CHAPTER 176

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176.01 ADOPTION. This chapter contains the Marion Zoning Ordinance, which is adopted to establish comprehensive zoning regulations for the City and to provide for the administration, enforcement and amendment of the Zoning Ordinance and to repeal any ordinances or resolutions in conflict herewith except as otherwise provided herein. The Zoning Ordinance is adopted by authority of and for the purposes set forth in the Code of Iowa and shall be known, cited and referred to as the Marion Zoning Ordinance.

176.02 INTENT AND PURPOSE. The Zoning Ordinance, as set forth in the text and map which constitute the Zoning Ordinance, is adopted for the purpose of promoting the public health, safety, morals, and the general welfare of the people, and is intended to accomplish the following objectives:

1. The lessening of congestion on the public streets.

2. The securing of safety from fire, flood, panic, and other dangers.

3. The avoiding of undue concentration of population.

4. The prevention of overcrowding of land, thereby ensuring proper living and working conditions and preventing the development of slums and blight.

5. The establishment of adequate standards for the provision of light, air, and open spaces.
6. The provision of adequate transportation and other public requirements and services such as water, sewerage, schools and parks.

7. The encouragement of the coordinated optimum physical development of the community.

8. The preservation and protection of existing property uses and values against adverse or unharmonious adjacent uses.

9. The establishment of reasonable standards to which buildings and structures shall conform.

10. The establishment of a rational pattern of relationships between residential, commercial, and industrial uses for the mutual benefit of all.

11. The prescription of penalties for any violation of the provisions of this Ordinance, or of any amendment thereto.

176.03 COMPATIBILITY WITH COMMUNITY PLAN. The standards and requirements contained in this Ordinance and the district mapping reflected on the Zoning District Map have all been made in accordance with the officially adopted Comprehensive Community Plan of the City of Marion, Iowa.

176.04 ESTABLISHMENT OF DISTRICTS AND MAP. The City is hereby classified and divided into the following zoning districts:

1. Rural and Residential Districts:
   A-1 Rural Restricted
   R-1 Low Density Single-Family Residential
   R-2 Medium Density Single-Family Residential
   R-3 Two-Family Residential
   R-4 Four-Family Residential
   R-5 Moderate Density Multiple-Family Residential
   R-6 High Density Multiple-Family Residential
   R-6A Medium Density Multiple-Family Residential

2. Transitional and Commercial Districts:
   RT-1 Residential/Transitional
   O-1 Office/Transitional
   O-2 Office Park
   C-1 Neighborhood Commercial
   C-2 Central Business District Commercial
   C-3 General Commercial
   C-3P Commercial Park
   C-4 Warehouse/Commercial

3. Industrial Districts
   I-1 Restricted Industrial
   I-1P Industrial Park
   I-2 General Industrial
4. Special Districts:
   Planned Development Districts:
   - PD-R  Planned Development – Residential
   - PD-C  Planned Development – Commercial
   - PD-I  Planned Development – Industrial
   - PD-S  Planned Development – Special
   - PD-MH Planned Development – Manufactured/Mobile Home

5. Agricultural and Rural Residential Districts:
   - AG  Agricultural Holding
   - RR-1 Rural Residential

6. Suburban Residential Districts:
   - SR-E  Suburban Residential Estate
   - SR-1  Suburban Low-Density Single-Family Residential
   - SR-2  Suburban Medium Density Single-Family Residential
   - SR-3  Suburban Medium Density Single-Family Residential
   - SR-4  Suburban Two-Family Residential
   - SR-5  Suburban Three and Four-Family Residential

7. Traditional Residential Districts:
   - TR-1  Traditional Low-Density Single-Family Residential
   - TR-2  Traditional Medium Density Single-Family Residential
   - TR-3  Traditional Two-Family Residential
   - TR-4  Traditional Four-Family Residential

8. Multiple-Family Residential Districts:
   - MR-1  Medium Density Multiple-Family Residential
   - MR-2  High Density Multiple-Family Residential

9. Business and Mixed-Use Districts:
   - BL  Local Business
   - BC  Community Business
   - BR  Regional Business

10. Office/Service and Manufacturing Districts:
    - OS  Office/Service
    - M-1  Light Manufacturing
    - M-2  General Manufacturing

11. Public Institutional and Recreation and Open Space District:
    - PI  Public Institutional
    - ROS recreation and Open Space

12. Central Corridor Districts:
    - U-1  Uptown 1
    - U-2  Uptown 2
    - UTR-1-Urban Transition Residential 1
    - UTR-2-Urban Transition Residential 2
    - UTC-1-Urban Transition Commercial 1
176.05 ZONING DISTRICT MAP. The boundaries of the zoning districts are shown on the Zoning District Map dated May 3, 1979, which accompanies the Zoning Ordinance and is hereby declared to be a part of this chapter. The Zoning District Map and all notations, references, indications, and other information shown therein are as much a part of this chapter as if they were fully described herein. The Zoning District Map is not set out in this Code of Ordinances but shall remain on file in the office of the Clerk and shall constitute a part of the Zoning Ordinance and this chapter the same as if set out therein and herein.†

176.06 RULES AND DEFINITIONS. In the interpretation of this chapter, the rules and definitions contained in this section shall be observed and applied. In the construction of this chapter, the rules as set forth in Chapter 4 of the Code of Iowa, Construction of Statutes, shall be observed. In addition, the word “Commission” means the Planning and Zoning Commission of the City, the word “lot” includes the words “plot,” “parcel” and “tract,” and the words “used or occupied” include the words “intended, arranged or designed to be used or occupied.”

Certain terms in this chapter define a category of uses, to allow some flexibility and in order to eliminate overly detailed lists of uses. These terms are referred to in this ordinance as general uses, and are indicated by including (G) in the definition.

Requirements for parking and loading or other provisions of this ordinance may apply differently to individual uses within a general use category. A change from one use within a general use category to another use shall be considered a change in use, even if the latter use is within the same general use category as the initial use.

The following words are defined for use in this chapter:

General Land Use Definitions

1. **Academy.** (music, art, or dance) A building consisting of classrooms, instruction areas, performance or recital areas, and accessory areas in which music, art or dance instruction is the primary and principal activity.

2. **Accessory Use (G).** A use that is subordinate in area, extent and purpose to the principal use on the lot, and that is customarily maintained for the benefit of a permitted principal use. Examples of accessory uses include off-street parking facilities and outdoor storage.

3. **Agriculture.** The use of land for agricultural purposes, including farming, limited to cultivation of grain crops, horticulture, floriculture and viticulture. This use does not include retail sales, such as nurseries.

† See the EDITOR’S NOTE at the end of this chapter for ordinances amending the Zoning Map.
4. **Agriculture, Urban.** The use of a lot for the cultivation of food and/or horticultural crops and accessory composting. Such use may include the farm stands, accessory keeping of hens, ducks, or honey bees where allowed by underlying zoning and shall abide by the standards and procedures of Section 176.49.

5. **Airport.** A facility where winged aircraft may land and take off, which may include runways, hangars, facilities for refueling and repair, accommodations for passengers, air traffic control towers, communications towers and antennas, lighting for runways and other facilities, and administrative offices.

6. **Art Gallery/Studio.** Premises used principally for the sale, display and exhibition of art. This use may include accessory production of art products and instruction in the production of art using paint, clay, fabric or other media. This use does not include the mass production or manufacture of objects.

7. **Artist Live/Work Space.** Floor area used, or designed to be used, as both a dwelling unit and a place of work by an artist, artisan or craftsperson, including persons engaged in the application, teaching or performance of fine arts including, but not limited to, drawing, vocal or instrumental music, painting, sculpture and writing.

8. **Assisted Living.** A facility providing residential accommodations and daily assistance for elderly or disabled residents with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to three or more tenants in a physical structure which provides a homelike environment. “Assisted Living” includes twenty-four hours per day response staff to meet scheduled and unscheduled or unpredictable needs in a manner that promotes a maximum dignity and independence and provides supervision, safety, and security. [Iowa Code Sec. 231.C.2].

9. **Automobile Repair Shop.** An establishment performing only vehicle repair and which does not involve the retail sale of fuel, lubricants, tires, and other similar products and supplies for vehicles.

10. **Automobile Service Station.** An establishment for the retail sale of fuel lubricants, tires, and other similar products and supplies for vehicles, including minor accessory parts. It may also include vehicle repair, parts installation, towing services, vehicle washing facilities, and other similar services and activities.

11. **Bank.** An establishment such as a bank, savings bank, or credit union that offers financial services including maintaining checking and savings accounts, and issuing loans and other credit. Investment and other financial services may be provided as part of a bank’s range of services. This use is distinct from Financial Services Institution, which does not offer checking and savings accounts.
12. **Bed and Breakfast.** Single-family residences, occupied by owners or resident managers, which offer lodging on a temporary basis to paying guests in a room(s) without cooking facilities, and may offer breakfast or other meals to these guests. Bed and Breakfast Establishment is differentiated from a Hotel/Motel in that they typically were designed originally as a single-family residence and have a smaller number of rooms.

13. **Boarding House.** A building other than a hotel or motel, where for compensation and arrangement, lodging and/or meals are provided for three (3) or more persons.

14. **Buildable Area (G).** The area of lot remaining after the minimum yard and/or open space requirements of this Ordinance have been complied with.

15. **Building, Attached (G).** A building which is joined to another at one or more sides by a common wall, except that any accessory building, including a garage, shall also be considered as attached to the principal building if connected by a roof.

16. **Car Wash.** A building or portion thereof containing facilities for washing vehicles, using either automatic or manual equipment, where the vehicle washing service is available to the general public.

17. **Carnival.** A traveling or transportable group or aggregation of rides, shows, games, or concessions or any combination thereof occur outdoors. Where it may be conducted as one enterprise or several concessionaires and where one admission fee is charged for all shows or entertainments, or a separate fee is charged for admission to each amusement.

18. **Carpet/Flooring Store.** A carpet store is a full-service retail facility that specializes in the sale of floor coverings such as carpeting, tile, wood, etc.

19. **Cemetery.** This use includes cemeteries for the burial of people or animals, mausoleums, columbaria, and memorial parks, excluding crematoriums.

20. **Coffee or Tea Room.** A limited menu restaurant which is located in conjunction with and on the same premises as a retail use. As a permitted use, a Coffee or Tea Room need not meet the definition of an accessory use in relation to the retail use. As an accessory use, the Coffee or Tea Room must meet the definition of an accessory use in relation to the retail use.

21. **College/University.** Public or private colleges, universities, community colleges or other institutions of higher learning that primarily teach classes that would count toward an associates, bachelor’s, masters or doctoral degree, and that may include associated dormitories. College/University shall not include Schools, Specialized Instructional, as defined herein.

22. **Communication Antenna.** Any exterior apparatus designed for telephone, personal wireless services, broadband, radio or television
communications through the sending and/or receiving of electromagnetic waves.

23. **Communication Tower.** A structure designed and constructed primarily for the purpose of supporting one or more Communication Antennas, including self-supporting lattice towers, guy towers and monopole towers. This use includes radio and television transmission towers, personal communications service (PCS), microwave towers, common-carrier towers, cellular telephone towers, and the like. This use does not include any structure erected solely for a residential, non-commercial individual use, such as television reception antennas, satellite dishes or non-commercial wireless antennas (amateur radio).

24. **Convent/Monastery.** A building where persons (such as nuns or monks) reside under religious vows.

25. **Correctional Facility.** A facility for the detention, confinement, treatment or rehabilitation of persons arrested or convicted for the violation of a civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, jail, and prison. Temporary holding cells in police stations are not considered correctional facilities, provided they are accessory in area, extent and purpose to the police station.


27. **Cultural Facility (G).** Facilities open to the public including, but not limited to, museums, cultural centers, and aquariums. Cultural Facility does not include Library, Place of Worship or Lodge or Private Club, as defined herein.

28. **Day Care, Adult.** A facility providing care for elderly and/or functionally impaired adults in a protective setting that for a portion of a 24-hour day. Services often offered in conjunction include, but are not limited to social and recreational activities, training, counseling, meals, and/or medication assistance.

29. **Day Care Center.** A facility in which are received six (6) or more children for part of all of a day and includes but is not limited to the following: nursery, school, kindergarten, child care center, day nursery, preschool, and playground. It does not include bona fide kindergartens or nursery schools operated by public or private elementary or secondary systems.

30. **Day Care, Home.** A person or program providing child care to five (5) children or fewer children at any one time that is not registered to provide child care, as authorized under Iowa Code Sec. 237A.3.

31. **Delayed Deposit Service Uses.** An individual, group of individuals, partnership and association, corporation or any other business unity or legal entity, who for a fee accepts a check dated subsequent to the date it was written or to a check dated on the date it was written and holds said check for a period
of time prior to deposit or presentment pursuant to an agreement with, or any representation made to the maker of the check, whether express or implied. For the purposes of the Ordinance “check” means a check, draft, share draft, or other instrument for the payment of money.

32. **Drive-Through Facility.** See Restaurant, Drive-Through.

33. **Dwelling Unit, Auxiliary.** An attached or detached dwelling unit conforming to the following provisions:

A. **Auxiliary Dwelling Unit, Attached.** A dwelling unit attached to a single-unit dwelling. The attached auxiliary dwelling unit may have permanent, independent provisions for living, sleeping, eating, cooking and sanitation. A separate exterior entrance to the auxiliary dwelling unit may be provided. An interior connection between the auxiliary dwelling unit and the single-unit detached dwelling is not necessary, unless required to meet building or fire prevention code requirements.

B. **Auxiliary Dwelling Unit, Detached.** A dwelling unit, but not a manufactured home, surrounded by open space, which is constructed on the same lot as a single-unit detached dwelling. The detached auxiliary dwelling unit may have permanent, independent facilities for living, sleeping, eating, cooking and sanitation.

34. **Dwelling, Efficiency/Micro Unit.** A dwelling unit, included as part of a multi-unit development and located in a mixed-use zoning district, with a total gross floor area of no more than 500 square feet.

35. **Dwelling, One-Unit.** A detached dwelling containing a single dwelling unit. Travel trailers, housing mounted on self-propelled or drawn vehicles, tents, or other forms of temporary or portable housing are not included in this definition.

36. **Dwelling, Two-Unit.** A building containing two (2) dwelling units attached either vertically or horizontally. This use does not include Auxiliary Dwelling Units as defined herein.

37. **Dwelling, Three-Unit.** A building containing three (3) dwelling units attached either vertically or horizontally.

38. **Dwelling, Four-Unit.** A building containing four (4) dwelling units attached either vertically or horizontally.

39. **Dwelling, Multi-Unit.** A building with five (5) or more dwelling units not designed as townhouses (see Dwelling, Townhouse), where each dwelling unit is provided an individual entrance to the outdoors or to a common hallway.

40. **Dwelling, Townhouse.** A building with two (2) or more attached dwelling units arranged side-by-side, sharing common fire-resistive walls without openings, where each dwelling unit occupies an exclusive vertical
space with no other dwelling unit above or below, and where each dwelling unit has at least one individual exit directly to the outdoors.

41. **Dwelling, Upper Level.** A dwelling unit located on a floor above a on residential use.

42. **Electronics Superstore.** An establishment with more than 30,000 square feet of floor area that specializes in the sale of electronic merchandise. Examples of items sold in these stores include: televisions, audio and video players and recorders; software; telephones; computers; and general electronics accessories. Major home appliances may also be sold at these facilities.

43. **Emergency Medical Center.** A facility, other than a hospital, that provides emergency medical care and that is licensed by the State of Iowa as an emergency center under the Emergency Medical Services (EMS) Systems Act.

44. **Family Home.** A residential home which is licensed as a residential care facility under Chapter 135C of the Code of Iowa, or as a child foster care facility under Chapter 237 of the Code of Iowa, to provide room and board, personal care, rehabilitation services, and supervision in a family environment exclusively for not more than eight (8) developmentally disabled persons, brain injury, and any necessary support personnel. However, “family home” does not mean an individual foster care family licensed under Chapter 237 of the Code of Iowa. Includes an elder group home.

45. **Financial Institution (G).** An establishment, the principal use or purpose of which is the provision of financial services including, but not limited to, mortgage companies and investment services. Financial Institution shall not include currency exchanges, banks, credit unions, and savings banks.

46. **Firework Sales.** The sale of any substance or combination of substance or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance and that meets the definition of consumer fireworks, display fireworks, or novelty fireworks as defined by the American Pyrotechnics Association and include, but are not limited to firecrackers, torpedoes, sky rockets, Roman candles, sparklers, poppers, snappers, or the like.

47. **Funeral Home / Mortuary.** An establishment providing services for preparing deceased humans for burial and may include a chapel or gathering space for the display of the deceased and rituals connected therewith before burial or cremation. This excludes cemeteries, columbaria, and mausoleums.

48. **Furniture Store.** A furniture store is a full-service retail facility that specializes in the sale of furniture. Furniture stores are generally large and may include storage areas. Although some home accessories may be sold, furniture stores primarily focus on the sale of pre-assembled furniture.
49. **Gas Station.** An establishment offering for sale at retail to the public, fuels, oils and accessories for motor vehicles, which may also offer convenience goods such as food, beverages, and other items typically found in a convenience market. Gas Station does not include Motor Vehicle Service and Repair, Minor, as defined herein. For Gas Station facilities with drive-through fast food windows, see Drive-Through Facility.

50. **Golf Course.** Land used for playing the game of golf by the public or by members and guests of a private club, and which may include any of the following: clubhouse, meeting rooms, food and beverage services, tennis facilities, landscaping, irrigation systems, driving ranges, paths and golf greens and tees.

51. **Grocery, Neighborhood.** Retail establishments occupying facilities of less than 10,000 square feet, and characterized by sales of specialty foods or a limited variety of general items. The accessory sale of fuel for motor vehicles is not allowed. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, and small grocery stores.

52. **Grocery.** Retail establishments primarily selling a wide variety of food commodities, but also may sell other convenience and household goods, using facilities larger than 10,000 square feet.

53. **Group Home.** A facility for the residence of individuals including resident persons providing care and supervision in a family setting. A group home shall be duly approved and licensed as required by applicable State and local regulations. A group home does not include a facility such as a family home, rehabilitation house, lodging house, fraternity, sorority, health care facility or similar institution. (Group Home, Small = less than 6 individuals; Group Home, Large = 6 or more individuals)

54. **Health/Fitness Club.** An establishment that provides exercise facilities such as running, jogging, aerobics, weight lifting, court sports and swimming, as well as locker rooms, showers, massage rooms, saunas and related accessory uses.

55. **Heavy Retail and Service (G).** A retail and/or service establishment where a) outdoor service or storage areas or partially enclosed structures are used in conjunction with the business, or b) the sale of goods or services to the general public at retail is secondary to the sale of goods or services to contractors, service professionals, and the like at wholesale. This use includes, but is not limited to, equipment rental and leasing, lumberyards and other building material and building supply establishments; auto parts establishments, commercial greenhouses and garden centers; landscape, construction and lawn maintenance contractor yards; contractor’s offices and storage; bulk materials sales and storage; swimming pool sales; deck and patio sales, playground equipment sales, and recreational vehicle and mobile home dealers. Outdoor Sales Areas and outdoor storage are permitted as accessory uses. Heavy Retail and Service does not include: Home Improvement Center,
Retail Sales, Personal Services, Pawn Shops, Motor Vehicle Sales and Leasing, or Adult Uses, as defined herein.

56. **Heliport.** An area used or intended to be used for the landing and take-off of helicopters that is certified by the State of Iowa as such.

57. **Home Improvement Center.** An establishment with more than 50,000 square feet of floor area that sells building supplies, construction equipment, home decorating fixtures and accessories, and related goods and services to the general public. Outdoor Sales, Permanent and Temporary, are permitted as accessory uses. Home Improvement Center is distinct from Heavy Retail and Service, as defined herein.

58. **Home Occupation (G).** The conduct of a business or profession within a dwelling unit by one or more members of the family residing therein, which is incidental and secondary to the residential use. Home Occupation includes, but is not limited to, the following: the practice of law, engineering, architecture, and accounting; brokerage; business offices; instruction in or the practice of art, photography, music, language, or dance; computer services; hair cutting and styling; and day care homes. The following occupations, as well as others which do not have a character similar to those listed above, are specifically excluded from the definition of home occupation: restaurants, bed and breakfast establishments, nursing homes, mortuary establishments, and retail sales establishments with stock displayed and/or sold on the premises.

59. **Homeless Shelter.** A facility that provides temporary sleeping and/or living accommodations and meals to homeless persons and which may include counseling, accessory offices, or recreational facilities for occupants.

60. **Horse Stable, Private.** A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

61. **Hospice.** A facility or program licensed by the State of Iowa that meets the requirements as authorized under the Iowa Licensed Hospice Program [Iowa Code Sec. 135.J].

62. **Hospital.** An institution that provides emergency room and other services including but not limited to physical or mental health services, in-patient or overnight accommodations, and medical or surgical care services, that is licensed by the State of Iowa under the Licensure and Regulation of Hospitals [Iowa Code Sec. 135.B].

63. **Hotel/Motel.** A building where guest rooms or suites are offered for a fee to temporary or transient guests to provide temporary sleeping and/or living accommodations. This use is distinct from Bed and Breakfast Establishment and Homeless Shelter as defined herein.

64. **Independent Living Facility.** A multiple-family dwelling that is limited to occupancy by persons who are fifty-five (55) years of age or older or,
if two (2) persons occupy a unit, at least one (1) shall be fifty-five (55) years or older. Such facilities may include offering congregate meals in a common dining area. This use may include incidental medical services for the convenience of residents, but is distinct from an Assisted Living or Nursing Home, as defined herein.

65. Indoor Recreation and Amusement (G). Indoor facilities including Health/Fitness Clubs, sports arenas, swimming pools, ice or roller skating rinks, bowling alleys, tennis, handball and other court games, sports clubs, indoor golf, paintball marking, pool, billiards, foosball, table tennis, shuffleboard, pinball machines, video games and similar recreation or amusement facilities. This use may include accessory uses such as snack bars, pro shops and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

66. Junk/Salvage Yard. An open area where waste, and/or used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. This use includes auto salvage yards, but does not include a Recycling Facility as defined herein.

67. Kennel. Any lot or premises, or portion thereof, where more than four (4) dogs, cats and other household domestic animals, over four (4) months of age, are kept, or where more than two (2) such animals are boarded for compensation. This use includes animal day care establishments, but does not include the retail sale of household domestic animals unless animals are kept or exercised out of doors.

68. Library. A public or private facility where books, periodicals, recordings, and other documents are principally maintained for borrowing and use by patrons, rather than being offered for sale. This use may include the incidental sale of surplus materials and other goods.

69. Live Entertainment (G). The performance of singing, playing musical instruments, spoken word, or dancing by live performers within an establishment such as a Restaurant or Tavern/Bar, or portion thereof. Live Entertainment does not include Theaters that may have live musical performances as part of a theatrical production, or Restaurants that play low volume background music.

70. Lodge or Private Club. A non-profit association of persons who are bona fide members paying dues, which owns, hires, or leases a building, or portion thereof, where the use of the premises are restricted to members and their guests.

71. Manufacturing, Heavy (G). Activities or processes that may involve the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process, and may involve outdoor operations. Typical heavy manufacturing uses include, but are not limited to:
concrete batch plants, concrete, tile or brick manufacturing, automobile, truck and tire assembly, ammonia or chlorine manufacturing, metal casting or foundries, grain milling or processing, metal or metal ore production, refining, smelting or alloying, petroleum or petroleum product refining, boat, pool and spa manufacturing, slaughtering of animals, glass manufacturing, paper manufacturing, and wood or lumber processing. The assembly, fabrication or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare or health and safety hazards, are considered Heavy Manufacturing.

72. Manufacturing, Light (G). The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication or processing takes place.

73. Medical Cannabidiol. Any pharmaceutical grade cannabinoid that has a tetrahydrocannabinol level consistent with Iowa Code Sec. 124.E.

74. Medical Cannabidiol Dispensary. Any dispensary selected and licensed by the State of Iowa to dispense medical cannabidiol within the state of Iowa shall abide by Iowa Code Sec. 124.E.

75. Medical Cannabidiol Manufacturer. Any manufacturer selected and licensed by the State of Iowa to manufacture and to possess, cultivate, harvest, transport, package, process, or supply medical cannabidiol within the state of Iowa and shall abide by Iowa Code Sec. 124.E.

76. Medical / Dental Clinic. A medical or dental office or clinic offering professional medical or dental services primarily on an out-patient basis. Such services may include examination and consultation, treatment, surgery, radiology, MRI, on-site testing laboratories, physical / occupational therapy, diagnostic services, training, administration, and other services to patients provided by licensed medical or dental professionals. This use includes facilities licensed by the State of Iowa as ambulatory surgical treatment centers. This use does not include a Hospital as defined herein or a facility certified by the State of Iowa as an emergency center under the Emergency Medical Services (EMS) Systems Act.

77. Microbrewery. An establishment licensed by the State of Iowa for the manufacturing, blending, fermentation, processing, and packaging of alcoholic beverages for distribution, retail sale, or wholesale, for consumption on- or off-premises which produces less than 15,000 barrels per year. Taprooms or tasting rooms for on-site consumption of the manufacture’s products is permitted. This includes micro-distilleries and micro-wineries.

78. Mini-Warehouse. A structure or group of structures used for the purpose of renting or leasing individual storage spaces to different tenants who
are to have access to such spaces for the purpose of storage and removing property. This includes shipping containers and other temporary individual structures.

79. Model Airplane Facility. An outdoor facility for displaying and flying model aircraft, including paved or unpaved runways and taxiways, shelter structures, seating such as benches or bleachers, parking facilities for participants and spectators, and unpaved areas for temporary event parking. The nature and extent of these facilities may be specified in an ordinance granting or amending a special use. The area encompassed by the use shall include all flight paths and flyover areas.

80. Motor Vehicle Display, Outdoor. The outdoor display of new or used motor vehicles offered for sale or lease, which do not carry permanent motor vehicle registration tags, but may be temporarily registered with “dealer” plates for purposes of test drives, transfer of vehicles between sales locations, use by sales personnel, and similar limited uses. Outdoor Motor Vehicle Display is permitted only in conjunction with an allowable Motor Vehicle Sales and Leasing use.

81. Motor Vehicle Rental. An establishment that offers motor vehicles, trucks, vans, recreational vehicles, trailers, or other similar motorized transportation vehicles for rent to the general public.

82. Motor Vehicle Sales and Leasing. An establishment licensed by the State of Iowa where the principal use is the sale or lease of new or used automobiles, trucks, vans, trailers, boats or motorcycles, or other similar motorized transportation vehicles. A Motor Vehicle Sales and Leasing establishment may maintain an inventory of the vehicles for sale or lease on-site. Secondary support uses may also exist upon the same site, such as maintenance, repair, and service areas, indoor parts storage areas, and financial services areas. Motor Vehicle Display, Outdoor, is permitted as an accessory use; Vehicle Service and Repair, Major and Minor, as defined herein, are permitted as accessory uses or as additional principal uses.

83. Motor Vehicle Service and Repair, Major. Motor Vehicle Service and Repair, Major includes, but shall not be limited to, establishments involved in major reconditioning of worn or damaged motor vehicles or trailers, engine rebuilding, towing and collision service, including body, frame or fender straightening or repair, and overall painting of motor vehicles. Such establishments often require the storage of vehicles to be repaired. Vehicle towing establishments, with or without repair facilities, are included in this category.

84. Motor Vehicle Service and Repair, Minor. An establishment which performs minor repairs and service to any motor vehicle, including repairs and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, brake relining and repairs, wheel alignment and balancing, repair and replacement of shock absorbers, touch up work for paint chips and
windshields, engine repair and service, and transmission repair and service which is, conducted entirely within an enclosed building. Such use may include the incidental sales of motor oil, lubricants or motor vehicle accessories. This use does not permit the storage of repair vehicles on the site for more than five (5) days and does not include the services and activities of Motor Vehicle Service and Repair, Major, as defined herein.

85. **Motor Vehicle Storage, Permanent.** The outdoor storage of motor vehicles, trucks, vans, recreational vehicles, trailers, or other similar motorized transportation vehicles, when not accessory to any principal use on the same lot.

86. **Motor Vehicle Storage, Temporary.** The temporary outdoor storage of motor vehicles, trucks, vans, recreational vehicles, trailers, or other similar motorized transportation, when not accessory to any principal use on the same lot, conforming to the limits provided herein for Temporary Motor Vehicle Storage.

87. **Nursing Home.** An institutional facility that meets the definition of a nursing facility as established in the Iowa Code of Health Care Facilities [Iowa Code Sec. 135.C].

88. **Office, Government (G).** An office of a local, State or Federal government organization. This use is distinct from a Public Service Facility, as defined herein.

89. **Office, Business or Professional (G).** An office used for business, professional or administrative uses, which may or may not offer services to the public, and is engaged in the processing, manipulation or application of business information or professional expertise. This use may include as accessory uses, facilities not available for use by the general public such as meeting facilities, employee amenities such as exercise rooms, and food service. This use does not involve the fabricating, assembling, warehousing, or repair of physical products, and does not include Medical/Dental Clinics, Financial Institutions or Professional Training Centers.

90. **Outdoor Amusement.** Outdoor facilities including stadiums, outdoor theaters, go-cart courses, raceways, rodeos, outdoor music arenas, theme parks, amusement parks, and privately-owned water parks. Outdoor Amusement may include accessory uses, such as snack bars, which are designed and intended primarily for the use of patrons of the principal use.

91. **Outdoor Dining.** The serving of food and/or beverages in an outdoor space with seats and/or tables accessory to a restaurant or other food service establishment.

92. **Outdoor Entertainment.** An outdoor show, performance or the playing of recorded or amplified sound.
93. **Outdoor Entertainment, Temporary.** The performance of live music outside of an enclosed building in an outdoor space as part of a community festival or an event hosted by the City, Park District, School District, or other governmental body, or as a temporary accessory use to a business.

94. **Outdoor Recreation (G).** Active outdoor recreational facilities available to the general public, including lighted ball fields, lighted ball courts, driving ranges, miniature golf courses, batting cages, skateboarding courses, archery ranges, outdoor aquatic facilities owned and operated by a park district such as swimming pools, splash parks and water slides, and other similar uses. This use may include accessory uses such as snack bars that are designed and intended primarily for the use of patrons of the principal recreational use. Outdoor Recreation does not include Model Airplane Facilities, Golf Courses, or Outdoor Amusement.

95. **Outdoor Sales, Permanent.** The sale or display for sale at retail of goods, or the provision of services, out of doors in conjunction with or accessory to a principal use, where the sale, display or provision of services exceeds the time limits provided herein for Temporary Outdoor Sales.

96. **Outdoor Sales, Temporary.** The sale or display for sale at retail of goods, or the provision of services, out of doors in conjunction with or accessory to a principal use, where the sale, display or provision of services conforms to the limits provided herein for Temporary Outdoor Sales.

97. **Outdoor Storage.** The storage of any goods, material, merchandise or equipment outside of an enclosed building. Outdoor Storage does not include the display of goods for sale at retail or temporary storage of refuse, nor does it include outdoor refuse dumpsters, recycling containers, compacting equipment, pallet storage, baled cardboard, and other refuse and recycling materials.

98. **Park, Neighborhood.** Public or private open space maintained in a natural state or improved with amenities for passive or active recreation, including but not limited to ball fields and ball courts without lighting for night play. This use does not include facilities categorized as Outdoor Recreation or Outdoor Amusement.

99. **Parking Garage/Structure.** Public or private structures, or portions thereof, composed of one (1) or more levels or floors used exclusively for the parking of motor vehicles, whether public or private, but not including a private garage as defined herein. A parking structure may be totally below grade (as in an underground parking garage), or either partially or totally above grade, with those levels being either open or enclosed.

100. **Parking Lot, Private.** A parking lot used for parking of motor vehicles that is not within a parking garage/structure and is not within or under a building. This use is distinct from “Motor Vehicle Display, Outdoor”, “Motor Vehicle Storage”, and “Parking Lot, Public.”
101. **Parking Lot, Public.** A parking lot used for parking of motor vehicles that is not within a parking garage/structure, is not within or under a building, and is available for public use for at least a portion of the day. The lot may provide off-street parking for multiple uses and lots in the vicinity. The lot may be accessory to a building and may be publicly or privately owned. This use is distinct from “Motor Vehicle Display, Outdoor”, “Motor Vehicle Storage”, and “Parking Lot, Private.”

102. **Pawn Shop.** An establishment where loans are offered on the security of personal property and where unclaimed property is sold.

103. **Personal Services (G).** An establishment where personal services are provided directly to the customer. This use includes, but is not limited to, barber shops, beauty parlors, day spas, laundry and dry-cleaning establishments, tanning salons, tailors, domestic pet grooming, shoe repair shops, and the like. This use may include incidental retail sales of goods. Tattoo Parlors, Currency Exchanges, Motor Vehicle Rental and Sexually Oriented Business are not permitted as Personal Services establishments.

104. **Personal Services, Limited.** A subset of the Personal Services use category limited to barber shops and beauty salons (including: hair treatments, facial treatments, pedicures, and finger nail treatments, tanning salons). All limitations on the Personal Services use category shall also apply to Personal Services, Limited.

105. **Pet Care Facilities.** A building, structure or portion thereof designed or used for the retail sale of pet products and food, grooming, boarding, training, daycare or overnight boarding of dogs, cats or other household domestic animals. The overnight boarding area of the establishment shall not exceed 50% of the total Gross Floor Area of the business. Establishments that only provide daycare and overnight boarding services, or establishments where these services exceed 50% of the Gross Floor Area, shall be considered a Kennel, not a Pet Care Facility.

106. **Place of Worship.** A church, temple, synagogue, mosque or other religious place of assembly, which may or may not include schools and/or meeting facilities and accessory uses such as a parish house, recreational facilities and other non-profit operations that serve members of the religious organization.

107. **Planned Unit Development.** A special use that is reviewed and approved according to the standards and procedures of Section 176.34, Planned Development Districts and other relevant provisions of this Ordinance.

108. **Police Firearms Training Range.** A firearms range used exclusively for training and practice by law enforcement personnel.
109. **Private Garage.** An accessory building, or an accessory portion of the principal building, which is intended and used for storing the private passenger vehicles of the family or families residing upon the premises.

110. **Professional Training Center.** A training center with classrooms, administrative offices, food preparation and service, residential accommodations for trainees, and recreational facilities.

111. **Post Office.** A facility with service windows for mailing packages and letters, post office boxes, postal service offices, postal vehicle storage areas and sorting and distribution facilities for mail.

112. **Public Plaza.** Pedestrian oriented open space owned and maintained by a public agency for the use and enjoyment of the general public, commonly landscaped.

113. **Public Service Facility.** A facility owned and operated by a governmental entity used to provide a public safety or public service, including but not limited to police and fire stations, public works facilities for road or utility maintenance, vehicle maintenance garages, workshops, storage, offices, communications and dispatch, school bus maintenance and storage, and park maintenance facilities.

114. **Recycling Facility.** A facility where newspapers, magazines, books and other paper products, glass, metal cans and other products are received, sorted, reprocessed and/or treated as part of a process to return such products to a condition in which they may be used again as a raw material in finished products. This use does not include a junkyard as defined herein.

115. **Research and Development Use (G).** Facilities for laboratory research in scientific, medical or technology intensive fields such as biotechnology, pharmaceuticals, genetics, plastics, polymers, resins, coatings, fibers, fabrics, films, heat transfer and radiation research, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory or research facility.

116. **Restaurant (G).** An establishment in which the primary activity is prepared food service, provided for consumption on the premises or for carry-out. Live entertainment is permitted as an accessory use within completely enclosed areas; and outdoor dining, including service to patrons seated outdoors, is permitted as an accessory use on the premises. This use is distinct from a Tavern/Bar where the primary purpose is the sale of alcoholic beverages, or snack bars or refreshment stands that are accessory to recreational or amusement facilities. For restaurants with drive-through windows, see Drive-Through Facility; for restaurants with outdoor live entertainment, see Outdoor Entertainment. A small-scale brewery serving food can be included in the definition of a restaurant.
117. **Restaurant, Carry-Out Only.** A restaurant establishment in which the primary activity is prepared food service provided for carry-out or delivery only, and no food is consumed on the premises.

118. **Restaurant, Drive-In.** A restaurant in which food is served directly to customers in motor vehicles for consumption of the premises.

119. **Restaurant, Drive-Through.** A facility or part thereof that provides goods or services to patrons while they remain in a motor vehicle for consumption off the premises.

120. **Retail Sales, Large (G).** An establishment over 30,000 square feet where the primary purpose is the sale of physical goods, products or merchandise directly to the consumer. This use includes, but is not limited to, stores that sell groceries, hardware, clothing, auto parts, electronics, appliances, jewelry, antiques and shoes. This use also includes, Electronics Superstores, and Furniture Stores and Grocery Stores. This use does not include Heavy Retail and Service, Home Improvement Center, Pawn Shops, or Sexually Oriented Business as defined by Chapter 127, herein.

121. **Retail Sales, Medium (G).** An establishment between 10,000 and 30,000 square feet where the primary purpose is the sale of physical goods, products or merchandise directly to the consumer. This use includes, but is not limited to, stores that sell groceries, hardware, clothing, auto parts, electronics, appliances, jewelry, antiques and shoes. This use does not include Heavy Retail and Service, Home Improvement Center, Pawn Shops, or Sexually Oriented Business as defined by Chapter 127, herein.

122. **Retail Sales, Small (G).** An establishment between 5,000 and 10,000 square feet where the primary purpose is the sale of physical goods, products or merchandise directly to the consumer. This use includes, but is not limited to, stores that sell groceries, hardware, clothing, auto parts, electronics, appliances, jewelry, antiques and shoes. This use also includes, Neighborhood Grocery Stores, Specialty Retail Stores. This use does not include Heavy Retail and Service, Home Improvement Center, Pawn Shops, or Sexually Oriented Business as defined by Chapter 127.

123. **Retail Sales, Specialty (G).** Retail operations that specialize in one type or line of merchandise. Specialty Retail Sales establishments include stores that sell food items prepared on site, including but not limited to chocolate, ice cream, candy, bakery items and popcorn.

124. **Sexually Oriented Business.** An adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter services, or experiences appropriate only for adults by reason of an emphasis on “specified sexual activities” or “specified anatomical areas” as defined in Chapter 127 of this Code of Ordinances.
125. **Schools, Primary or Secondary.** Public, private or parochial institutions primarily engaged in academic instruction for all, or part of, grades Kindergarten through 12th, and recognized or approved by the State of Iowa. This use may include accessory day care centers for children over the age of three (3).

126. **School, Private Boarding.** An elementary, junior high or high school that provides lodging for students on the same property.

127. **School, Specialized Instructional (G).** A private for-profit or non-profit establishment where the primary business is providing specialized instruction not necessarily limited by age, such as, but not limited to, driving, trade, specialized academic, vocational, art, music and dance schools.

128. **Tattoo Parlor/Body Piercing Studio.** An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of (1) placing of designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances, which result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

129. **Tavern/Bar.** An establishment primarily engaged in serving alcoholic liquor for consumption on the premises. This use may also include accessory sale of prepared food. Live entertainment is permitted as an accessory use in completely enclosed areas. This use does not include Outdoor Dining, unless permitted as a Special Use.

130. **Theater.** An indoor establishment where live performances, motion pictures, or other recorded media are offered for public viewing, where admission is charged. This use does not include any Sexually Oriented Business, as defined herein.

131. **Transportation Operations Facility.** A facility which may include outdoor facilities and buildings, where buses, trains, taxicabs or other delivery vehicles are stored and/or dispatched, where loading and unloading of passengers and freight may be carried on regularly. This use is distinct from a Public Service Facility, as defined herein.

132. **Utility, Community/Regional.** Infrastructure services that serve a larger area than those defined herein as Utility, Local and which may have employees normally present at the site. This includes electrical substations, telephone equipment buildings, cable television head-end facilities, above-ground natural gas transmission facilities, municipal wastewater treatment facilities, water supply treatment facilities, and similar large-scale utility equipment and buildings.

