDS GENERALLY. The standards and details of design in Sections 175.04 through 175.06 are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances; however, in the design and development of a plat, the subdivider should use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood. All proposed plats and subdivisions shall conform to the comprehensive plan.

175.04 STREETS.

1. **Conformity With Overall Plan.** If any overall plan has been made by the Commission for the neighborhood in which the proposed subdivision is located, the street system of the subdivision shall conform in general to such overall plan.

2. **Street Pattern Requirements.** The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares or unsubdivided land, as may be required by the Commission. In a case where a street will eventually be extended beyond the plat, but is temporarily dead-ended, an interim turnaround may be required.

3. **Continuation of Existing Streets.** Proposed streets shall provide for continuation or completion of any existing streets, constructed or recorded, in adjoining property, at equal or greater width, but not less than 50 feet in width, and in similar alignment, unless variations are recommended by the Commission.

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

5. **Grade Specifications.** Streets and alleys shall be completed to grades which have been officially determined or approved by the City Engineer. All streets shall be graded to the full width of the right-of-way, and adjacent side slopes shall be graded to blend with the natural ground level. The maximum grade shall not exceed six percent (6%) for main and secondary thoroughfares, or ten percent (10%) for minor or local service streets. All changes in grades on major roads or highways shall be connected by vertical curves of a minimum length equivalent to

twenty times the algebraic difference between the rates of grades, expressed in feet per hundred, or greater, if deemed necessary by the City Engineer; for secondary and minor streets, fifteen times. The grade alignment and resultant visibility, especially at intersections, shall be worked out in detail to meet the approval of the City Engineer.

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

7. Intersections. Street intersections shall be as nearly at right angles as possible.

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

A. A parallel street supplying frontage for lots backing on to the trafficway;

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

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

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

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

9. Half Streets. Dedication of half streets will be discouraged. Where there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half shall be platted if deemed necessary by the Commission.

10. Street Names. All newly platted streets shall be named, in a manner conforming to the prevailing street naming system. A proposed street that is obviously in alignment with other existing streets, or with a street that may logically be extended although the various portions are at a considerable distance from each other, shall bear the same name. Names of new streets shall be subject to the approval of the Commission in order to avoid duplication or close similarity of names.

11. Cul-de-sacs and Turnarounds. Whenever a cul-de-sac is permitted, such street shall be no longer than 600 feet and shall be provided at the closed end with a turnaround having a street property line diameter of at least 100 feet in the case of residential subdivisions. The right-of-way width of the street leading to the turnaround shall be a minimum of 50 feet. The property line at the intersection of the turnaround and the lead-in portion of the street shall be rounded at a radius of not less than 25 feet. A turnaround diameter greater than 100 feet may be required by the Commission in the case of commercial or industrial subdivisions if it is deemed necessary.

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

13. Easements for Utilities and Watercourses. Easements for utilities shall be provided along rear or side lot lines or along alleys, if needed. Whenever any stream or important surface watercourse is located in an area that is being subdivided, the subdivider shall, at his own expense, make adequate provision for straightening or widening the channel so that it will properly carry the surface water, and shall provide and dedicate to the City an easement along each side of the stream, which easement shall be for the purpose of widening, improving or protecting the stream. The width of such easement shall be not less than 20 feet, and the total width of the easement shall be adequate to provide for any unnecessary channel straightening or relocation.

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

15. Dedication Prerequisite to City Maintenance. A deed to the City shall be given for all streets before the same will be accepted for City maintenance.

16. Railroads. If a railroad is involved, the subdivision plat should:

A. Be so arranged as to permit, where necessary, future grade separations at highway crossings of the railroad;

B. Border the railroad with a parallel street at a sufficient distance from it to permit deep lots to back on to the railroad; or form a buffer strip for park, commercial or industrial use;

C. Provide cul-de-sacs at right angles to the railroad so as to permit lots to back on to such railroad.

175.05 LOTS AND BLOCKS.

1. Required Length of Blocks. No block shall be longer than 1,320 feet.

2. Block Corners. At street intersections, block corners shall be rounded with a radius of not less than 15 feet. Where, at any one intersection, a curve radius has been previously established, such radius shall be used as the standard.