133. **Utility, Local.** Infrastructure services that need to be located in the area where the service is provided, and which generally do not have employees at
the site. This includes overhead electric and communications lines and poles; electric utility towers; electric transformers and switchgear; traffic signals and controllers; street lighting; wastewater lift stations; fire hydrants and standpipes; water supply wells, reservoirs and towers; storm water drainage and underground gas, electrical, telephone, communications, water distribution, wastewater collection, and drainage facilities. This use does not include the facilities included under Utility, Community/Regional as defined herein.

134. Veterinary Office/Animal Hospital. Any building, or portion thereof, designed or used for veterinary examination, observation and treatment of domestic animals, and may include euthanasia of domestic animals. This use does not include Kennels or any keeping of animals out of doors, except that one animal at a time may be taken out of doors by one or more employees of the Veterinary Office/Animal Hospital; see also Kennels and Horse Stables, Private.

135. Warehouse/Distribution. This use includes structures or areas, or a portion thereof, used principally for the storage or distribution of goods and merchandise to retailers, non-residential users, or to other wholesalers. This use shall not include Manufacturing, Light/Assembly, as defined herein.

General Zoning Definitions

136. Abut or Abutting. Having a common lot line, zoning district boundary line, or other boundary, not separated by a street or alley.

137. Accessory Building. A building that is subordinate in area, extent and purpose to the principal use and building on the lot and that is customarily used or occupied for a permitted accessory use. Examples of accessory buildings include private garages and storage buildings.

138. Accessory Structure. A structure that is subordinate in area, extent and purpose to the principal use and building on the lot and that is customarily used for a permitted accessory use. Examples of accessory structures include signs, fences, and decks.

139. Addition or Expansion. Any of the following:
   A. An increase in floor area of a building
   B. A modification to the roof line of a building, such as the construction of a dormer that increases the amount of floor space devoted to human use or occupancy
   C. The reconstruction of a building or structure which is not accompanied by a change in the use of a lot

140. Advertising Bench. Any bench or bench-like structure that is used, in whole or in part, for advertising purposes by means of a message or design
141. **Alley.** A public right-of-way, normally 20 feet or less in width, that affords a secondary means of access to abutting properties.

142. **Alteration.** Any physical change to the exterior surface of a building or part thereof, including but not limited to renovation, rehabilitation, reconstruction, restoration, or replacement, or any change that affects the interior configuration of walls, spaces, or bulk of a building or structure.

143. **Architectural Feature.** A visually apparent feature of a building or structure that contributes to its aesthetics, including but not limited to cornices, eaves, gutters, belt courses, lintels, sills, archways, windows, doors, chimneys, columns, pilasters, and decorative ornaments.

144. **Arterial or Collector Street.** A street that is designated in the Marion Comprehensive Plan and Marion Major Streets Right-of-Way Guide as an existing or future strategic major arterial, minor arterial or collector street.

145. **Attention-getting Device.** Any flag, streamer, pennant, light, balloon, fringe, or similar device or ornamentation used primarily for the purpose of attracting attention for promotion or advertising a business or other use, which is visible by the general public from any public right of way.

146. **Automobile Franchise.** The right to sell a particular make of motor vehicle held by any person, firm or corporation owning or demising any portion of the land within an Auto Mall, as defined herein, irrespective of whether a particular manufacturer has multiple makes or brands. By way of example only, a corporation authorized to sell Pat McGrath manufactured Jeep vehicles and Pat McGrath-Buick manufactured Dodge vehicles shall be considered to have two (2) Franchises.

147. **Awning.** A structure made of cloth, metal or other materials affixed to a building and generally located so as to provide shade for windows and doors.

148. **Basement.** A portion of the building partly underground but having less than one-half its clear height below the average grade of the adjoining ground.

149. **Bay Window.** A window which projects outward from the building wall, and does not rest on the building foundation or on the ground.

150. **Beacon.** A light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source. However, this term shall not include any kind of lighting device that is required or necessary under the safety regulations described by the Federal Aviation Administration or other similar agencies. Beacon shall not include Searchlight, as defined herein.

151. **Berm.** An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes.
152. **Block.** A tract of land bounded by streets or by a combination of one (1) or more streets and public parks, cemeteries, railroad rights-of-way, bulkhead lines, shorelines of waterways or corporate boundary lines.

153. **Block Face.** The properties abutting on one (1) side of the street and lying between the two (2) nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right- of-way, public parks, cemeteries, corporate boundary line or watercourse.

154. **Block Frontage.** The total horizontal length of the lot frontages on one side of a street between the two nearest intersecting streets, or, if the street terminates in a dead-end, between the nearest intersecting street and the dead end of the street.

155. **Bollard.** A functional pole or sphere attached to the ground intended to control automobile access into pedestrian areas or protect structures in pedestrian areas from automobile damage.

156. **Breezeway.** A roofed, open-sided structure that connects a principal building with an accessory building.

157. **Buffer Yard.** An area of a lot with landscape plantings and other components used to visibly separate one use from another or to shield noise, lights or other nuisances.

158. **Buildable Area.** The area of lot remaining after the minimum yard and/or open space requirements of this Ordinance have been complied with.

159. **Building.** A structure attached to the ground built for the support, shelter or enclosure of persons, animals or property of any kind.

160. **Building, Attached.** A building which is joined to another at one or more sides by a common wall, except that any accessory building, including a garage, shall also be considered as attached to the principal building if connected by a roof.

161. **Building, Completely Enclosed.** A building enclosed by a permanent roof and continuous exterior walls having openings only for windows, screens, and entrance or exit doors.

162. **Building Coverage.** A measure of intensity of land use that represents the portion of a site that is covered by a principal building or buildings including attached garages and enclosed porches, and accessory buildings including detached garages and any other enclosed accessory building in excess of 120 square feet of Lot Coverage. Building Coverage shall be measured at the outer edge of the foundation line, or at the outer wall surface or support column in the case of a post or other non-continuous foundation, excluding projections for bay windows. Building Coverage shall not include unenclosed porches, decks, or unenclosed accessory structures such as gazebos, swimming pools, or tennis and sports courts.
163. **Building, Detached.** A building surrounded by open space on the same lot. A building connected to another building only by an unenclosed structure shall be deemed to be a detached building.

164. **Building Frontage.** The horizontal length of any side of a building or portion thereof that faces a public or private street or parking area.

165. **Building Height.** The vertical distance from grade at the midpoint of the required front building line to a specified point on the building:

   A. In the case of a flat roof, to the highest point of the wall or parapet; if the building design provides for enclosed mechanical equipment on the roof, the building height shall be measured to the highest point of the enclosing structure, if the enclosing structure comprises more than 20% of the lot coverage of the building.

   B. In the case of a gable, hip, gambrel or mansard roof, to the top of the ridge of the highest area of the roof.

   C. Building elements extending above the main portion of the building such as chimneys, spires, steeple, towers, elevator penthouses, tanks and similar projections shall not be included in calculating building height, unless the area of a horizontal plane through the widest part of the building element comprises more than 20% of the lot coverage of the building.

166. **Building Line.** A line within the lot parallel to a front lot line or exterior side lot line, which is separated from such lot line by the depth of the required front yard or exterior side yard, respectively.

167. **Bulk.** The term used to indicate the size of buildings or structures, and the location of the same with respect to lot lines and to one another, which includes the following:

   A. Lot Area

   B. Lot Width

   C. Building Coverage

   D. Floor Area and Floor Area Ratio

   E. Building Height

   F. Yards, setbacks, Landscape Buffers, and other open space.

168. **Bulletin Board.** Any sign with a changeable message board erected in a permanent fashion by a charitable, educational or religious institution or public body, which is erected upon the same property as said institution.

169. **Business.** The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or services, the maintenance or operations of offices or recreational and amusement enterprises for profit.

170. **Canopy.** A permanent roof like structure that projects from the wall of a building and overhangs the right of way or open space outside the building,
normally used to shelter pedestrians from rain or snow, or as a decorative architectural feature.

171. **Carport.** An open-sided roofed structure designed to shelter one or more vehicles, usually formed by an extension of the roof from the side of a building.

172. **Cellar.** The portion of a building located partly or wholly underground, and having half of more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

173. **Circular Driveway.** A driveway on a single or two-family residential lot configured generally in a “U” shape, having two points of access to a public street or streets.

174. **Clear Zone.** An area of a lot that is required to be kept clear of obstructions as specified by this Ordinance, to provide access to fire hydrants and electrical equipment.

175. **Commercial Vehicle.** Any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, for-hire or not-for-hire, but not including a commuter van, a vehicle used in a ridesharing arrangement when being used for that purpose, or a recreational vehicle not being used commercially.

176. **Conditional Use.** The use allowed in a zoning district after approval is granted by the Zoning Board of Adjustment according to the provisions set forth in Section 176.36 of this Ordinance.

177. **Conforming Building or Structure.** Any building or structure that complies with the regulations of this Ordinance, as amended.

178. **Contiguous.** Adjoining or abutting.

179. **Curb Level.** The elevation of the established curb in front of a building or structure, measured at the midpoint of the building or structure’s frontage. Where there is pavement, but no curb, curb level shall be deemed to be the elevation of the centerline of the street surface in front of the building or structure, measured at the midpoint of the building or structure’s frontage.

180. **Deck.** An accessory structure that may be attached or unattached to the principal building, which is open to the sky and provides a platform that is raised above the ground.

181. **Degree of Nonconformity.** The degree of deviation of a particular nonconformity from uses or structures permitted within a zoning district. The principal uses listed under a specific zoning district shall be interpreted to have the same degree of nonconformity for the purposes of this Ordinance.

182. **District.** A geographic area of the City within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.
183.  **Donation Boxes.** Any enclosed container located on private or public property specifically for the purpose of collecting donated clothing, books, electronics, or other similar items. Cargo Containers, trash dumpsters, or trash receptacles shall not be considered Donations Boxes.

184.  **Driveway.** A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

185.  **Dwelling.** A building, or portion thereof, designed or used exclusively for residential occupancy, but not including Hotel/Motel or Bed and Breakfast Establishment, nor an automobile house trailer, recreational vehicle as defined herein.

186.  **Dwelling, Attached.** A dwelling that is joined to another dwelling at one (1) or more sides by a party wall or walls.

187.  **Dwelling, Detached.** A dwelling that is entirely surrounded by open space on the same lot.

188.  **Dwelling Unit.** A dwelling unit consists of a group of rooms which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family, as defined by this Ordinance and which include permanently installed bathroom and kitchen facilities.

189.  **Dwelling Unit, Accessory.** See Dwelling Unit, Auxiliary.

190.  **Easement.** A legal interest in land, granted by the owner to another person, which allows that person’s use of all or a portion of the owner’s land, generally for a stated purpose including but not limited to access or placement of utilities, or access.

191.  **Efficiency Unit.** A dwelling unit consisting of one (1) principal room, together with bathroom, kitchen, hallway, closets and/or dining alcove directly off the principal room, provided such dining alcove does not exceed one hundred twenty-five (125) square feet in area.

192.  **Erect.** To build, construct, attach, hang, place, suspend or affix; also including the painting of wall signs.

193.  **Façade.** Any wall of a building which faces, or is visible from, a public street or residential district.

194.  **Family.** A group of individuals, not necessarily related by blood, marriage, or legal adoption, living together as a single housekeeping unit.

195.  **Fence.** A constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

196.  **Fence, Open.** A fence designed and constructed so that the surface area of any segment of the fence, inclusive of any gates, is at least eighty percent open, as compared to solid materials, when viewed perpendicular to the plane of the fence.
197. **Fence, Solid.** A fence designed and constructed so that the surface area of any segment of the fence, inclusive of any gates, is at least eighty percent opaque, when viewed at any angle.

198. **Fence Height.** The vertical distance from grade directly under the fence to the top of the fence. Support posts or decorative elements may be excluded in measuring the height of a fence if they do not exceed one hundred twenty-five percent (125%) of the height of the other elements of the fence, do not exceed six (6) inches in diameter or width, and are spaced at not less than three (3) feet on center.

199. **Floor Area, Gross.** The sum of the gross horizontal floor areas of the several stories of a building, plus any basement or cellar floor area, measured from the exterior faces of the exterior walls, or in the case of a common wall separating two buildings, from the centerline of the common wall. Gross floor area shall not include interior parking or loading spaces, or any space where the floor to ceiling height is less than six feet.

200. **Foot Candle.** A measuring unit of illuminance on a surface that is uniformly one foot from a uniform point source of light of one candela.

201. **Frequency.** The term Frequency signifies the number of oscillations per second in a sound wave and is an index of the pitch of the resulting sound.

202. **Frontage.** See Lot Frontage.

203. **Grade.** The elevation of the ground at a reference point or line, as may be specified for the applicable regulation.

204. **Greenhouse.** A building or structure used for growing plants and/or displaying and selling of horticultural and related products, not including the conduct of a landscape contracting business on the premises.

205. **Height.** The vertical distance from grade to a specified point or plane. See also Building Height, Fence Height, Sign Height.

206. **Historic building.** A building that has been designated by the City, the State of Iowa, or the National Trust for Historic Preservation as an architectural or historic landmark, or that is a significant or contributing building within a designated historic district.

207. **Historic lighting fixture.** A lighting fixture mounted on a historic building, that was either part of the original design and construction of the historic building or has been approved by the City as being consistent with the original design and construction of the historic building.

208. **Hotel.** A building in which lodging and/or boarding are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to transient guest as compared to a boarding or lodging house.
209. **Impervious Surface.** A hard, man-made surface that does not readily absorb or retain water, including but not limited to roofs, paved areas for parking and driveways, and graveled areas.

210. **Inflatable Advertising Devices.** A portable advertising device that is supported primarily by compressed air or other gases. Such devices may be sealed from escaping or may be maintained in an inflated condition by means of a fan or blower, which is designed to maintain air pressure inside the device greater than the atmospheric air pressure outside the device.

211. **Intensity of Use.** An increase to an existing use of a building, structure, or land area through the addition of dwelling units, gross floor area, seating capacity, additional employment, or similar unity of measure.

212. **Intermodal Container.** A shipping container that is portable and enclosed, used for the storage or shipping of inventory, materials or supplies.

213. **Land Banked Parking.** Parking spaces required for compliance with the off-street parking requirements of this Ordinance that are not initially constructed, pursuant to the provisions for land banked parking contained in Chapter 17.24. Land banked parking stalls shall be clearly indicated on all approved site, engineering, landscape, and building plans.

214. **Landscaping, Building Foundation.** A planted area located adjoining exterior building walls and containing a common side with the structure. Turf is not a component of this planted area.

215. **Loading Space, Off-Street.** An unobstructed area located totally outside of any street or alley right-of-way and the principal use of which is for standing, loading, or unloading of trucks or trailers.

216. **Logo.** A business trademark or symbol.

217. **Lot.** A tract of land which is designated by its owner at the time of application for a building permit as a unified parcel, all of which is to be developed and used under single ownership. A lot may consist of a) a single lot of record or b) a combination of contiguous complete lots of record. See 176.06-Figure1 for lot types.
218. **Lot Area.** The area of a horizontal plane bounded by the vertical planes through front, side and rear lot lines.

219. **Lot, Buildable.** A lot that meets all the minimum requirements of this Ordinance applicable to the construction of a principal building of a given type.

220. **Lot, Corner.** A lot situated at the junction of, and abutting on, two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a single street, the interior angle of which does not exceed one hundred thirty-five degrees (135°).

221. **Lot Coverage.** A measure of intensity of land use that represents that portion of the horizontal area of a lot that is covered by the principal building or buildings and accessory buildings and structures, including but not limited to:

A. Attached and detached garages (measured at the foundation)
B. Accessory sheds (measured at the outer wall surface)
C. Gazebos and cabanas (measured at the outer wall surface)
D. Enclosed and Unenclosed Porches (measured at the outer edge of the foundation line, or at the outer wall surface or support column in the case of a post or other non-continuous foundation)

E. Decks and accessibility ramps (measured at the outer limits of the deck or ramp surface)

F. Swimming pools (measured at the outer edge of the pool deck)

G. Tennis courts and sports courts (measured at the outer edge of the court surface)

222. **Lot Depth.** The mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.

223. **Lot, Flag.** A Flag Lot is an irregularly shaped lot which consists of two (2) sections: the primary mass of the lot (the buildable portion), which is set back from the street access and located behind one (1) or more other lots, and a narrow access corridor (the flagpole), which extends from the primary mass of the lot toward the street. The front lot line for a flag lot may be established on a lot line which is not a street frontage, and which is generally either parallel with or perpendicular to the street right-of-way.

224. **Lot Frontage.** The horizontal length of a front lot line or an exterior side lot line abutting a street. The term “Street Frontage” is equivalent.

225. **Lot, Interior.** A lot other than a corner lot or a through lot.

226. **Lot Line.** A property boundary line of any lot, except that where any portion of the lot extends into an abutting street or alley, the lot line shall be deemed to be the established or existing street or alley right-of-way line.

227. **Lot Line, Exterior Side.** A lot line which abuts a street and which is not a front lot line or a rear lot line.

228. **Lot Line, Front.**

A. In the case of an interior lot, the lot line that abuts an improved or dedicated street.

B. In the case of a corner lot or flag lot, the front lot line shall be as established on the plat of subdivision. For corner lots, if a front lot line was not established on the plat of subdivision, the front lot line shall be the shortest lot line adjoining a street; if both lot lines adjoining the street are the same length, the front lot line shall be as established by the owner at the time of application for a building permit. For flag lots, if the front lot line was not established on the plat of subdivision, the front lot line shall be as established by the owner at the time of application for a building permit.

C. In the case of a through lot, the front lot line shall be the lot line that does not abut a collector or arterial street; if neither street abutting the lot is a collector or arterial street, the front lot line shall be the
established common front lot line on the block. If no common front lot line has been established, the front lot line shall be established along the street where access is provided to the lot. If none of the preceding conditions apply, then the front lot line shall be established by the owner at the time the building permit is issued.

D. In the case of a lot with no frontage on a street, the front lot line shall be as established in a PUD, or if not so established, shall be designated by the Director of Community Development based upon the orientation of the building and its entrances in relation to the location of parking lots, access drives, and visibility of the building from public streets. In general, the front lot line should be designated so that the front of the building faces the front lot line.

229. Lot Line, Interior Side. Any lot line that is not a front lot line, a rear lot line, or an exterior side lot line.

230. Lot Line, Exterior Side. A lot line that abuts a street and that is not a front lot line or a rear lot line.

231. Lot Line, Rear. That boundary of a lot that is most distant from and is, or is approximately, parallel to the front lot line. If the rear lot line is less than ten (10) feet in length, or if the line forms a point at the rear, the rear lot line shall be deemed to be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line. In the case of a through lot, the rear lot line shall be the lot line abutting a street that is, or is most nearly, opposite from and parallel to the designated front lot line.

232. Lot of Record. A lot which is part of a recorded subdivision, or a lot or parcel described by metes and bounds, the description of which has been recorded.

233. Lot, Reversed Corner. A corner lot where the exterior side lot line is substantially a continuation of the front lot line of the first lot to its rear.

234. Lot, Through. A lot bounded by streets at opposite ends of the lot, which is not a corner lot.

235. Lot, Through Corner. A lot abutting two parallel or approximately parallel streets, as well as a third street which is perpendicular or approximately perpendicular to the other two streets.

236. Lot Width. The distance between the side lot lines of a lot measured by a straight line drawn between the intersections of the side lot lines with the front building line.

237. Luminaire. A complete lighting unit consisting of a light source and all necessary optical, mechanical, electrical and decorative parts, but not including the pole or other support.
238. **Lux (lx).** A unit for measuring the illumination (luminance) of a surface. One lux is defined as an illumination of one lumen per square meter or 0.0001 phot. [By way of explanation, in considering the various light units, it's useful to think about light originating at a point and shining upon a surface. The intensity of the light source is measured in candelas; the total light flux in transit is measured in lumens (1 lumen = 1 candela-steradian); and the amount of light received per unit of surface area is measured in lux (1 lux = 1 lumen/square meter). One lux is equal to approximately 0.09290 foot candle.]

239. **Mansard Roof.** A double-sloped pitched roof rising steeply from the eaves and having a summit of flatter slope on both sides of the ridge.

240. **Memorial Plaque.** A sign designating names of buildings and/or date of erection, and other items such as architect, contractor or others involved in the building’s creation cut into or attached to a building surface.

241. **Mezzanine.** An intermediate or fractional story between the floor and ceiling of a main story. A mezzanine is usually just above the ground or main floor and extends over part of the main floor.

242. **Motor Vehicle.** Any self-propelled wheeled vehicle designed primarily for transportation of persons or goods along public streets.

243. **Nameplate.** A sign indicating the name, address or profession of the person or persons occupying the lot or a part of the building.

244. **Nonconforming, Legal.** (lawful) A building, structure, or use lawfully erected and/or used prior to the adoption of this Ordinance, or amendments thereto, and which does not conform to the provision of this Ordinance, or amendments thereto, for the zoning district within which such building, structure or use is located.

245. **Nonconforming Lot.** A lot of record that does not meet the lot area or lot width requirements of this Ordinance for the zoning district in which it is located.

246. **Nonconforming Use, Building or Structure.** An existing use, building or structure, or part or appurtenance thereof, that does not meet the applicable requirements of this Ordinance.

247. **Nonconformity, Degree of.** See definition of Degree of Nonconformity.

248. **Non-residential Building or Use.** A principal building or principal use thereof which is not arranged, designed, used or intended to be used for residential occupancy. Nursing homes, homeless shelters, hospice facilities, hotel/motels, and bed and breakfast establishments are considered to be non-residential buildings or uses for purposes of this Ordinance. (See definition of Residential Building or Use.)
249. **Obstruction.** Any building or structure, or part thereof, which is so located as to come in the way of any open area required by this Ordinance. Trees or shrubs shall not be considered as obstructions.

250. **Owner.** A titleholder of record, or if Ordinance is held in trust, the beneficiary of the trust.

251. **Parcel.** One or more lots or parts of lots, which may or may not be in common ownership, designated by its owner(s) to be considered as one parcel for the purpose of applying a particular regulation of this Ordinance. (An example for illustrative purposes only: The owners of separate lots constituting a shopping center where parking and access are shared, may designate the lots constituting the shopping center as a parcel so as to apply the regulations pertaining to parking, signs, etc.)

252. **Parking Space, Off-Street.** A space other than a street or alley designed for use or used for the temporary parking of a motor vehicle.

253. **Patio.** An open, hard surfaced area designed and intended for outdoor sitting, dining, socializing, or recreational use by people and not as a parking space.

254. **Pedestrian Wall.** An upright structure of building material, such as brick or masonry, serving to enclose, divide, or protect an area as part of an aesthetic or landscape design.

255. **Person.** An individual, proprietorship, partnership, corporation, association or other legal entity.

256. **Person with a Disability.** Any individual whose disability:

   A. Is attributable to mental, intellectual or physical impairments or a combination of mental, intellectual or physical impairments.

   B. Is likely to continue or a significant amount or time or indefinitely.

   C. Results in functional limitations in three (3) or more of the following areas of major life activity: Self-care, receptive or expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency.

   D. Reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment or other services which are of a life-long or extended duration.

257. **Porch, Enclosed.** A structure immediately adjoining and projecting from an exterior wall of a building, which has direct access into the building, is covered by a roof or eaves, and is enclosed by a combination of walls and permanent or temporary windows or screens. Screened-in rooms shall be considered enclosed porches.
258. **Porch, Unenclosed.** A structure immediately adjoining and projecting from an exterior wall of a building, which has direct access into the building, is covered by a roof or eaves, and is completely open on all sides not adjoining an exterior wall of a building, except for railings and columns. Principal Building. A non-accessory building in which the principal use of the lot on which it is located is conducted.

259. **Principal Use.** A non-accessory use of a building or lot.

260. **Private.** In reference to a building, structure, utility, facility or use, owned by someone other than a unit of government, or an agency of government, unless the context clearly indicates that “private” is being used in a broader sense of something not open or available to the general populace.

261. **Property Line.** A lot line.

262. **Public.** In reference to a building structure, utility, facility or use, owned and/or operated by a unit of government or an agency thereof, unless the context clearly indicated that “public” is being used in the broader sense of something available to the general populace.

263. **Public Property.** Any property owned, leased or held by any unit of government such as the United States, the State of Iowa, the City, park district, school district, library district, township, County, or any subdivisions thereof. This shall include all streets, parkways, sidewalks, alleys, buildings, parking lots, landscaped areas, parks, and schools, as well as any municipal signs, traffic-control devices, trees, utility poles, shelters or street lights located thereon.

264. **Public Building.** Any building owned, leased or held by any unit of government such as the United States, the State of Iowa, the City, park district, school district, library district, township, County, or any subdivisions thereof, provided that said building is used for governmental purposes.

265. **Public Way.** Any sidewalk, street, alley, highway or other public thoroughfare, located within a dedicated right of way or within an easement where the public has a right of access.

266. **Railroad Right-of-Way.** A private right of way with tracks and auxiliary facilities for track operation, not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

267. **Recreational Vehicle.** Any camping trailer, motor home, mini-motor home, travel trailer, truck camper or van camper and any towed recreational equipment, including the trailers for same such as boats, snowmobiles and motorcycles used privately for recreational purposes and not used commercially. Recreational vehicles, more specifically, include, but are not limited to:
A. Camper Trailer (Pop-Up). A recreational trailer not used commercially, constructed with partial side walls which fold for towing and unfold to provide temporary living quarters for recreational camping or travel use and are of a size or weight not requiring an over-dimension permit when towed on a highway.

B. House Trailer (Mobile Home). A recreational trailer equipped and used for living quarters for human habitation, temporarily or permanently, rather than for the transportation of freight, goods, wares and merchandise.

C. Motor Home (Mini-Motor Home or Van Camper). Any self-contained motor vehicle, not used commercially, designed or permanently converted to provide living quarters for recreational, camping or travel use, with the direct walk-through access to the living quarters from the driver’s seat.

D. Travel Trailer. A recreational trailer not used commercially, designed to provide living quarters for recreational camping or travel use, and of a size or weight not requiring an over-dimension permit when towed on a highway.

E. Truck Camper. A recreational truck, not used commercially, when equipped with a portable unit designed to be loaded on to the bed which is construed to provide temporary living quarters for recreational, travel or camping use.

268. Refuse. Any waste products, including recyclable materials, resulting from human habitation or the conduct of business or industry, except sewage.

269. Residential Building, Use. A principal building or principal use thereof which is arranged, designed, used or intended to be used for residential occupancy and permitted accessory uses, including but not limited to single-family dwellings, auxiliary dwellings, two-family dwellings, townhouse dwellings, multi-family dwellings, group homes, independent living facilities, and assisted living facilities. Nursing homes, homeless shelters, hospice facilities, hotel/motels, and bed and breakfast establishments are not considered to be residential buildings or uses for purposes of this Ordinance.

270. Residential Development Sign. An identification sign used to indicate the entrance to a subdivision, neighborhood, or unified residential area.

271. Satellite Dish Antenna, Large. A parabolic Communication Antenna, usually distinguished by a spherical or cone shape, including the dish structure and structural supports, used for the sending and/or receiving of transmissions from satellites, with a dish diameter larger than a “Satellite Dish Antenna, Small” as defined herein.

272. Satellite Dish Antenna, Small. A parabolic Communication Antenna, usually distinguished by a spherical or cone shape, including the dish structure
and structural supports, used for the sending and/or receiving of transmissions from satellites, with a dish diameter of one (1) meter (40 inches) or less located in a residential zoning district or two (2) meters (80 inches) or less located in all other zoning districts.

273. **Searchlight.** An apparatus containing a source of light and a reflector that projects the light produced in a concentrated, far-reaching beam. A searchlight is typically mounted on a swivel so that the beam can be directed.

274. **Setback.** The required minimum distance from a lot line to a building or structure, or other improvement on a lot; usually synonymous with yard.

275. **Shade Tree.** A deciduous tree planted primarily for its high crown of foliage or overhead canopy. A large shade tree is over forty (40) feet in height. Medium shade trees are between twenty-five (25) and forty (40) feet in height. Small shade trees reach up to twenty-five (25) feet in height.

276. **Shopping Center.** Two (2) or more retail stores and/or service establishments located on a parcel of four acres or more sharing customer parking areas, regardless of whether said stores and/or establishments occupy separate structures or are under separate ownership.

277. **Sign.** A name, identification, description, display, illustration or attention-getting device which is affixed to or painted or represented directly or indirectly upon a building or other outdoor surface or lot, and which directs attention to a person, business, product, service, place, organization or entertainment. Sign shall not include the flag of any nation, state or governmental entity. Specific classification and structural types of signs are found in Section 176.31 of the Zoning Code.

278. **Story.** That portion of a building included between the surface of a floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling or roof above it. A cellar shall not be counted as a story, but shall be included in any calculation of gross floor area if it otherwise meets the applicable criteria.

279. **Story, Half.** A partial story located above a full story and underneath one or more sloping roofs, meeting the following criteria:

   A. Total wall height above the first-floor level shall not exceed an average of 13 ft., measured along walls that intersect the roof plane, as shown in Figure 17.30-4. A garage floor level shall be calculated at the height of the first floor immediately adjacent to the garage. For a half story located above a second floor, the wall height shall be measured from the second-floor level.

   B. The total horizontal width of all projections out of the half-story roof plane shall not exceed 60% of the total horizontal length of the half story roof. Roof length shall be measured horizontally along all walls that intersect the roof, as shown in Figure 17.30-4. Projections
include window dormers, shed dormers, wall projections up through the
roof eave line, and other projections that do not extend out beyond the
roof eave line.

280. **Street.** A permanent public or private right of way that affords a
primary means of access to abutting property.

281. **Street Level.** The story of a building that has its floor at the level
closest to the elevation of the public sidewalk or street, with direct pedestrian
access to that story from the outside. A story shall not be considered street
level if it is more than three (3) feet above or three (3) feet below sidewalk
grade at the primary customer entrance to the building.

282. **Street Line.** The dividing line between a street and a lot.

283. **Street Wall.** The wall of a building nearest to and facing on a street.

284. **Structural Alteration.** Any change, other than incidental repairs, in the
supporting members of a building or structure such as bearing walls or
partitions, columns, beams, or girders, or any substantial change in the roof or
exterior walls.

285. **Structure.** Anything constructed, erected, or placed with a more or less
fixed location on the ground, or attached or resting on something having a
fixed location on the ground. Among other things, “structure” includes
buildings, walls, fences, signs, and billboards.

286. **Temporary Structure.** A structure that is not designed or intended to
be permanently located, placed or affixed in a location, such as a trailer, tent, or
portable sign.

287. **Temporary Contractor’s or Real Estate Sales Office.** This use
includes watchman’s trailers, construction equipment sheds, contractor or real
estate sales trailers, and similar uses incidental to a construction project and
sales of homes within a newly constructed development.

288. **Terrace.** An open area with a paved platform and a flat roof or roof-
like structure and adjacent on at least one (1) side to a building, but not
adjacent to any entrance to a building.

289. **Use.** The specific purpose or activity for which the land or building
thereon is designed, arranged or intended, or for which it is occupied or
maintained.

290. **Variance.** A modification of the strict terms of the relevant regulations
of this chapter where such modification will not be contrary to the public
interest and where, owning to conditions peculiar to the property and not the
result of the action of the applicant, a literal enforcement of this chapter would
result in unnecessary and undue hardship.

291. **Yard.** A required open space on a lot which is unoccupied and
unobstructed from its lowest level upward, except for obstructions specifically
permitted in this Ordinance. A yard extends along a lot line for a depth or width specified for the district in which the lot is located, measured perpendicular to the lot line.

292. **Yard, Corner Side.** A required yard that extends along a corner or exterior side lot line abutting public right-of-way, excluding the area within the required front yard.

293. **Yard, Front.** A required yard that extends along a front lot line for the full width of the lot.

294. **Yard, Interior Side.** A required yard that extends along an interior side lot line, excluding the area within the required front and rear yards.

295. **Yard, Rear.** A required yard that extends along a rear lot line for the full width of the lot between side lot lines, excluding the area within a required exterior side yard.

296. **Zoning Official.** The individual hired by the City Manager to administer and enforce the Zoning Ordinance. (Ord. 19-14 – May 19 Supp.) (Ord. 18-20 – Nov. 18 Supp.)

### 176.07 GENERAL PROVISIONS.

1. **Applicability of Regulations.**
   A. **Territorial Application.** This Ordinance shall apply to all structures, land, and uses within the corporate limits of the City.

   B. **General Application.** All buildings and structures erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocations of existing structures occurring hereafter, and all enlargements of, additions to, changes in, and relocation of existing uses occurring hereafter shall be subject to all the regulations of this Ordinance which are applicable to the districts in which such buildings, structures, uses, or land are located. Existing buildings, structures, and uses which do not comply with the regulations of this Ordinance shall be allowed to continue subject to the provisions of Section 176.33 of this Ordinance relating to nonconformities.

   C. **Conversion or Use of Building.** The conversion of any use or building either to another use or to increase the size or area of the existing use, including the conversion of any building into a dwelling or the conversion of any dwellings to accommodate an increased number of dwelling units, families, or residents, shall be permitted only within a zoning district in which a new building for similar occupancy would be permitted under this Ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such district, with respect to minimum lot size, lot area per dwelling unit,
dimension of yards and other open spaces, height, off-street parking, and other applicable requirements.

2. General Prohibitions. No building or structure; no use of any building, structure or land; and no lot of record or zoning lot, now or hereafter existing, shall hereafter be established, altered, moved, divided, maintained, or otherwise used in any manner except in accordance with the provisions of this Ordinance.

3. Building Permits Issued Prior to Effective Date of Ordinance. Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further, may upon completion be occupied under a certificate of occupancy by the use for which originally designated even if said building or structure is nonconforming under the terms of this Ordinance.

4. Interpretations of Regulations.
   A. Minimum Requirements. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, morals, comfort, convenience, prosperity, and general welfare.
   B. Greater Restrictions. Where conditions imposed by any provisions of this Ordinance upon use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Ordinance or any other law, ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.
   C. Private Agreements. This Ordinance is not intended to abrogate, annul, or otherwise interfere with any easements, covenant, or other private agreement or legal relationship; provided, however, that where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements or legal relationships, the regulations of this Ordinance shall prevail.
   D. Unlawful Existing Uses. Any building, structure, or use which was not lawfully existing at the time of the adoption of this Ordinance shall not become or be made lawful solely by reason of the adoption of this Ordinance; and to the extent or manner that said unlawful building, structure, or use is in conflict with the requirements of this Ordinance, said building, structure, or use remains unlawful hereunder.
5. Prior Ordinances In Effect. The provisions of this Ordinance are deemed to be of a general statute nature and in the event of conflicts with a prior specific ordinance providing for rezoning of specific property which was passed after the effective date of the ordinance repealed by this Ordinance, the ordinances shall be construed, if possible, so that the effect is given to both. If conflict between the two is irreconcilable, the prior special ordinance shall prevail as an exception to this Ordinance. This Ordinance shall not be construed as to repeal or otherwise affect prior resolutions, memorandums of agreement or other official actions taken by the City with respect to regulation of subdivisions as provided in Chapter 175 of this Code of Ordinances. This ordinance does not repeal prior ordinances providing for rezoning of specific property which were passed after the effective date of the zoning ordinance repealed by this Ordinance, except to the extent that the classification of said premises shall be as set forth on the Zoning District Map adopted by the Ordinance, any other conflict shall be determined in a manner set forth herein.

6. Determination and Interpretation of District Boundaries. Where uncertainty exists as to the exact boundaries of any district as shown on the official Zoning District Map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

B. Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.

C. Boundaries indicated as approximately following corporate limits shall be construed to follow such corporate limits.

D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

E. Boundaries indicated as following shore lines and in the event of change in the shore line, such boundaries shall be construed to move with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

F. Boundaries are indicated as parallel to or extensions of features indicated in subsections A through E above shall be construed. Distances not specifically indicated on the official
Zoning District Map shall be determined by dimensions shown on the map, or in the absence of dimensions, by the scale of the map.

G. All streets, alleys, public ways, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zoning district as the property immediately abutting upon such alleys, streets, public ways, and railroad rights-of-way. The centerline of a street, alley, public way, or railroad right-of-way, unless otherwise specifically designated, shall be deemed to be the zoning district boundary.

H. In the case of further uncertainty, the Zoning Board of Adjustment shall interpret the intent of the Zoning District Map as to the location of the boundary in question, and the scale of the Zoning District Map shall be referred to in this question.

7. Annexed or Vacated Areas.

A. Annexed Areas. Any territory hereafter annexed shall, upon annexation, automatically retain the zoning classification and regulations pertaining to such territory prior to the annexation. If within sixty (60) days after annexation, no application for rezoning or reclassification of the property has been received by the City, the Commission shall schedule a public hearing on the advisability of the zoning classification of the property and thereafter make recommendation to the Council as to the zoning classification of such property. The Council shall then consider such matter in accordance with the provisions of this Ordinance respecting amendment of the Zoning District Map.

B. Vacated Areas. Whenever any street, alley, public way, railroad right-of-way, waterway, or other similar area is vacated by property authority, the zoning districts adjoining each side of such street, alley, public way, railroad right-of-way, or similar area shall be extended automatically to the center of such vacation and all areas included in the vacation shall then and thenceforth be subject to all appropriate regulations of the extended district. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all the vacated area.

8. Underwater Areas. All areas which are underwater and not shown as included within a zoning district shall be subject to all of the regulations of the zoning district which immediately adjoins the area.
176.08 A-1 RURAL RESTRICTED.

1. Intent. The A-1, Rural Restricted District is intended to provide space on the fringes of the developed areas of the City for agricultural, low density residential, and similar non-intensive uses without permitting an intensity of development which would require the provision of urban-type facilities and services. This district is also designed to preserve land suitable for eventual development for other uses until such time as the necessary facilities and services can be economically and reasonably provided to such areas.

2. Principal Permitted Uses. The following principal uses are permitted in the A-1 District:

A. Agricultural Uses. General farming, including general agricultural activities, truck farms, nurseries, greenhouses, orchards, boarding and riding stables, and kennels, provided:

(1) Any sales of products not raised or produced on the premises shall be clearly subordinate to sales of products raised or produced on the premises.

(2) No poultry or livestock shall be housed, kept, or confined within 100 feet of any residence or residential zoning district.

(3) Only animals raised on the premises may be rendered, slaughtered, or dressed.

B. Residential Uses.

(1) Single-family detached dwellings.

(2) Home occupations, subject to the provisions of Section 176.30.

C. Public, Quasi-public, or Governmental Buildings and Facilities:

(1) Golf courses and country clubs when located on at least ten (10) acres, but not including commercial driving ranges, pitch and putt, or miniature golf courses.

(2) Public parks and playgrounds, public and private game and forest preserves, and similar conservation facilities.
(3) Churches, synagogues, chapels, and similar places of religious worship and instruction, when located in a permanent structure or site of at least one acre.

(4) Public elementary, junior high or high schools, and non-boarding schools having curriculum similar to that in the permitted public schools.

3. Conditional Uses. The following conditional uses are permitted in the A-1 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.

A. Airports and heliports.

B. Cemeteries.

C. Railroad tracks, yards, and similar railroad facilities.

D. Gas regulator stations, electric distribution substations, pipeline pumping stations, water storage facilities, and similar essential services.

E. Outdoor recreation facilities.

F. (Repealed by Ord. 05-01 – Feb. 05 Supp.)

G. Similar and compatible uses to those allowed as principal permitted uses in this district.

3A. School Facilities and School Support Facilities as Conditional Uses.

A. Intent. The intent of this subsection is to insure that schools and school related support facilities are sited in conformance with the Comprehensive Plan and adequate infrastructure is available to support both the new facility and future growth in the area; further, this subsection was developed to identify and address potential impacts to existing neighborhood residents, land owners and public service providers, when locating, constructing, or expanding schools or school related support facilities in primarily residential zoning districts.

B. Applicability. The standards shall apply to all schools, educational and support facilities including public elementary, junior high and high schools, and private non-boarding schools having a curriculum similar to that in the public schools. Regulations shall also apply to all non-educational school support facilities including, but not limited to, bus barns, administrative offices and maintenance buildings.
(1) Applications to site schools, educational and support facilities shall be permitted as a conditional use request in the A-1, R-1, R-2, R-3, R-4, R-5, R-6, R-6A and RT-1 zoning districts.

(2) Applications to site schools, educational and support facilities in zoning districts other than those listed in subsection B(1) shall be regulated by the district in which the use is being proposed.

(3) The granting of a conditional use shall also meet the standards of review per section 176.36 (6)(E) of this Code of Ordinances as stated below:

   a. That the conditional use applied for is provided in the zoning district within which the property is located.

   b. That the proposed use and development will be in accord with the intent and purpose of the Zoning Ordinance and the Comprehensive Community Plan.

   c. That the proposed use and development will not have a substantial adverse effect upon adjacent property; the character of the neighborhood; traffic conditions; parking; utility and service facilities; and other factors affecting the public health, safety, and welfare.

   d. That the proposed development or use will be located, designed, constructed, and operated in such a manner that it will be compatible with the immediate neighborhood and will not interfere with the orderly use, development and improvement of surrounding property.

   e. That adequate measures have been or will be taken to assure adequate access designed to minimize traffic congestion and to assure adequate service by essential public services and facilities including utilities, storm water drainage and similar facilities.

C. Revisions of Approved Site Development Plans. Minor changes from the approved plan in the location and siting of building and structures may be authorized by the Zoning Official. No change authorized by this subsection may cause the following:
(1) A change in use of the development.
(2) A 10% increase in the overall coverage of structures.
(3) A change in the location of any building or structure by more than 10 feet.
(4) An increase in the intensity of use.
(5) A reduction of approved open space.
(6) A reduction in approved off-street parking space.

D. Pre-Existing Uses. Any school or school support facility that was in existence prior to adoption of the ordinance codified in this subsection shall be considered lawful and may continue without approval of the Zoning Board of Adjustment. However, any expansion or extension of such pre-existing use shall be considered as a conditional use and shall comply with the provisions of this subsection with the following exception:

(1) Proposed future additions previously approved by the Zoning Official and/or the Zoning Board of Adjustment as a part of the conditional use approval process.

E. Applicable Standard. When determining the issue of whether to approve a conditional use permit for the location of a school educational facility or a school support facility and in determining conditions attached to any such approval, the Zoning Official, Planning Commission and the Zoning Board of Adjustment shall apply the balancing of interests test set out in City of Ames v. Story County, Iowa, 392 N.W.2d 145 (Iowa 1986) to wit: The legitimate public interests of both the City and school district must be recognized and weighed in the balance. The City can have no absolute veto over the construction and placement of a school or school support facilities. On the other hand the school district cannot proceed oblivious of the City’s authority to zone all land inside corporate boundaries. To the extent they can be, all conflicting governmental interests must be accommodated. Where they cannot be accommodated the Zoning Official, Planning Commission and the Board are to resolve the dispute, after weighing the interests, on the basis of the greater public good.

F. Pre-acquisition Site Approval Option. In order that a school district not be put in the position of having purchased or
acquired a site by condemnation only to have the site subsequently disapproved for a conditional use permit, a school may apply for prior site or vicinity approval conditioned on submission of a full conditional use permit application thereafter if the district acquires the property and upon possession of the information necessary for the final application submittal and approval. In this pre-acquisition submission the school district shall submit so much of an application as will allow the Zoning Official, Planning Commission and the Board of Adjustment to determine that the site or vicinity has or will have sufficient infrastructure sufficient to allow generally for the location of the proposed school or facility.

When requested by the school district and accompanied by a written opinion of the school district attorney to the affect that section 21.5(j) of the Code of Iowa is applicable, the Zoning Official, Planning Commission and the Zoning Board of Adjustment, subject to the provisions of Chapter 21 of the Code of Iowa, may meet with representatives of the school district in a closed session or may redact such portion of the written record as would otherwise disclose the identity of the particular property under consideration and shall treat the property identity as confidential information until the same becomes public under section 21.5(j) of the Code of Iowa.

(Ord. 09-07 – May 09 Supp.)

4. Site and Structure Measurements.
   A. Minimum lot area - 1 acre.
   B. Minimum lot width - 150 feet. A lot of record on the effective date of this Ordinance that has less width than herein required may be used for any purpose permitted in this district, provided all other provisions of this Ordinance are met.
   C. Front yard setback - 50 feet.
   D. Side yard setback - 10 feet; corner side yard setback - 50 feet.
   E. Rear yard setback - 50 feet.
   F. Maximum height - 2½ stories or 35 feet.
5. Other Provisions.

A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32 of this chapter.

B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13) of this chapter.

C. Signs. Signs are permitted subject to the provisions of Section 176.31 of this chapter.

D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29 of this chapter.

E. Commercial Feedlots. Commercial feedlots are specifically prohibited in the A-1 District.

F. Cluster Development Option. The Cluster Development Option is permitted subject to the provisions of Section 176.28 of this chapter.
176.09 R-1 LOW DENSITY SINGLE-FAMILY RESIDENTIAL. The R-1 Low Density Single-Family Residential District is intended to establish and preserve lower density single-family areas free from other uses except those which are both compatible with and convenient to the residents of such a district.

1. Principal Permitted Uses. The following principal uses are permitted in the R-1 District:

A. Residential Uses:
   (1) Single-family detached dwellings.
   (2) Home occupations, subject to the provisions of Section 176.30.

B. Public, Quasi-public, or Governmental Buildings and Facilities:
   (1) Fire and police stations.
   (2) Public parks, playgrounds, recreational buildings and facilities, and community centers operated by public agencies.
   (3) Churches, synagogues, chapels, and similar places of religious worship and instruction.
   (4) Public elementary, junior high, and high schools, and non-boarding private schools having a curriculum similar to that in the permitted public schools.

2. Conditional Uses. The following conditional uses are permitted in the R-1 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36:

A. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, and similar uses.

B. Cemeteries.

C. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Measurements.

A. Minimum lot area - 10,000 square feet. A lot of record as of the effective date of this Ordinance that has less area or less
width than herein required may be used for any purpose permitted in this district provided all other provisions of this Ordinance are met.

B. Minimum lot width - 65 feet.

C. Front yard setback - 30 feet, unless 30 percent or more of the lots within the frontage and within 200 feet are improved with buildings that have observed an average front yard line with a variation in depth of not more than 10 feet, then no portion of a new building shall project beyond the average front yard line so established; but in no event shall a front yard of more than 50 feet be required.

D. Side yard setback - 10 feet; corner side yard setback - 15 feet.

E. Rear yard setback - 35 feet, unless the lot has a depth of less than 115 feet in which instance the depth of the rear yard shall be no less than 30 percent of the depth of the lot but in no event shall the rear yard setback be less than 25 feet.

F. Maximum height - 2½ stories or 35 feet.


A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.

B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).

C. Signs. Signs are permitted subject to the provisions of Section 176.31.

D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.

E. Cluster Development Option. The Cluster Development Option is permitted subject to the provisions of Section 176.28.
176.10 R-2 MEDIUM DENSITY SINGLE-FAMILY RESIDENTIAL.
The R-2, Medium Density Single-Family Residential District has the same intent as the R-1 Low Density Single-Family Residential District, except that the R-2 District contains lots of lesser size than the R-1 District.

1. Principal Permitted Uses. The following principal uses are permitted in the R-2 District:
   A. Residential Uses:
      (1) Single-family detached dwellings.
      (2) Home occupations, subject to the provisions of Section 176.30.
   B. Public, Quasi-public, or Governmental Buildings and Facilities:
      (1) Fire and police stations.
      (2) Public parks, playgrounds, recreational buildings and facilities, and community centers operated by public agencies.
      (3) Churches, synagogues, chapels, and similar places of religious worship and instruction.
      (4) Public elementary, junior high, and high schools, and non-boarding private schools having a curriculum similar to that in the permitted public schools.

2. Conditional Uses. The following conditional uses are permitted in the R-2 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.
   A. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, and similar uses.
   B. Cemeteries.
   C. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Measurements.
   A. Minimum lot area - 6,000 square feet. A lot of record as of the effective date of this Ordinance that has less area or less width
than herein required may be used for any purpose permitted in this district, provided all other provisions of this Ordinance are met.

B. Minimum lot width - 60 feet.

C. Front yard setback - 25 feet.

D. Side yard setback - 7 feet; corner side yard setback - 12 feet.

E. Rear yard setback - 25 feet or 20 percent of the depth of the lot, whichever amount is smaller, but in no event less than 15 feet.

F. Maximum height - 2½ stories or 35 feet.


A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.

B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).

C. Signs. Signs are permitted subject to the provisions of Section 176.31.

D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.

E. Cluster Development Option. The Cluster Development Option is permitted subject to the provisions of Section 176.28.
176.11 R-3 TWO-FAMILY RESIDENTIAL. The R-3, Two-Family Residential District is intended to establish and preserve areas for single-family and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such a district.

1. Principal Permitted Uses. The following principal uses are permitted in the R-3 District:

   A. Residential Uses:
      (1) Single-family detached dwellings.
      (2) Two-family dwellings.
      (3) Home occupations, subject to the provisions of Section 176.30.

   B. Public, Quasi-public, or Governmental Buildings and Facilities:
      (1) Fire and police stations.
      (2) Public parks, playgrounds, recreational buildings and facilities, and community centers operated by public agencies.
      (3) Churches, synagogues, chapels, and similar places of religious worship and instruction.
      (4) Public elementary, junior high, and high schools, and non-boardering private schools having a curriculum similar to that in the permitted public schools.

2. Conditional Uses. The following conditional uses are permitted in the R-3 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.

   A. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, and similar uses.
   B. Cemeteries.
   C. Similar and compatible uses to those allowed as principal permitted uses in this district.
3. Site and Structure Requirements.
   A. Minimum lot area: Single-family – 6,000 square feet
      Two-family – 8,000 square feet

      A lot of record as of the effective date of this Ordinance that has
      less lot area or width than herein required may be used for any
      purpose permitted in this district provided all other provisions of
      this Ordinance are met. However, a two-family dwelling may not
      be permitted on an existing lot of record with a minimum area of
      less than 7,200 feet.

   B. Minimum lot width - 60 feet.
   C. Front yard setback - 25 feet.
   D. Side yard setback - 7 feet; corner side yard setback - 12
      feet.
   E. Rear yard setback - 25 feet or 20 percent of the depth of the
      lot, whichever amount is smaller, but in no event less than 15 feet.
   F. Maximum height - 2½ stories or 35 feet.
   G. Open space required - 30 percent of the lot area.

   A. Accessory Uses. Uses and structures accessory to a
      principal permitted use or a conditional use are permitted subject
      to the provisions of Section 176.32.
   B. Temporary Uses. Temporary uses are permitted subject to
      the provisions of Section 176.35(13).
   C. Signs. Signs are permitted subject to the provisions of
      Section 176.31.
   D. Off-street Parking and Loading. Off-street parking and
      loading facilities shall be provided according to the provisions of
      Section 176.29.
   E. Cluster Development Option. The Cluster Development
      Option is permitted subject to the provisions of Section 176.28.
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ZONING REGULATIONS

176.12 R-4 FOUR-FAMILY RESIDENTIAL. The R-4, Four-Family Residential District is intended to establish and preserve areas for medium density residential development consisting of single to four-family dwellings, free from other uses, except those which are both compatible with and convenient to the residents of such a district. This district is designed to serve as a buffer between lower density residential districts and more intensive zoning districts such as a higher density multiple-family residential or commercial district.

1. Principal Permitted Uses. The following principal uses are permitted in the R-4 District:

A. Residential Uses:
   (1) Single-family detached dwellings.
   (2) Two-family dwellings.
   (3) Three-family dwellings.
   (4) Four-family dwellings.
   (5) Home occupations, subject to the provisions of Section 176.30.

B. Public, Quasi-public, and Governmental Buildings and Facilities:
   (1) Fire and police stations.
   (2) Public parks, playgrounds, recreational buildings and facilities, and community centers operated by public agencies.
   (3) Churches, synagogues, chapels, and similar places of religious worship and instruction.
   (4) Public elementary, junior high and high schools, and private non-boarding schools having a curriculum similar to that in the public schools.

2. Conditional Uses. The following conditional uses are permitted in the R-4 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36:

A. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, and similar uses.
B. Group homes sponsored by a religious, governmental, educational, or charitable institution.

C. Day care centers.

D. Off-street parking lots and garages, but only for the provision of accessory parking for uses located within 300 feet from such parking lots and garages.

E. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Requirements.

A. Minimum Lot Area:
   - Single-family dwelling – 6,000 square feet
   - Two-family dwelling – 7,200 square feet
   - Three-family dwelling – 7,800 square feet
   - Four-family dwelling – 8,000 square feet

A lot of record as of the effective date of this Ordinance that has less area or width than herein required may be used for any purpose permitted in this district, provided that a two-family dwelling shall have a minimum area of 6,000 square feet, a three-family dwelling shall have a minimum of 7,200 square feet, and a four-family dwelling shall have a minimum area of 7,200 square feet and further provided that all other provisions of this Ordinance are met.

B. Minimum lot width - 60 feet.

C. Front yard setback - 25 feet.

D. Side yard setback - 7 feet.

E. Corner side yard setback - 12 feet.

F. Rear yard setback - 25 feet, except for single or two-family dwellings which shall be 25 feet or 20 percent of the depth of the lot, whichever amount is smaller, but in no event less than 15 feet.

G. Maximum height - 2½ stories or 35 feet.

H. Open space required - 40 percent of the lot area.


A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.
B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).

C. Signs. Signs are permitted subject to the provisions of Section 176.31.

D. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.

E. Cluster Development Option. The Cluster Development Option is permitted subject to the provisions of Section 176.28.

F. Landscaping/Open Space Requirements. The required open space shall be landscaped. The landscaping and open space requirements for this zoning district shall be established by resolution of the Council from time to time. Said requirements shall by reference be effective as part of this Ordinance.

G. Any portions of an R-4 zoned parcel containing exterior storage, parking or loading service areas shall be screened as provided in paragraph 176.29(2)(H)(7) of this chapter in order to protect non-commercial property from the activity located on R-4 zoned property. The screening shall be composed of a combination of solid fencing, opaque plant materials, earthen structures and/or retaining walls of sufficient height to effectively screen the property from view of the non-commercial property.
176.13 **R-5 MODERATE DENSITY MULTIPLE-FAMILY RESIDENTIAL.**
The R-5, Moderate Density Multiple-Family Residential District is intended to establish and preserve areas containing single-family, two-family, and multiple-family dwellings. It is intended to provide a wide range of housing types while maintaining a moderate density residential character. It is primarily intended for those older, established areas of the City which have been designated for such uses in the Comprehensive Community Plan.

1. Principal Permitted Uses. The following principal uses are permitted in the R-5 District:
   
   A. Residential Uses:
      
      (1) Single-family detached dwellings.
      
      (2) Two-family dwellings.
      
      (3) Multiple-family dwellings.
      
      (4) Boarding and rooming houses.
      
      (5) Home occupations, subject to the provisions of Section 176.30.

   B. Public, Quasi-public, and Governmental Buildings and Facilities:
      
      (1) Fire and police stations.
      
      (2) Public and private parks, playgrounds, recreational buildings and facilities, and community centers operated by public agencies.
      
      (3) Churches, synagogues, chapels, and similar places of religious worship and instruction.
      
      (4) Public elementary, junior high and high schools, and private non-boarding schools having a curriculum similar to that in the permitted public schools.
      
      (5) Off-street parking lots and garages, but only for the provision of accessory parking for uses within 300 feet from such parking lots or garages.
      
      (6) Nursing, rest, or convalescent homes.
      
      (7) Group homes sponsored by a religious, governmental, educational, or charitable institution.
      
      (8) Day care centers.
(9) Music, art, or dance academies.

2. Conditional Uses. The following conditional uses are permitted in the R-5 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36:

   A. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, and similar uses.

   B. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Requirements.

   A. Minimum Lot Area:
      Single-family dwelling – 6,000 square feet
      Two-family dwelling – 7,200 square feet
      Three-family dwelling – 7,200 square feet
      Four-family dwelling – 8,000 square feet
      Five-family dwelling – 8,000 square feet
      Six-family dwelling – 8,400 square feet
      Seven or more family dwelling – 1,200 square feet per unit

      A lot of record as of the effective date of this Ordinance that has less area or width than herein required may be used for any purpose permitted in this district, provided that a two-family dwelling shall have a minimum area of 6,000 square feet, and a four-family dwelling shall have a minimum of 7,200 square feet, and a four-family dwelling shall have a minimum area of 7,200 square feet and further provided that all other provisions of this Ordinance are met.

   B. Minimum lot width - 60 feet.

   C. Front yard setback - 25 feet.

   D. Side yard setback - 7 feet; corner side yard setback - 12 feet.

   E. Rear yard setback:
      For single and two-family dwellings: 25 feet or 20 percent of the depth of the lot, whichever amount is smaller, but in no event less than 15 feet.
      For three or more family structures:
      For structures 2 stories or less in height - 25 feet.
      For structures 2½ stories in height - 30 feet.
For structures 3 stories in height - 35 feet.

F. Maximum height - 3 stories or 45 feet.

G. Open space required - 40 percent of the lot area.


A. Accessory Uses. Uses and structures accessory to a principal use or a conditional use are permitted subject to the provisions of Section 176.32.

B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).

C. Signs. Signs are permitted subject to the provisions of Section 176.31.

D. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.

E. Cluster Development Option. The Cluster Development Option is permitted subject to the provisions of Section 176.28.

F. Landscaping/Open Space Requirements: The required open space shall be landscaped. The landscaping and open space requirements for this zoning district shall be established by resolution of the Council from time to time. Said requirements shall by reference be effective as part of this Ordinance.

G. Screening. Any portions of an R-5 zoned parcel containing exterior storage, parking or loading service areas shall be screened as provided in paragraph 176.29(2)(H)(7) of this chapter in order to protect non-commercial property from the activity located on R-5 zoned property. The screening shall be composed of a combination of solid fencing, opaque plant materials, earthen structures and/or retaining walls of sufficient height to effectively screen the property from view of the non-commercial property.
176.14 R-6 HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL. The R-6, High Density Multiple-Family Residential District is intended to establish and preserve areas for high density residential areas, as well as certain institutional and compatible non-residential uses. Single and two-family dwellings are not intended to be included in this district in order to prevent possible conflicts between such uses and the high density residential uses. The R-6 District is primarily intended to accommodate new development in the outlying areas of the community.

1. Principal Permitted Uses. The following principal uses are permitted in the R-6 District:
   A. Residential Uses:
      (1) Multiple-family dwellings containing four (4) or more units.
      (2) Boarding and lodging houses.
      (3) Home occupations, subject to the provisions of Section 176.30.
   B. Public, Quasi-public, and Governmental Buildings and Facilities:
      (1) Fire and police stations.
      (2) Public and private parks, playgrounds, recreational buildings and facilities, and community centers operated by public agencies.
      (3) Churches, synagogues, chapels, and similar places of religious worship and instruction.
      (4) Public elementary, junior high, and high schools and private non-boarding schools having a curriculum similar to that in the permitted public schools.
      (5) Off-street parking lots and garages, but only for the provision of accessory parking for uses within 300 feet from such parking lots or garages.
      (6) Nursing, rest, or convalescent homes.
      (7) Day care centers.
      (8) Group homes sponsored by a religious, educational, governmental, or charitable institution.
C. Personal service establishments which perform services on the premises:
   (1) Professional offices or studios of a physician, dentist, chiropodist, chiropractor, optician, osteopath, attorney, architect, accountant, engineer, or similar profession.
   (2) Mortuaries, but not including ambulance service.

2. Conditional Uses. The following conditional uses are permitted in the R-6 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36:
   A. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, and similar uses.
   B. Clubs or lodges, provided that the chief activity of which is not a service customarily carried on as a business.
   C. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Requirements.
   A. Minimum lot area - 7,200 square feet; minimum lot area per dwelling unit -1,200 square feet.
   B. Minimum lot width - 60 feet.
   C. Front yard setback - 25 feet.
   D. Side yard setback - 7 feet; corner side yard setback -12 feet.
   E. Rear yard setbacks:
      For structures 2 stories or less in height - 25 feet.
      For structures 2½ stories in height - 30 feet.
      For structures 3 stories in height - 35 feet.
   F. Maximum height - 3 stories or 45 feet, whichever is less, except that the maximum height may increase by one (1) foot for each one-half (½) foot that the front, rear and side yard setbacks are increased over the required minimums, up to a maximum of 150 feet in height with no limit on the number of stories.
   G. Open space required - 40 percent of the lot area.

A. Accessory Uses. Uses and structures accessory to a principal use or a conditional use are permitted subject to the provisions of Section 176.32.

B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).

C. Signs. Signs are permitted subject to the provisions of Section 176.31.

D. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.

E. Cluster Development Option. The Cluster Development Option is permitted subject to the provisions of Section 176.28.

F. Landscaping/Open Space Requirements. The required open space shall be landscaped. The landscaping and open space requirements for this zoning district shall be established by resolution of the Council from time to time. Said requirements shall by reference be effective as part of this Ordinance.

G. Screening. Any portions of an R-6 zoned parcel containing exterior storage, parking or loading service areas shall be screened as provided in paragraph 176.29(2)(H)(7) of this chapter in order to protect non-commercial property from the activity located on R-6 zoned property. The screening shall be composed of a combination of solid fencing, opaque plant materials, earthen structures and/or retaining walls of sufficient height to effectively screen the property from view of the non-commercial property.
176.15 R-6A MEDIUM DENSITY MULTIPLE-FAMILY RESIDENTIAL.
The R-6A, Medium Density Multiple-Family Residential District is intended to establish and preserve areas for medium density multiple-family residential uses. This district is intended to apply to the development of new residential districts or reclassifications of existing districts.

1. Principal Permitted Uses. The following principal uses are permitted in the R-6A District:
   
   A. Residential Uses:
      (1) Two-family dwellings.
      (2) Multiple-family dwellings.
      (3) Home occupations, subject to the provisions of Section 176.30.

   B. Public, Quasi-public, and Governmental Buildings and Facilities:
      (1) Fire and police stations.
      (2) Public and private parks, playgrounds, recreational buildings and facilities, and community centers operated by public agencies.
      (3) Churches, synagogues, chapels, and similar places of religious worship and instruction.
      (4) Public elementary, junior high, and high schools and private non-boarding schools having a curriculum similar to that in the permitted public schools.
      (5) Nursing, rest, or convalescent homes.
      (6) Group homes sponsored by a religious, governmental, educational or charitable institution.

2. Conditional Uses. The following conditional uses are permitted in the R-6A District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36:

   A. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, and similar uses.

   B. Similar and compatible uses to those allowed as principal permitted uses in this district.
3. Site and Structure Requirements.
   A. Minimum lot area - 2 acres, except tracts which are contiguous to an area currently zoned R-6A, in which case the minimum lot area is 10,000 square feet; minimum lot area per dwelling unit:
      Two-family dwelling - 4,000 square feet.
      Three or more family dwelling - 2,000 square feet.
   B. Minimum lot width - 60 feet.
   C. Front yard setback - 25 feet.
   D. Side yard setback - 7 feet; corner side yard setback - 12 feet.
   E. Rear yard setbacks:
      For structures 2 stories or less in height - 25 feet.
      For structures 2½ stories in height - 30 feet.
   F. Maximum height - 2 ½ stories or 35 feet.
   G. Open space required - 40 percent of the lot area.
   H. Cluster Development Option. The Cluster Development Option is permitted subject to the provisions of Section 176.28.

   A. Accessory Uses. Uses and structures accessory to a principal use or a conditional use are permitted subject to the provisions of Section 176.32.
   B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).
   C. Signs. Signs are permitted subject to the provisions of Section 176.31.
   D. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.
   E. Additional Area Regulations. When two (2) or more structures are placed upon the same plot of ground, front yard, side yard, rear yard, and open space requirements shall be maintained for each dwelling in accordance with the provisions of this section unless the development is undertaken in accordance with the provisions of the Cluster Development Option.
F. Cluster Development Option. The Cluster Development Option is permitted subject to the provisions of Section 176.28.

176.16 MANUFACTURED/MOBILE HOME COMMUNITIES. All new manufactured/mobile home communities and expansions of manufactured/mobile home communities are to be developed as Planned Development – Mobile Home Communities (PD-MH) as provided in Section 176.34 of this chapter and further subject to the development standards described in Chapter 151, Manufactured/Mobile Home Communities.
176.17 RT-1 RESIDENTIAL/TRANSITIONAL USE. This zoning district is primarily intended to provide an acceptable range of land uses and controls for the reuse of vacant school and institutional properties in residential neighborhoods. The permitted uses are limited to low intensity office and service uses characterized by low traffic generation with little or no customer contact on the premises. In order to maintain the residential qualities of the surrounding areas, stringent development and activity standards are imposed.

1. Principal Permitted Uses. The following principal uses are permitted in the RT-1 District:

A. The following residential uses:

   (1) Single-family detached dwellings.

   (2) Two-family dwellings and multiple-family dwellings as a reuse of buildings existing at the time of the establishment of RT-1 District zoning in an area.

   (3) Home occupations, subject to the provisions of Section 176.30.

B. The following personal service establishments as a reuse of any buildings existing at the time of the establishment of the RT-1 District zoning in an area:

   (1) Photographic, art, and musical studios.

   (2) Offices for personal service businesses which perform their services off the premises.

C. Business service establishments as a reuse of any building existing at the time of the establishment of the RT-1 District zoning in an area:

   (1) Business and management consulting services and similar consulting services.

   (2) Telemarketing and telephone message services.

   (3) Computer and data processing services.

   (4) Market research, advertising, and public relations.

   (5) Medical, dental and optical laboratories without individual patient visitors.

   (6) Electronic audiovisual production.
(7) Real estate appraisal, abstract title research, mortgage brokerages and other real estate related businesses except sales offices.

(8) Stenographic services and temporary office worker placement services.

(9) Miscellaneous business services which require only incidental client contract on the premises.

D. The following professional office establishments as a reuse of any building existing at the time of the establishment of the RT-1 District zoning in an area:

   (1) Accounting and bookkeeping offices.
   (2) Engineering and architectural firms.
   (3) Attorney’s offices.
   (4) Miscellaneous professional offices which require only incidental client contact on the premises.

E. The following public, quasi-public and governmental uses as a reuse of any building existing at the time of the establishment of the RT-1 District zoning in an area:

   (1) Churches, synagogues, chapels and similar places of religious worship and instruction.
   (2) Educational, charitable, religious and similar public and quasi-public offices.
   (3) Parks, playgrounds and community recreation centers.
   (4) Governmental offices.
   (5) Public schools.

2. Conditional Uses. The following conditional uses are permitted in the RT-1 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.

   A. Any use permitted as a principal use as a reuse of a building existing at the time of the establishment of the RT-1 District when such use involves the construction of an additional building.
B. The following residential uses: two-family and multiple-family dwellings other than within buildings existing at the time of the establishment of the RT-1 District zoning an area.

C. The following retail businesses:
   (1) Pharmacies and medical supplies stores.
   (2) Antique shops.
   (3) Art galleries.
   (4) Art, craft and hobby shops.
   (5) Book, stationery and news dealers, but not adult book stores.
   (6) Other similar, specifically identified retail businesses.

D. The following personal service establishments:
   (1) Music, art and dance academies.
   (2) Mortuaries.
   (3) Other similar, specifically identified personal service businesses.

E. The following business service establishments:
   (1) Insurance and real estate offices.
   (2) Employment services.
   (3) Other similar, specifically identified business service establishments.

F. The following professional office establishments:
   (1) Physician offices and clinics.
   (2) Dentist offices and clinics.
   (3) Chiropodists, chiropractor, osteopath and podiatrist offices and clinics.
   (4) Optician offices.
   (5) Prosthetic appliance services.
   (6) Other similar, specifically identified professional office establishments.
G. The following industrial-type uses:
   (1) Preparation of food for consumption off the premises including catering services.
   (2) Assembly of small appliances, electronics, and scientific precision instruments.

H. The following public, quasi-public and governmental uses:
   (1) Preschools and day care centers.
   (2) Private clubs, lodges and fraternal organizations.
   (3) Vocational or trade schools.
   (4) Other similar, specifically identified public and quasi-public and governmental uses.

I. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Requirements.

A. Minimum lot area:
   Residential Uses:
   Single-family dwelling - 6,000 square feet
   Two-family dwelling - 7,200 square feet
   Three-family dwelling - 7,200 square feet
   Four-family dwelling - 8,000 square feet
   Five-family dwelling - 8,000 square feet
   Six-family dwelling - 8,400 square feet
   Seven or more family dwelling - 1,200 square feet per unit
   All other uses - 6,000 square feet.

B. Minimum lot width - 60 feet.

C. Front yard setback - 25 feet.

D. Side yard setback - 7 feet; corner side yard setback - 12 feet.

E. Rear yard setback:
   For structures 2 stories or less in height - 25 feet.
   For structures 2½ stories in height - 30 feet.

F. Maximum height - 2½ stories or 35 feet.

G. Open space requirement - 30 percent of the lot area.
   A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32, provided that new structures which are accessory to any use except single-family detached dwellings be accessory to and approved as part of a conditional use.
   B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).
   C. Signs. Signs are permitted subject to the provisions for signs in the O-1 District found in Section 176.31.
   D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided subject to the provisions of the O-1 District found in Section 176.29.
   E. Outdoor Activity. All nonresidential business, servicing or processing, except for off-street parking and loading facilities, shall be conducted within completely enclosed buildings.
   F. Open Storage. All nonresidential operations, including the storage of materials and merchandise, shall be conducted in a fully enclosed building or entirely within a solid, opaque wall or fence which conceals the operations from visibility from the adjoining properties.
   G. Performance Standards.
      (1) No use shall create odors, noise, dust, gases, electrical interference, or vibrations discernible beyond the boundaries of the property.
      (2) No flammable, reactive, explosive, toxic or radioactive materials may be processed, stored, handled or utilized unless the Building Official and the Fire Chief determine that such use does not constitute a hazard to adjacent properties based upon local standards and criteria set forth in local, State and Federal codes, rules and/or regulations.
      (3) All areas of the property exclusive of building sites, parking areas, driveways, walks, etc. shall be landscaped with grasses, shrubs, trees, flowers, fences, walls, or other suitable materials. All buildings, driveways, parking areas,
plants and grounds shall be properly maintained with all necessary clean-up, repairs, and replacements performed promptly.
176.18 O-1 OFFICE/TRANSITIONAL. The O-1, Office/Transitional District is intended to accommodate offices, certain low intensity commercial uses, and residential uses in a mutually compatible environment. The uses permitted are generally characterized by a low volume of traffic and limited outdoor advertising to protect the abutting and surrounding residential areas. This district is basically designed to serve as a buffer between residential and commercial areas.

1. Principal Permitted Uses. The following principal uses are permitted in the O-1 District:

A. The following retail businesses which supply commodities on the premises:

   (1) Antique Shops.
   (2) Art galleries.
   (3) Art, crafts, and hobby shops.
   (4) Book and stationery shops, but not adult book stores.
   (5) Gift shops.
   (6) News dealers.
   (7) Radio and television sales and service shops.

B. The following personal service establishments which perform services on the premises:

   (1) Barber and beauty shops.
   (2) Business offices in which goods, wares, or merchandise are not displayed or sold on the premises.
   (3) Mortuaries.
   (4) Music, art, or dance academies.
   (5) Photographer, art, sculptor, and composer studios.
   (6) Tailors and dressmakers.
   (7) Massage therapy offices and clinics.

C. Business service establishments which perform services on the premises.

   (1) Business and management consulting services and similar consultant services.
(2) Business offices in which goods, wares, or merchandise are not displayed or sold on the premises.

(3) Credit reporting services and collection services.

(4) Employment services.

(5) Insurance and real estate offices.

(6) Newspaper offices but not including printing shops.

(7) Research and testing services but not industrial laboratories.

D. Professional office establishments:
   (1) Accounting and bookkeeping offices.
   (2) Charitable organizations offices.
   (3) Chiropodists, chiropractors, and osteopaths offices and clinics.
   (4) Dentists offices and clinics.
   (5) Engineers and architects offices.
   (6) Law offices.
   (7) Medical, dental, and similar testing laboratories, but not industrial laboratories.
   (8) Opticians offices.
   (9) Physicians offices and clinics.

E. Public, quasi-public, and governmental buildings and facilities.
   (1) Churches, synagogues, chapels, and similar places of religious worship and instruction.
   (2) Day care centers.
   (3) Educational, charitable, religious, and similar public and quasi-public office buildings.
   (4) Fire and police stations.
   (5) Governmental office buildings.
   (6) Off-street parking lots.
   (7) Public and private parks, playgrounds, and community centers.
F. Residential uses:
   (1) Single-family detached dwellings.
   (2) Two-family dwellings.
   (3) Multiple-family dwellings.
   (4) Dwelling units and rooming units in nonresidential uses.
   (5) Home occupations, subject to the provisions of Section 176.30.

2. Conditional Uses. The following conditional uses are permitted in the O-1 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.

   A. Banks, savings and loans, and financial institutions.
   B. Public, quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, gas regulator stations, pipeline pumping stations, water storage facilities, and similar uses.
   C. Group homes sponsored by a religious, governmental, educational, or charitable institution.
   D. Nursing, rest, or convalescent homes.
   E. Golf Courses and Country Clubs when located on at least ten (10) acres, but not including commercial driving ranges, pitch and putt, or miniature golf courses.
   F. Tea rooms, provided that no alcoholic beverages or beer are served.
   G. Similar and compatible uses to those allowed as principal permitted uses in this district.  
      \(\text{(Ord. 02-22A – Nov. 02 Supp.)}\)
   H. Self service laundry and dry cleaning establishments.  
      \(\text{(Ord. 12-10 – May 12 Supp.)}\)

3. Site and Structure Requirements.
   A. Minimum lot area - 6,000 square feet; minimum lot area per dwelling unit - 1,200 square feet.

   A lot of record as of the effective date of this Ordinance that has less area or width than herein required may be occupied by a use permitted in this district, except for four-family dwellings which shall have a minimum lot area of 7,200 square feet and multiple-
family dwellings containing more than four dwellings which shall have a minimum lot area of 8,000 square feet and a minimum lot area per dwelling unit of 1,200 square feet.

B. Minimum lot width - 60 feet.

C. Front yard setback - 25 feet.

D. Side yard setback - 7 feet; corner side yard setback - 12 feet.

E. Rear yard setback:
   (1) For single and two-family dwellings - 25 feet or 20 percent of the lot depth, whichever amount is smaller, but in no event less than 15 feet.
   (2) For multiple-family dwellings - 25 feet.
   (3) For nonresidential structures - none, except when abutting a lot in an R district in which case there shall be a setback of 25 feet or 20 percent of the lot depth; whichever amount is smaller, but in no event less than 15 feet.

F. Maximum height - 3 stories or 45 feet.

G. Open space required - none.

   A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.
   B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).
   C. Signs. Signs are permitted subject to the provisions of Section 176.31.
   D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.
   E. Outdoor Sales. All businesses, servicing, or processing, except for off-street parking and loading facilities, shall be conducted within completely enclosed buildings.
   F. Open Storage. All operations, including the storage of merchandise displayed for sale or lease, but not including equipment and vehicles, shall be conducted in a fully enclosed building or entirely behind solid walls or fences which conceal them from visibility from off the lot.
176.19 O-2 OFFICE PARK. The O-2, Office Park District, is intended to provide for office and related accessory commercial uses in an environment free from intrusion by heavy commercial and lower density residential uses. This district is intended to accommodate new development in the outlying areas of the community.

1. Principal Permitted Uses. The following principal uses are permitted in the O-2 District:

   A. Professional office establishments permitted in the O-1 District.

   B. Business service establishments which provide services on the premises:
      
      (1) Business service establishments permitted in the O-1 District.
      
      (2) Banks and similar financial institutions.
      
      a. Banks and similar financial institutions shall not include delayed deposit service uses.

   C. Personal service establishments which perform services on the premises:
      
      (1) Barber and beauty shops.
      
      (2) Physical culture and health clubs including licensed therapeutic massage establishments.
      
      (3) Day care centers.

   D. Public, quasi-public and governmental buildings and facilities:
      
      (1) Public, quasi-public, and governmental buildings and facilities permitted in the O-1 District.
      
      (2) Post Office substations.

   E. Retail businesses which supply commodities on the premises:
      
      (1) Book, stationery and office supply stores,
      
      (2) News dealers.
      
      (3) Bakeries.
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(4) Restaurants, including the sale of alcoholic beverages, provided that no drive-in or drive-through service is provided.

2. Conditional Uses. The following conditional uses are permitted in the O-2 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36:

A. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, gas regulator stations, water storage facilities, and similar uses.

B. Radio or television broadcasting stations, studios or facilities.

C. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Requirements.

A. Minimum lot area - None.

B. Minimum lot width - None.

C. Front yard setback - 25 feet.

D. Side yard setback - 7 feet.

E. Corner side yard setback - 12 feet.

F. Rear yard setbacks - None, except when abutting a lot in an R district, in which case there shall be a setback of 25 feet or 20 percent of the lot depth; whichever amount is smaller, but in no event less than 15 feet.

G. Maximum height - 3 stories or 45 feet, whichever is less, except that the maximum height may increase by one (1) foot for each one-half (½) foot that the front, rear and side yard setbacks are increased over the required minimums, up to a maximum of 150 feet in height with no limit on the number of stories.

H. Open space required - 25% of the first three (3) acres and 10% of the area over three acres of the total area of the lot.


A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.
B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).

C. Signs. Signs are permitted subject to the provisions of Section 176.31.

D. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.

E. Open Storage. All operations, including the storage of anything except merchandise displayed for sale or lease, or equipment and vehicles, shall be conducted in a fully enclosed building or entirely behind solid walls or fences which conceal them from visibility from off the lot.

F. Performance Standards. No flammable, reactive, explosive, toxic, or radioactive materials may be stored, handled or utilized unless the Building Official and the Fire Chief determine that such use does not constitute a hazard to adjacent properties based upon standards and criteria set forth in local, State and Federal codes, rules and/or regulations.

G. Landscaping/Open Space Requirements. The required open space shall be landscaped. The landscaping and open space requirements for this zoning district shall be established by resolution of the Council from time to time. Said requirements shall by reference be effective as part of this chapter.

H. Screening. Any portions of an O-2 zoned parcel containing exterior storage, parking or loading service areas shall be screened as provided in Subsection 176.29(2)(H)(7) in order to protect non-commercial property from the activity located on O-2 zoned property. The screening shall be composed of a combination of solid fencing, opaque plant materials, earthen structures and/or retaining walls of sufficient height to effectively screen the property from view of the non-commercial property.

(Ord. 13-27 – Feb. 14 Supp.)
176.20 C-1 NEIGHBORHOOD COMMERCIAL. The C-1 Neighborhood Commercial District is intended to provide restricted commercial development in areas adjacent to or surrounded by residential neighborhoods. This district is designed to allow commercial development which can be carried out in a harmonious manner with a minimum of disruption and undesirable impact upon the adjacent residential uses.