3. Minimum Lot Sizes. For the purposes of complying with minimum health standards, the following minimum lot sizes shall be observed:

A. Lots which cannot be reasonably served by an existing public sanitary sewer system and public water mains shall have a minimum width of 100 feet, measured at the building line, and an area of not less than 20,000 square feet.

B. Lots which are not within a reasonable distance of a public sanitary sewer system but are connected to a public water supply main shall have a minimum width of 80 feet and an area of 10,000 square feet.

4. Side Lot Lines. Side lot lines shall be approximately at right angles to the street or radial to curved streets.

5. Corner Lots. Corner lots shall have a minimum width of 75 feet in order to permit adequate building setbacks on both front and side streets.

6. Double Frontage Lots. Double frontage lots, other than corner lots, shall be prohibited except where such lots back on to a major street or highway or except in the case of large commercial or industrial lots.

175.06 IMPROVEMENTS.

1. Installation Required. The subdivider shall install and construct all improvements required by this section. All required improvements shall be installed and constructed in accordance with approved

specifications and under the supervision of the Council and to its satisfaction.

2. Approval Prerequisite to Acceptance of Final Plat. Before the Council approves the final plat, all of the improvements set out in this section shall be constructed and accepted by formal resolution of the Council. Before passage of such resolution of acceptance, the City Engineer shall report that the improvements meet all City specifications and ordinances, or other requirements and agreements between the subdivider and the City.

3. Improvement Agreement; Performance Bond. The requirements imposed by subsections 1 and 2 may be waived if the subdivider will post a performance bond or certified check with the Council guaranteeing that the required improvements will be constructed within a period of one year from final acceptance of the plat; however, if a performance bond is posted, final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

4. Exceptions. The Council may waive the requirements for the construction and installation of some or all of the improvements set out in this section in cases of resubdivisions where only the size, shape and arrangement of the lots are being changed and no new streets are required, and in cases of dedications of land or rights-of-way to public use where such dedication is in excess of the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation proceeding.

5. Expenditure of City Funds. The Council shall not permit any public improvements over which it has control to be made from City funds, or any City money to be expended for improvements or maintenance on any street in any area that has been subdivided after the date of adoption of the ordinance codified in this chapter unless such subdivision and streets have been approved in accordance with the provisions contained in this chapter and accepted by the Council as a public street.

6. Water Supply. Water mains shall have a minimum diameter of four (4) inches, with larger sizes for feeder mains. Water mains shall be at least two (2) feet outside of the curb or traveled roadway on the high

side of the street, with a minimum cover of sixty (60) inches. Water lines shall be available to each lot.

7. Sanitary Sewers. Sanitary sewers shall be located in the center of the street and all house laterals shall be in before the paving of the street. Sanitary sewers shall have a minimum diameter of eight (8) inches and shall be made available to each lot. Any plat that cannot reasonably be served by a public sewer shall show results of soil percolation tests made by the engineer preparing the plat. Such tests shall be in accordance with the State Board of Health requirements.

8. Storm Sewers and Drainage Facilities. Storm sewers shall have a minimum diameter of twelve (12) inches and be larger as the increase in drainage area demands. Storm sewers are to be located on the low side of the street well outside of the curb or traveled roadway line. Storm drainage facilities shall be provided, such as storm sewers and intakes and suitable permanent culverts or bridges of a size and design approved by the City Engineer.

9. Gas Mains. Gas mains shall be laid on the opposite side of the street from the water mains and just outside of the curb or traveled roadway line.

10. Underground Cables. Underground cables shall be laid either just outside of the property line or at the back lot line within the area of perpetual easement. Overhead line shall be placed at the back lot lines within the area of perpetual easement.