1. Principal Permitted Uses. The following principal uses are permitted in the C-1 District:

   A. Retail businesses which supply commodities on the premises:
      (1) Retail businesses permitted in the O-l District.
      (2) Apparel, millinery, and shoe stores.
      (3) Bakeries
      (4) Camera and photographic supply stores.
      (5) Candy, ice cream, and dairy products stores.
      (6) Drug stores and pharmacies.
      (7) Fabric, yard, and needlecraft shops.
      (8) Floral shops, but not including commercial greenhouses or nurseries.
      (9) General merchandise stores, except that the sale of gasoline on the premises shall be a conditional use.
      (10) Grocery and food stores.
      (11) Hardware stores.
      (12) Jewelry stores.
      (13) Meat markets, provided that no slaughtering or processing of animals takes place on the premises.
      (14) Radio, television, record and stereo stores and musical instrument stores.
      (15) Sporting goods and toy stores.
      (16) Restaurants and delicatessens, provided that no alcoholic beverages or beer are served and further provided that drive-in and drive-through service is prohibited.
B. Personal service establishments which perform services on the premises:
   (1) Personal service establishments permitted in the O-1 District.
   (2) Dry cleaner and laundry receiving stations, provided that processing is done elsewhere.
   (3) Self-service laundry and dry cleaning establishments.
   (4) Shops for repair of shoes, watches, jewelry, and small appliances.
C. Business service establishments which perform services on the premises and which are permitted in the O-1 District.
D. Professional office establishments permitted in the O-1 District.
E. Public, quasi-public, and governmental buildings and facilities:
   (1) Public, quasi-public, and governmental buildings and facilities permitted in the O-1 District.
   (2) Post office substations.
F. Residential uses: dwelling units and rooming units in nonresidential uses.

2. Conditional Uses. The following conditional uses are permitted in the C-1 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.
   A. Gas stations selling fuel, lubricants, coolants, tires, and other commodities, but not including the performance of vehicle repair and maintenance of any kind.
   B. Banks, savings and loans, and financial institutions.
   C. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, and similar uses.
   D. Similar and compatible uses to those allowed as principal permitted uses in this district.
   E. Drive-in or drive-through services.

(Ord. 12-06 – May 12 Supp.)
3. Site and Structure Requirements.
   A. Minimum lot area - 6,000 square feet.
      (1) Minimum lot area per dwelling unit - 1,200 square feet.
      (2) A lot of record as of the effective date of this Ordinance that has less area or width than herein required may be occupied by a use permitted in this district.
   B. Minimum lot width - 60 feet.
   C. Front yard setback - 25 feet.
   D. Side yard setback: None, except when a lot abuts an R or O-1 District, in which case there shall be a side yard setback of 7 feet; corner side yard - 12 feet.
   E. Rear yard setback: None, except when a lot abuts an R District, in which case there shall be a rear yard setback of 25 feet, or 20 percent of the lot depth, whichever amount is smaller, but in no event less than 15 feet.
   F. Maximum height – 2½ stores or 35 feet.
   G. Open space required - none.

   A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.
   B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).
   C. Signs. Signs are permitted subject to the provisions of Section 176.31.
   D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.
   E. Outdoor Sales. All business, servicing, or processing, except for off-street parking and loading facilities, shall be conducted within completely enclosed buildings.
   F. Open Storage. All operations, including the storage of merchandise displayed for sale or lease, but not including equipment and vehicles, shall be conducted in a fully enclosed
building or entirely behind solid walls or fences which conceal them from visibility from off the lot.

G. Performance Standards. No flammable, reactive, explosive, toxic, or radioactive materials may be manufactured, stored, handled or utilized unless the Building Official and the Fire Chief determine that such use does not constitute a hazard to adjacent properties based upon standards and criteria set forth in local, State and Federal codes, rules and/or regulations.

H. Exterior Lighting. Other than security lighting, no exterior illumination of parking lots, building facades or advertising devices shall be allowed except when the business is open to the public.

I. Hours of Operation. No business shall be open to the public between the hours of 11:00 p.m. and 6:00 a.m.
176.21  **C-2 CENTRAL BUSINESS DISTRICT COMMERCIAL.** The C-2 Central Business District Commercial District is intended to establish and preserve a convenient and attractive central business district offering a wide range of concentrated retail, office, and service uses.

1. Principal Permitted Uses. The following principal uses are permitted in the C-2 District:

   A. Retail businesses which supply commodities on the premises:

      (1) Retail businesses permitted in the C-1 District.

      (2) Auto accessory stores.

      (3) Furniture, home furnishings, paint, wall covering, floor covering and similar stores.

      (4) Household appliance.

      (5) Leather goods and luggage stores.

      (6) Liquor stores.

      (7) Office supply stores.

      (8) Pet shops.

      (9) Restaurants, cocktail lounges, taverns, and dancing establishments, including the serving of alcoholic beverages and beer, but not including drive-in or drive-through service except as conditional uses.

   B. Personal service establishments which perform services on the premises:

      (1) Personal service establishments permitted in the C-1 District.

      (2) Physical culture and health clubs including licensed therapeutic massage establishments.

      (3) Indoor theaters, but not including drive-in theaters or adult theaters.

   C. Business service establishments which perform services on the premises:

      (1) Business service establishments permitted in the C-1 District.
(2) Banks, savings and loans, and financial institutions. Shall not include Delayed Deposit Service Uses.

D. Professional office establishments:
   (1) Professional office establishments permitted in the C-1 District.
   (2) Business offices including the sale and display of goods, wares, or merchandise on the premises.

E. Public, quasi-public, and governmental buildings and facilities:
   (1) Public, quasi-public, and governmental buildings and facilities permitted in the C-1 District.
   (2) Off-street parking lots and garages.
   (3) Post offices.
   (4) Private clubs and lodges.

F. Residential uses: Dwelling units and rooming units in nonresidential uses.

2. Conditional Uses. The following conditional uses are permitted in the C-2 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36:

   A. Gas stations selling fuel, lubricants, coolants, and other commodities but not including the performance of vehicle repair and maintenance of any kind.
   B. Drive-in or drive-through restaurants.
   C. Auction houses.
   D. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, gas regulator stations, pipeline pumping stations, water storage facilities, and similar uses.
   E. Delayed deposit services uses shall be subject to the following standards:
      (1) A distance separation of 1,000 feet from any child care center, educational facility, park or recreational facility, religious institution or other delayed deposit services use.
F. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Requirements.
   A. Minimum lot area - none.
   B. Minimum lot width - none.
   C. Front yard setback - none.
   D. Side yard setback - none; corner side yard setback - none.
   E. Rear yard setback - none.
   F. Maximum height - 5 stories or 75 feet.
   G. Open space required - none.

   A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.
   B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).
   C. Signs. Signs are permitted subject to the provisions of Section 176.31.
   D. Off-Street Parking and Loading. No off-street parking and loading facilities are required in the C-2 District.
   E. Open Storage. All operations, including the storage of anything except merchandise displayed for sale or lease or equipment and vehicles, shall be conducted within a fully enclosed building or entirely behind solid walls or fences which conceal them from visibility from off the premises.
   F. Performance Standards. No flammable, reactive, explosive, toxic or radioactive materials may be manufactured, stored, handled or utilized unless the Building Official and the Fire Chief determine that such use does not constitute a hazard to adjacent properties based upon standards and criteria set forth in local, State and Federal codes, rules and/or regulations.

(Ord. 15-08 – May 15 Supp.)
176.22 C-3 GENERAL COMMERCIAL. The C-3, General Commercial District is intended to provide areas for all types of retailing and service uses, certain wholesale and warehouse uses, and some limited industrial activities normally associated with commercial uses. This district is designed to accommodate commercial areas where customers reach individual business establishments primarily by automobile.

1. Principal Permitted Uses. The following principal uses are permitted in the C-3 District:

   A. Retail businesses which supply commodities on the premises:
      (1) Retail businesses permitted in the C-2 District.
      (2) Automobile, boat, camper, farm implement, heavy equipment, mobile home, motorcycle, bicycle, and recreational vehicle sales, service, and rental.
      (3) Automobile service stations, gas stations, automobile and vehicle repair shops, towing service, automobile laundries/car washes, tire, battery and automobile accessory sales and service. Automobile storage is permitted provided there is a six-foot high solid screening from adjoining properties.
      (4) Building service and supply stores and lumber yards.
      (5) Tombstone and monument sales.
      (6) Water softener sales and service.
      (7) Restaurants, cocktail lounges, taverns, and dancing establishments, including the serving of beer and alcoholic beverages, and also including drive-in and drive-through service.

   B. Personal service businesses which perform services on the premises:
      (1) Personal service establishments permitted in the C-2 District.
      (2) Veterinary clinics providing onsite service to domestic animals only and do not include: outdoor kennels, commercial boarding services accept as an accessory use, crematory services or 24 hour emergency service. Veterinary clinics providing any service restricted above shall be located at least 100 feet from any lot in an "R" District; all outdoor kenneling shall be limited to clinics located in an "I" District.
(3) Automobile driving schools.

(4) Athletic and amusement establishments such as miniature golf courses, "pitch and putt" and "par three" golf courses, bowling alleys, pool halls, dancing establishments, gymnasiuems, swimming pools, skating rinks, indoor archery ranges and shooting galleries, tennis courts, handball and racquetball courts, coin-operated game establishments, and similar uses, but not including massage establishments.

(5) Drive-in theaters, but not including adult theaters, provided that patron entrance and exit drives lead only to major streets as designed on the City's Major Street Plan, at points at least 200 feet from any intersection, and further provided that the motion picture screen cannot be seen from any street or from any R District.

(6) Food locker rentals.

(7) Taxidermist establishments.

(8) General service and repair establishments, including air conditioning, appliance, electrical, furniture, heating, painting, plumbing, sheet metal, upholstery, and similar uses.

C. Business service establishments:

(1) Business service establishments permitted in the C-2 District.

(2) Cartage, express, and parcel delivery service.

(3) Auction houses, but not livestock auction houses.

(4) Contractors yards, shops, and offices.

D. Professional office establishments permitted in the C-2 District.

E. Public, quasi-public, and governmental buildings and facilities:

(1) Public, quasi-public, and governmental buildings and facilities permitted in the C-2 District, except that day care centers are conditional uses in this district.

(2) Bus depots.
(3) Ambulance services.
(4) Public service and municipal garages.
(5) Buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, and similar uses.

F. Residential uses: Hotels and motels.
   (1) Dwelling units and rooming units above a permitted commercial use allowed in Section 176.22, so long as said unit is located within a second story or higher.

G. Wholesale and warehouse uses:
   (1) Direct selling establishments where products are stored and distributed.
   (2) Warehouse establishments.
   (3) Wholesale and distributor establishments.
   (4) Wholesale meat cutting and processing establishments, but not including meat packing.

H. Industrial-type uses:
   (1) Establishments for processing or manufacturing of goods for sale only at retail and primarily on the premises, provided such processing or manufacturing is permitted in the I-1 District.
   (2) Printing, publishing, and lithography establishments.

I. Sexually oriented businesses (as defined and regulated under Chapter 127 of this Code of Ordinances), provided that:
   (1) The sexually oriented business may not be operated within 1,000 feet of (a) a church, synagogue, chapel or similar place of religious worship or instruction; (b) a public or private elementary or secondary school; (c) a boundary of a residential zoning district; (d) a library, or a public park, playground or other recreational facility; (e) a licensed day care center or nursery or preschool, or (f) another sexually oriented business.
   (2) A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
(3) For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or library, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day care center.

(4) For purposes of paragraph (3), the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

2. Conditional Uses. The following conditional uses are permitted in the C-3 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.

A. Day care centers.
B. Fuel oil dealers.
C. Bottled gas dealers.
D. Radio or television broadcasting stations, studios or facilities.
E. Truck terminals.
F. Hay, grain, and feed stores.
G. Adult bookstores, adult theaters, provided that any structures associated therewith shall be at least 500 feet from any lot in an R or O District, or any public or private school, library, park, playground or other recreational facility, and at least 500 feet from the nearest property line of any church, synagogue, chapel or similar place of religious worship or instruction.
H. Amusement parks, including permanent carnivals and similar private outdoor amusement facilities, provided that such facilities shall be located at least 500 feet from any lot in an R or O District, or any public or private school, library, park, playground, or other recreational facility, and at least 500 feet
from the nearest property line of any church, synagogue, chapel, or similar place of religious worship or instruction.

I. Similar and compatible uses to those allowed as principal permitted uses in this district.

J. Farm and garden supply establishments, commercial greenhouses and nurseries, and disinfecting and exterminating services.

3. Site and Structure Requirements.
   A. Minimum lot area - none.
   B. Minimum lot width - none.
   C. Front yard setback - 12 feet.
   D. Side yard setback – none; corner side yard setback - 12 feet.
   E. Rear yard setback - none, except when a lot abuts an R district in which case the rear yard setback shall be 15 feet.
   F. Maximum height - 3 stories or 45 feet, whichever is less, except that the maximum height may increase by one (1) foot for each one-half (½) foot that the front, rear and side yard setbacks are increased over the required minimums, up to a maximum of 150 feet in height with no limit on the number of stories.
   G. Open space required - None.

   A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.
   B. Temporary Uses. Temporary uses are permitted subject to the provision of Section 176.35(13).
   C. Signs. Signs are permitted subject to the provisions of Section 176.31.
   D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.
   E. Open Storage. All operations, including the storage of anything except merchandise' displayed for sale or lease, or equipment and vehicles, shall be conducted in a fully enclosed
building or entirely behind solid walls or fences which conceal them from visibility from off the lot.

F. Performance Standards. No flammable, reactive, explosive, toxic, or radioactive materials may be stored, handled or utilized unless the Building Official and the Fire Chief determine that such use does not constitute a hazard to adjacent properties based upon standards and criteria set forth in local, State and Federal codes, rules and/or regulations.

(Ord. 15-09 – May 15 Supp.)
CHAPTER 176 ZONING REGULATIONS

176.23 C-3P COMMERCIAL PARK. The C-3P, Commercial Park District is intended to provide for retail and service and related office uses in an environment free from intrusion by heavier commercial or residential uses. This district is intended to accommodate new development in the outlying areas of the community adjacent to Major Streets as defined in Section 176.38 of this Zoning Ordinance.

1. Principal Permitted Uses. The following principal uses are permitted in the C-3P District:

   A. Retail businesses which supply commodities on the premises:

      (1) Retail businesses permitted in the C-2 District.

      (2) Automobile, boat, camper, farm implement, heavy equipment, mobile home, motorcycle, bicycle, and recreational vehicle sales, service, and rental.

      (3) Automobile service stations, gas stations, car washes, tire, battery and automobile accessory sales and service.

      (4) Restaurants, cocktail lounges, and taverns, including the serving of beer and alcoholic beverages, and also including drive-in and drive-through service.

   B. Personal service businesses which perform services on the premises:

      (1) Personal service establishments permitted in the C-2 District.

      (2) Animal hospitals, veterinary clinics, and kennels, but not including unenclosed kennels, provided that any building associated with such uses shall be at least 100 feet from any lot in an “R” district.

      (3) Athletic and amusement establishments such as miniature golf courses, “pitch and putt” and “par three” golf courses, bowling alleys, billiard and pool centers, dancing establishments, gymnasiums, swimming pools, skating rinks, indoor archery ranges and shooting galleries, tennis courts, handball and racquetball courts, coin-operated game establishments, and similar uses.

      (4) Hotels, motels and resorts.
C. Business service establishments:
   (1) Business service establishments permitted in the C-2 District.
   (2) Office services including xerographic and offset printing, and mailing services.
D. Professional office establishments permitted in the C-2 District.
E. Public, quasi-public, and governmental buildings and facilities.
   (1) Public, quasi-public, and governmental buildings and facilities permitted in the C-2 District.
   (2) Bus depots.
   (3) Ambulance services.
   (4) Day care centers.

2. Conditional Uses. The following conditional uses are permitted in the C-3P District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.
   A. Public, quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, gas regulator stations, water storage facilities, and similar uses.
   B. Radio or television broadcasting stations, studios or facilities.
   C. Amusement parks, including permanent carnivals and outdoor amusement facilities, provided that such facilities shall be located at least 500 feet from any lot in an “R” or “O” district, or any public or private school, library, park, playground, or other recreational facility, and at least 500 feet from the nearest property line or any church, synagogue, chapel, or similar place of religious worship or instruction.
   D. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Requirements.
   A. Minimum lot area - 25,000 square feet.
   B. Minimum lot width - 75 feet.
C. Front yard setback - 40 feet along streets classified as Expressways, Major Arterials and Minor Arterials in Section 176.38; 25 feet for other street frontages.

D. Side yard setback - 15 feet; corner side yard setback - 30 feet along streets classified as Expressways, Major Arterials and Minor Arterials in Section 176.38; 15 feet for other street frontages.

E. Rear yard setback - 25 feet.

F. Maximum height - 3 stories or 45 feet, whichever is less, except that the maximum height may increase by one (1) foot for each one-half (½) foot that the front, rear and side yard setbacks are increased over the required minimums, up to a maximum of 150 feet in height with no limit on the number of stories.

G. Open space required - Minimum of 25% of the first three (3) acres and 10% of the area over three acres of the total area of the lot.


A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.

B. Temporary Uses. Temporary uses are permitted subject to the provision of Section 176.35(13).

C. Signs. Signs are permitted subject to the provisions of Section 176.31, except that no portable signs pursuant to Subsection 176.31(5)(C) shall be allowed.

D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.

E. Open Storage. All operations, including the storage of anything except merchandise displayed for sale or lease, or equipment and vehicles, shall be conducted in a fully enclosed building or entirely behind solid walls or fences which conceal them from visibility from off the lot.

F. Performance Standards. No flammable, reactive, explosive, toxic, or radioactive materials may be stored, handled or utilized unless the Building Official and the Fire Chief determine that such use does not constitute a hazard to adjacent
properties based upon standards and criteria set forth in local, State and Federal codes, rules and/or regulations.

G. Landscaping/Open Space Requirements. The required open space shall be landscaped. The landscaping and open space requirements for this zoning district shall be established by resolution of the Council from time to time. Said requirements shall by reference be effective as a part of this ordinance.

H. Screening. Any portions of a C-3P zoned parcel containing exterior storage, parking or loading or service areas shall be screened as provided in Subsection 176.29(2)(H)(7) in order to protect non-commercial property from the activity located on C-3P zoned property. The screening shall be composed of a combination of solid fencing, opaque plant materials, earthen structures and/or retaining walls of sufficient height to effectively screen the property from view of the non-commercial property.
176.24 C-4 WAREHOUSE/COMMERCIAL. The C-4 Warehouse/Commercial District is intended to accommodate wholesale establishments, warehouses, some limited industrial activities, and certain kinds of commercial uses most appropriately located in proximity to the foregoing uses or which are necessary to serve the needs of the area.

1. Principal Permitted Uses. The following principal uses are permitted in the C-4 District:

A. Retail businesses which supply commodities on the premises.
   (1) Automobile, bicycle, boat, camper, farm implement, heavy equipment, mobile home, motorcycle, and recreational vehicle sales, service, and rental.
   (2) Automobile service stations, gas stations, automobile and vehicle repair shops, towing service, automobile laundries/car washes, tire, battery, and automobile accessory sales and service. Automobile storage yards are permitted provided there is a six-foot high solid screening from adjoining properties.
   (3) Building service and supply stores.
   (4) Electrical, plumbing, heating and similar showrooms and shops.
   (5) Tombstone and monument sales.
   (6) Water softener sales and service.
   (7) Restaurants, but not including the sale of beer or alcoholic beverages and not including drive-in or drive-through service.
   (8) Furniture and home furnishing stores.

B. Personal service establishments.
   (1) Arts and crafts workshops.
   (2) Automobile driving schools.
   (3) General service and repair establishments including air conditioning, appliance, electrical, furniture, heating, painting, plumbing, upholstery, and similar establishments.
   (4) Barber and beauty shops.
   (5) Photographer, art, sculptor, and composer studios.
(6) Self-service laundries and dry cleaning establishments.

(7) Indoor athletic establishments such as bowling alleys, indoor tennis courts, pool halls, gymnasiuums, skating rinks, and similar establishments, but not including massage establishments.

C. Business service establishments:

(1) Business service establishments permitted in the C-3 District.

(2) Auction houses, but not livestock auction houses.

(3) Contractors yards, shops, and offices.

(4) Cartage, express, and parcel delivery service.

D. Public, quasi-public, and governmental buildings and facilities:

(1) Public, quasi-public, and governmental buildings and facilities permitted in the C-3 District.

(2) Vocational or trade schools.

E. Wholesale and warehouse uses:

(1) Direct selling establishments where products are stored and distributed.

(2) Wholesale establishments, including wholesale bakeries.

(3) Wholesale meat cutting and processing establishments, but not including meat packing.

(4) Warehousing, storage, and distribution facilities.

(5) Truck terminals.

(6) Cartage, express, and parcel delivery facilities.

F. Industrial-type uses:

(1) Dyeing and cleaning works.

(2) Industrial laundries.

(3) Printing, publishing, and lithography establishments.
(4) Laboratory and research firms involved in the research, experimentation, or testing of materials, goods, or products, provided that such materials, goods, or products are permitted in the I-1 District.

(5) Welding and machine shops.

(6) Light machinery manufacturing such as small appliances, and electronics and scientific precision instruments manufacturing.

(7) Assembly of wood products and finished wood products manufacturing.

(8) Establishments for processing or manufacturing of goods for sale only at retail and primarily on the premises, provided such processing or manufacturing is permitted in the I-1 District.

2. Conditional Uses. The following conditional uses are permitted in the C-4 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36:

A. Living quarters for watchmen and their families located on the premises where they are employed.

B. Fuel oil dealers.

C. Similar and compatible uses to those allowed as principal permitted uses in this district.

D. Farm and garden supply establishments, commercial greenhouses and nurseries, and disinfecting and exterminating services.

3. Site and Structure Requirements.

A. Minimum lot area – none.

B. Minimum lot width – none.

C. Front yard setback – 12 feet.

D. Side yard setback – none.

E. Corner side yard setback – 12 feet.

F. Rear yard setback – none.

G. Maximum height – 3 stories or 45 feet.
   
   A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.
   
   B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).
   
   C. Signs. Signs are permitted subject to the provisions of Section 176.31.
   
   D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.
   
   E. Open Storage. All operations, including the storage of anything except merchandise displayed for sale or lease, raw materials, equipment or vehicles, shall be conducted in a fully enclosed building or entirely behind solid walls or fences which conceal them from visibility from off the lot.
   
   F. Performance Standards.
      
      (1) No flammable, reactive, explosive, toxic, or radioactive materials may be manufactured, stored, handled or utilized unless the Building Official and the Fire Chief determine that such use does not constitute a hazard to adjacent properties based upon standards and criteria set forth in local, State and Federal codes, rules and/or regulations.
      
      (2) No use shall create odors, noise, dust, smoke, or vibrations discernible beyond the boundaries of the lot to the point of becoming a public nuisance.
176.25 **I-1 RESTRICTED INDUSTRIAL.** The I-1 Restricted Industrial District is intended to provide areas for industrial and related uses of such a nature that they do not create appreciable nuisances, hazards, or serious problems of compatibility with other kinds of land uses. This district also provides for certain kinds of commercial uses which are most appropriately located in proximity to industrial areas or which are necessary to serve the immediate needs of these areas. The district is designed to serve as a buffer between general industrial areas and commercial/residential areas.

1. Principal Permitted Uses. The following principal uses are permitted in the I-1 District:

   A. Industrial-type uses:

      (1) Industrial-type uses which comply with the performance standards set forth in this section. However, those uses designated as conditional uses in the I-2 District are not permitted in the I-1 District.

      (2) Bakeries

      (3) Dairy products processing.

      (4) Industrial laundries and dry cleaning establishments.

      (5) Laboratory and research firms involved in the research, experimentation, or testing of materials, goods, or products.

   B. Wholesale and warehouse uses:

      (1) Warehousing, storage, and distribution facilities, including wholesaling activities.

      (2) Truck terminals.

      (3) Packing and crating establishments.

      (4) Cartage, express, and parcel delivery service.

      (5) Direct selling establishments where products are stored and distributed.

   C. Commercial uses:

      (1) Retail businesses, personal services, and business services permitted in the C-4 District.

      (2) Restaurants including drive-in and drive-through service, but not including the serving of beer and alcoholic beverages.
D. Public, quasi-public, and governmental buildings:
   (1) Public service garages and maintenance facilities.
   (2) Ambulance service.
   (3) Police and fire stations.
   (4) Public and private parks and playgrounds.
   (5) Governmental office buildings.
   (6) Public utility establishments.
   (7) Essential services such as gas regulator stations, pipeline pumping stations, electrical distribution substations, water storage facilities and similar uses.

2. Conditional Uses. The following conditional uses are permitted in the I-1 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.
   A. Kennels, provided that all animals shall be kept at least 100 feet from any residence or residential district.
   B. Living quarters for watchmen and their families located on the premises where they are employed.
   C. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Requirements.
   A. Minimum lot area - none.
   B. Minimum lot width - none.
   C. Front yard setback - 12 feet.
   D. Side yard setback - none; corner side yard setback - 12 feet.
   E. Rear yard setback - none.
   F. Maximum height - 3 stories or 45 feet.
   
   A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.
   
   B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).
   
   C. Signs. Signs are permitted subject to the provisions of Section 176.31.
   
   D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.
   
   E. Open Storage. All operations, including the storage of anything except merchandise displayed for sale or lease, raw materials, equipment, or vehicles, shall be conducted in a fully enclosed building or entirely behind solid walls or fences which conceal them from visibility from off the lot.
   
   F. Performance Standards.
      
      (1) No flammable, reactive, explosive, toxic, or radioactive materials may be manufactured, stored, processed, handled, or utilized unless the Building Official and the Fire Chief determine that such use does not constitute a hazard to adjacent properties, based upon standards and criteria set forth in local, State, and/or Federal codes, rules and regulations.
      
      (2) No use shall create odors, noise, dust, smoke, or vibrations discernible beyond the boundaries of the lot to the point of becoming a public nuisance.
176.26 I-1P INDUSTRIAL PARK. The I-1P, Industrial Park District is intended to provide for industrial, service and related office uses in an environment free from intrusion by lighter commercial or residential uses. This district is intended to accommodate new development in the outlying areas of the community adjacent to Major Streets as defined in Section 176.38 of this Zoning Ordinance.

1. Principal Permitted Uses. The following principal uses are permitted in the I-1P District:

A. Industrial uses:
   (1) Industrial uses which comply with the performance standards set forth in this section. However, those uses designated as conditional uses in the I-2 District are not permitted.
   (2) Bakeries.
   (3) Dairy products processing.
   (4) Laundries and dry cleaning establishments.
   (5) Laboratory and research firms involved in the research, experimentation, or testing of materials, goods, or products.

B. Wholesale and warehouse uses:
   (1) Warehousing, storage, and distribution facilities, including wholesaling activities.
   (2) Cartage, express, and parcel delivery services.
   (3) Direct sales establishments where products are stored and distributed.

C. Commercial uses:
   (1) Retail business, personal services, and business services permitted in the C-4 District.
   (2) Restaurants, including drive-in and drive-through service and serving of alcoholic beverages.
   (3) Office buildings and meeting halls.

D. Public, quasi-public and governmental uses.
   (1) Public service garages and maintenance facilities.
   (2) Police and fire stations.
(3) Public and private parks and playgrounds.

(4) Governmental office buildings.

(5) Public utility establishments.

(6) Essential services such as gas regulator stations, pipeline pumping stations, electrical distribution substations, water storage facilities and similar uses.

2. Conditional Uses. The following conditional uses are permitted in the I-1P District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.

   A. Kennels, provided that all animals shall be kept at least 100 feet from any residence or residential district.

   B. Living quarters for watchmen and their families located on the premises where they are employed.

   C. Similar and compatible uses to those allowed as principal permitted uses in this district.

3. Site and Structure Requirements.

   A. Minimum lot area - 25,000 square feet.

   B. Minimum lot width - 75 feet.

   C. Front yard setback - 40 feet along streets classified as Expressways, Major Arterials and Minor Arterials in Section 176.38; 25 feet for other street frontages.

   D. Side yard setback - 15 feet; corner side yard setback - 40 feet along streets classified as Expressways, Major Arterials and Minor Arterials in Section 176.38; 15 feet for other street frontages.

   E. Rear yard setback - 25 feet.

   F. Maximum height - 3 stories or 45 feet, whichever is less, except that the maximum height may increase by one (1) foot for each one-half (½) foot that the front, rear and side yard setbacks are increased over the required minimums, up to a maximum of 150 feet in height with no limit on the number of stories.

   G. Open space required - Minimum of 25% of the first three (3) acres and 10% of the area over three acres of the total area of the lot.

A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.

B. Temporary Uses. Temporary uses are permitted subject to the provision of Section 176.35(13).

C. Signs. Signs are permitted subject to the provisions of Section 176.31, except that no portable signs pursuant to Subsection 176.31(5)(C) shall be allowed.

D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.

E. Open Storage. All operations, including the storage of anything except merchandise displayed for sale or lease, or equipment and vehicles, shall be conducted in a fully enclosed building or entirely behind solid walls or fences which conceal them from visibility from off the lot.

F. Performance Standards. No flammable, reactive, explosive, toxic, or radioactive materials may be stored, handled or utilized unless the Building Official and the Fire Chief determine that such use does not constitute a hazard to adjacent properties based upon standards and criteria set forth in local, State and Federal codes, rules and/or regulations.

G. Landscaping/Open Space Requirements. The required open space shall be landscaped. The landscaping and open space requirements for this zoning district shall be established by resolution of the Council from time to time. Said requirements shall by reference be effective as a part of this ordinance.

H. Screening. Any portions of a I-1P zoned parcel containing exterior storage, parking or loading or service areas shall be screened as provided in Subsection 176.29(2)(H)(7) in order to protect non-commercial property from the activity located on I-1P zoned property. The screening shall be composed of a combination of solid fencing, opaque plant materials, earthen structures and/or retaining walls of sufficient height to effectively screen the property from view of the non-commercial property.
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176.27 I-2 GENERAL INDUSTRIAL. The I-2 General Industrial District is intended to accommodate most types of industrial development. This district is designed to protect residential and less intensive commercial and industrial uses by locating general industrial uses in locations removed from such residential or commercial development. Certain general industrial uses that may tend to be objectionable due to their odor, vibrations, smoke, glare, heat, noise or similar characteristics are provided as conditional uses in this district.

1. Principal Permitted Uses. The following principal uses are permitted in the I-2 District:

A. Industrial-type uses:
   (1) Industrial-type uses permitted in the I-1 District.
   (2) Industrial firms involved in the fabrication, assembling, processing, production, compounding, and manufacturing of materials, goods, and products, except for those enumerated in subsection 2 hereof.
   (3) Bottling works.
   (4) Electroplating establishments.
   (5) Grain storage establishments.
   (6) Metal stamping establishments.
   (7) Planing mills and saw mills provided that such activities take place in a completely enclosed building.

B. Wholesale and warehouse uses permitted in the I-1 District.

C. Commercial uses:
   (1) Commercial uses permitted in the I-1 District.
   (2) Bottled gas and fuel dealers.
   (3) Tire re-treading establishments.
   (4) Septic tank and sewer cleaning and service establishments.

D. Public, quasi-public, and governmental buildings and facilities permitted in the I-1 District.

2. Conditional Uses. The following conditional uses are permitted in the I-2 District only as authorized by the Zoning Board of Adjustment as provided in Section 176.36 when the following general requirements are met.
A. General Requirements.

(1) No conditional use shall be located within five hundred feet (500') of a church, synagogue, chapel or similar place of religious worship or instruction; a public or private elementary or secondary school; a library or public park, playground or other recreational facility, a licensed day care center or nursery or preschool, or healthcare facility; a boundary of any R, 0, C-1, C-2, C-3 or C-3P Zoning District.

(2) All conditional uses shall be situated, equipped, operated and maintained so as to minimize to the greatest extent possible, using the best available technology, any negative impacts on, or interference with other land uses and activities in the general area, or the public health, safety and general welfare.

(3) The following numbered conditional uses shall not be located within five hundred feet (500') of a food processing or eating establishment: (1), (2), (3), (6), (7), (9), (10), (14), (16) and (17).

B. Conditional Uses.

(1) Junk Yards and Salvage Yards, including automobile salvage yards and wrecking operations, subject to the following requirements.

   a. General Requirements.

      (i) All outdoor storage shall be conducted entirely within a solid fence at least eight foot (8') in height with lockable gates. The fence shall be constructed in such a manner that no outdoor storage or salvage operations shall be visible from an adjacent property, street or highway. Storage, either temporary or permanent, between such fence or wall and any property line is expressly prohibited. Junk or salvage materials shall not be piled against the fence.

(2) Solid Waste Transfer Stations and Materials Recovery Facilities, including non-hazardous industrial waste salvage operations and recycling facilities, subject to the following requirements.
a. General Requirements.

(i) Application for a conditional use permit shall include all applicable information required by the Iowa Department of Natural Resources and any other federal, state, regional or local authority to evaluate a transfer station permit application, including, but not limited to, a detailed site plan of the proposed facility, design, operation, storage, reporting, assurances and emergency response and remedial action plans.

(ii) No building permit shall be issued until the applicant provides a copy of the approved Iowa Department of Natural Resources Transfer Station Permit.

(iii) The owner shall provide the City, in a timely fashion, a copy of all reports required to be submitted to the state.

(iv) All aspects of the transfer station use and operation including, design, location, operation, maintenance and reporting shall be consistent with local, state, and federal regulations.

b. Site Design Requirements.

(i) Minimum site area for such development shall be five (5) acres.

(ii) Building coverage shall not exceed 40 percent of the site.

(iii) No exterior loading docks may be on any street frontage. Provision for handling of materials brought to or removed from the site by truck shall be on those sides of any building which do not face on any street or proposed street(s).

(iv) Site ingress and egress shall be at locations approved by the City. All driveways, circulation and stacking lanes, storage areas and parking areas shall be hard surfaced and curbed.
(v) A traffic study may be required at the request of the City Engineer. All improvements necessary to accommodate the transfer station shall be provided by the owner of the waste transfer station.

(vi) All stacking of trucks and equipment shall occur on site and outside the public right-of-way.

(vii) The Waste Transfer Building shall be located entirely within an eight foot (8') solid fence with lockable gates. The fence shall be constructed in such a manner that no outdoor storage or salvage operations shall be visible from an adjacent property, street or highway. Storage, either temporary or permanent, between such fence or wall and any property line is expressly prohibited. Outdoor storage of equipment or materials associated with the business shall be in designated areas and not to be stored against the fence or exceed the height of the fence.

c. Environmental Control Requirements.

(i) No solid waste shall be deposited outside the transfer station building. There shall be no on-site, exposed or contained, overnight storage of solid waste, including storage in trucks; except as specifically identified in the permit application approved by the Iowa Department of Natural Resources and City of Marion.

(ii) The emission of noxious matter shall be controlled so that no concentration of such matter, at or beyond the lot line, will be detrimental to or endanger the public health, safety, comfort or general welfare or cause damage to property. Noxious matter means any solid, liquid or gaseous material, including but not limited to gases, vapors, odor, dusts, fumes, mists, or combinations thereof, the emission of which is detrimental
to or endangers the public health, safety, comfort, or general welfare or causes damage to the property.

(iii) The operator of the transfer station shall cooperate with the City in order to facilitate periodic City inspections of the facility as the City may deem necessary. The operator of the facility shall authorize access to the City to conduct such inspections. The City may require the operator to submit periodic reports from licensed engineers regarding air quality, noise generation or other noxious emissions testing or analysis.

d. Operational Requirements.

(i) All trucks and equipment destined to or away from the site, except for personal vehicles, may be restricted to designated routes established by the City. The operator of any transfer station shall be responsible for notifying truck operators of the route designation by the City. The City will not revoke a conditional use permit granted under this subsection for off-site violations beyond the control of the transfer station operator and owner.

(ii) No loading or unloading by reason of tipping or use of other equipment, or cleaning of vehicles, equipment or containers, shall occur outside of the transfer station building.

(iii) On-site storage or handling of hazardous waste materials is prohibited as a planned mode of operation. Hazardous waste materials inadvertently delivered to the facility shall be promptly removed in accordance with county and state requirements. No special programs for the collection of residential hazardous waste shall be conducted at the facility without prior City approval.
(iv) Operation and use of the facility shall be in conformance with the approved site plan and application. Substantial changes to the site plan, facility operations or design may require review and approval of the conditional use permit, as determined by the City.

(3) Acid or corrosive manufacture.

(4) Cement, lime, ready mix cement, gypsum or similar manufacturing and processing.

(5) Commercial quarries, gravel pits, mines, and similar extractive uses.

(6) Distillation or refining of bones or coal.

(7) Fat, grease, lard, or tallow rendering or refining.

(8) Fertilizer manufacture.

(9) Fur and hide processing.

(10) Garbage, offal, or dead animal disposal, rendering, or processing.

(11) Glue manufacturing.

(12) Grain or alcohol processing.

(13) Industrial firms involved in the manufacturing, fabrication, processing, production, or compounding of reactive, explosive, hazardous, radioactive, or highly flammable materials, goods, or products.

(14) Packing plants, slaughterhouses, stockyards, livestock sales, and livestock auction houses.

(15) Petroleum products terminals, refineries, and bulk storage facilities.

(16) (Repealed by Ord. 05-01 – Feb. 05 Supp.)

(17) Sewage disposal and treatment facilities.

(18) Similar and compatible uses to those allowed as permitted uses in this district.

3. Site and Structure Requirements.
   A. Minimum lot area - none.
B. Minimum lot width - none.
C. Front yard setback - 12 feet.
D. Side yard setback - none; corner side yard setback - 12 feet.
E. Rear yard setback - none.
F. Maximum height - 3 stories or 45 feet, whichever is less, except that the maximum height may increase by one (1) foot for each one-half (½) foot that front, rear and side yard setbacks are increased over the required minimums, up to a maximum of 150 feet in height with no limit on the number of stories.

   A. Accessory Uses. Uses and structures accessory to a principal permitted use or to a conditional use are permitted subject to the provisions of Section 176.32.
   B. Temporary Uses. Temporary uses are permitted subject to the provisions of Section 176.35(13).
   C. Signs. Signs are permitted subject to the provisions of Section 176.31.
   D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of 176.29.

(Ord. 03-27 – Feb. 04 Supp.)
176.28 CLUSTER DEVELOPMENT OPTION. The intent of the Cluster Development Option is to promote greater design flexibility in land development by offering density transfers in conjunction with relaxation of conventional lot and building bulk controls. In those zoning districts offering the Cluster Development Option, the developer has the option of choosing either conventional or cluster development. The Cluster Development option is intended to promote the most appropriate design and development of land, facilitate the adequate and economic provision of public services, and preserve the natural and scenic qualities of open areas.

1. General Requirements. Whenever there is a conflict or difference between the provisions of this section and those of the other sections of this Zoning Ordinance, the provisions of this section shall prevail. Subjects not covered by this section shall be governed by the respective provisions found elsewhere in this Ordinance. Cluster development shall conform to the following:

A. In a district in which the Cluster Development Option is available, dwelling units may be clustered in one or more locations upon the site, provided that the average land area for which dwelling unit contained in the site, exclusive of the area occupied by private streets or public rights-of-way, shall not be less than the lot area per dwelling unit required in the zoning district within which the development is located.

B. Single-family dwellings, two-family dwellings, three- and four-plexes, multiple-family dwellings, and accessory uses may be permitted in a cluster development, provided that the density requirement set forth in paragraph A above is met. However, no use shall be permitted except in conformity with an approved Cluster Development Plan pursuant to the provisions set forth herein.

C. Other principal permitted uses in the zoning district within which the development is located may be permitted in the cluster development. However, no use shall be permitted except in conformity with an approved Cluster Development Plan.

D. Conditional uses set forth in the zoning district within which the development is located may be permitted in the cluster development, when authorized by the Zoning Board of Adjustment as provided in Section 176.36. However, no
conditional use shall be permitted except in conformity with an approved Cluster Development Plan.

E. The cluster development may depart from strict conformance with the required lot dimension, lot area, lot width, setback, yard, and bulk regulations and the zoning district within which the development is located, so long as the development will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

(1) However, the setbacks on all exterior boundaries of the cluster development shall be at least equal in width or depth to that required in the adjacent property.

(2) No departure from conformance with the lot dimension, lot area, lot width, setback, yard, and bulk regulations shall be permitted except in conformity with an approved Cluster Development Plan pursuant to the provisions set forth herein.

F. Adequate off-street parking and loading facilities shall be provided and shall conform to the standards set forth in Section 176.29 of this Ordinance.

G. Adequate provision shall be made to provide ingress and egress designed to promote optimal traffic safety and flow.

H. If the sequence of construction of various portions of the cluster development is to occur in stages, then the off-street parking, open space, or any other shared facility as contained in the approved Cluster Development Plan shall be developed in proportion to the number of dwelling units developed during the given stage of construction.

I. At no time during the construction of the cluster development shall the number of constructed dwelling units exceed the over-all density per acre established in the approved Cluster Development Plan.

J. No land may be used or building permit issued on land within the cluster development until all procedural and regulatory provisions of this section have been complied with.

2. Coordination With Subdivision Ordinance.

A. No lot, tract, parcel, or other division of land may be divided into two or more lots, tracts, parcels or other divisions of
land for the purpose of sale, transfer or of building development, whether immediate or future, including the re-subdivision or re-platting of lands or lots, except in conformance with Chapter 175 (Subdivision Regulations) of this Code of Ordinances.

B. It is the intent of this section that subdivision plat review, when applicable, be carried out simultaneously with the review of the Cluster Development Plan.

C. The Cluster Development Plan required under this section may be submitted in a form which satisfies the subdivision filing requirements set forth in said Chapter 175, provided that such Cluster Development Plan satisfies all the requirements set forth in this Ordinance.

3. Filing Procedure.

A. Application. A petition for a cluster development shall be submitted to the Clerk accompanied by thirty (30) copies of the Cluster Development Plan and, when appropriate, subdivision plat.

B. Filing Fee. The filing fee for a cluster development shall be $5.00 per acre or fraction thereof with a minimum fee of $40.00. If a Cluster Development Plan is submitted in conjunction with a subdivision plat, the applicant shall pay either the cluster development filing fee or the plat filing fee, whichever amount is greater. The filing fee is not refundable.

C. Cluster Development Plan. The Cluster Development Plan shall contain the following information:

(1) All information required to be submitted with preliminary plats as provided in Chapter 175 of this Code of Ordinances.

(2) The approximate location and dimension of each building site, common open and recreation area, and other improvements.

(3) The location of open spaces around buildings and structures.

(4) If the proposed site contains ten (10) or more acres, a circulation diagram indicating movement of vehicles and pedestrians to and within the development and to and from existing features.
(5) Location and dimensions of off-street parking facilities and access and service drives.

(6) A schematic landscaping plan (preliminary) indicating landscaping treatment around the perimeter of the property (if any) and other critical areas.

(7) A preliminary development schedule indicating approximate dates for start and completion of the project and phasing of the project, if applicable, and identification of location and sequence of stages, density, use, and public facilities.

(8) If the cluster development involves the subdivision of land as governed by Chapter 175, the bound copies of the final plat shall contain, in addition to that required under Chapter 175, all public and private agreements, provisions, or covenants which will govern the use, maintenance, protection, performance and/or design of the development and any of its common open areas.

(9) If the cluster development does not involve the subdivision of land as governed by the Subdivision Regulations, the following materials shall be submitted as part of the Cluster Development Plan:

   a. Easements showing dimensions and purposes for any right-of-way provided for public use, drainage, services, or utilities.

   b. Private easements showing dimensions and purposes for traffic and pedestrian circulation, parking, and similar purposes.

   c. All public and private agreements, provisions, or covenants which will govern the use, maintenance, protection, performance, and/or design of the development and any of its common open areas.

(10) A restrictive covenant, which shall be recorded as provided under paragraph (5)(E) of this section, shall be submitted with the Cluster Development Plan which shall stipulate compliance with paragraph (2)(A) of this section pertaining to the subdivision of land.
4. Evaluation Criteria. The following criteria shall be considered by the Commission and the Council in reviewing the Cluster Development Plan:

   A. The Cluster Development Plan substantially conforms to the City’s Comprehensive Community Plan.
   
   B. The existing character of the neighborhood will not be adversely affected and that adequate safeguards are provided to minimize possible detrimental effects to adjacent properties and the neighborhood.
   
   C. There is ample provision for sanitary sewage disposal, storm and surface water drainage, water supply, and other utilities.
   
   D. Topography, soil conditions, geography, and other natural characteristics do not present a substantial hazard to development or adjacent properties.
   
   E. There is adequate availability to police and fire protection, schools, parks and recreational facilities, and other community facilities and public services.
   
   F. The location, height, bulk, and dimensions of buildings and structures relate well to one another and are in proportion to each other and to other structures and visual perspectives in the area.
   
   G. Safe patterns of pedestrian circulation and the effective use and design of open spaces, landscaping, and amenities are provided.
   
   H. Safe and efficient vehicular access and circulation to and within the site is provided, that off-street parking spaces are adequate and well located, and that conflicts between vehicular traffic and other uses and activities are minimized.
   
   I. The proposed installation of drives, landscaping, and other site details are generally in harmony with the proposed development, adjacent properties, and with the rights of interests of the general public.

5. Approval of Cluster Development Plan.

   A. After receiving the Cluster Development Plan, the Commission shall review such plan in accordance with the evaluation criteria set forth in subsection 4 above and shall forward to the Council a written recommendation advising that
the Plan be approved, approved with modifications, or disapproved, and citing the reasons for such recommendation.

B. After receiving the Commission’s recommendation, the Council shall hold a public hearing prior to considering the Cluster Development Plan. Such public hearing shall be held in accordance with State and Municipal Codes.

(1) After holding the public hearing, the Council may approve, approve with modifications, or disapprove the Cluster Development Plan.

(2) If the Cluster Development Plan is approved with modifications, no building permits may be issued on the development until the applicant has filed with the Clerk written consent to the Cluster Development Plan as modified.

C. Prior to the approval of the Cluster Development Plan, the Council may stipulate such conditions and restrictions upon the establishment, location, design, layout, height, construction, maintenance, aesthetics, operation, and other elements of the development as deemed necessary for the protection of the public health, safety, morals, comfort, or general welfare, or to secure compliance with the provisions of this Ordinance. In all cases in which cluster developments are granted, the Council may require such evidence and guarantees as it may deem necessary to assure that the conditions stipulated in connection therewith are being and will be complied with.

D. All common open space shall be either conveyed to a municipal or public corporation, conveyed to a corporation or entity established for the purpose of benefiting the owners and residents of the cluster development, or retained by the owner or owners with legally binding guarantees, in a form approved by the City Attorney, such that the common open space will be permanently preserved and maintained as an open area. All land conveyed to a nonprofit corporation or like entity shall be subject to the right of said corporation to impose a legally enforceable lien for maintenance and improvement of the common space.

E. The approved Cluster Development Plan shall be recorded with the County Recorder and evidence thereof shall be furnished to the Building Official. In addition, the Building Official shall also be furnished evidence of recording of the following
documents, when applicable; all final plats, all agreements, provisions, easements, restrictive covenants, or other materials which govern the use, maintenance, protection, performance, and/or design of the development and any of its common open area. No building permits on the development shall be issued until the provisions of this section have been met.

F. If the Cluster Development involves the subdivision of land as governed by Chapter 175 of this Code of Ordinances, no building permits shall be issued on the development until all provisions of said Chapter 175 are satisfied.

G. If no development has begun or no use established in the cluster development within twenty-four (24) months from the approval of the Cluster Development Plan, the approved Cluster Development Plan shall lapse and be of no further effect. In its discretion and for good cause, the Council may extend for additional six-month increments, the period for the beginning of the construction or the establishment of a use.

6. Revisions to Cluster Development Plan. Minor changes to the approved Cluster Development Plan may be authorized by the Zoning Official if required by engineering or other circumstances not foreseen at the time the Cluster Development Plan was approved. No change authorized by this section may cause any of the following:

A. A material change in the use of the development.
B. An increase in the overall coverage of the structures in excess of 10 percent.
C. An increase in the intensity of the use.
D. An increase in projected traffic volumes to and within the site.
E. A material change in the location of the street or utility systems.
F. A reduction in approved open space in excess of 5 percent.
G. A reduction in approved off-street parking facilities.
H. A reduction in building setback from the approved Cluster Development Plan when such setback deviates from the minimum setback requirements established in the zoning district regulations or from the approved Cluster Development Plan.
I. Revisions providing for a reduction in density, lot coverage, or increase of open space.

All proposed changes not classified as minor must be approved by the Council, after receiving a recommendation from the Commission. Any changes which are approved in the Cluster Development Plan shall be recorded as amendments in accordance with the procedure set forth in paragraph (5)(E) above.

176.29 PARKING AND LOADING REGULATIONS.

1. General Requirements.

   A. Scope. For all buildings and structures erected, and all uses of land established after the effective date of this Ordinance, accessory off-street parking and loading facilities shall be provided in accordance with the provisions of this section and subject to any other applicable regulations contained elsewhere in this Ordinance.

   B. Change In Intensity of Use. When the intensity of use of any structure, building, or premises is increased through the addition of dwelling units, gross floor area, seating capacity, additional employment or similar units of measurements for computing off-street parking and loading requirements, additional parking and loading facilities as required herein shall be provided for such expanded use.

   C. Changes in Use. Whenever the existing use of a building, structure or land area is changed to a new use, parking and loading facilities shall be provided as required for such new use. However, if the first use existed prior to the effective date of this Ordinance, additional parking and loading facilities are required only in the amount that the new use exceeds the requirements for the existing use under the parking and loading provisions of this Ordinance.

   D. Existing Parking and Loading Facilities. Existing parking and loading facilities on the effective date of this Ordinance shall not hereafter be reduced below the requirements for a similar new building or use under the provisions of this section. If such parking and loading facilities are already less than the requirements for a similar new building or use under the provisions of this section, such facilities shall not be further reduced.

   E. Driveways. All driveways serving off-street parking and loading areas shall be in accordance with applicable City standards.

   F. Site Plan. Any application for a building permit, or for any occupancy certificate where no building permit is required, shall
include a site plan in accordance with Section 176.37(3) of this chapter.

2. Off-street Parking Requirements.

A. Central Business District Exemption. For the purpose of minimizing disruptive curb cuts and driveways and to encourage the use of centralized parking lots, accessory off-street parking is not required in the C-2 District.

B. Location. All parking spaces required to serve buildings or uses erected or established after the effective date of this Ordinance shall be located on the same lot as the building or use served, except as otherwise provided.

   (1) Parking spaces to serve industrial buildings or uses may be located within 500 feet of a main entrance to such use provided said spaces are located in a district where such parking is permitted and further provided there is adequate assurance given the City that such area will continue to be available for parking uses.

   (2) Parking spaces to serve commercial buildings and uses may be located within 300 feet of a main entrance to such use, provided said spaces are located in a district where such parking is permitted, and further provided that adequate assurance is given the City that such area will continue to be available for parking uses.

   (3) Parking spaces to serve multiple-family dwellings may be located within 300 feet of a main entrance to such use, provided said spaces are located in a district where such parking is permitted, and further provided that adequate assurance is given the City that such area will continue to be available for parking uses.

   (4) Buildings or uses existing on the effective date of this Ordinance which are subsequently altered or enlarged so as to require the provision of additional parking spaces may be served by parking facilities located on land other than the lot on which the building or use is located, provided that the conditions set forth in paragraphs (1) through (3) above are met.

C. Yard Requirements. Off-street parking spaces when open to the sky, may be located in any yard, except as set forth below:

   (1) The required off-street parking spaces may not be located in the required front or corner side yards in the A-1, R-1, R-2, R-3, R-4, R-5, R-6, R-6A, or O-1 Districts.

   (2) In the C-1, C-3, C-4, I-1, and I-2 Districts, the required off-street parking areas may be located in the required front or
corner side yards provided that there is a minimum "clear zone"
distance of fifteen (15) feet between the back of the curb and the
nearest point of the closest parking space. Off-street parking
spaces may be located within the proposed right-of-way of
major streets as set forth in Section 176.38 of this Ordinance,
provided that the fifteen (15) foot minimum "clear zone" is
available, and further provided the owner and lessee (if any)
acknowledge and sign an agreement similar in form to that
required for locating signs in proposed rights-of-way of major
streets, as set forth in Section 176.38.

(3) The required front yard setback in the A-1, R-1, R-2, R-
3, R-4, and any single family home, two family, three family or
four family home in the R-5, R-6, R-6A and O-1 zoning
districts shall not be paved for parking uses in excess of the
width of the garage plus an additional 12' subject to the
following:

a. Paved parking area shall not have a width greater
   than 12' when located directly between home's front
   facade and the property line.

b. The paved driveway may have two (2) access
   points and continue across required front yard area only
   if driveway is semi-circular in nature and meets
   engineering design standards.

c. Shall meet surface requirements of Section
   176.29-2H(3).

(Ord. 17-02 – Feb. 17 Supp.)

D. Access. All off-street parking facilities shall be designed with
appropriate means of vehicular access to a street or alley in a manner
which will least interfere with traffic movements.

E. Combined Use. Off-street parking facilities for separate uses
may be provided collectively if the total number of spaces provided is
not less than the sum of the separate requirements governing each use.

F. Utilization. Except as may additionally be provided for the
parking of trucks and other large vehicles, accessory off-street parking
facilities provided in accordance with the requirements of this section
shall be solely for the parking of passenger motor vehicles of patrons,
occupants, visitors, or employees of such uses.

G. Computation of Required Parking. For the purpose of this
section, the following rules shall apply:

(1) When units of measurement result in the requirement of
a fractional space, any fraction shall require one parking space.
(2) Employees shall be based on the maximum number of persons on duty or residing or both on the premises at anyone time.

H. Design and Maintenance.

(1) Character. Accessory parking spaces may be open to the sky or enclosed in a building.

(2) Size. All parking spaces shall have an area of not less than 180 square feet and a minimum width of 9 feet except as provided:

a. Parking Structure. A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade or either partially or fully above grade that is fully or partially enclosed shall meet the following size requirements.

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<tr>
<th>Parking Structure: Standard Parking Stall Size Requirements</th>
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<th>Parking Structure: Compact Parking Stall Size Requirements</th>
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Compact stalls shall not exceed 15% of the total parking structure capacity.

(3) Surfacing. All residential or commercial, but not industrial, off-street parking spaces, access drives, and service
drives shall be provided with an asphalitc or Portland cement concrete surface consistent with acceptable construction specifications. However, all portions of commercially zoned property to be used for the display and storage of motor vehicles and trailers for sale or for lease may be provided with a dust-free surface as approved by the City Engineer.

(4) Drainage. All off-street parking areas shall be graded and drained so as to dispose of surface water accumulations within the area.

(5) Marking. Surfacing shall be arranged and marked so as to provide for orderly and safe loading and unloading and parking storage of vehicles.

(6) Lighting. All lighting used to illuminate any off-street parking area shall be arranged as to deflect the light from adjoining premises.

(7) Screening. Screening of off-street parking areas is required for all uses, except single-family residential uses, in the following circumstances:

a. When the parking area abuts an R-1, R-2, R-3, O-1, or PD-R zoning district or intervening alley.

b. When the parking area is located in Commercial or Industrial zoned property which directly abuts any R Residential, O-1, or PD-R zoning district or intervening alley.

c. When the parking area abuts a lot zoned A-1, R-1, R-2, R-3, R-4, R-5, R-6, R-6A, O-1, or C-1, or intervening alley, and the abutting lot contains a single- or two-family dwelling, school, church, or recreational building or facility.

The required screening shall consist of a solid wall, solid fence, densely planted compact hedge or evergreen planting, topographic features such as earth berms or retaining walls, or by a combination thereof, or other screening deemed suitable by the Zoning Official. Such screening shall be not less than four (4) feet in height and shall be adequately maintained.

(8) Protection of Adjoining Properties. Except for single-family residential uses, all parking spaces located adjacent to property lines shall be provided with wheel guards, bumper guards, curbs, or other means so designed and located that no part of the parked vehicles will extend beyond the property line.
(9) Signs. No sign of any kind shall be established and maintained in off-street parking spaces and lots, except signs used for the direction or control of traffic or for the purpose of parking lot identification. Such signs shall be a surface area not exceeding 12 square feet.

I. Space Required – Residential Uses.

Single-family or two family dwellings – 1 space per dwelling unit.

Three or more family dwellings - 1.5 spaces per dwelling unit; however, dwellings containing three or more bedrooms shall provide 2 spaces per dwelling unit.

Lodging, roaming or boarding houses – 1 space per dwelling unit or habitable living unit.

Manufactured/mobile home communities – 2 spaces per trailer space.

Family Homes – One space per 1,000 sq. ft. of gross floor area.

Group Homes - One space per employee for the shift having the greatest number of employees plus one space per resident who is sixteen years or older.

Rehabilitation Houses - One space per employee for the shift having the greatest number of employees plus the space per resident who is sixteen years or older.

J. Space Required - Commercial Uses: Except for uses located in the C-2 District:

Commercial uses except otherwise listed below – 1 space per 300 sq. ft. of gross floor area.

Amusement parks - 1 space per 300 sq. ft. of gross floor area, plus 3 spaces per 1,000 sq. ft. of gross land area.

Auction houses – 1 space per 100 sq. ft. of gross floor area.

Automobile laundries/car washes – 1 space per 2 employees.

Automobile service stations and gas stations – 1 space per 200 sq. ft. of gross floor area, exclusive of stopping spaces adjacent to pumps.

Auto repair establishments; battery, muffler and/or tire service shops - 1 space per 200 sq. ft. of gross floor area, plus 1 space per 3,000 sq. ft. of gross land area.

Banks, savings and loans, and financial institutions - 1 space per 300 sq. ft. of gross floor area, plus reservoir space sufficient to
accommodate three times the number of teller windows for drive-in facilities.

Barber shops and beauty shops - 1 space per 200 sq. ft. of gross floor area.

Bowling alleys - 4 spaces per bowling lane, plus such additional spaces as may be required herein for such affiliated uses as bars, restaurants, and the like.

Clubs or lodges (private) - 1 space per 150 sq. ft. of gross floor area.

Electrical, plumbing, heating or similar showrooms and shops - 1 space per 300 sq. ft. of gross floor area in retail area, plus 1 space per two employees employed in warehouse or other non-retail area.

Funeral parlors or undertaking establishments - 1 space per 50 sq. ft. of floor area used for services or six spaces per chapel or parlor, whichever is greater.

Golf courses – 75 spaces per nine holes.

Golf driving ranges - 1.5 spaces per driving tee, plus such additional spaces as may be required herein for such affiliated uses as retail sales area, bars, restaurants and the like.

Greenhouses and nurseries - 1 space per 1,000 sq. ft. of gross floor area, plus 1 space per 2,000 sq. ft. of gross land area.

Grocery or food stores - 1 space per 150 sq. ft. of gross floor area.

Hotels or motels - 1 space per habitable living unit, plus such additional spaces as may be required for retail sales areas, restaurants, bars, and the like.

Ice cream stores – 1 space per 100 sq. ft. of gross floor area.

Meeting halls – 25% times seating capacity.

Miniature golf establishments - 1 space per 300 sq. ft. of gross floor area, plus 1 space per 300 sq. ft. of gross land area.

Model garage display and sales - 1 space per 3,000 sq. ft. of gross land area.

Motor vehicle, mobile home, bicycle, boat, camper, and recreational vehicle sales, rental, or service establishments - 1 space per 300 sq. ft. of gross floor area, plus 1 space per 3,000 sq. ft. of gross land area.
Music, art, dance, or similar academies - 3 spaces per classroom but not less than 10 spaces.

Par 3 or "pitch and putt" golf courses - 40 spaces per nine holes.

Restaurants, taverns, bars, night clubs, dance halls, and discotheques - 1 space per 50 sq. ft. of patron dining, lounge, waiting, bar, and dancing area, plus 1 space per 400 sq. ft. of kitchen and other service area; or 1 space per 100 sq. ft. of gross floor area, whichever is greater.

Skating rinks - 1 space per 100 sq. ft. of gross floor area.

Tennis, handball, racquetball and similar indoor courts and recreation facilities (private) - 3.5 spaces per court.

Theaters (indoor) – 40% times seating capacity.

Theaters (outdoor/drive-in) - reservoir space of 10% of capacity of use.

K. Space Required – Warehousing and Wholesaling Uses.

Warehousing and wholesaling establishments – 1 space per two employees.

L. Space Required - Office Uses. Except for uses located in the C-2 Central Business Commercial District, there shall be provided off-street parking for motor vehicles as shown hereunder:

Office uses, except as otherwise listed below - 1 space per 300 sq. ft. of gross floor area.

Offices or clinics of a physician, dentist, chiropodist, chiropractor, optician, or osteopath -1 space per 100 sq. ft. of gross floor area.

M. Space Required - Industrial Uses. There shall be provided off-street parking for motor vehicles as shown hereunder:

Industrial uses – 1 space for every two employees.

N. Space Required - Schools, Institutions, and Places of Assembly. Except for uses located in the C-2 Central Business Commercial District, there shall be provided off-street parking for motor vehicles as shown hereunder:

Schools, institutions, and places of public assembly, except as otherwise listed below - 1 space per 300 sq. ft. of gross floor area.
Churches, synagogues, chapels, or similar places of religious worship - 25% times seating capacity of main seating area.

Commercial, trade, or vocational schools - 1 space per two students based on design capacity.

Colleges, junior colleges, or universities – 1 space per four students.

Convalescent, nursing, or rest homes – 1 space per three beds.

Convention or exhibition hall – 1 space per 100 sq. ft. of gross floor area.

Elementary or junior high schools – 2 spaces per classroom.

High schools – 1 space per employee, plus 1 space per six students based on design capacity.

Institutions for care and residence of children or adults, or for treatment and care of mentally ill, handicapped, alcoholic, or similar persons - 1 space per 1,000 sq. ft. of gross floor area.

Libraries, museums, or art galleries – 1 space per 500 sq. ft. of gross floor area.

Meeting halls – 40% times seating capacity.

Music, art, dance, or similar academies – 3 spaces per classroom but not less than 10 spaces.

O. Space Required - Other Uses. For uses not listed in this schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar listed use, or as determined by the Zoning Board of Adjustment.

P. Space Required - Compact Car Parking. Parking lots containing nine (9) or more spaces may allot one-third of the total spaces for compact car parking. Such compact car spaces shall be at least 8 ft. x 16 ft. in size and shall be designated "compact cars only" by appropriate signage.

3. Off-Street Loading Requirements.

A. Central Business District Exemption. No off-street loading areas are required in the C-2 District.

B. Location. All required loading spaces shall be located on the same lot as the use served, except as provided in paragraph D below. No loading space shall be located within 30 feet of the nearest point of intersection of any two streets.
C. Yard Requirements. No off-street loading area shall be located in a required front yard. In addition, no off-street loading area shall be located in a required side yard in an R-5, R-6, O-1, or C-1 District, or when abutting a Residential or Office/Transitional District or intervening alley.

D. Central Loading. Central loading facilities may be substituted for loading areas on individual lots, provided the following conditions are fulfilled.

1. Each lot served shall have direct access to the central loading area without crossing streets or alleys at grade.

2. Total off-street loading spaces provided shall meet the minimum requirements herein specified based on the sum of the several types served.

E. Design and Maintenance.

1. Surfacing. All residential or commercial, but not industrial, off-street loading spaces shall be provided with an asphaltic or Portland cement concrete surface consistent with acceptable construction specifications.

2. Drainage and Grading. All off-street loading spaces shall be graded and drained so as to dispose of surface water accumulated within the area.

3. Screening. All off-street loading spaces which abut a rear yard located in a Residential or Office/Transitional District or intervening alley shall be screened by a solid fence, solid wall, densely planted compact hedge or evergreen planting, or other suitable screening, or by a combination thereof. Such screening shall be not less than six feet in height.

4. Access. Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.

F. Spaces Required. At a minimum, the following off-street loading space shall be provided, in addition to an area for adequate maneuvering, ingress and egress.
<table>
<thead>
<tr>
<th>TYPE OF USE</th>
<th>SQ. FT. OF GROSS FLOOR AREA</th>
<th>REQUIRED NO. OF SPACES</th>
<th>MINIMUM SIZE OF LOADING SPACE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail stores, restaurants, hotels, motels</td>
<td>Less than 2,000</td>
<td>0</td>
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</tr>
<tr>
<td></td>
<td>2,000 to 20,000</td>
<td>1</td>
<td>10' x 25'</td>
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<tr>
<td></td>
<td>20,001 to 50,000</td>
<td>2</td>
<td>12' x 35'</td>
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<td></td>
<td>50,001 to 100,000</td>
<td>3</td>
<td>12' x 55'</td>
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<tr>
<td></td>
<td>Each additional 100,000</td>
<td>1 additional</td>
<td>12' x 55'</td>
</tr>
<tr>
<td>Banks, office buildings, funeral parlors, financial institutions, medical and dental offices</td>
<td>Less than 5,000</td>
<td>0</td>
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<tr>
<td></td>
<td>5,000 to 100,000</td>
<td>1</td>
<td>10' x 25'</td>
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<td></td>
<td>Each additional 100,000</td>
<td>1 additional</td>
<td>12' x 35'</td>
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<tr>
<td>Warehouses, storage &amp; wholesale establishments, cartage &amp; express facilities, printing and publications</td>
<td>Up to 20,000</td>
<td>1</td>
<td>12' x 35'</td>
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<tr>
<td></td>
<td>20,001 to 40,000</td>
<td>2</td>
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<tr>
<td></td>
<td>40,001 to 100,000</td>
<td>3</td>
<td>12' x 35'</td>
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<tr>
<td></td>
<td>For each additional 100,000</td>
<td>1 additional</td>
<td>12' x 55'</td>
</tr>
<tr>
<td>All other uses permitted in Commercial Districts</td>
<td>Less than 2,000</td>
<td>0</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>2,000 to 20,000</td>
<td>1</td>
<td>12' x 35'</td>
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<td></td>
<td>20,001 to 50,000</td>
<td>2</td>
<td>12' x 35'</td>
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<td></td>
<td>50,001 to 100,000</td>
<td>3</td>
<td>12' x 55'</td>
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<tr>
<td></td>
<td>Each additional 100,000</td>
<td>1 additional</td>
<td>12' x 55'</td>
</tr>
<tr>
<td>Any non-commercial use permitted in Industrial District for production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products</td>
<td>Up to 10,000</td>
<td>1</td>
<td>12' x 35'</td>
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<tr>
<td></td>
<td>10,001 to 40,000</td>
<td>2</td>
<td>12' x 55'</td>
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<td>40,001 to 100,000</td>
<td>3</td>
<td>12' x 55'</td>
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<td></td>
<td>Each additional 100,000</td>
<td>1 additional</td>
<td>12' x 55'</td>
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<tr>
<td>Motor freight terminals</td>
<td>Up to 10,000</td>
<td>1</td>
<td>12' x 55'</td>
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<td></td>
<td>10,001 to 40,000</td>
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<td>40,001 to 100,000</td>
<td>2</td>
<td>12' x 55'</td>
</tr>
<tr>
<td></td>
<td>Each additional 100,000</td>
<td>1 additional</td>
<td>12' x 55'</td>
</tr>
</tbody>
</table>
G. Modifications. The Zoning Board of Adjustment may authorize a modification, reduction or waiver of the foregoing requirements, if it should find that in the particular case appealed, the peculiar nature of the use or the exceptional size or shape of the property or other exceptional situation or condition would justify such action.

(Ord. 15-10 – May 15 Supp.)

176.30 HOME OCCUPATIONS. “Home occupation” is defined as any business, occupation or activity conducted for gain within a residential building, or an accessory building thereto, which is incidental or secondary to the use of such building for dwelling purposes and which does not change the essential residential character of the building. The regulations of this section dealing with home occupations are designed to protect and maintain the residential character of a neighborhood while permitting certain limited commercial activities which are traditionally carried out in a home:

1. No person who is not a member of the family and residing on the premises shall be employed in the home occupation activity on the premises.

2. No sign other than a name plate not more than one square foot in area shall be allowed.

3. No display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling shall be allowed.

4. No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family dwelling; or outside the dwelling unit if conducted in other than a single-family dwelling.

5. All home occupations shall be conducted entirely within an enclosed building.

6. No materials or equipment associated with the home occupation shall be stored outside the building.

7. The following businesses, occupations or activities are specifically prohibited:
   A. Motor vehicle and accessory sales or rental, repair and/or painting, including trailer rental or sales.
   B. Medical or dental clinic.
C. Restaurant.

D. Kennel (as defined under Section 176.06 of this chapter) and veterinary clinic.

E. Funeral home.

F. Nursery school but not day care centers with six or fewer children.

G. Repair shops or service establishment, except the repairs of electrical appliances, typewriters, cameras, lawnmowers, or other similar small items.

H. Beauty shops and barber shops, except when customer visits are by appointment only and are limited to no more than two customers in any one hour period. Beauty and barber shops allowed under these provisions shall be registered with the appropriate licensing and inspection authorities.

176.31 SIGN REGULATIONS.

1. Purpose. The regulation of signs by this Code is intended to promote and protect the public health, safety and welfare; by creating a more attractive economic and business climate within the commercial and office areas of the City; by enhancing and protecting the physical appearance of all areas of the City; and by reducing the distractions, obstructions and hazards to pedestrian and auto traffic caused by the indiscriminate placement and use of signs.

2. Scope. The regulations of this section shall govern and control the erection, enlargement, expansion, alteration, operation, maintenance, relocation and removal of all signs within the City intended to be viewed from any street, sidewalk or public or private common open space. Any sign not expressly permitted by these regulations shall be prohibited. The regulations of this section relate to the location of signs, by function and type, within zoning districts and shall be in addition to provisions of the Municipal Code applicable to the construction and maintenance of signs. Regulations concerning the use and termination of nonconforming signs appear in subsection 176.14.030 of this Code.

3. Sign Permit Required.

   A. Sign Permit. Except as expressly provided in subsection 6 of this section, no sign shall be erected, enlarged, expanded, altered, relocated or maintained unless a sign permit evidencing the compliance of such work with the provisions of this section
and other applicable provisions of this chapter; provided, however, that routine sign maintenance, changing of parts designed to be changed or changing the content of a sign in any manner does not change the functional classification of the sign and shall not, standing alone, be considered an alteration of the sign requiring the issuance of a sign permit hereunder.

B. Sign Contractor License. Every person, firm or corporation desiring to erect, install or repair signs for which permits are required, shall apply to the Marion Planning & Development Department for a Sign Contractor’s License and shall furnish the following:

(1) Name, address of the proprietor, president or the senior company officer in charge.

(2) Certificate of insurance to indemnify the contractor against any form of liability for the principle sum of not less than $250,000 liability to any one person and $500,000 personal injury liability on account of any one accident and $500,000 liability for property damage.

(3) As a condition to the issuance of a sign contractor’s license as required by this section, every applicant shall agree to indemnify and hold harmless the City, its officers, agents and employees for any and all claims of negligence, damages, liability, judgments, costs or expenses that the City may incur or suffer resulting from the erection, alteration, relocation, maintenance or other work involving signs.

C. Revocation of Sign Contractors License. In case the holder of a Sign Contractor’s License shall fail to comply with the requirements of this section, or with any notices from the City of Marion relative to improper construction or erection of any sign, the City shall notify the person or senior officer in charge of such firm or corporation, to appear before the Zoning Official at a stated time and show cause why the license should not be revoked. Should such person not appear or to show why his license should not be revoked, the Zoning Official shall take necessary action to cause the license to be revoked.

(1) The license shall be automatically cancelled upon the expiration or cancellation of the liability insurance policy required by this section.
(2) All licenses automatically expire on January 1st of any year following the date of issuance of the license or renewal of the same.

D. Fees for License. The fee for the issuance of an initial sign contractor’s license shall be established by City Council resolution.

E. Additional Application Requirements. Every application for a sign permit shall be accompanied by:

(1) Plans and specifications showing the location of the sign on the lot or building face and the methods of construction, illumination and support of such sign;

(2) A scaled drawing showing sign faces, exposed surfaces and the proposed message and design, accurately represented as to size, area, proportion and color;

(3) A landscape plan showing plantings proposed for the area within three feet of the base of a monument sign per subsection 4B of this section.

(4) Photographs of the street sides of the property in question, showing all existing signs on the property;

(5) A calculation of the total amount of sign area presently existing on the property;

(6) The applicant's attestation that the sum of the areas of the requested sign or signs and the existing signs does not exceed the maximum allowed by the provisions of this Code; and;

(7) Sign installation and landscaping must be completed within one (1) year following issuance of a sign permit.

(8) A separate electrical and/or building permit may be required in addition to the sign permit application for any signs requiring a footing and/or having an electrical component.

4. General Standards. The following general standards shall apply to all signs.

A. Illumination.

(1) Location and Design of Light Source. Whenever an external artificial light source is used for a sign, such source shall be located, shielded and directed so as not to
produce glare onto any public street or any adjacent property.

(2) Level of Illumination. All illuminated signs shall have an indirect or diffused light source and be designed so as not to produce glare onto public streets or adjacent property, thereby creating a nuisance or safety hazard.

(3) Flashing Lights Prohibited. Except for traffic control devices and public service signs when expressly permitted by this section, no flashing, blinking or intermittent lights shall be permitted. This provision shall not prevent the use of electronic message center signs operating in accordance with this chapter.

(4) Light Fixture Screening. Light fixtures placed along the base of the sign shall be screened from view by site grading or evergreen shrubs. No unscreened light sources are permitted. Temporary holiday displays, which contain lights, are exempt from these provisions.

(5) External Illumination. External illumination shall be provided by steady, stationary light of reasonable intensity, directed solely at the sign and not produce glare onto any public street or any adjacent property.

(6) Internal Illumination. Internal illumination shall be provided by interior lighting of reasonable intensity with primary and secondary images lit or silhouetted (i.e., backlit) on an opaque background. The background of all signs must be opaque excluding logos and borders.

(7) Additional Lighting Standards. The following are additional lighting standards for specific sign types:

a. Signs Without Permits: Signs permitted pursuant to subsection 6 of this section shall be illuminated only as permitted in that subsection.

b. Awning and Canopy Signs: Interior lighted awnings shall be permitted if the lighting system is encased or screened from view underneath.

c. Monument Signs: Monument signs shall be backlit, directly-lit, or internally illuminated. Any direct light source shall be oriented so as to be
directed away from the right-of-way and adjacent property.

d. Wall Signs: Cloud cabinets or letters shall be individually affixed to walls and/or raceway cabinets of a building.

e. Electronic Message Center Signs: All electronic message centers used as changeable copy signs or reader boards shall be required to adjust in intensity related to ambient light levels via automatic illumination dimmer that automatically adjusts the sign’s brightness in direct correlation with ambient light conditions.

B. Landscaping. The base of all permanent ground signs shall be effectively landscaped and maintained in good condition at all times. The minimum landscaped area shall extend at least three (3) feet beyond all sign faces or supporting structures in all directions. Exposed foundations must be constructed with a finished material such as brick, stone, architectural metal, or wood. Landscaping must be maintained in a manner that prevents the screening or blocking of addresses and other information provided on the monument sign. Sign owner shall be responsible for the submittal of landscape plan that must be submitted at time of sign permit. Landscaping must be installed within twelve (12) months of sign installation.

C. Electrical Elements. All wiring, fittings and materials used in the construction, connection and operation of electrically illuminated signs shall meet the following requirements:

(1) UL Specifications. Any and all electrical signs shall be manufactured to meet UL Specifications and be labeled with a UL listing mark. Equivalent specifications may be accepted as approved by the Building Official.

(2) City Building & Electric Codes. Electric signs shall meet all the requirements of the City Building and Electric Codes.

D. Structural Elements. The construction and structural components of all signs shall be in accordance with the standards and regulations of the Municipal Code. All permanent signs shall be constructed of fire-resistant materials and shall be capable of withstanding wind pressures of at least an 80 mile an hour wind
load and of receiving dead loads based on the actual weight of the structure.

E. Minimum Elevation of Certain Signs. The bottom of every awning, canopy, marquee, wall, projecting and pylon sign shall be elevated at least eight (8) feet above grade.

F. Obstruction of Access Ways. No sign or sign structure shall obstruct free ingress to or egress from a fire escape, door, window or other required access way.

G. Obstruction of Window Surface. No sign shall project over, occupy or obstruct any window surface required for light or ventilation by any applicable provision of the Municipal Code.


(1) Confusion with Traffic Signals. No sign shall be maintained at any location where by reason of its position, size, shape, content, color, or illumination it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic control sign, sign or device, or where it may interfere with, mislead or confuse traffic.

(2) Corner Visual Clearance. At all intersections, at a point of fifteen (15) feet in any direction from the point of intersection of the street right-of-way, no sign, nor any part of a sign other than a supporting pole or brace no greater than eighteen (18) inches in width or diameter shall be located lower than eight (8) feet from grade.

I. Sign Maintenance.

(1) The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including its illumination sources, in compliance with this Code and all applicable laws, in a safe and secure condition, and in a neat and orderly condition and good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign. The premises around ground and pylon signs shall be kept clean and free of all rubbish and weeds.

(2) The Zoning Official may inspect, from time to time as deemed necessary, each sign or supporting structure regulated by this chapter for the purpose of ascertaining
whether it is secure or insecure, and whether it is in need of removal or repair.

J. Sign Measurement.

(1) Area to Be Included. The supporting structure or bracing of a sign shall be omitted in measuring the area of the sign unless such structure or bracing is made part of the message or face of the sign. Where a sign has more than once display face, all faces shall be included in determining the area of the sign. The area of a sign is determined by the Zoning Official, using actual dimensions where practical or approximate dimensions when irregularity of the sign shape warrants. The area of each sign type is to be measured with either Formula A or Formula B as noted below.

Formula A: The sign area is the sum of the area of contiguous rectangles, squares and/or circles that enclose the extreme points or edges of all copy, logos and symbols of said sign. Minor appendages to a particular regular shape, as determined by the Zoning Official, shall not be included in the total area of a sign.

Formula B: The sign area is the area of one rectangle, square or circle that encloses the extreme points or edge of all areas where copy may be placed on a sign. This area does not include structural or architectural features of the sign where copy will be located.
(2) Signs on Lots with Multiple Users. Where more than one user occupies a zoning lot, the owner of the lot shall be responsible for allocating permitted signage among such users.

(3) General Safety. Notwithstanding any provision of this chapter, no sign shall be located in any area or in any manner so as to create a nuisance or a threat to the public safety and welfare.

5. Classification of Signs.

A. Functional Types. For purposes of this Code, signs shall be classified as follows according to function:

(1) Advertising Sign. A sign, other than an off-premises identification sign, that directs attention to or identifies a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located. This term shall include signs, other than customary identification lettering and advertising posters on buses and taxicabs, attached to parked or moving vehicles.

(2) Attention-getting Device. A sign designed to attract attention by means of flashing or moving parts, bright color or light, or movement of any kind. Examples of such signs include pennants hung in series, whirligigs, spinners, streamers, flashing lights, search lights and balloons.
(3) Business Sign. A sign that directs attention to or identifies a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

(4) Construction Sign. A temporary sign erected on premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors, and similar artisans, and the owners, financial supporters, sponsors and similar persons or firms having a role or interest in the construction activity.

(5) Drive-Through Sign. A sign that facilitates the operation of a drive-through facility by aiding with the pick-up, drop-off, ordering or service of such a facility. It includes, but is not limited to, such signs as changeable copy menu boards.

(6) Gas Station Price Sign. A changeable copy sign advertising gasoline prices. Price information displayed shall be in accordance with the provisions of Iowa Administrative Code 21-85.48 and other relevant state regulations.

(7) Governmental Signs. A sign erected and maintained pursuant to and in discharge of any governmental function or required by any law, ordinance or governmental regulation.

(8) Holiday Decorations. Signs in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.