11. Paving. Minimum paving required is as follows:

A. Portland cement concrete, 6-inch reinforced (3,000 p.s.i.), or 7-inch nonreinforced with 6-inch integral curb;

B. Asphaltic concrete, 7-inch with 5-inch coarse-graded binder course, and 2-inch fine-graded surface course, with 6-inch cement concrete curb integral with 24-inch cement concrete gutter (30 inches overall);

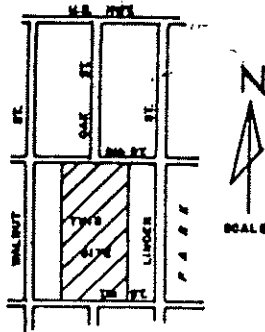
C. Asphaltic concrete must be approved by the City Engineer.

175.07 PLATS GENERALLY. No plat or any subdivision shall be recorded in the County Recorder's office or have any validity until it has been approved in the manner prescribed in Sections 175.08 and 175.09. The following form sets forth items of information required for both the preliminary and final plats, and the diagrams illustrate some of the requirements set forth in the text of this chapter and on the plat checklist.

PRELIMINARY AND FINAL PLAT CHECKLIST				
Name of Plat:				
INFORMATION SHOWN ON PLAT	PRELIMINARY		FINAL	
	OK	NOT OK	OK	NOT OK
Name and address of owner and/or developer				
Name and address of engineer or surveyor				
Existing buildings, streets, utilities				
Adjoining acreage parcels—Name of owners				
Contour lines at proper interval				
Zoning classification				
Proposed utility service noted				
Source of water supply				
Sewage disposal provision				
Vicinity sketch				
Plat boundary in heavy line				
Adjoining subdivision(s) name(s)				
Description of property and acreage				
Names and widths of new streets				
Lot lines with dimensions				
Public dedications designated—streets, schools, etc.				
Building setback lines				
Name of plat, date, compass point, scale				
Lot numbers				
Easements for public utilities identified				
Curve data—angle, arc, tangent, degree of curve, radius				
Boundary distances, bearings, angles				
Certification and seal of engineer or surveyor				
All dimensions				
Location of all monuments set				
Number of copies received				
ACCOMPANYING INFORMATION				
Attorney's opinion in duplicate submitted				
Filing fee paid				
Plan and profile drawings of new streets				
Protective covenants if applicable				
Deed to streets				
The following certificates:				
From owner and spouse				
From County Treasurer on taxes				
From Clerk of District Court				
For County Recorder on title				
Performance Bond, if any				
Resolution and Certificate of Council				
Checked by:	Date:			

PLAT ILLUSTRATION

Defines some of the requirements set forth in the text and on the Checklist for both the Preliminary and Final Plats



INFORMATION TO BE SHOWN ON PLATS

Preliminary Plats

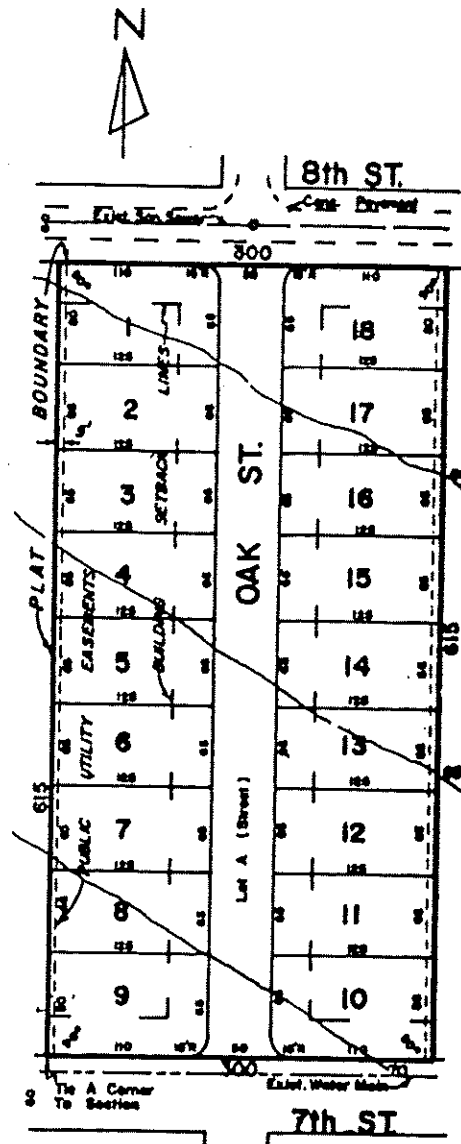
Name and address of owner and/or developer
 Name and address of engineer or surveyor
 Existing buildings, paving, utilities
 Adjoining acreage parcels - names of owners
 Contour lines at proper interval,
 Zoning classification
 Source of water supply
 Sewage disposal provision
 Vicinity sketch