(9) Home Occupation Sign. A sign advertising or identifying a home occupation on the site of the home occupation.

(10) Identification Sign. A sign giving only the name, trademark or other readily recognized symbol or address, or any combination thereof, of a building, business, development or establishment on the premises where it is located.
(11) Institutional Bulletin Board Sign. A sign that identifies a religious organization, school, library, community center, or similar institutional or community service use on whose premises it is located and that contains only the name of the institution or organization, the name or names of persons connected with it, and greetings, announcements or events or activities occurring at the institution or similar message.

(12) Joint Identification Sign. An identification sign limited in content to the identification of a planned development, office plaza, shopping center, business park or the like and not containing any reference to the individual uses sharing the development, plaza, center, park or the like.

(13) Memorial Sign. A sign or tablet memorializing a person, place, event, location or structure.

(14) Name Plate Sign. A sign limited in content to the name or address, or both, of the owner or occupant of a building or premises on which it is located. If any premise is occupied by more than one occupant, the nameplate sign may identify all such occupants, as well as the premises, and may include necessary directional information.

(15) Off-premises Identification Sign. A sign giving the name, trademark or other readily recognized symbol or address, or any combination thereof, of a building, business, development or establishment, which sign is located off the lot on which such building, business, development or establishment is located.

(16) Flag or Emblem. A flag or emblem used for the dissemination of non-commercial speech or identification.

(17) On-site Directory Sign. A sign, not readable from any public right-of-way, on which the names and locations of the occupants and/or uses of a building or group of buildings is given.

(18) On-site Informational Sign. A sign commonly associated with, and limited to, information and directions necessary or convenient for persons coming on the property, including signs marking entrances and exits, parking areas, one-way drives, rest rooms, pick-up and
delivery areas and the like. Logo and business name shall be permitted on on-site informational signs so long as the logo is fifty percent (50%) or less of the allotted size of the informational sign.

(19) Private Sale Sign. A temporary sign advertising private sales of personal property at “house sales,” “garage sales,” “rummage sales” and the like.

(20) Private Warning Sign. A sign limited in content to messages warning, caution or danger.

(21) Public Service Signs. A sign displaying only the time, temperature, stock market quotations or civic messages.

(22) Real Estate Signs - Standard Size. A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located and limited to one (1) single or double-faced, non-illuminated sign per zoning lot, not to exceed six (6) square feet in area per sign face.

(23) Real Estate Signs - Large Size. A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located and limited to one (1) single or double-faced, non-illuminated sign per zoning lot, not to exceed thirty-two (32) square feet in area per sign face.

B. Structural Types. For purposes of this Code, signs shall be classified as follows according to structure:

(1) Awning, Canopy or Marquee Sign. A sign that is mounted or painted on or attached to an awning, canopy or marquee that is otherwise permitted by this Code. No such sign shall project above, below, or beyond the physical dimensions of such awning, canopy or marquee.

(2) Banner Sign. A sign made of fabric or other similar non-rigid material with no enclosing framework or electrical components that is supported or anchored on two or more edges or at all four corners.

(3) Billboard Sign. A board, panel, or tablet used for the display of posters, printed or painted advertising matter, either illuminated or non-illuminated, that directs attention
to goods, merchandise, entertainment, or services offered elsewhere than the premises where the sign is located.

(4) Box Sign. A sign that is self enclosed in a typically square or rectangular structure with or without internal lighting. A box sign can be single-or double-sided. Internally illuminated. Channelized lettering, logo, or groupings of letters and/or logos, not providing any additional sign face, shall not be considered a box sign.

(5) Electronic Message Center/Manual Changeable Copy Sign. (Does not apply to Gas/Service Stations or to that portion of a sign dedicated to time and/or temperature). Is a sign or portion thereof designed to accommodate frequent message changes composed of characters, or letters, or illustrations and that can be changed or rearranged, either manually or electronically, without altering the face or surface of such sign.

(6) Freestanding Sign. A sign on a frame, pole or other support structure not attached to any building.

(7) Monument Sign. A freestanding sign defined by a solid support structure (other than support poles). Width of a single support structure or the total of two support structures must be a minimum of forty percent (40%) of the total faceplate width. Support structure shall be constructed of like material to the principle building on the property with the exception metal box sheeting around support structure shall not be permitted under any circumstance.
(8) Moving or Animated Sign. Any sign or part of a sign that changes physical position by any movement or rotation or that gives the visual impression of such movement or rotation.

(9) Paint on Wall Sign. A sign painted on the wall of a building or structure with the exposed face of the sign in a place parallel to the face of the wall.

(10) Portable Sign. A sign that is not permanently affixed to a building, a structure or the ground, but not including customary identification lettering on vehicles and advertising posters on buses and taxicabs.

(11) Projecting Sign. A sign that is wholly or partially dependent upon a building for support and that projects more than twelve (12) inches from such building.

(12) Pylon Sign. A sign that is mounted on a freestanding pole or other supports.

(13) Roof Sign. A sign that is mounted or painted on the roof of a building, or that is wholly dependent upon a building for support and that projects above the highest point of a building with a flat roof, the eave line of a building with gambrel, gable or hip roof or the deck line of a building with a mansard roof.

(14) Sandwich Board Sign. A movable sign not secured or attached to the ground or surface upon which it is located.

(15) Temporary Sign. A sign or advertising display constructed of cloth, canvas, fabric, paper, plywood or other light material and intended to be displayed for a short period of time, not to exceed thirty (30) days within one calendar year. Temporary signage intended for a temporary tenant or seasonal display and intended to be displayed for longer than thirty (30) days is permitted but limited to a maximum of 45 days must receive written permission of the property owner and after receiving a sign permit from the City.

(16) Vehicle/Trailer Sign. A sign that is attached to or painted on a vehicle or trailer that is parked on or adjacent to any property, the purpose of which is to attract attention to a product sold or business located on the property.
(17) Wall Sign. A sign fastened to the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than eighteen (18) inches from such building or structure, twenty four (24) inches shall be permitted subject to a special use permit.

(18) Window Sign. A sign that is applied or attached to the exterior or interior of a window or located within the interior of a structure so that its message can be read from the exterior of the structure.

6. Signs Permitted in Any District Without a Permit. Except as regulated by this subsection and except as expressly prohibited in subsection 7 of this section, and notwithstanding any other contrary provisions of this Code, the following signs may, subject to the following limitations, be erected and maintained in any district without obtaining a City Sign Permit.

A. Governmental Signs. The content and size of any such sign shall not exceed the requirements of the law, ordinance or regulation pursuant to which such sign is erected. This includes banner signs for events or promotional campaigns organized by the City.

B. Holiday Decorations. Such signs shall be displayed for a period of not more than sixty (60) consecutive days nor more than twenty (20) days following the holiday in connection with which they are displayed; any other provision of this chapter to the contrary notwithstanding, such signs may be of any type, number, area, height, location, illumination or animation so long as they create no safety hazard, nuisance or adverse impact on the adjacent properties.

C. Home Occupation Identification Signs. Such signs shall be limited to no more than one (1) sign per structure; shall be no more than one (1) square foot in area; shall be directly affixed to the structure; and shall be non-illuminated.

D. Name Plate Signs. Such signs shall be limited to no more than one (1) wall sign per occupancy; shall be no more than one (1) square foot in area per occupancy and in no event more than three (3) square feet in area; and shall be non-illuminated.
E. Official Flags and Emblems, Grave Markers, Statues, or Remembrance of Persons and/or Events. Such signs may be displayed on flags. Such signs may also be displayed in the form of a wall sign, grave marker, statue, or remembrance of persons and/or events. Building permit may still be required for the placement and installation.

F. On-site Informational/Directional Signs. Such signs shall be limited to wall or freestanding signs of not more than six (6) square feet in area; shall be, if a freestanding sign, not more than four (4) feet in height; and shall be illuminated only as necessary to accomplish their intended purpose.

G. Private Sale Signs (Residential Only). Such signs shall be no more than six (6) square feet in area; shall be located entirely on the premises where such sale is to be conducted; shall be clearly marked with name, address and telephone number of the person responsible for the removal of such sign; shall be erected not more than twenty-four (24) hours in advance of such sale; and shall be removed within twenty-four (24) hours following the conclusion of such sale. No freestanding sign shall be higher than four (4) feet, nor closer to any lot line than six (6) feet.

H. Private Warning Signs. Such signs shall be no more than two (2) square feet in area each; shall be limited to the number necessary to accomplish the intended purpose and shall be illuminated only as required to accomplish such purpose.

I. Real Estate Signs - Standard Size. Real estate signs if limited to one (1) single or double-faced, non-illuminated sign per zoning lot, not to exceed six (6) square feet in area per sign face, and may be located up to the property line. The name, address and telephone number of the person responsible for such removal shall be marked on the sign. Real estate signs indicating that the property has sold or is under any contractual obligation shall be permitted for a period to not exceed 90 days. Real estate signs for multi-unit developments or structures and exceeding six (6) square feet in area shall require a permit.

J. Window Signs - Temporary. The aggregate area of all such signs shall not exceed thirty percent (30%) of the area of the window in which they are exhibited nor block any window area required for light, ventilation or emergency exit by any applicable Code. No such sign shall be illuminated.
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K. Political Signs - Temporary. Such signs shall be no more than five (5) feet in height and the aggregate area of all such signs shall not exceed twenty-four (24) square feet. Political signs shall be defined as temporary in nature. No such sign shall be illuminated or posted on public property, rights-of-way, or private property without the permission of the owner or authorized agent.

L. Interior Signs. Any signs that are located within a building and not legible or intended to be viewed from the public right-of-way.

7. Signs Specifically Prohibited in All Districts. The following signs, as well as all other signs not expressly permitted by this Municipal Code, are prohibited in all districts and shall not be erected, maintained or, except as provided for elsewhere in this code, permitted to continue in any district:

A. No sign or sign structure shall be placed on or over any street or highway right-of-way other than an official traffic or street sign and such other signs approved for placement by the controlling public agency. If the controlling public agency is the City, such approval shall be based on codes and regulations adopted by the City Council pursuant to applicable law.

B. No sign or sign structure shall be placed on private or public property without the consent of the owner or authorized agent of the owner of such property.

C. No sign or sign structure shall be erected at any location so as to, by reason of its size, shape, design, location, content, coloring, or manner of illumination, constitute a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers by obscuring or otherwise physically interfering with any official traffic control device. Nor shall any sign be placed in a fashion or that may be confused with an official traffic control device. No rotating beacon, beam or flashing illumination resembling an emergency light shall be used in connection with any sign display or be visible from an adjacent street. No lights resembling an emergency light, no words used or displayed in such a way as to imitate a public safety or warning sign, and no other lights, words, phrases, symbols, or characters that may interfere with, mislead or confuse vehicle operators shall be used in a location that is visible to vehicular traffic.
D. No sign shall be erected so as to prevent free ingress to, or egress from, any door, window or any other exit way required by the Building Code or Fire Code of the City, or by any other ordinance.

E. No sign shall be attached to a standpipe, gutter drain, un-braced parapet wall, or fire escape unless the safety of such sign and such mounting has been verified in writing by a structural engineer licensed to practice in the state of Iowa.

F. Advertising signs, including billboards (except as permitted in subsection 9 and subsection 10 of this section).

G. Attention-getting devices.

H. Banner signs (except as approved by City Sign Permit).

I. Box Signs.
   (1) Box signs shall be permitted on existing multi-tenant buildings that have a minimum of fifty percent (50%) existing box signs affixed to the building at the time of adoption of this ordinance. Box signs shall be a maximum permitted size of not greater than the average size of the box signs attached to the building.
   (2) A secondary line of text including, but not limited to, a tag line or slogan is permitted below the principal business name.

J. Electronic message center/manual changeable copy signs (except as permitted in subsection 9 and subsection 10 of this section).

K. Moving or animated signs.

L. Off-premises identification signs.

M. Portable signs.

N. Roof signs.

O. Temporary signs, except as expressly authorized in this section and when approved in connection with temporary uses.

P. Vehicle/Trailer Signs. Any vehicle conspicuously parked adjacent to or on a public street for more than three (3) hours primarily for advertisement.

Q. Any sign that is abandoned, in a state of serious disrepair, or is no longer functional.
R. Any abandoned sign including, but not limited to, the following:

(1) A sign left blank, having significant portions of letters, words, or other copy missing for more than thirty (30) days.

(2) An on-premise sign advertising a business or institution not located at that location for more than thirty (30) days.

(3) Any sign that advertises goods or service no longer available for more than thirty (30) days.

(4) Any sign that advertises an event or purpose that has passed and no longer applies for more than thirty (30) days.

(Supp. 13–13 Supp.)

S. Any sign that becomes structurally unsound, is in danger of falling, or otherwise unsafe.

T. Any sign that has been erected, placed, or otherwise established or maintained in violation of the then existing sign regulations or has in any way been unlawfully installed, erected or maintained.

U. Any sign painted directly on a wall, roof, or fence.

8. Procedure for Removal of Signs. Following written notice from the Zoning Official, the owner, agent or person who benefits from the use of the land, building, or sign structure shall have a minimum of ninety (90) days to remove the subject sign and/or sign structure that is identified in said notice. The written notice shall identify the sign or sign structure and state the specific reasons why removal is required. Said notice shall also provide a minimum of thirty (30) days from receipt of the notice for an appeal to be filed with the Board of Adjustment. However, if notice involves any sign that is creating an unsafe or hazardous condition or involves a temporary sign as defined in this chapter, then the notice shall provide for removal within a maximum of seven (7) days and four (4) days for filing an appeal. If said notice is not complied with and there is no appeal as provided, or if an appeal is denied, the Zoning Official is authorized to cause removal of such sign and structure and any related expenses incurred shall be paid by the owner of the sign or land, building or structure where said sign is located. If costs of removal of the sign and/or sign structure pursuant to this section are not paid within sixty (60) days of the City's issuance of an invoice for said costs, the City shall be authorized to assess the costs against the property.
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9. District Regulations - C-1, C-2, C-3, C-4. Signs shall be permitted in the C-1, C-2, C-3, C-4 Districts as follows:

A. Functional Types Permitted. All signs permitted in any district without a City permit as provided in subsection 6 of this section.

(1) Business Signs.

(2) Construction Signs, but for no longer than fourteen (14) days following completion of the construction in question.

(3) Drive-Thru Signs.

(4) Gas Station Price Signs.

(5) Identification Signs.

(6) Joint Identification Signs.

(7) On-site Directory Signs.

(8) Real Estate Signs - Large Size. Real estate signs if limited to one (1) single or double-faced, non-illuminated sign per zoning lot, not to exceed thirty-two (32) square feet in area per sign face. Estate Signs - Large Size may indicate that the property is for sale or lease. Real Estate Signs - Large Size requires a City sign permit. Real Estate Signs - Large Size shall not be in place for more than twelve (12) months, at which time the sign must be removed or another permit must be issued for another twelve (12) month period. Real Estate Signs - Large Size must be constructed of quality materials and maintained in good condition. Signs not maintained in good condition may be removed by the City. Real Estate Signs - Large Size are not permitted in residential districts.

B. Structural Types Permitted.

(1) Awning and Canopy Signs.

(2) Billboard Signs, but only when located on property with direct lot frontage along Highway 13, Highway 151 east of Highway 13, or Highway 100 street frontage and authorized by a special use permit.

(3) Electronic Message Center/Manual Changeable Copy Signs, but only if one of the following conditions is met:
a. Such a sign is incorporated into a permitted on premise monument sign. Copy shall not be changed more than once every eight (8) seconds. Scrolling messages shall not be permitted.

b. Such a sign is located within a permitted billboard sign. Copy shall not be changed more than once every eight (8) seconds.

(4) Monument Signs.

(5) Projecting Signs, but only if the following conditions are met:

   a. The lowest portion of projection signs shall be at least eight feet (8’) from grade and a distance to not exceed three feet (3’) from the wall to which it is attached.

   b. Projection over the public right-of-way is permitted within the C-2 zoning district.

(6) Temporary Signs, but only as authorized in subsection 6 of this section or for construction signs.

(7) Wall Signs.

C. Number of Signs Permitted Per Lot. All signs permitted by subsection 6 of this section; plus:

   (1) One (1) construction sign of any permitted structural type; plus

   (2) One (1) joint identification sign per zoning lot frontage; plus

   (3) One (1) monument sign per street frontage for zoning lot frontage that is less than five hundred (500) feet in length, and up to two (2) monument signs per street frontage for zoning lot frontage that is five hundred (500) feet or more in length. Monument signs must be spaced at least three-hundred (300) feet apart on a zoning lot when a zoning lot contains two (2) monument signs per street frontage, and the sign must be a joint identification sign; plus

   (4) One (1) electronic message center/manual changeable copy sign per zoning lot frontage. Such signs are only permitted if incorporated into a permitted monument sign or billboard sign.
(5) One (1) wall sign per entrance. For buildings single
tenant, or one (1) wall sign per business tenant; plus

(6) One (1) on-site directory sign per zoning lot
frontage; plus

(7) One (1) real estate sign - large size; plus

(8) One (1) billboard sign, per zoning lot. All such
signs shall be displayed in the following manner:

a. A billboard sign must be located at least one
thousand (1,000) feet from any other billboard sign,
including billboard signs located in adjacent
jurisdictions.

b. Shall be located a minimum of sixty feet (60)
feet from any on-premise freestanding sign on the
same zoning lot. Said distance shall be measured
from the nearest part of each sign.

c. Shall not be permitted within 300 feet of any
residentially zoned property or planned development
zoned property. In addition, no billboards shall be
permitted within 300 feet of any park, public or
private school, church, cemetery or any officially
designated local, state, or federally designated
historic property and or district.

d. One (1) single-faced painted bulletin, poster
panel display, or electronic message center/manual
changeable copy sign.

e. A display of two (2) poster panels placed
side-by-side in a straight line.

f. A double-faced display of painted bulletins,
poster panels, or electronic message center/manual
changeable copy sign.

g. Forming an angle of less than forty-five (45)
degrees, up to two (2) side-by-side poster panels
may be backed by the same or one (1) painted
bulletin, or one (1) painted bulletin may be backed
up by the same or a display of up to two (2) side-by-
side poster panels.
h. No stacking of poster panels or painted bulletins in whatever manner shall be permitted.

D. Maximum Gross Surface Area of Signs Permitted.

(1) Total Sign Area. The total area of all signs on a zoning lot shall not exceed one (1) square foot per linear foot of zoning lot frontage; provided, however, that construction signs, real estate signs, joint identification signs, and signs allowed without permits, shall not be counted toward the total allowance gross sign surface area permitted on a zoning lot. The maximum amount of sign area shall be allocated proportionally based on the linear zoning lot frontage. All zoning lots shall be allotted a minimum total sign area of sixty (60) square feet.

(2) Individual Sign Area Limitations. The following individual sign area limitations shall apply to all signs.

a. Awning and Canopy Signs: Not to exceed fifty (50) square feet per sign face. No sign identifying an individual tenant of a multi-tenant building shall cover more than twenty percent (20%) of the canopy to which it is affixed.

b. Billboard Signs: Not to exceed forty-eight (48) feet long by fourteen (14) feet high per sign face. All such signs shall be required to be freestanding type display.

c. Construction Signs: Not to exceed sixteen (16) square feet per sign face, nor more than two (2) sign faces.

d. Electronic Message Center/Manual Changeable Copy Signs:
   (i) If located within a monument sign, not to exceed fifty percent (50%) of the gross surface area of the monument sign face within which such a sign is incorporated and therefore, shall not exceed fifty percent (50%) of the area as regulated in paragraph e below.
(ii) If located within a billboard sign, not to exceed the sign area limitations as regulated in paragraph f.

e. Monument Signs: Not to exceed one-hundred (120) square feet per sign face, nor more than two-hundred forty (240) square feet total for lots in the C-3 district. Not to exceed eighty (80) square feet per sign face, nor more than one hundred sixty (160) square feet total for lots in the C-1 district.

f. Wall Signs: For signs located within the C-1 and C-3 zoning districts signs shall not exceed two-hundred (200) square feet per sign, or not to exceed covering more than twenty percent (20%) of the wall to which it is affixed, whichever is less. For signs located within the C-2 zoning district signs shall not exceed one-hundred (100) square feet per sign, or not to exceed covering more than ten percent (10%) of the wall to which it is affixed, whichever is less.

E. Maximum Height of Signs Permitted.

(1) Signs Without Permits: As provided in subsection 6 of this section for signs permitted pursuant to that subsection.

(2) Awning and Canopy Signs: Twenty (20) feet; all awning and canopy signs shall be at least eight (8) feet above grade. Awning and canopy signs for individual tenants of a multi-tenant building shall be at the same height on the building to which they are affixed.

(3) Billboard Signs: No billboard sign shall have the lowest edge of its display face more than ten (10) feet above grade; nor have the highest edge of its display face more than twenty-four (24) feet above street grade. The exposed supports of billboard signs shall be covered and hidden from view of public rights-of-way. This regulation shall not apply when the road design, natural topography, buildings, and other objects provide screening to the backs of any graphic.
(4) Electronic Message Center/Manual Changeable Copy Signs: No electronic message center/manual changeable copy sign shall extend beyond the sign face of the monument sign or billboard within which such a sign is incorporated more than four inches (4”) and; therefore, shall not exceed a height of said monument or billboard signs as regulated in paragraphs (3) and (5).

(5) Monument Signs: A maximum height of twelve (12) feet for lots with less than five (5) acres in area and a maximum of fifteen (15) feet for lots exceeding five (5) acres in area. A maximum height of eight (8) feet is permitted for C-1-zoned lots.

a. A maximum two (2) foot architectural feature may be erected over the top of any monument sign and exceed the maximum height limitations except for property zoned C-1. No text, logo, or other advertising feature is permitted within this two (2) foot architectural feature.

(6) Wall Signs: No wall sign shall extend beyond the roof line or parapet of the building to which it is affixed. No wall sign shall be affixed to HVAC screening, elevator overrun, or other features protruding from the roof of the structure, with the exception of building parapets which have been designed and integrated into the building’s architecture and which are in line with and not set back from the perimeter façade of the building.

F. Minimum Setback Required. As provided in subsection 6 of this section for signs permitted pursuant to that subsection.

(1) Billboard Signs: Billboard signs shall be erected in compliance with the building setback requirements of the underlying zoning district.

(2) Electronic Message Center/Manual Changeable Copy Signs: Electronic message center/manual changeable copy signs shall adhere to the setback requirements established for the permitted monument sign or billboard sign within which they are incorporated.

(3) Monument Signs: Five (5) feet from “right-of-way” and six (6) feet from all other lot lines. “Sight triangles” shall be maintained.
(4) Temporary Sign: Five feet (5’).

10. District Regulations - O-1, I-1, and I-2. Signs shall be permitted in the O-1, I-1, and I-2 Districts as follows:

A. Functional Types Permitted. All signs permitted in any district without a City permit, as provided in subsection 6 of this section.

(1) Business Signs.

(2) Construction Signs, but for no longer than fourteen (14) days following completion of the construction in question.

(3) Drive-Through Signs.

(4) Identification Signs.

(5) Joint Identification Signs.

(6) On-site Directory Signs.

(7) Real Estate Signs - Large Size. Real estate signs if limited to one (1) single or double-faced, non-illuminated sign per zoning lot, not to exceed twenty-four (24) square feet in area per sign face, and set back a minimum of twenty-five (25) feet from the property line. The name, address and telephone number of the person responsible for such removal shall be marked on the sign. Real estate signs indicating that the property has sold or is under any contractual obligation shall not be permitted pursuant to this paragraph. Real Estate Signs - Large Size may indicate that the property is for sale or lease. Real Estate Signs - Large Size requires a City sign permit. Real Estate Signs - Large Size shall not be in place for more than twelve (12) months, at which time the sign must be removed or another permit must be issued for another twelve (12) month period. Real Estate Signs - Large Size must be constructed of quality materials and maintained in good condition. Signs not maintained in good condition may be removed by the City. Real Estate Signs - Large Size are not permitted in residential districts.

(8) Gas Station Price Signs.

B. Structural Types Permitted.

(1) Awning and Canopy Signs.
(2) Billboard Signs, but only when located along Highway 13 or Highway 100 street frontage and authorized by a special permit, except in the O-1 zoning district where they are prohibited.

(3) Electronic Message Center Signs/Manual Changeable Copy Signs, but only if one of the following conditions is met:
   a. Such a sign is incorporated into a permitted monument sign. Copy shall not be changed more than once every eight (8) seconds.
   b. Such a sign is located within a permitted billboard sign. Copy shall not be changed more than once every 10 seconds.

(4) Monument Signs.

(5) Wall Signs.

C. Number of Signs Permitted per Zoning Lot. All signs permitted by subsection 6 of this section; plus

(1) One (1) awning sign; plus

(2) One (1) construction sign of any structural type; plus

(3) One (1) joint identification sign per zoning lot frontage; plus

(4) One (1) monument sign per street frontage for zoning lot frontage that is less than five hundred (500) feet in length, and up to two (2) monuments signs per street frontage for zoning lot frontage that is five hundred (500) feet or more in length. Monument signs must be spaced at least three-hundred (300) feet apart on a zoning lot when a zoning lot contains two (2) monument signs per street frontage; plus

(5) One (1) electronic message center sign/manual changeable copy sign per zoning lot. Such signs are only permitted if incorporated into a permitted monument sign or billboard sign.

(6) Two (2) on-site directory signs per zoning lot frontage; plus

(7) One (1) real estate sign - large size; plus
(8) One (1) billboard sign, per zoning lot.
   a. A billboard sign must be located at least one thousand (1,000) feet from any other billboard sign, including billboards signs located in adjacent jurisdictions.
   b. Shall be located a minimum of sixty feet (60) feet from any on-premise freestanding sign on the same zoning lot. Said distance shall be measured from the nearest part of each sign.
   c. Shall not be permitted within 300 feet of any residentially zoned property or planned development zoned property. In addition, no billboards shall be permitted within 300 feet of any park, public or private school, church, cemetery or any officially designated local, state, or federally designated historic property and or district.
   d. One (1) single-faced painted bulletin, poster panel display, or electronic message center/manual changeable copy sign.
   e. A display of two (2) poster panels placed side-by-side in a straight line.
   f. A double-faced display of painted bulletins, poster panels, or electronic message center/manual changeable copy sign as previously described in (a) and (b).
   g. Forming an angle of less than forty-five (45) degrees, up to two (2) side-by-side poster panels may be backed by the same or one (1) painted bulletin, or one (1) painted bulletin may be backed up by the same or a display of up to two (2) side-by-side poster panels.
   h. No stacking of poster panels or painted bulletins in whatever manner shall be permitted.

D. Maximum Gross Surface Area of Signs Permitted.

(1) Total Sign Area. The total area of all signs on a zoning lot shall not exceed one (1) square foot per foot of zoning lot frontage; provided, however, that construction signs, real estate signs, joint identification signs, and signs
allowed without permits, shall not be counted toward the total allowance gross sign surface area permitted on a zoning lot. The maximum amount of sign area shall be allocated proportionally based on the linear zoning lot frontage.

(2) Individual Sign Area Limitations. The following individual sign area limitations shall apply to all signs within the O-1, I-1, and I-2 districts, whether counted toward the total allowable gross sign surface area established in this code or not:

a. Awning and Canopy Signs: Not to exceed fifty (50) square feet per sign face. No sign identifying an individual tenant of a multi-tenant building shall cover more than twenty percent (20%) of the wall to which it is affixed.

b. Billboard Signs: Not to exceed forty-eight (48) feet long by fourteen (14) feet high per sign face. All such signs shall be required to either be a wall or freestanding type display.

c. Electronic Message Center/Manual Changeable Copy Signs:

   (i) If located within a monument sign, not to exceed 50% of the gross surface area of the monument sign face within which such a sign is incorporated and therefore, shall not exceed 50% of the area as regulated in paragraph d below.

   (ii) If located within a billboard sign, not to exceed the sign area limitations as regulated in paragraph b.

d. Monument Signs: Not to exceed one-hundred (100) square feet per sign face, nor more than two-hundred (200) square feet total.

e. Wall Signs: Twenty percent (20), but not to exceed one-hundred forty (120) square feet per sign.
E. Maximum Height of Signs Permitted.

(1) Signs Without Permits: As provided in subsection 6 of this section for signs permitted pursuant to that subsection.

(2) Awning and Canopy Signs: Twenty (20) feet; minimum height of eight (8) feet above grade.

(3) Billboard Signs: No billboard sign shall have the lowest edge of its display face more than fourteen feet (14’) above grade; nor have the highest edge of its display face more than twenty-eight (28’) feet above street grade.

(4) Electronic Message Center/Manual Changeable Copy Signs: No electronic message center/manual changeable copy sign shall extend beyond the sign face of the monument sign or billboard within which such a sign is incorporated and therefore, shall not exceed a height of said monument or billboard signs as regulated in paragraphs (3) and (5) of this subsection.

(5) Monument Signs: A maximum height of twelve (12) feet for lots less than five (5) acres in area and a maximum height of fifteen (15) feet for lots more than five (5) acres in area.

   a. A maximum two (2) foot architectural feature may be erected over the top of any monument sign and exceed the maximum height restrictions. No text, logo, or other advertising feature is permitted within this two (2) foot architectural feature.

(6) Wall Signs: No wall sign shall extend beyond the roof line or parapet of the building to which it is affixed. No wall sign shall cover any architectural features (architectural features shall include, but not be limited to, pediment, cornice, belt course, pier, windows, pilaster, roof, decorative stone or tile inlay, kick plate/bulkhead, raised or colored brick pattern, and corbel) of the building to which it is affixed. No wall sign shall be affixed to HVAC screening, elevator overrun, or other features protruding from the roof of the structure, with the exception of building parapets which have been designed and integrated into the building’s architecture and which are in line with and not set back from the perimeter façade of the building.
F. Minimum Setback Required.

(1) Signs Without Permits: As provided in subsection 6 of this section for signs permitted pursuant to that subsection.

(2) Billboard Signs: Billboard signs shall be erected in compliance with the building setback requirements of the underlying zoning district.

(3) Electronic Message Center/Manual Changeable Copy Signs: Electronic message center/manual changeable copy signs shall adhere to the setback requirements established for the permitted monument sign or billboard sign within which they are incorporated as regulated in paragraphs (2) and (4) of this subsection.

(4) Monument Signs: Five (5) feet from the right-of-way and three (3) feet from parking areas or driveways. “Sight triangles” shall be maintained to ensure safety.

(5) Temporary Sign: Five (5) feet.

G. Illumination.

(1) Signs Without Permits: Signs permitted pursuant to subsection 6 of this section shall be illuminated only as permitted in that subsection.

(2) Awnings and Canopies: Shall be illuminated using a direct light source. Direct illumination shall be aimed at the exterior of the awning/canopy.

(3) Monument Signs: Monument signs shall be backlit, directly-lit, or internally illuminated. Any direct light source shall be concealed from view from the right-of-way.

(4) Wall Signs: Letters shall be individually affixed to walls of a building and be either internally illuminated or backlit. All wall signs mounted above thirty (30) feet shall consist of internally illuminated or backlit lettering. Wall signs mounted above thirty (30) feet may also include the company’s primary registered or trademarked logo.
A. Nameplates and Signs. A nameplate for a single-family dwelling shall not exceed one hundred twenty (120) square inches in area. For a multiple-family dwelling, a nameplate shall not exceed four (4) square feet in area, and may indicate the names, addresses and telephone numbers of the building and/or the rental agents. A nameplate may be illuminated by non-flashing direct or indirect illumination.

B. For Sale Signs. One un-illuminated ground sign, not more than six (6) square feet in area may be located in a front yard or side yard adjoining a street and shall be located not closer than ten feet (10') from a front and/or side lot line.

C. Signs for Nonresident Uses (excluding home occupation signs which are prohibited). Identification signs for nonresidential uses shall be permitted in accordance with the following regulations:

   (1) One identification sign affixed flat against a building wall and one ground sign, which in both cases may be illuminated by non-flashing direct or indirect illumination and shielded so that the source of light cannot be seen at any point within a residential district, may be erected along each street frontage. For an educational institution, the sign may contain not only the name of the institution, but may also announce events or activities occurring at the institution.

   (2) Each sign shall be limited in area to not more than sixteen (16) square feet and shall not project higher than eight feet (8’) above grade. No ground sign shall be located nearer than eight feet (8’) from the nearest interior lot line nor closer to the front lot line than one-half (1/2) the depth of the required front yard except:

   a. A directional sign shall be not more than nine (9) square feet in area and shall not be located nearer than ten feet (10’) from right-of-way; and

   b. A sign for an educational institution shall not be located nearer than ten feet (10’) from a right-of-way.

   (3) Electronic Message Center Signs/Manual Changeable Copy Signs: If located within a monument sign, not to exceed fifty percent (50%) of the gross surface area of the monument sign face within which such a sign is incorporated.

   (4) Ground signs shall be limited to one per street frontage. Lots containing multiple street frontages shall be
permitted additional signs per frontage, but signs must be separated by a minimum of three hundred feet (300’).

D. Temporary Ground Signs. Temporary ground signs for residential subdivisions shall be permitted in accordance with the following:

(1) Signs may be erected along each thoroughfare or highway frontage of the development not less than one thousand feet (1,000’) apart.

(2) Such signs shall not exceed two hundred forty (240) square feet in area each, and shall contain only the names, addresses and telephone numbers of the development and the sales or rental agents, and types, prices, and location of dwelling units.

(3) Such signs:
   a. May be illuminated with non-flashing illumination shielded so that the source of light cannot be seen;
   b. Shall not project higher than fifteen feet (15’) above ground grade;
   c. Shall not be located nearer than thirty feet (30’) from street curb; and
   d. Shall be removed within thirty (30) days of ninety percent (90%) build-out of available buildable lots.

E. Additional Ground Signs. Additional ground signs may be used on lots containing model homes being offered for sale or rent to:

(1) Identify the name and price of each house, not to exceed twelve (12) square feet in area.

(2) Provide directional and safety information, not to exceed two (2) square feet in area.

(3) No more than one such sign is permitted on any single lot except a maximum of two (2) signs will be permitted on corner lots, so that one sign can be located along each street frontage. The maximum size of these signs is six (6) square feet each.

(Ord. 11-26 – Feb. 12 Supp.)

176.32 ACCESSORY BUILDINGS AND USES. This section is intended to provide that accessory buildings and uses are compatible with the principal use of that property on which they are located, as well as adjacent properties.
1. Attached Buildings and Structures. Attached accessory buildings and structures shall meet all the requirements of this chapter which apply to the principal structure to which they are attached.

2. Detached Buildings. Detached accessory buildings and structures shall:
   A. Location:
      (1) Not be located in a required front yard.
      (2) If located partially or completely between the side lot line and the main building on the lot, detached accessory buildings and structures shall meet the minimum side yard requirements established for the principal building to which it is accessory.
      (3) Not be closer than 3 feet to any other lot line. However, a roof or canopy of an accessory building may project into a required side yard a point one-third the distance to the lot line from an exterior wall.
      (4) Shall not occupy more than 40% of the required rear yard.
      (5) Be set back from any adjacent street in accordance with the minimum distance required for a principal building on a lot.
      (6) No portion of an accessory building shall be located closer than three (3) feet to the principal building or other accessory structure on the same lot.
   B. Size.
      (1) In districts that permit single family homes, the aggregate total square footage of a detached accessory structure shall be no greater than nine hundred (900) square feet.
      (2) The height of a detached accessory structure may not exceed the height of the principal building.
   C. Design:
      (1) The detached accessory structure shall be constructed to compliment the principal building including the use of similar materials and color palette of the principal building.

3. Exceptions for Accessory Structures.
   A. Detached accessory structures may exceed the 900 square feet limitation after approval of a Conditional Use Permit provided the following conditions are meet:
(1) All other standards of Section 176.32 are maintained and met.

(2) In the A-I and AA zoning districts the detached accessory structure shall meet the setback requirements established for the principle building, except that the setback shall be established at 50' from any property line adjacent to a residential district.

4. Time and Construction. An accessory structure or use may not be constructed or established prior to commencement of construction or establishment of the principal structure or use to which it is accessory.
[The next page is 1419]
5. Use of Dwelling Restricted. No accessory structure shall be used for living, sleeping, or housekeeping services except by domestic employees employed on the premises and the immediate families of such employees, and then only when said structure has met all City Codes and Ordinances relating to residential construction and occupancy. Additionally, no such occupancy shall be permitted prior to issuance of a certification of occupancy for the principal structure.

6. Accessory Commercial Uses.
   A. A coffee shop, gift shop, cafeteria, news stand, barber shop, beauty shop, pharmacy, or similar accessory commercial service uses may be established as an accessory use within a nursing, rest, or convalescent home in an R-5, R-6, R-6A, or 0-1 District, provided such home contains at least 50 patient beds.
   B. A coffee shop may be established as an accessory use in a multiple-family structure provided such structure or related complex of structures contains at least 36 dwelling units.
   C. Such accessory commercial service uses shall be for the convenience of and for service to the residents, patients, guests, or employees occupying the building. No off-premises advertising of any kind shall be allowed in connection with an accessory use.
   D. No exterior signs shall be placed on the premises indicating to the general public that a portion of the premises is being used for an accessory use.

7. Accessory Child Care Facilities. Child care facilities, including nursery and preschools, shall be permitted as accessory uses in churches and public, quasipublic, and private institutional buildings, subject to compliance with City Building Codes and all other applicable State and local regulations.

8. Swimming Pools. Private swimming pools may be located in rear yards’ subject to compliance with City Building Codes and all other applicable State and local regulations.

9. Single-family Dwellings in the R-M District. One single-family detached dwelling may be considered an accessory use in a manufactured/mobile home community, provided that such dwelling be used only as a residence for a watchman, custodian, or manager and his/her family located on the premises where he/she is employed.

10. Solar Energy Collector. A solar energy collector and heat storage unit of size needed to supply the building to which it is appurtenant shall be considered an accessory use and be so regulated.

11. Bulletin Boards. Church, institutional, public, and quasi-public building bulletin boards are permitted accessory uses and may be located in a required front or side yard, provided the placement of such bulletin boards do not
obstruct the required corner visual clearance or otherwise present a traffic safety hazard.

12. Garage Setbacks. The front side (that is, the side containing the main garage door) if either a detached or attached garage shall be set back a minimum of 25 feet from the property line.

(Ord. 18-25 – Nov. 18 Supp.)

176.33 NONCONFORMING USES, BUILDINGS AND STRUCTURES.
The purpose of this Section is to provide for the regulation of nonconforming buildings, structures, lots and uses, and to specify those circumstances and conditions under which nonconforming buildings, structures and uses shall be gradually eliminated upon reaching the end of their respective normal useful life

1. General Standards of Applicability
   A. Authority to Continue
      (1) Any nonconforming building, structure, lot, or use which existed lawfully at the time of the adoption of this Ordinance and which remains nonconforming, and any building, structure, lot or use which becomes nonconforming upon the adoption of this Ordinance or any subsequent amendments, may continue subject to the provisions of this Section, so long as it remains otherwise lawful.
   B. Burden on Property Owner to Establish Legality
      (1) In all cases, the burden of establishing the legality of a nonconformity under the provisions of this Ordinance shall be upon the property owner of the nonconforming building, structure, lot or use and not upon the City.
   C. Safety Regulations
      (1) The existence of a nonconformity does not affect the applicability to a property of any police power regulations enacted to promote public health, safety, comfort, convenience and general welfare including, but not limited to, all building, fire and health codes.
   D. Governmental Action
      (1) Notwithstanding any provision of this Section 176.33 to the contrary, no lawfully existing conforming lot, building, structure and/or use shall be rendered nonconforming, and subject to the provisions of this Section, as a result of the exercise of eminent domain by a governmental entity.

2. Nonconforming Uses of Land
   A. This Section regulates land, buildings and structures that, on the effective date of this Ordinance, are used in whole or in part for
purposes that are not allowed in the zoning district, overlay, or Planned Unit Development in which they are located.