Preliminary and Final Plats

Plat boundary in heavy line
 Adjoining subdivision(s) name(s)
 Description of property and acreage
 Names and widths of new streets
 Lot lines with dimensions
 Public dedications designated - streets, schools, etc.
 Building setback lines
 Name of plat, date, compass point, scale
 Lot numbers
 Easements for public utilities identified

Final Plats

Curve data
 Boundary distances, bearings, angles
 Certification of engineer or surveyor
 All dimensions
 Location and ties of all monuments set



175.08 PRELIMINARY PLATS.

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

2. Number of Copies to be Submitted; Scale. Three (3) copies of the preliminary plat shall be submitted as prescribed for review. The scale of the map shall be one inch equals fifty feet (1" = 50') on small subdivisions, and one inch equals one hundred feet (1" = 100') on large subdivisions unless otherwise approved by the Commission.

3. Contents. The contents of the preliminary plat shall be as follows:

- A. Name of subdivision, date, compass point, scale, and official description and acreage of the property being platted;
- B. Name and address of recorded owner and/or developer;
- C. Name and address of engineer or surveyor;
- D. Existing buildings, railroads, underground utilities, other rights-of-way and easements;
- E. Location names and widths of all existing and proposed roads, alleys, streets and highways in or adjoining the area being subdivided;
- F. Location(s) and name(s) of adjoining subdivision(s);
- G. Proposed lot lines with approximate dimensions;
- H. Areas dedicated for public use, such as schools, parks, playgrounds and streets;
- I. Contour lines at intervals of not more than five feet;
- J. Building setback lines;
- K. Boundaries of the proposed subdivision shall be indicated by a heavy line;
- L. Zoning classification of the area;
- M. Proposed utility service

- (1) Source of water supply,
 - (2) Provision for sewage disposal, drainage and flood control;
- N. A vicinity sketch at a legible scale showing the relationship of the plat to its general surroundings;
- O. Lot numbers;
- P. Easements for public utility purposes;
- Q. Corner radii.
4. Accompanying Material. Accompanying material shall include:
 - A. An abstractor's title together with an attorney's opinion, in duplicate, showing that the fee title to the subdivision is in the owner as shown on the plat and showing any encumbrances that may exist against said land;
 - B. Any plat that cannot reasonably be served by the public sewer shall show results of soil percolation tests made by the engineer preparing the plat. Such tests shall be made in accordance with specifications approved by the City Engineer.
5. Fees. Before a preliminary plat may be considered by the Commission, the subdivider or agent shall deposit with the City Treasurer a fee of ten dollars (\$10.00) to be credited to the General Fund of the City.
6. Submission Required; Contents. Whenever the owner of any tract or parcel of land within the jurisdiction of this chapter wishes to subdivide or plat the same, he or she shall cause to be prepared a preliminary plat of said subdivision and shall submit three (3) copies of said preliminary plat and other information to the Clerk. The preliminary plat shall contain such information and data as is outlined in subsections 1 through 4 of this section.
7. Review by City Engineer. The Clerk shall immediately refer copies of the preliminary plat to the Commission and to the City Engineer. The City Engineer shall carefully examine said plat as to its compliance with the ordinances of the City, the existing street system and good engineering practices; and, as soon as possible, shall submit findings to the Commission.
8. Action by Commission. After receiving the City Engineer's report, the Commission shall study the preliminary plat and other

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

9. Public Hearing. Before approving a preliminary plat, the Commission may, in its discretion, hold a public hearing on the proposed plat. Notice of such public hearing shall be given by publication in a local newspaper of general distribution, or by posting notices on the tract, or by sending notices to affected property owners by mail. The notice shall be given within seven (7) days prior to the public hearing.

175.09 FINAL PLATS.

1. Number of Copies; Scale. When and if the preliminary plat is approved, the subdivider shall submit six (6) copies of the final plat for review by the Commission. The scale of the map shall be one inch equals fifty feet (1" = 50') on small subdivisions and one inch equals one hundred feet (1" = 100') on large subdivisions, unless otherwise approved by the Commission.

2. Contents. The final plat shall contain the following:

- A. Name of subdivision;
- B. Scale and compass point;
- C. Corner radii;
- D. Curve data, including delta angle, length of arc, degree of curve, and tangent;
- E. Boundary of subdivided area in heavy line, with accurate distances, bearings or boundary angles;
- F. Exact name, location, width, and lot designation of all streets within the subdivision;

- G. Easements for public utilities, showing width and intended use;
 - H. Building setback lines with dimensions;
 - I. Official legal description and acreage of the property being subdivided;
 - J. Lot numbers and dimensions;
 - K. Certification of registered engineer and/or land surveyor;
 - L. Description and location of all permanent monuments set in the subdivision, including ties to original government corners.
3. Accompanying Material. Accompanying material shall include:
- A. Plans and profiles of all streets and alleys at a 50-foot horizontal scale and 5-foot vertical scale. Profiles shall show location, size and grade of all conduits, sewers, pipelines, etc., to be placed under the streets and alleys. Profiles shall be drawn with north oriented to the top or left side of the drawing;
 - B. Any protective covenants or restrictions to be imposed upon the plat shall be submitted for approval;
 - C. A deed to the City, properly executed, for all streets intended as public streets and for any other property intended for public use;
 - D. The following certificates:
 - (1) By the owner and spouse, if any, that the subdivision is with the owners' free consent and is in accordance with the desire of the owners. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of deeds,
 - (2) Performance bond, if any,
 - (3) Resolution and certificate for approval by the Council and signature of the Mayor and Clerk,
 - (4) An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances.

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

4. Filing of Copies; Certification and Resolution of Acceptance. There shall be three (3) copies of the final plat stamped as approved by the Council. The copies shall be filed as follows:

- A. One copy shall be retained for file by the Clerk.
- B. One copy shall be filed with the County Recorder.
- C. One copy, with the accompanying resolution by the Council approving and accepting the plat, shall be filed with the County Auditor. This copy must be accompanied by a certificate by the owner and spouse, if any, that the subdivision is with the free consent and is in accordance with the desire of the owners. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of deeds.

175.10 VARIATIONS AND EXCEPTIONS. Whenever the tract proposed to be subdivided is of such unusual topography, size or shape, or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in substantial hardships or injustices, the Council, upon recommendation of the Commission, may vary or modify such requirements so that the subdivider is allowed to develop the property in a reasonable manner; but, at the same time, so that the public welfare and interest of the City and surrounding area is protected, and the general intent and spirit of this chapter is preserved.

175.11 CHANGES AND AMENDMENTS. Any provisions of the regulations set forth in this chapter may be changed and amended from time to time by the Council; provided, however, such changes and amendments shall not become effective until after study and report by the Commission and until after a public hearing has been held, public notice of which shall be given in a newspaper of general circulation at least fifteen (15) days prior to such hearing.

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