B. Expansion of Use

(1) A nonconforming use of land, buildings or structures shall not be expanded, extended, enlarged or increased in intensity. Such prohibited activity shall include, without limitation:

(a) An expansion or extension of a nonconforming use or its accessory uses to any land area, building or structure, or part thereof, other than that occupied by the nonconforming use on the effective date of this Ordinance.

(b) An expansion or extension of the nonconforming use or its accessory uses within a building or other structure, to any portion of the building or structure that was not occupied by the nonconforming use on the effective date of this Ordinance.

C. Relocation

(1) A nonconforming use of land, buildings or structures shall not be relocated, in whole or in part, to any other location on the same lot or parcel, or to any other lot or parcel, unless the lot or parcel to which it is relocated permits the nonconforming use.

D. Change of Use

(1) A nonconforming use shall not be changed to any use other than 1) a use permitted by right within the zoning district, overlay, or PUD in which it is located, or 2) a use allowed as a Conditional Use, for which a Conditional Use applicable to the property has been granted. Thereafter, that part of the land, building or structure occupied by the permitted use or granted Conditional Use shall not thereafter be changed back to a use that is not allowed within the zoning district or PUD in which it is located. Any change in use in violation of this Ordinance shall be deemed an abandonment of the previously existing lawful nonconforming use.

E. Abandonment

(1) If that part of a building or structure occupied by a nonconforming use becomes vacant and remains unoccupied for a continuous period of 180 days or more, such nonconforming use shall be deemed to be abandoned and shall not be reestablished or resumed. Any subsequent use or occupancy of
such land, building or structure shall comply with all regulations of the zoning district in which such land, building, or structure is located. The period of such discontinuance caused by government action, acts of God, or other acts without any contributing fault by the user, such as the default or bankruptcy of a tenant, shall not be included in calculating the length of discontinuance for this Section.

F. Damage or Destruction

(1) A building, structure or portion thereof, all or substantially all of which is designed or intended for a use which is not allowed in the district in which it is located and which is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration to the condition in which it was before the occurrence will exceed fifty percent (50%) of the total cost of reconstructing the entire building or structure, shall not be restored unless said building or structure and the use thereof shall conform to all regulations of the district in which it is located or in conformity with Section 176.36-4B(4) of this Chapter pertaining to the powers of the Zoning Board of Adjustment. In the event that such damage or destruction is less than fifty percent (50%) of the cost of reconstruction of the entire building or structure, repairs or construction for restoration may be made only if such work is started within one year from the date of the partial destruction and is diligently prosecuted to completion.

3. Nonconforming Buildings and Structures

A. This Section regulates land, buildings and structures existing on the effective date of this Ordinance that do not conform to the yard, height, lot coverage, or other dimensional or bulk provisions of this Ordinance. (See Section 176.31 for additional provisions relating to signs.)

B. Ordinary Repairs and Maintenance

(1) Normal maintenance and incidental repair or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing may be performed on any nonconforming building or structure. No repairs or reconstruction shall be made that would create any new nonconformity, or increase the degree of any previously existing nonconformity.
C. Structural Alterations
   (1) Structural alterations, other than additions and enlargements, may be performed on a nonconforming building or structure, only in the following situations:
      (a) When the alteration is required by law or is necessary to restore the building or structure to a safe condition upon the order of any official charged with protecting the public safety.
      (b) When the alteration will not create any new nonconformity or increase the degree of any existing nonconformity.
      (c) When the alteration will result in eliminating the nonconformity.

D. Additions and Enlargements
   (1) A building or structure, which is nonconforming with respect to its bulk, shall not be enlarged or added on to unless the addition does not create any new nonconformity or increase the degree of any existing nonconformity, except as follows: Where a wall of an existing single-family or two-family building is nonconforming with respect to the minimum yard or setback requirement, the nonconforming wall may be extended vertically and/or horizontally by adding to the existing building, subject to the following:
      (a) The wall extension shall not be any closer to the lot line than the existing nonconforming wall.
      (b) The extended building wall shall not create any additional nonconformities on the site.
      (c) The maximum building coverage and building height shall not be exceeded.

E. Relocation
   (1) A nonconforming building or structure shall not be relocated, in whole or in part, to any other location on the same zoning lot or parcel, or to any other zoning lot or parcel, unless the building or structure shall thereafter conform to all regulations of the zoning district in which it is relocated.

F. Damage or Destruction
   (1) In the event that any nonconforming building or structure is damaged or destroyed by any means not within the control of the property owner or tenant to the extent of fifty percent (50%) or more of its replacement value at that time,
then the building or structure shall not be restored or rebuilt unless the building or structure, including foundation, thereafter conforms to all regulations of the zoning district in which it is located.

(2) The replacement value of the building or structure shall be based on: 1) the sale of that building or structure within the previous year or, if that is not applicable; 2) an appraisal within the last two (2) years or, if that is not available; 3) the amount for which the building, structure or property was insured prior to the date of the damage or destruction or; 4) an alternative method determined acceptable by the City Council.

(3) When a nonconforming building or structure is damaged or destroyed by any means not within the control of the property owner or tenant to the extent of less than fifty percent (50%) of the replacement value at that time, it may be repaired or reconstructed provided that no new nonconformities are created and that the degree of nonconformity existing prior to the damage or destruction is not increased. A building permit shall be obtained for such rebuilding, restoration, repair or reconstruction within one (1) year of the date of damage or destruction, and the construction shall be completed within one (1) year of issuance of the building permit.

(4) In the event that a building permit is not obtained within one (1) year, or that repairs are not completed within one (1) year of the issuance of the building permit, then the building or structure shall not be restored unless it conforms to all regulations of the district in which it is located.

(5) In the event that any nonconforming building or structure or part thereof is removed, demolished or destroyed by means within the control of the property owner or tenant, the building or structure or part thereof that was removed, demolished or destroyed, as restored or repaired, shall comply with all requirements of this Ordinance.

4. Nonconforming Lots of Record

A. This Section regulates lots of record, existing on the effective date of this Ordinance, which do not conform to the lot area or lot width requirements of the district in which they are located. No nonconforming lot of record may be improved except in compliance with this Section.

B. Individual Lots of Record in Residential Districts

(1) In residential districts, a single-family dwelling may be constructed and maintained on a lot which is nonconforming as
to minimum lot area and/or minimum lot width, if the lot was of record on March 24, 1962, was in separate ownership on the effective date of this Ordinance and conforms to all other requirements of the zoning district in which it is located.

C. Lots of Record Held in Common Ownership

(1) If on the effective date of this Ordinance there are two (2) or more lots of record with contiguous frontage in single ownership, and one (1) or more of the lots is nonconforming as to minimum lot area and/or minimum lot width, the lots shall be considered to be a single undivided parcel for the purposes of this Ordinance. No portion of said parcel shall be used or conveyed which does not meet the lot width and lot area requirements established by this Ordinance. No division of the parcel shall be made which leaves the remaining lot(s) with lot width or lot area below the requirements of this Ordinance. No building permit shall be issued for the use of any lot or portion of a lot, transferred or conveyed in violation of this Section.

(2) If the Board of Zoning Appeals grants a variation or variations to the required minimum lot area or width that renders the contiguous nonconforming lots buildable, then the provisions of this section shall be considered satisfied and the lots of record may be conveyed and building permits may be issued, to the extent authorized by the variation.

(Ord. 18-21 – Nov. 18 Supp.)

176.34 PLANNED DEVELOPMENT DISTRICTS.

1. Intent.

A. The intent of the Planned Development Districts is to permit greater flexibility and more creative, innovative and imaginative design in land development than generally is possible under conventional zoning techniques. Planned developments are intended to achieve:

B. A maximum choice of design alternatives by allowing a variety of land use and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks, and area requirements.

C. A development pattern which preserves and utilizes natural, topographic and geologic features, scenic vistas, trees, and other vegetation, and other natural features, and prevents the disruption of natural drainage systems.

D. A more efficient use of land is generally achieved through conventional development, resulting in substantial savings through shorter utilities and streets.
E. A more useful pattern of open space and recreation areas and other public and common facilities than would otherwise be provided under conventional land development procedures.

F. A development plan in harmony with the objectives of the City’s Comprehensive Community Plan with respect to land use, transportation, open space, and community facilities.

2. Definitions. In the context of this section, the term “planned development” means an area for which a unitary site plan has been prepared in accordance with the provisions set forth in this section. In the context of this section, the term “open space” has the same definition as included in Section 176.06 of this chapter. In addition, landscaped roof areas and decks may be considered as “open space” if structurally safe, adequately surfaced and protected, aesthetically designed, and usable for the purpose for which it is intended.

3. Classifications of Planned Development Districts. The following designations shall be used to classify Planned Development Districts:

A. PD-R – Planned Development-Residential: A planned development occupying any quantity of land area in which all buildings to be included in the district are used for residential or accessory purposes customarily related to residential uses.

B. PD-C – Planned Development-Commercial: A planned development occupying a land area of not less than two (2) acres in which all the interior floor space to be included in the development is used for commercial purposes or accessory uses customarily related to commercial uses.

C. PD-I – Planned Development-Industrial: A planned development occupying a land area of not less than ten (10) acres in which more than 80% of the interior floor space of all buildings to be included in the development are used for industrial purposes or accessory uses customarily related to industrial uses.

D. PD-S – Planned Development-Special: A planned development not otherwise distinguishable under the previous classifications, or containing a mix of residential, commercial, industrial, and/or other uses. This classification may occupy any quantity of land area.

E. PD-MH – Planned Development- Manufactured/Mobile Home Community: A planned development in which the principal use will be residential occupancy of manufactured or mobile housing units, some or all of which do not meet the requirements of Section 176.35(19) of this chapter. This PD-MH classification is intended to accommodate manufactured/mobile home communities in those areas of the City where they will be compatible with existing and projected development. This zoning classification will generally be located in
outlying areas of the City and must be served with adequate sewers, water, storm water facilities, streets, police and fire protection, and other necessary public facilities and services as more fully specified in Chapter 151 of this Code of Ordinances. Notwithstanding subsections 1, 4 and 8(A) of this section, the preliminary and final development plans and plan of improvements required pursuant to subsections 9, 10, and 11 of this section must comply with the standards for development of a manufactured/mobile home community established in Chapter 151.

4. General Requirement. Whenever there is a conflict or difference between the provisions of this section and those of the other sections of this Zoning Ordinance, the provisions of this section shall prevail. Subjects not covered by this section shall be governed by the respective provisions found elsewhere in this Zoning Ordinance.

5. Permitted Uses. The following uses are permitted in the applicable districts, provided that the development satisfies all other requirements set forth in this section:

A. PD-R
   (1) Single-family residential dwellings.
   (2) Two-family residential dwellings.
   (3) Three or four-family residential dwellings.
   (4) Multi-family residential dwellings.
   (5) Customary accessory or associated uses such as private garages, storage spaces, recreation and community facilities.
   (6) Public or private schools.
   (7) Churches, synagogues, chapels, and similar places of religious worship and instruction.
   (8) Golf courses, tennis courts, swimming pools, or similar outdoor sports facilities.
   (9) Nursery, rest or convalescent homes or day care centers.

B. PD-C. Any use permitted in the C-1, C-2, C-3, or C-4 Zoning Districts.

C. PD-I. Any use permitted in the I-1 or I-2 Zoning District.

D. PD-S. Any residential, commercial, industrial, or other uses, or combination thereof.

E. PD-MH.
   (1) Single-family detached dwellings including those manufactured at a remote site and assembled for occupancy on
the site which do not meet the requirements of Section 176.35(19) of this chapter.

(2) Accessory uses including, but not limited to, garages and storage buildings, manufactured/mobile home community office, community/recreational facilities, maintenance facilities and community storm shelters.

(3) Home occupations, subject to the provisions of Section 176.30.

(4) Public, quasi-public and governmental buildings and facilities:
   a. Public and private parks, playgrounds, recreational buildings and facilities and community centers.
   b. Churches, synagogues, chapels, and similar places of religious worship and instruction.
   c. Public elementary, junior high and high schools, and private non-boarding schools having a curriculum similar to that in the permitted public schools.
   d. Day care centers.

6. Coordination With Subdivision Ordinance. It is the intent of this section that subdivision review, when applicable, be carried out simultaneously with the review of the proposed Planned Development. The Development Plans required under this section may be submitted in a form which will satisfy the subdivision filing requirements set forth in Chapter 175, Subdivision Regulations, of this Code of Ordinances, provided that such Development Plans also satisfy the requirements of this section.

7. Building Permits. No land may be used or building permits issued on land within the Planned Development District until all procedural and regulatory provisions set forth in this section are complied with.

8. Design Standards.
   A. Lot dimensions, lot area, building setbacks, building height, building size, off-street parking and loading, landscaping, density, and similar bulk and design standards are not subject to specific regulations or limits, but rather shall be subject to approval during the review process of such development as set forth in this section.
   B. The planned development must conform with the spirit and intent of the City’s Comprehensive Community Plan, and with the intent of this section.
   C. The planned development must not adversely affect the existing character of the neighborhood in which it is to be located. Adequate
safeguards must be provided to minimize possible detrimental effects on adjacent properties, the neighborhood, and the community.

D. The planned development must have ample provision for sanitary sewage disposal, storm and surface water drainage, water supply, and other utilities.

E. The planned development must allow for adequate availability to police and fire protection and other appropriate public services and community facilities.

F. The planned development must provide for safe pedestrian circulation.

G. The planned development must provide for safe and effective vehicular access and circulation to and within the site. Traffic circulation patterns must be designed so as to minimize traffic congestion.

H. The planned development must provide for adequate and well located off-street parking and loading spaces tailored to the specific needs of the development.

I. The planned development must provide a beneficial relationship between vehicular traffic, pedestrian circulation, and other proposed uses and activities.

J. The planned development must provide a beneficial and efficient use of such natural characteristics as topography, geography, soil conditions, trees and other vegetation, water courses, natural drainage systems, soil conditions, and similar characteristics.

K. The location, height, and bulk of buildings and structures on the site must be in proportion to each other and relate well to other structures and visual perspectives in the area.

L. The planned development must provide for effective use and design of open spaces, landscaping, amenities, and natural land features.

M. The planned development must provide that the installation of landscaping, driveways, recreational facilities and other site details are generally in harmony with the proposed development, adjacent properties, and with the rights and interests of the general public.


A. A petition for a zoning change to one of the PD-Planned Development District classifications identified in this section shall be submitted in accordance with all applicable provisions of the Zoning Ordinance and rules of procedure of the City Planning Commission.
B. A Preliminary Development Plan may, at the option of the petitioner, accompany the petition for rezoning to a PD-Planned Development Zone. If no Preliminary Development Plan is submitted, the petitioner shall submit a concept plan adequate to describe the proposed land uses and street patterns which the petitioner intends to develop within the Planned Development. Notwithstanding, the Commission or the Council may require some or all portions of the Preliminary Development Plan be submitted in the course of review of a Planned Development rezoning petition in order to resolve specific development concerns.

C. The filing fee for the petition to change to a PD-Planned Development District classification shall be the same as for any other petition for a zoning district classification change as provided in Section 176.39(8) of this chapter.

D. The Council shall refer the petition for PD-Planned Development District classification and the Preliminary Development Plan to the Commission for review and recommendation.

E. Commission Review and Approval – The Commission shall review the request for the zoning district reclassification and make its recommendation to the Council based upon the broad type of land use indicated for the Planned Development District requested. If the proposed rezoning area is ten (10) acres or more, the Commission shall hold a public hearing upon the request prior to submitting its recommendation to the Council. The Commission may, in its discretion, hold a public hearing on any proposed Planned Development prior to making a recommendation.

F. Council Review and Approval – After receiving the Commission's recommendation regarding the proposed change to a PD-Planned Development Zoning District classification, the Council shall hold a public hearing in accordance with State and local codes. Following the public hearing, the Council shall consider an ordinance approving, or approving with conditions, the proposed change to a Planned Development District classification. The effect of approval of a petition to establish, a Planned Development District classification shall be equivalent to a moratorium on development until such time as the required preliminary and final development plans have been reviewed and approved pursuant to this section.


A. A Preliminary Development Plan shall be submitted by the petitioner either concurrently with or subsequent to the petition for rezoning.
B. The filing fee for a Preliminary Development Plan shall be determined in the same manner as for a Preliminary Plat as provided in the Subdivision Ordinance.

C. The Commission shall review and make a recommendation to the Council on the Preliminary Development Plan in accordance with the following provisions:

(1) The Commission shall evaluate the Preliminary Development Plan in terms of conformance with the design standards set forth in subsection 8 above.

(2) The Commission may conduct a public hearing on any proposed Preliminary Development Plan prior to making its recommendation to the Council.

(3) After evaluating the proposed development and holding a public hearing, if appropriate, the Commission shall consider a resolution approving, approving with modification, or disapproving the Preliminary Development Plan.

D. The Preliminary Development Plan shall contain the following:

(1) Narrative – A written statement describing the character of the development. The statement shall include the following information:

a. The proposed title of the development and a description of the land uses planned for the development.

b. The relationship between the proposed development and the Comprehensive Development Plan for the Community.

c. The relationship of the development to limiting conditions such as excessive grade or slope, flood plain, high water table, woodlands, scenic vistas, water sources, etc.

d. The relationship of the proposed development to adjoining uses (both existing and projected).

e. The relationship of the proposed development to existing and projected sanitary sewers, storm sewers, and other drainage structures, and streets and other transportation features.

f. An expected schedule of development. If the development is to be constructed in stages, a description of the stages of development and identification of the locations and sequence of stages, density, use, utilities,
and public facilities (including open space, landscaping, and parking) to be developed in each stage. An identification of estimated start and completion dates for each stage shall be included.

g. Names and addresses of the owners, developers, engineers, land surveyors, landscape architects, land planners, architects, attorneys, or any other professionals associated with the development.

h. Tabulations of the following information: total land area, number of buildings, total area covered by buildings, number of dwelling units, dwelling units per acre, total common open space area.

(2) Maps and Diagrams – A drawing of the planned development shall be prepared at a scale of one inch equals 100 feet or one inch equals 50 feet, or such other scale as may be recommended by City staff. The drawing must show the general location of proposed streets (public and private), all buildings and their use, common open space, recreation facilities, parking and loading areas, service areas, and other facilities to indicate the character of the proposed development. The submission may be composed of one or more sheets and drawings and shall include:

a. All information and specifications required in submitting a subdivision Preliminary Plat as set forth in Chapter 175, the Subdivision Regulations, of this Code of Ordinances.

b. Existing and proposed land uses within or adjacent to the site.

c. Approximate locations, dimensions, height of existing and proposed buildings and other structures, including accessory buildings and structures.

d. The character and approximate density of residential uses.

e. The approximate amount of interior floor area of commercial and industrial uses.

f. Location and type of natural conditions within or adjacent to the tract which may present limitations to development such as water courses, flood plains, marshes and wetlands, rock outcrops, wooded areas, isolated preservable trees one foot or more in diameter, and other significant features.
g. Map and data, including north point, scale, and date of preparation.

(3) In conjunction with or following approval of the requested change in zoning district classification, the Council may review and, by resolution, approve, disapprove, or approve with conditions, the Preliminary Development Plan. If the Preliminary Development Plan is not considered concurrently with the zoning district classification, a separate public hearing shall be held thereon.

11. Improvements.

A. Before the Final Development Plan is approved and recorded, the development shall contain the required improvements or have such improvements assured by the posting of a bond as set forth in this section. All improvements shall conform to the Standard Specifications as set forth in this section.

B. Required Plan of Improvements – The following drawings, prepared by a registered professional engineer in Iowa, shall be submitted by the owner to the Council prior to the approval of the Final Development Plan:

   (1) Sanitary sewer plan and profile.
   (2) Storm sewer plan and profile.
   (3) Street plan and profile.
   (4) Sidewalk location and grades, if varying from City standard specification.
   (5) Water main plan and profile.
   (6) Such other engineering plans, profiles, or drawings as may be stipulated by the Council.

C. The required plans and profiles shall conform to the provisions set forth in Chapter 175, Subdivision Regulations, of this Code of Ordinances.

D. Permission to construct improvements – Following Council approval of the plan of improvements and before construction of each improvement, the owner shall have submitted an application to the City Engineer requesting permission to construct the improvement. The City Engineer shall then be notified as set forth under Chapter 175, Subdivision Regulations, regarding Inspection of Improvements.

E. Required Improvements – The improvements in the Planned Development shall conform to the provisions of Chapter 175, Subdivision Regulations, of this Code of Ordinances, unless otherwise
approved by the Council in the Preliminary Development Plan and/or Plan of Improvements.

F. Guarantees of Performance – If, at the time of the presentation of the Final Development Plan, the required improvements are not completed or accepted before the Final Development Plan is approved, the owner shall enter into a contract with the City to make such improvements at such time as may be therein stated, and in accordance with detailed engineering plans and specifications, contained in the plan of improvements which has been approved by the City Engineer and Council. The performance of the contract shall be secured by the filing of a surety bond or cash equal to the cost of the improvements as estimated by the City Engineer. The owner shall be the principal on any such surety bond. Although one bond covering all improvements is anticipated, separate bonds may be submitted and a contractor may be listed as an additional principal on any such bonds so as the bond clearly states that the owner and such contractor are jointly and severally liable on the bonds as obligors and so long as the only obligee on the bond is the City of Marion. In those cases where none of the lots or area in the Final Development Plan are improved with structures, the guarantees of performance provided for in this Section may be waived, where the only required improvement that has not been installed and accepted by the City consists of sidewalks. It shall be sufficient if the owner promises the installation of such sidewalks in accordance with the terms set out in the Memorandum of Agreement or contract with the City with respect to improvements and such sidewalks to be completely installed by a date not later than two years from the date of the approval of the Final Development Plan. The performance bond guaranteeing the construction of improvements in the planned development shall be drawn on a standard form as approved by the City Attorney. If the improvements are not completed within the time specified, the Council may use the security or any necessary portion thereof to complete said improvements. The Council may allow an extension of time for completion of improvements. The performance bond or certified check shall not be released until the Maintenance Bonds, as may be required in the specifications, are on file and the improvements have been satisfactorily completed and accepted by the City.


A. Within eighteen (18) months following the approval of the Preliminary Development Plan, a Final Development Plan shall be submitted to the City. In its discretion and for good cause, the
Council may extend for six (6) months the period for the filing of the Final Development Plan upon request of the applicant.

B. The Final Development Plan may be in stages with each stage reflecting the approved Preliminary Development Plan, provided such stage conforms to these regulations.

C. Thirty (30) copies of the final Development Plan containing the information set forth in this section shall be submitted to the Clerk.

D. Filing Fee – The filing fee for a Final Development Plan shall be $10.00 per acre or fraction thereof, with a minimum fee of $40.00. If a Final Development Plan is submitted in conjunction with a Final Subdivision Plat, the applicant shall pay either the Final Development Plan fee or the Final Plat filing fee, whichever amount is greater. The filing fee is not refundable.

E. The Final Development Plan shall be submitted to the Commission which shall review such Plan and make a recommendation to the Council within a reasonable period of time after receiving the Plan. The Commission shall evaluate the Final Development Plan in terms of its conformity with the Preliminary Development Plan and the provisions of this section and recommend that the Final Development Plan either be approved, approved with minor modifications or disapproved.

F. If the Final Development Plan contains substantial changes from the approved Preliminary Development Plan as determined by the Council upon recommendation of the Commission, then the Final Development Plan shall not be approved until a revised Preliminary Development Plan has first been approved in accordance with the procedures set forth in this section.

G. In no event shall a Final Development Plan be approved without a revised Preliminary Development Plan if the Final Development Plan varies from the Preliminary Development Plan as follows:

(1) A material change in the use of the development.

(2) A 10% increase in the overall coverage of structures.

(3) A 10% increase in the density of a residential development.
(4) A 10% reduction in open space.
(5) A 10% reduction in off-street parking spaces.
(6) A significant change in the location of the street or utility system.
(7) A reduction in density, coverage or increase in open space may be permitted by the Zoning Official.

H. After receiving the recommendation of the Commission, the Council shall approve, approve with minor modifications, or disapprove the Final Development Plan.

I. All conditions, modifications, documents, and plans required by the Council must be delineated in the Final Development Plan or agreed to in writing prior to the Council approval.

J. Final Development Plan Content – The Final Development Plan shall include, but not be limited to:

   (1) All information and specifications required in submitting a Final Plat, as set forth in Chapter 175, Subdivision Regulations, of this Code of Ordinances.
   (2) An accurate legal metes and bounds description of each separate unsubdivided area, including common open space.
   (3) Location of all buildings and structures to be constructed within the development.
   (4) Tabulations of the following information: total land area, number of buildings, number of dwelling units, dwelling units per acre, total common open space area, percentage of total land area covered by buildings.
   (5) All agreements, provisions, easements, or covenants which govern the use, maintenance, protection, performance, and/or design of the development and any of its common open area.

K. Recording the Final Development Plan – The approved Final Development Plan and, when applicable, final plat, and all agreements, provisions, or restrictive covenants which govern the use, maintenance, protection, performance and/or design of the development and any of its common open space shall be recorded
with the County Recorder and evidence of such recording shall be furnished to the Building Official before any building permits may be issued for such development. The recording of all Final Development Plans shall be accompanied by the recording of a restrictive covenant which shall provide that no lot, tract, parcel or other division of land shall be subdivided into two or more lots, tracts, or other division of land for the purpose of sale, transfer, or building development, whether immediate or future, including the re-subdivision or re-platting of land or lots, except in conformance with Chapter 175, Subdivision Regulations, of this Code of Ordinances.

L. Changes in the Final Development Plan – Minor changes from the Final Development plan in the location and siting of buildings and structures may be authorized by the Zoning Official if required by engineering or other circumstances not foreseen at the time the final Development Plan was approved. No change authorized by this section may cause any of the following:

(1) A change in the use of the development.

(2) An increase in excess of five percent (5%) in the overall coverage of structures.

(3) An increase in excess of five percent (5%) in the intensity of use.

(4) A significant change in the location of the street or utility system.

(5) A reduction in excess of five percent (5%) of approved open space.

(6) A reduction in excess of five percent (5%) of approved off-street parking space.

A reduction in density, coverage, or increase in open space may be permitted by the Zoning Official. All non-minor changes must be approved by the Council after receiving a recommendation from the Commission. Any changes which are approved in the Final Development Plan must be recorded as amendments in accordance with the procedures set forth in this section.

13. Open Space. All common open space shall either be conveyed to a municipal or public corporation, conveyed to a corporation or entity established for the purpose of benefiting the owners and residents of the planned development, or retained by the owner or owners with legally
binding guarantees, in a form approved by the City Attorney, that the common open space shall be permanently preserved and maintained as an open area. All land conveyed to a corporation or like entity shall be subject to the right of said corporation to impose a legally enforceable lien for maintenance and improvement for the common space.

14. Subdivision. If the planned development involves the subdivision of land as governed by Chapter 175 of this Code of Ordinances, no building permits may be issued until the procedural provisions of said Chapter 175 are satisfied.

15. Conditions and Guarantees. Prior to the approval of any planned development, the Council may stipulate such conditions and restrictions upon the establishment, location, design, layout, height, density, construction, maintenance, aesthetics, operation and other elements of the planned development as deemed necessary for the protection of the public interest, protection of the adjacent area, and to secure the compliance with standards set forth in this section. In all cases in which planned developments are granted, the Council may require such evidence and guarantees, in addition to the guarantees of performance required under this section, that the Council may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

16. Failure to Begin Planned Development. If no construction has begun or no use established in the Planned Development within twenty-four (24) months from the approval of the Final Development Plan, the approved Final Development Plan shall lapse and be of no further effect. In its discretion and for good cause, the Council may extend for additional six month increments, the period of the beginning of the construction or the establishment of use.

### 176.35 SUPPLEMENTAL REGULATIONS.

1. Lot of Record – Establishment of Use. Every structure or group of structures, and every use or group of uses, shall be located on a lot of record.

2. Lot Frontage and Access. Hereafter, no lot shall be created, nor shall any principal building be constructed or placed, on any lot or tract of land unless such lot or tract has frontage on or direct access to a public street or to a private street which has been specifically approved by the Council for that purpose.
3. Number of Principal Buildings Permitted on a Lot. More than one main institutional, public or quasi-public, multiple-family, commercial, or industrial building may be located on a zoning lot, provided that no such buildings or portion thereof is located outside the buildable area of the lot. Except in Planned Development and Cluster Development District areas, no more than one detached single-family building shall be located on a zoning lot, nor shall either such type of building be located on the same lot with any other principal building.

4. Division of Lot. No improved zoning lot shall hereafter be divided into two or more lots unless all lots resulting from each such division shall conform with the applicable regulations of the zoning district in which the property is located and provided that such division complies with the provisions of Chapter 175.

5. Nonconforming Lots. Where two or more contiguous substandard lots of record are in common ownership and are of such size as to constitute at least one conforming lot, such lots or portions thereof may be so jointed, developed and used for the purpose of forming an effective and conforming lot.

6. Location of Yard. All yards and other open spaces allocated to a building or group of buildings shall be located on the same lot or lots as such building or group of buildings.

7. Provision of Open Space. The provision of open space as required in this chapter shall be a continuing obligation of the owner of such building or property on which it is located as long as the building is in existence. Such open space, except for walkways, shall be completely landscaped with such materials as grass, shrubbery, and trees, and continuously maintained. The storage of motor vehicles in the required open space areas is specifically prohibited.

   A. Every part of a required yard shall be open to the sky except where accessory buildings are permitted and except for the ordinary projections from principal buildings of sills, belt courses, cornices, fireplace chimneys, gutters and downspouts, and ornamental features projecting not to exceed 24 inches.
   B. A roof or deck may project into a required side yard, provided that every part of such structure is unenclosed and is removed at least five feet from the nearest side lot line.
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C. A covered porch or a paved terrace, including a roof, roof extension, or canopy associated therewith, may project into a front yard for a distance not exceeding five (5) feet, provided that the sides of such porch or terrace are unenclosed. A balcony located about the ground floor may project into a front yard a distance not exceeding five (5) feet, provided that no steps associated with the balcony are located in the front yard.

D. Open or lattice-enclosed fire escapes, fire-proof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may project not more than five feet into the rear yard, provided that such projection does not obstruct light and ventilation.

E. Solar energy collectors and heat storage units to supply the building may project into the required rear or side yard not to exceed 24 inches, but shall not project into the required front yard.

F. Accessory buildings and uses shall comply with the provisions set forth in Section 176.32.

G. Air conditioning units and furnaces to supply the building may project into the required side yard not to exceed 36 inches, but shall not project into the required front yard.

9. Exception to Height Limitations. Except as otherwise provided in this section, the height limitations in this Zoning Ordinance shall not apply to tanks, water storage facilities, fire towers, cooling towers, ornamental towers and spires, radio and television towers, antennas, aerials, chimneys, elevator bulkheads, flag poles or necessary mechanical appurtenances. Buildings that are only to be used for storage purposes may exceed the maximum number of stories permitted in the district in which they are located provided no such buildings exceed the height limit otherwise provided in such district. No tank or liquid storage facilities exceeding 6 feet in height, except municipal water towers or tanks, shall be located within 100 feet of a residential district, unless approved by the Zoning Board of Adjustment.

10. Corner Visual Clearance. In all zoning districts, except C-2, nothing shall be erected, placed, planted, or allowed to grow on a corner lot in such a manner as to significantly impede vision of drivers or obscuring, physically interfering with an official control device described as follows: that triangular shaped area bounded by the street right-of-way lines of a corner lot or tract and a straight-line joining points on said right-of-way lines that are thirty (30) feet from the point of intersection.
11. Railroad Uses. Existing railroad uses may continue to be operated and maintained in dwelling and commercial districts, but no new railroad structures other than usual repair and maintenance items shall be established except when authorized by the Zoning Board of Adjustment.

12. Fences and Walls.

A. Fences or walls not exceeding six (6) feet in height may be erected in a required yard or along the lot line, except as follows:

   (1) No opaque fence or wall may be located in a required front yard. In the context of this section, a rear yard of a double-fronted lot is not considered a “front yard.”

   (2) An opaque fence or wall may be located in a corner side yard or rear yard of a double-fronted lot in any R zoning district provided such fence or wall is at least 12 feet from any driveway, alley or back of street curb.

   (3) All solid fences shall comply with the provisions of subsection 10 of this section regarding corner visual clearance.

   (4) In the context of this section, “opaque” is defined as a structure which blocks or otherwise prevents the passage of light through 50% or more of its surface area.

B. In the C-4, I-1, and I-2 Zoning Districts, fences or walls may be installed to a height not to exceed 8 feet except when such fence or wall abuts an A-1, R, O-1, C-1, or C-2 district in which case such fence or wall shall not exceed a height of 6 feet, except:

   (1) In all zoning districts, public or quasi-public buildings and facilities essential to the physical welfare of an area, such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities and similar uses may be surrounded by a fence having a height above grade not more than 12 feet.

   (Ord. 01-33 – Nov. 01 Supp.)

C. Fences or walls that are installed on a corner lot shall comply with the provisions regarding corner visual clearance as described in subsection 10.

D. Fences or walls may be erected in utility easements in accordance with the provisions of this ordinance, except that no fence or wall may be erected without the prior approval of the City.
Engineer and as a condition of that approval, the City Engineer may require that the applicant acknowledge the rights of the City as an easement holder and waive any and all damages that might be otherwise accrued if the City shall need to remove the fence or wall in the exercise of its rights under the easement.

   
A. Temporary buildings, including manufactured/mobile homes, that are used solely for office or storage purposes in conjunction with construction work only, may be permitted in any zoning district during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work.

B. Temporary offices, both incidental and necessary for the sale or rental of real property within a residential subdivision or residential development in which such offices are located, may be permitted in any zoning district until such time as the real property has been sold or rented.

14. Tents. No tent or similar structure shall be erected, used, or maintained for human residence, except such small tents that are used for temporary recreational purposes. Erection, use, and maintenance of tents and similar structures for non-residential uses shall be subject to the fire prevention and other applicable regulations of the City.

15. Setbacks for Double Frontage Lots. Double frontage lots shall have front yards on both street frontages. Front yard requirements and restrictions included in the district regulations within which the lot is located shall apply on both frontages.


   A. Intent. It is the intent of these regulations to regulate sediment control and/or soil loss in a form as equally effective as the rules adopted by the Linn County Soil Conservation District in preventing erosion from exceeding established soil loss limits. For this reason, the sediment control/soil loss regulations set forth hereunder contain the same provisions as the Soil Loss Limit Regulations as officially adopted by the Linn County Soil Conservation District.

   B. Agricultural and Horticultural Lands – Maximum rates of soil erosion for those lands will be the average annual soil loss expressed in tons per acre per year for each soil type as established by the Linn County Soil Conservation District.

   C. Non-Agricultural Lands, Including Public Parks, Urban Lands, Industrial Parks, Airports, Public and Private Recreation Lands, Roads, Streets, Highways and Other Public Lands – Maximum
rate of soil erosion permitted on such lands will be 5 tons per acre per year leaving the site.

D. Construction sites, including housing developments, shopping centers, industrial park developments, commercial building sites, highways, drainage channels, floodways, water impoundment structures, and other similar projects – Maximum rate of soil erosion permitted on such lands will be 5 tons per acre per year leaving the site.

17. Barbed Wire. Barbed wire is permitted to be used only under the following circumstances:

A. In the C-4, I-1 and I-2 Districts, barbed wire may be used only in connection with non-residential uses. In these zoning districts, barbed wire may only be used when installed atop a fence or wall having a height above grade of at least six (6) feet.

B. In the A-1 District, barbed wire may be used only in connection with general agricultural activities.

C. In zoning districts other than C-4, I-1, or I-2; or in the A-1 zoning district for uses other than general agricultural activities, barbed wire may only be installed upon specific approval by the Zoning Board of Adjustment.

D. When barbed wire is installed atop a fence or wall, the height of that fence or wall shall be determined as the distance between grade and the uppermost strand of barbed wire. The height regulations for fences and walls established in subsection 12(B) of this section shall govern the maximum height of such fences and walls.

E. Installation of barbed wire must meet the following standards:

(1) Barbed wire shall not be located within seven (7) feet of any property zoned R, Residential, O-1, Office/Transitional, C-1, Neighborhood Commercial or C-2, Central Business District Commercial.

(2) Barbed wire shall not be installed within 25 feet of an exterior wall of any building used for residential, religious, or recreational purposes.

(3) The barbed wire shall have barbs spaced no closer than at three-inch (3") intervals.

(4) The barbed wire fence or wall shall have not more than four (4) strands, except for barbed wire fencing used for agricultural activities.

F. In all zoning districts, quasi-public buildings and facilities essential to the physical welfare of an area, such as electrical
distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, or similar uses, fences may have one foot of barbed wire atop a fence having a minimum height of 8 feet above grade, with barbs tipped inward or outward.

(Ord. 01-33 – Nov. 01 Supp.)

18. Private Light Poles. Private light poles (that is, light poles not regulated under the utility franchises granted by the City) may be located in the required front or corner side yards provided such poles be located at least 12 feet from the back of the curb. Poles may be located in the proposed right-of-way of major streets provided that the owner and lessee (if any) acknowledge and sign an agreement similar in form to that required for locating signs in proposed rights-of-way of major streets as set forth in Section 176.38 of this chapter. Under no circumstances may poles be located in the public right-of-way without the express authorization of the Council.

19. Single-Family Detached Dwellings. In all zoning districts permitting single-family detached dwellings, the following standards shall apply to all single-family detached dwellings:

A. The main body shall have a minimum dimension of not less than 22 feet.

B. There shall be a continuous and complete perimeter foundation of the main body.

C. The main structure shall be permanently affixed to the foundation.

D. All hitches, wheels, axles, and any types of other towing devices shall be permanently removed.

E. All manufactured homes, as defined by the Code of Iowa, shall be converted to real estate and assessed as real property in accordance with the Code of Iowa, if located outside a manufactured/mobile home community and must also comply with standards of Section 151.30 of this Code of Ordinances.

F. A manufactured home must be constructed in accordance with the National Manufactured Housing construction and Safety Standards Act and must have displayed an appropriate certification label issued by the United States Department of Housing and Urban Development, and must not have been altered in violation of applicable codes. If a structure lacks such certification, it must conform to the State Building Code.
G. All structures must conform to the site and structure requirements and other provisions applicable to the zoning district in which such structure is located.

H. All structures are subject to the inspections required of any dwelling unit and lot, including but not limited to zoning, foundation, sidewalk, drainage, utility connections, and similar items. The fees pertaining to relevant plan reviews and inspections shall also apply.

I. In the context of this chapter, the dimensions of a structure shall be measured at the building line and not at the foundation line.

20. Family Homes, Group Homes and Rehabilitation Houses.
   A. Family homes shall be considered as principal permitted uses in the A-1, R-1, R-2, R-3, R-4, R-5, R-6, R-6A, O-1, C-1 and C-2 districts.
   B. Group homes shall be considered as principal permitted uses in the R-5, R-6, R-6A, O-1, C-1 and C-2 districts. Group homes shall be considered as conditional uses in the A-1, R-1, R-2, R-3 and R-4 districts.
   C. Rehabilitation houses shall be considered as conditional uses in the R-6, R-6A, O-1, C-1 and C-2 districts.
   D. There shall be a minimum separation of 300 feet between a family home, group home or rehabilitation house and any other family home, group home and/or rehabilitation house. The distance separation shall be measured from lot line to lot line.

21. “Residential sales” are defined as the sale from a lot or parcel on which a residence is located. Residential sale shall include the commonly referred to terms “garage sale”, “porch sale”, “rummage sale”, “basement sale”, “attic sale”, “yard sale” and “neighborhood sale”.
   A. No personal property shall be offered for sale or sold at any residential sale unless it is owned by the resident, the resident’s immediate family or adjoining residents within one (1) block of the principal resident.
   B. A residential sale shall be limited to a term of seventy-two hours (3 days).
   C. No more than two (2) residential sales shall be held in any calendar year per lot.
D. Signs related to residential sales shall be regulated by Section 176.31–5F of the Marion Code of Ordinances.  

(Ord. 05-06 – May 05 Supp.)

176.36 ZONING BOARD OF ADJUSTMENT.

1. Organization. A Zoning Board of Adjustment is hereby established, which shall consist of five regular members and two alternates. The word "Board" when used in this section shall mean the Zoning Board of Adjustment. Membership of the Board shall be as follows:

A. Members of the Board shall be appointed by the Mayor and confirmed by the Council to serve respectively for the following terms one for one year, one for two years, one for three years, one for four years, and one for five years. The successor to each member so appointed shall serve a term of five years.

B. Alternate members shall be appointed by the Mayor and confirmed by the Council to serve terms of five years.

C. Vacancies shall be filled by the Mayor and confirmed by the Council for any unexpired term.

D. Members of the Board may be removed by the Mayor, with consent of the Council, for cause after written charges have been filed and after a public hearing has been held.

E. One of the members of the board shall be designated by the Mayor, with the consent of the Council, as Chairperson of the Board and shall hold office as Chairperson until a successor Chairperson is appointed.

F. The Board shall adopt rules of procedure in accordance with the provisions of this ordinance and the Code of Iowa.

G. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine.

H. The Chairperson, or in his/her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.

I. All meetings of the Board shall be open to the public. Any person may appear and testify at a hearing either in person or by duly authorized agent or attorney.

J. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or
failing to vote, indicating such fact. Findings of fact and the
reasons for approving or denying each question before the Board
shall be included in the minutes. Any limitations or conditions
imposed on any relief granted or work or use authorized, shall be
specifically set forth.

K. A copy of every rule or regulation, order, requirement,
decision, or determination of the Board shall be filed immediately
in the office of the Board and shall be a public record.

The concurring vote of three members of the Board shall be necessary to
reverse any order, requirement, decision, or determination of the Zoning
Official or to decide in favor of the applicant on any matter upon which it
is required to pass under the Zoning Ordinance, or to affect any variance
in such ordinance.

2. Appeals to the Board. 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 Official. Such appeal shall be
taken within a reasonable time, as may be provided by the rules of the
Board, by filing with the Zoning Official and with the Board a notice of
appeal specifying the grounds of such appeal. The Zoning Official shall
forthwith transmit to the Board all the papers constituting the record
upon which the action appealed from was taken.

A. Any person making application to the Board shall at the
time of application, pay a filing fee. The amount of the filing fees
for various types of appeals and approval requests shall be set by
City Council resolution. Said filing fees are not refundable.

B. The Board shall make no finding except to a specific case
and after a public hearing conducted by the Board.

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


A. Notice of time and place of public hearings to be
conducted by the Board shall be published in a Linn County
publication of general circulation in the City, in accordance with Section 362.3 of the Code of Iowa. The notice shall contain the address or location of the property for which the request is being made, legal description of the property in question, and a brief description of the nature of the request.

B. Each applicant requesting an appeal, variance, exception, or conditional use from the Board shall secure notification signs from the Clerk which shall be conspicuously posted by the applicant on the property for which application has been made. The signs shall be placed so that they may be seen from an adjoining street. In cases of double-fronted or corner lots, signs shall be posted on both sides of the lot. The signs shall include the date, time, and place of the public hearing and brief description of the request.

1. Notification signs shall be posted at least four (4) days prior to the public hearing date and shall remain posted until the Board has made a determination on the request.

2. If the notification signs are not posted in accordance with the preceding requirements, no action shall be taken on the application by the Board.

4. Powers. The Board shall have the following powers:

A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Official in the enforcement of this Zoning Ordinance.

B. To hear and decide by granting or denying an exception to this Zoning Ordinance in the following instances:

1. A request for the extension of a district where the boundary line of a district divides a lot of record held in single ownership.

2. Interpret the provisions of the Zoning Ordinance in such a way as to carry out the intent and purpose of the official Zoning District Map where the street layout actually existing on the ground varies from the street layout as shown on the map.

3. Permit the erection and use of a building or the use of premises for railroads or public utility purposes.
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(4) Permit the reconstruction of a nonconforming building which has been damaged by fire, explosion, or act of God, to the extent of more than 65% of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use and the Board further finds that the public interest will best be served by permitting a continuance of the nonconforming use.

(5) Waive or reduce the parking, loading, or screening requirements in any of the zoning districts whenever the character or use of the building is such as to make unnecessary the full provisions of such requirements, or where such regulations would impose an unreasonable hardship on the lot as contrasted with merely granting an advantage or convenience.

(6) Permit uses not specifically designated as principal permitted uses in a zoning district, provided that the Board determines that such use is similar and compatible to uses allowed as principal permitted uses in that district.

C. To authorize upon appeal in specific cases variances from the terms of the Zoning Ordinance when the following are made to appear by the property owner:

(1) That a strict application of the terms of the Zoning Ordinance will impose upon the property owner unusual and practical difficulties or particular hardship.

(2) That the variance granted is in harmony with the general purpose, intent, and spirit of the Zoning Ordinance.

(3) That the Board determines that the granting of the requested variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a deviation from the Zoning Ordinance.

(4) That surrounding property will be protected.

(5) That by granting the request for a variance, substantial justice will be done.

D. To authorize the granting of conditional uses as provided in subsection 6 of this section.

E. To authorize the granting or denying of a special use permit for functional families to reside in excess of the permitted limit for
unrelated persons residing together in a single dwelling in any district that permits residential uses, subject to the following:

(1) That the proposed functional family must function as a single housekeeping unit by living, cooking and eating together; or,

(2) That the proposed functional family must be in the nature of permanent living arrangement and stable rather than a transient living arrangement, except that a non-permanent/transient living arrangement is not required when handicapped persons function as a single housekeeping unit or in the case of a group exclusively made up of clerics, but in both cases not in a number that is in excess of the limit on group home occupancy in the applicable zoning district; or,

(3) That the proposed functional family consists of a group headed by one or two persons caring for a number of unrelated children in a manner substantially similar to a biologically unitary family; or,

(4) That the proposed functional family consists of a group of not more than four persons each of which is a recipient of Social Security benefits.

5. Standards for Review - General. In considering all requests for appeals, variances, exceptions, or conditional uses, the Board, before making any decision in a specific case, shall first determine:

A. That the granting of a request will not permit any use which is not allowed as a permitted use, or as a conditional use except in accordance with the provisions set forth in this section, in the zoning district in which a property is located, or any use expressly or by implication prohibited from the district.

B. That it will not materially diminish or impair an adequate supply of light and air to adjacent property.

C. That it will not materially increase the congestion in public streets.

D. That it will not materially increase the danger of fire or of the public safety.

E. That it will not unreasonably diminish or impair established property values within the surrounding area.

F. That it will not in any other respect materially diminish or impair the public health, comfort, safety, morals, or welfare of the inhabitants of the City.
6. **Conditional Use.**

A. **Intent.** Conditional uses are those uses having certain special or unique characteristics which require a careful review of their location, design, configuration, and impacts to determine the desirability of permitting their establishment on any given site. They are uses which may or may not be appropriate in a particular location depending upon consideration in each case of the public need, public benefit, local impact, and specific site plan of the proposed conditional use, all within the context of the intent and purpose of this ordinance and the Comprehensive Community Plan.

B. **Application for Conditional Use** - An application for a conditional use shall be filed with the Zoning Official and shall contain such information and documentation as the Board, by rule, may require. Such application shall in all instances contain at least the following documents and information:

1. **Petition** - A written petition containing the following information:
   a. Applicant's name and address and his/her legal interest in the subject property.
   b. The titleholder's name and address, if different than the applicant.
   c. Street address or common description and complete legal description of the property.
   d. The zoning district classification of the property.
   e. A general description of the proposed conditional use.

2. **Vicinity Sketch Map** - A map of appropriate scale covering sufficient adjoining property to clearly indicate nearby street patterns, property lines, and other significant features which will have a bearing upon the request. This map shall also identify existing zoning districts within 600 feet of the subject property.

3. **Site Development Plan** - A site plan at an appropriate scale containing the following:
   a. Existing and proposed lot lines and property dimensions.
b. Location of such physical site conditions as water courses, flood plains, and unique natural features.

c. The location and dimensions of existing and proposed principal and accessory buildings and structures on site, including identity of building types by usage, floor area, and number of units (if for residential purposes).

d. The location and dimensions of driveways, access points, off-street parking and loading areas, walkways, and screening areas.

e. Such other information as may be requested by the Board to perform their review of the request.

C. Application Review Procedure:

(1) The Zoning Official shall forward copies of the conditional use application to the Board and Commission.

(2) Prior to the Board's scheduled public hearing on the application, the Commission shall review such application and return a written report of their findings and recommendations to the Board. In their review, the Commission shall consider each of the standards for review of conditional use requests as set forth in this section.

(3) After receiving the report from the Commission, and after conducting the public hearing on the application, the Board shall consider the application and shall either grant the application for conditional use, grant it subject to conditions or modifications, or deny the application. In their view, the Board shall consider each of the standards for review of conditional use requests as set forth in this section.

D. Conditions Imposed - The Board may impose such conditions, including restrictions and safeguards, upon the proposed conditional use as considered necessary to prevent or minimize adverse effects upon other properties in the vicinity or upon public facilities and services. Such conditions shall include a requirement that development be in accord with a site development plan approved by the Board. Such conditions shall be expressly set forth in the approval of the conditional use. Violations of such conditions shall be a violation of this chapter.

E. Standards for Review of Conditional Use Requests - In addition to the standards for review applicable to all requests under
consideration by the Board, approval of a conditional use shall be granted only if the Board first determines:

(1) That the conditional use applied for is provided in the zoning district within which the property is located.

(2) That the proposed use and development will be in accord with the intent and purpose of the Zoning Ordinance and the Comprehensive Community Plan.

(3) That the proposed use and development will not have a substantial adverse effect upon adjacent property; the character of the neighborhood; traffic conditions; parking; utility and service facilities; and other factors affecting the public health, safety, and welfare.

(4) That the proposed development or use will be located, designed, constructed, and operated in such a manner that it will be compatible with the immediate neighborhood and will not interfere with the orderly use, development and improvement of surrounding property.

(5) That adequate measures have been or will be taken to assure adequate access designed to minimize traffic congestion and to assure adequate service by essential public services and facilities including utilities, storm water drainage, and similar facilities.

F. Conformance to Other Regulations - Conditional uses shall in all respects conform to the applicable regulations of the zoning district in which they are located and all other applicable regulations provided in this chapter.

G. Revisions to Approved Site Development Plans:

(1) Minor changes from the approved Site Development Plan in the location and siting of buildings and structures may be authorized by the Zoning Official if required by engineering or other circumstances not foreseen at the time the Site Development Plan was approved. No change authorized by this section may cause any of the following:

a. A change in the use of the development.

b. A 10% increase in the overall coverage of structures.

c. A change in the location of any building or structure by more than ten feet.

d. An increase in the intensity of use.
e. A reduction in approved open space.

f. A reduction in approved off-street parking spaces.

(2) All proposed revisions not classified as minor shall be submitted for approval in accordance with the provisions set forth in paragraph C of this subsection.

H. Pre-Existing Uses - Any building or structure, or use of land, in existence prior to the effective date of the Zoning Ordinance which is classified as a conditional use under the provisions of such ordinance shall be considered a lawful conditional use, and may continue without approval of the Zoning Board of Adjustment. However, any expansion or extension of such pre-existing use, or a change in use to another conditional use, shall be considered as a conditional use and shall comply with the provisions of the Zoning Ordinance.

7. Relief Less Than Requested. An appeal, variance, exception, or conditional use different than that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

8. Conditions Imposed. The Board may impose such conditions, including restrictions and safeguards, upon the property benefited from the appeal, variance, exception, or conditional use granted as considered necessary to prevent or minimize adverse effects upon other property in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the grant of appeal, variance, exception, or conditional use. Violation of such conditions shall be a violation of this chapter.

9. Permits And Approvals Still Necessary. The granting of an appeal, variation exception, or conditional use by the Board shall not necessarily authorize immediate action. As appropriate and as required by the codes and ordinances of the City and State, other permits and approvals shall be obtained.

10. Failure To Act. In case an appellant or applicant does not exercise his/her rights, act, begin construction or operation or occupancy, as the case may be, in accordance with any appeal variance or permit granted by the Board within six (6) months after the matter has been acted upon by the Board, such variance or permit shall become null and void.

11. Appeals. Decisions of the Board may be appealed to the District Court within thirty (30) days by anyone objecting the decision.

(Ord. 15-19 – Aug. 15 Supp.)
176.37 ADMINISTRATION AND ENFORCEMENT.

1. Zoning Official. The Zoning Official, and such deputies or assistants that have been or shall be duly appointed, shall have the responsibility and authority to enforce this chapter.
   
   A. The Zoning Official shall issue all building permits and certificates of occupancy and make and maintain records thereof.
   
   B. The Zoning Official shall conduct inspections of buildings, structures, and uses of land to determine compliance with the terms of this chapter.
   
   C. The Zoning Official shall forward to the Commission copies of all applications for conditional uses that are filed with his/her office.
   
   D. The Zoning Official shall forward to the Zoning Board of Adjustment applications for appeals, variances, conditional uses, and other matters on which the Board is required to pass under this chapter.

2. Certificates of Occupancy.
   
   A. General:
      
      (1) No building or addition thereto constructed, reconstructed, or structurally altered after the effective date of this ordinance shall be occupied or used until a certificate of occupancy has been issued by the Zoning Official stating that the building and use comply with all the provisions of this chapter applicable to the building, premises, or use.
      
      (2) No land vacant on the effective date of the Zoning Ordinance shall be occupied or used until a certificate of occupancy has been issued by the Zoning Official stating that the use complies with all the provisions of the Zoning Ordinance applicable to the use or premises.

   B. Buildings and Additions:
      
      (1) Every application for a building permit shall be deemed to be an application for a certificate of occupancy.
      
      (2) A certificate of occupancy shall be issued by the Zoning Official within three (3) days after the lawful construction, reconstruction, or structural alteration of a building, addition, or other improvement has been completed and the premises inspected and certified by the Zoning Official to be in conformity with this ordinance and the plans and specifications upon which the building permit was based.
(3) If the Zoning Official determines that a certificate of occupancy cannot be issued, the Zoning Official shall give written notice to the applicant stating the reasons why such certificate cannot be issued. Such written notice shall be given to the applicant not later than fourteen (14) days after the Zoning Official is notified, in writing, that the building and premises are ready for occupancy.

C. Vacant Land:

(1) Application for a certificate of occupancy for the use of vacant land or change in the use of land as herein provided shall be made to the Zoning Official before any such land shall be occupied or used.

(2) A certificate of occupancy shall be issued by the Zoning Official within ten (10) days after the application has been made, provided such use is in conformity with the provisions of this chapter.

(3) If the Zoning Official determines that a certificate of occupancy cannot be issued, the Building Official shall give written notice to the applicant stating the reasons why such certificate cannot be issued. Such written notice shall be given to the applicant not later than fourteen (14) days after the applicant has applied for, in writing, such certificate.

D. Temporary Certificates of Occupancy.

(1) Pending the issuance of a regular certificate of occupancy a temporary certificate of occupancy may be issued to be valid for a period not to exceed six (6) months from the date of issuance and to permit partial occupancy of the premises during completion of the construction.

(2) Such temporary certificates of occupancy shall not be construed as in any way altering the respective rights, duties, or obligations of any other matter covered by this chapter.

(3) Such temporary certificate of occupancy shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

3. Site Plans.

A. General – Except for single-family residential uses, every application for a building permit or a certificate of occupancy shall be accompanied by a site plan.
B. Contents – The site plan shall be drawn to scale and fully dimensioned and contain the following information:

(1) The actual dimensions of the lot or tract to be built upon.

(2) The location, size, and dimensions of existing buildings or structures on the lot or tract to be built upon.

(3) The location, size, and dimensions of the building(s) or structure(s) to be erected.

(4) The location, size, and quantity of off-street parking and loading spaces.

(5) The location of existing and proposed drives, aisles, access points, and sidewalks.

(6) The location and size of screening, landscaping, and open space if required in the zoning district in which the property is located.

(7) The location of any signs.

(8) Such other information as may be required by the Building Official to enforce the provisions of this chapter.

C. Review – The Zoning Official may submit a copy of the site plan to other City departments for their review, evaluation and recommendations prior to issuing a building permit or certificate of occupancy.

4. Inspection and Enforcement.

A. General – In furtherance of the enforcement of this chapter, the Zoning Official shall undertake such regular and continuing programs of inspection of work approved and underway and of existing structures and uses as may be feasible and proper within the limits of staff and funds.

B. Complaints – The Zoning Official shall receive from any person complaints alleging, with particularity, violation of this ordinance and, when appropriate, shall cause such investigations and inspections as may be warranted by such complaints to be made.

C. Violations – The Zoning Official shall, upon determination of any violation of this chapter, notify in writing the person responsible for such violation. Such written notification of violation shall indicate the nature of the violation and order the action necessary to correct it and specifically shall order one or more of the following actions:
(1) The discontinuance of any illegal use of land, buildings, or structures.

(2) Order removal of illegal buildings, structures, additions, or alterations.

(3) Order discontinuance of illegal work being done.

(4) Take any other action authorized by this ordinance to insure compliance with, or to prevent violation of its provisions, and in particular shall, where necessary or appropriate, recommend to the City Attorney the institution of legal or equitable actions that may be required for the enforcement of this chapter.

D. Relief – Nothing in this section shall be interpreted to prevent any person entitled to relief in law or equity by reason of a violation of the provisions of this chapter from bringing an appropriate action to secure such relief.

5. Appeals of Decisions. Any person affected by a decision of the Zoning Official in his/her enforcement of this chapter may appeal said decision to the Zoning Board of Adjustment according to the procedures contained in Section 176.36 herein.

176.38 (Repealed by Ord. 14-04 – May 14 Supp.)

176.39 FLOOD HAZARD AREA REGULATIONS.

1. Intent. It is the intent of this section to promote the public health, safety and general welfare by minimizing flood losses within the City with provisions designed to:

A. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

B. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.

C. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

2. Findings of Fact.
A. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and impairment of the tax base; all of which adversely affect the health, safety and general welfare of the community.

B. These losses, hazards and related adverse effects are caused by occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flood and the cumulative effective of flood plain construction on flood flows which causes increases in flood heights and flood water velocities.

C. This section relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

3. Definitions. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.

A. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”

B. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

C. “Factory-built home” means any structure designed for residential use 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. For the purpose of this section, factory-built homes include mobile homes, manufactured homes and modular homes and also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.
D. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

E. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

F. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

G. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

H. “Flood Insurance Study” means a study initiated, funded and published by the Federal Insurance Administration for the purpose of evaluating in detail the existence and severity of flood hazards; providing the City with necessary information for adopting a flood plain management program; and establishing actuarial flood insurance rates.

I. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

J. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

K. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

L. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.
M. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

N. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

1. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 176.39(12)(D)(1); and
2. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
3. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100-year flood level; and
4. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria (1), (2), (3) and (4) above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

O. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map, July 5, 1982.

P. “One Hundred (100) Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

Q. “Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

R. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

S. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

T. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

U. “Substantial improvement” means:

(1) Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to
assure safe conditions for the existing use. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s continued designation as an “historic structure.”

(2) Any addition which increases the original floor area of a building by twenty-five percent (25%) or more. All additions constructed after the effective date of the Flood Insurance Rate Map, shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

4. Lands to Which Section Applies. The provisions of this section shall apply to all lands within the jurisdiction of the City shown on the Flood Insurance Rate Map to be within the 100-year flood boundaries. The Floodplain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Maps (FIRM) for Linn County and Incorporated Areas, City of Marion, Panels 19113C0295D, 0303D, 0304D, 0308D, 0311D, 0312D, 0313D, 0314D, 0316D, 0318D and 0320D, dated April 5, 2010, are hereby adopted by reference and declared to be the Official Floodplain Insurance Rate Map. The flood profiles and all explanatory material contained with the Flood Insurance Study and the Flood Insurance Rate Maps are also hereby adopted by reference and declared to be a part of this section.

(Ord. 10-04 – May 10 Supp.)

5. Rules for Interpretation of District Boundaries. The boundaries of the flood plain and floodway districts shall be determined by scaling distances on the Official Flood Plain Zoning Map. Where interpretation is needed as to the exact location of the boundaries as shown on the Official Flood Plain Zoning Map, the City Engineer shall make the necessary interpretation, subject to appeal as set forth in subsection 20 of this section. The person contesting the location of the district boundary shall be given two reasonable opportunities to present his or her case and submit technical evidence.

6. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this section and other applicable regulations which apply to uses within the jurisdiction of this section.
7. Abrogation and Greater Restrictions. It is not intended by this section to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provisions of this section shall prevail. Any ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.

8. Interpretation. In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

9. Warning and Disclaimer of Liability. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside the flood plain districts will be free from flooding or flood damages. This section shall not create liability on the part of the City or any officer or employee thereof for such flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

10. Establishment of Flood Plain Zoning Districts. The flood plain areas within the jurisdiction of this section are classified into the following districts:

   A. Floodway (Overlay) District – The Floodway District shall be consistent with the boundaries of the floodway as shown on the Official Flood Plain Zoning Map.
   
   B. Floodway Fringe (Overlay) District - The Floodway Fringe District shall be those areas shown as floodway fringe on the Official Flood Plain Zoning Map.
   
   C. General Flood Plain (Overlay) District – The General Flood Plain District shall be those areas shown on the Official Flood Plain Zoning Map as being within the approximate 100 year flood boundary.
   
   D. Shallow Flooding (Overlay) District – The Shallow Flooding District shall be those areas shown on the Official Flood Plain Zoning Map as being within the 100 year flood boundary.
and identified on the Flood Insurance Rate Map as AO or AH zones.

11. **Floodway (Overlay) District - FW.**

   A. **Permitted Uses.** The following uses shall be permitted within the Floodway District to the extent they are not prohibited by the underlying zoning district or any other ordinance and provided they do not include placement of structures, factory-built homes, fill or other obstruction, the storage of material or equipment, excavation or alteration of a watercourse.

   1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, forestry, sod farming, and wild crop harvesting.

   2. Industrial and commercial accessory uses such as loading areas, parking areas, airport landing strips.

   3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

   4. Accessory residential uses such as lawns, gardens, parking areas and play areas.

   5. Such other open-space uses similar in nature to the above uses.

   B. **Conditional Uses.** The following conditional uses which involve structures (temporary or permanent), fill, storage of materials or equipment are permitted in the Floodway District only when authorized by the Board of Adjustment as provided for in subsection 20. Such uses must also meet the applicable provisions of the Floodway District Performance Standards.

   1. Uses or structures accessory to open-space uses.

   2. Circuses, carnivals, and similar transient amusement enterprises.

   3. New and used car lots, signs, and billboards.

   4. Extraction of sand, gravel, and other materials.
(5) Marinas, boat rentals, docks, piers, and wharves.

(6) Utility transmission lines and underground pipelines.

(7) Similar and compatible uses to those allowed as principal permitted or conditional uses in this district.

C. Performance Standards. All Floodway District uses allowed as a permitted or conditional use shall meet the following standards:

(1) No use shall be permitted in the Floodway District that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

(2) All uses within the Floodway District shall:
   a. Be consistent with the need to minimize flood damage.
   b. Use construction methods and practices that will minimize flood damage.
   c. Use construction materials and utility equipment that are resistant to flood damage.

(3) No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other facility or system.

(4) Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.

(5) Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

(6) Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
(7) Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capability within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

(8) Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

(9) Pipeline stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

12. Floodway Fringe (Overlay) District - FF. All uses within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by the underlying zoning district or any other ordinance and provided they meet applicable performance standards of the Floodway Fringe District. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

A. All structures shall be:
   (1) Adequately anchored to prevent flotation, collapse or lateral movement of the structure.
   (2) Constructed with materials and utility equipment resistant to flood damage.
   (3) Constructed by methods and practices that minimize flood damage.

B. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards
associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

C. Nonresidential Buildings. All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are floodproofed shall be maintained by the City Engineer.

D. All new and substantially improved structures.

(1) Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

(2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent
flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(3) New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

E. Factory-built homes shall meet the following standards:

(1) Factory-built homes, including those placed in an existing factory-built home park or subdivision, shall be anchored to resist flotation, collapse or lateral movement.

(2) Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

F. Utility and Sanitary Systems.

(1) On-site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities shall be provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities shall be provided with a level of protection equal to or greater than one foot above the 100-year flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

I. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility or system.

J. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision lots intended for residential development shall provide all lots with a means of vehicular access that will remain above the flood level during occurrence of the 100 year flood.

(1) Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable standards of this section.

(2) Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Floodplain (Overlay) District.

(Ord. 10-04 – May 10 Supp.)

K. The exemption of detached garages, sheds and similar structures from the 100-year flood elevation requirements may result in increased premium rates for insurance coverage of the structure and contents, however, said detached garages, sheds and similar accessory type structures are exempt from the 100-year flood elevation requirements when:

(1) The structure shall not be used for human habitation.

(2) The structure shall be designed to have low flood damage potential.
(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) Structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The service facilities of the structures, such as electrical and heating equipment, shall be elevated or floodproofed to at least one foot above the 100-year flood level.

L. Recreational Vehicles. Recreational vehicles are exempt from the requirements of subsection 12 E (Factory-built homes) of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied:

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy the requirements of this section regarding anchoring and elevation of factory-built homes.

*(Ord. 10-04 – May 10 Supp.)*

13. General Flood Plain (Overlay) District - FP.

A. Permitted Uses. The following uses shall be permitted within the General Flood Plain District to the extent they are not prohibited by the underlying zoning district or any other ordinance and provided they do not include placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation or alteration of a watercourse.

(1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(2) Industrial-commercial uses such as loading areas, parking areas, and airport landing strips.
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(3) Private and public recreation uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

(4) Residential uses such as lawns, gardens, parking areas and play areas.

B. Conditional Uses. Any use which involves placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation or alteration of a watercourse may be allowed only upon issuance of a conditional use permit by the Board of Adjustment as provided for in subsection 20. In addition, all such conditional uses shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the 100-year flood level. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination as to whether the land is in the floodway or floodway fringe.

C. Performance Standards.

(1) All conditional uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District.

(2) All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable standards of the Floodway Fringe (Overlay) District.

14. Shallow Flooding (Overlay) District - SF. All uses within the Shallow Flooding District shall be permitted to the extent that they are not prohibited by the underlying zoning district or any other ordinance and provided they meet the applicable performance standards of the Shallow Flooding District. The performance standards of the Shallow Flooding District shall be the same as the performance standards for the Floodway Fringe District with the following exceptions:

A. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the Rate Map above the crown of the nearest street.
B. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the Rate Map.

15. Administration. The City Engineer shall administer and enforce this section. The duties and responsibilities of the City Engineer include, but are not necessarily limited to, the following:

A. Review all flood plain development permit applications to insure that the provisions of this section will be satisfied.

B. Review all flood plain development permit applications to insure that all necessary permits and approvals have been obtained from Federal, State or local governmental agencies.

C. Record and maintain a record of (i) the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.

D. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administrator.

E. Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this section.

F. Submit to the Federal Insurance Administrator an annual report concerning the community’s participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

G. Notify the Federal Insurance Administrator of any annexations or modifications to the community’s boundaries.

H. Review subdivision proposals to insure such proposals are consistent with the purpose of this section and advise the Council of potential conflicts.

16. Flood Plain Development Permit Required. A Flood Plain Development Permit issued by the City Engineer shall be secured prior to initiation of any flood plain development. Flood plain development shall include any manmade changes to improved or unimproved real estate, such as buildings or other structures, mining, filling, grading, paving, excavation, drilling operations, or placement of factory-built homes.
17. Application for Permit. Application for a Flood Plain Development Permit shall be made on forms supplied by the City Engineer and shall include the following information:

A. Description of the proposed work to be covered by the permit.
B. Identification of the land on which the proposed work is to be done.
C. Type of use or occupancy for which the proposed work is intended.
D. Elevation of the 100-year flood.
E. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is floodproofed.
F. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
G. Such other information as the City Engineer deems reasonably necessary for the purpose of this section.

The application for a flood plain development permit shall be accompanied by permit fee which is nonrefundable. The fee for a flood plain development permit shall be established by Council resolution to reflect the current costs of issuing the permit and supervising, regulating, and inspecting the work. 

(Ord. 08-14 – Aug. 08 Supp.)

18. Action on Permit Application. The City Engineer shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable provisions and standards of this section and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, as to the specific reasons for disapproval. The City Engineer shall not issue permits for conditional uses or variances except as directed by the Board of Adjustment.

19. Construction and Use to be as Provided in Application and Plans. Flood Plain Development Permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with the approved plans and applications shall be deemed a violation of this section. Prior to the applicant requesting a final building inspection for occupancy, the applicant shall be required to submit certification by a professional engineer or land surveyor registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing or other flood protection
measures were accomplished in compliance with the provisions of this section, prior to the use or occupancy of any structure.

20. Conditional Uses, Appeals and Variances. The Zoning Board of Adjustment shall hear and decide all applications for conditional uses, appeals, and variances in accordance with the provisions of Section 176.36, except as provided in this section. Variances from the terms of this flood plain section must meet the following standards:

A. All variances as granted must have the concurrence or approval of the Department of Natural Resources.

B. No variance shall be granted for any development within the Floodway District which would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public.

D. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this section, the applicant shall be notified in writing by the City Engineer that the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and such construction increases risks to life and property.

21. Factors Upon Which the Decision is Based. In passing upon applications for conditional uses, variances, or appeals, the Board of Adjustment shall consider the factors set forth in Section 176.36, and:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.

B. The danger that materials may be swept on to other land or downstream to the injury of others.

C. The proposed water supply and sanitary systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

E. The importance of the services provided by the proposed facility to the City.

F. The requirements of the facility for a flood plain location.

G. The availability of alternate locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing and projected development.

I. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

J. The safety of access to the property in times of flood for ordinary and emergency vehicles.

K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

L. Such other factors which are relevant to the purpose of this section.

22. Conditions Attached to Conditional Uses or Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of a conditional use or variance as it deems necessary to further the purpose of this section. Such conditions may include, but not necessarily be limited to:

A. Modification of waste disposal and water supply facilities.

B. Limitation on periods of use and operation.

C. Imposition of operational controls, sureties, and deed restrictions.

D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this section.

E. Floodproofing measures which are designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood.
protection elevation and associated flood factors for the particular area.


A. A structure or the use of a structure or land which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may be continued subject to the following conditions:

1. If such use is discontinued for twenty-four (24) consecutive months, any future use of the property shall conform to this section. The County Assessor shall notify the City Engineer in writing of instances of non-conforming uses which have been discontinued for 24 months.

2. Uses or accessory uses thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

3. If any nonconforming use or structure is destroyed by any means, including flood, to the extent of fifty percent (50%) or more of its value prior to destruction, it shall not be reconstructed except in conformity with the provisions of this section.

4. No such use shall be expanded, changed, enlarged or altered in a way which increases its degree of nonconformity.

5. No structural alteration, addition or repair to any nonconforming structure shall exceed fifty percent (50%) of its value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.

B. Except as provided in paragraph (A)(2) above, any use which has been permitted as a conditional use or variance shall be considered a conforming use.

24. Amendments. The regulations, restrictions and boundaries set forth in this section may from time to time be amended, supplemented, changed, or repealed as provided in the Code of Iowa and this chapter. However, no amendment, supplement, change, or modification shall be adopted without the prior approval from the Department of Natural Resources.

25. Violations. Violations of this section or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of conditional uses or variances) shall constitute a misdemeanor and may be punished as provided in Section 1.06...
of this Code of Ordinances. Each day a violation continues shall be considered a separate offense. Nothing herein contained prevents the City from taking such other lawful action as is necessary to prevent or remedy a violation, including but not limited to actions under Chapter 4 of this Code of Ordinances.

(Ord. 10-04 – May 10 Supp.)

176.40 WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS.

1. For use in this section the following terms are defined:

A. “Antenna” means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

B. “FAA” means the Federal Aviation Administration.

C. “FCC” means the Federal Communications Commission.

D. “Height” means, when referring to a tower or other structure, the distance measured from the finished grade to the highest point on the tower or other structure, including the base pad and any antenna.

E. “Preexisting towers and preexisting antennas” means any tower or antenna existing prior to the effective date of Ordinance No. 00-6.†

F. “Public” means the State of Iowa or any of it governmental subdivisions.

G. “Tower” means any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

2. Applicability.

A. New Towers and Antennas. All new towers or antennas in the City shall be subject to these regulations, except as provided in the following paragraphs B through E, inclusive.

† EDITOR’S NOTE: Ordinance No. 00-6 was passed and approved by the Council on March 2, 2000.
B. Public Towers or Antennas. Any tower or antenna owned and operated by the State of Iowa or any of its governmental subdivisions or used by the State of Iowa or any of its governmental subdivisions, shall be exempt from this section provided the tower or antenna is for governmental purposes.

(Ord. 01-25 – Nov. 01 Supp.)

C. Amateur Radio Station Operators/Individual Residential Antennas. This section shall not govern any tower, or the installation of any antenna, that is seventy (70) feet or less in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for an individual residence (dish antenna, etc.). Any tower, or the installation of any antenna, that is greater than seventy (70) feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for an individual residence (dish antenna, etc.) shall be subject to a conditional use review pursuant to Section 176.36(6) of this chapter.

D. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of paragraphs 3(F) and (G) of this section.

E. AM Array. For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.


A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses.

B. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

C. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Official an inventory of
its existing towers that are either within the jurisdiction of the City or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Official may share such information with other applicants applying for administrative approvals or conditional use permits under this section or other organizations seeking to locate antennas within the jurisdiction of the City, provided, however that the Zoning Official is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

D. Aesthetics. Towers and antennas shall meet the following general aesthetic requirements.

(1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

(2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.

(3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

E. Lighting. Towers and antennas shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

F. State or Federal Requirements. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such
standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner’s expense.

G. Building Codes; Safety Standards. Notwithstanding any provisions of this section, the construction of towers, antennas and supplemental buildings and equipment shall comply with applicable State and local building, electrical and mechanical codes, as amended from time to time. If, upon inspection, the City concludes that such facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the facility, the owner shall bring such facility into compliance as set forth in said notice.

H. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City irrespective of municipal and County jurisdictional boundaries.

I. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.

J. Signs. No signs shall be allowed on an antenna or tower, other than safety or warning signs.

K. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of subsection 15 of this section.

L. Multiple Antenna/Tower Plan. The City encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites.

M. Co-location. No wireless communications owner, operator, lessee and/or employee thereof shall act to exclude or attempt to exclude any other wireless communications provider from using the same building, structure or location. Wireless communications owners, operators, lessees and/or employees thereof shall cooperate in good faith to achieve co-location of wireless telecommunication towers, antennas and equipment with other wireless communications providers.
N. Certification of Information. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

4. Administratively Permitted Uses Generally. The following provisions shall govern the issuance of administrative approvals for towers and antennas.

A. The Zoning Official may administratively approve the uses listed in subsection 5 of this section.

B. Each applicant for administrative approval shall apply to the Zoning Official providing the information set forth in subsection 8 of this section.

C. The Zoning Official shall review the application for administrative approval and determine if the proposed use complies with subsections 5 and 8 through 15 of this section, as applicable.

D. If an administrative approval is denied, the applicant may file an appeal to the Zoning Board of Adjustment pursuant to Section 176.36 of this chapter.

5. List of Administratively Permitted Uses. The following uses may be permitted by the Zoning Official after conducting an administrative review:

A. Locating a tower, including the placement of additional buildings or other supporting equipment used in connection with said tower, in the following Zoning Districts:

   I-1, Restricted Industrial
   I-1P, Industrial Park
   I-2, General Industrial

B. Locating a tower, including the placement of additional buildings or other supporting equipment in Planned Development Zoning Districts, provided said facilities are in compliance with an approved Final Development Plan. If not specifically included on an approved Final Development Plan, a revised Final Development Plan shall be required pursuant to subsection 176.34 of this chapter.

C. Locating antennas on existing structures or towers consistent with the terms of paragraphs (1) and (2) below.

   (1) Any antenna which is not attached to a tower, that is an accessory use to a public structure in any district, or an accessory use to a commercial or industrial structure located in any district except those listed in paragraph 7(B) of this section, provided:
a. The antenna is located as far from the edge of the roof or top of the structure as possible and does not extend more than fifteen (15) feet above the highest point of the structure when attached to the roof or top of the structure;

b. The antenna is mounted in a configuration as flush to the wall as technically possible and does not project above the wall on which it is attached when mounted to the wall of a structure;

c. The antenna complies with all applicable FCC and FAA regulations;

d. The antenna complies with all applicable building codes; and

e. A license or lease authorizing such antenna or tower has been approved by the property owner.

(2) Any antenna which is attached to an existing tower provided a licensed engineer certifies the existing tower can structurally accommodate the additional antenna.

6. Conditional Uses Generally. Applications for conditional use permits from the Zoning Board of Adjustment under this subsection shall be subject to the procedures and requirements of Section 176.36 of this chapter and subsections 3 and 6 through 15 of this section as applicable.

7. List of Conditional Uses. The following conditional uses may be permitted by the Zoning Board of Adjustment:

A. Locating a tower, including the placement of additional buildings or other supporting equipment used in connection with said tower, in the following Zoning Districts:

   A-1, Rural Restricted
   O-2, Office Park
   RT-1, Residential/Transitional Use
   C-3P, Commercial Park
   C-3, General Commercial
   C-4, Warehouse Commercial

   (1) In the A-1 Zoning District, towers shall be permitted as an accessory use to permitted electrical utility infrastructures.

   (2) In the A-1 Zoning District, towers shall not be erected for the sole purpose of providing additional coverage of
cellular communications, but co-locating on such towers shall be allowed as part of a conditional use.

(Ord. 09-06 – May 09 Supp.)

B. Locating antennas on existing structures consistent with the terms of subsections (1) through (6) in the following districts:

A-1, Rural Restricted
R-1, Low Density Single-Family Residential
R-2, Medium Density Single-Family Residential
R-3, Two-Family Residential
R-4, Four-Family Residential
R-5, Moderate Density Multiple-Family Residential
R-6, High Density Multiple-Family Residential
R-6A, Medium Density Multiple-Family Residential
R-M, Mobile Home Park
PD-R, Planned Development Residential
O-1, Office-Transitional District
C-1, Neighborhood Commercial
C-2, Central Business District Commercial

(1) The antenna is an accessory use to any commercial, industrial, or multi-family structure of eight or more dwelling units.

(2) The antenna is located as far from the edge of the roof or top of the structure as possible and does not extend more than fifteen (15) feet above the highest point of the structure when attached to the roof or top of the structure.

(3) The antenna is mounted in a configuration as flush to the wall as technically possible and does not project above the wall on which it is attached when mounted to the wall of a structure.

(4) The antenna complies with all applicable FCC and FAA regulations.

(5) The antenna complies with all applicable building codes.

(6) A license or lease authorizing such antenna or tower has been approved by the property owner.

8. Submittal Requirements. Applicants for a permit to construct a tower and/or antenna shall submit the following information (as applicable):

A. A scaled site plan clearly indicating the location, type and height of the proposed tower and/or antenna, on-site land uses and zoning, adjacent land uses and zoning, Comprehensive Plan land
use designation and zoning of the site and all properties within the applicable separation distances set forth in subsection 12 (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and/or antenna and any other structures, topography, parking, and other information deemed by the decision maker to be necessary to assess compliance with this section.

B. Legal description of the parent tract and leased parcel (if applicable).

C. The separation distance between the proposed tower and the nearest residentially zoned property.

D. The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection 3(C) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

E. A landscape plan showing specific landscape materials.

F. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

G. A description of compliance with subsections 3 and 8 through 14 of this section and all applicable Federal, State or local laws.

H. A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.

I. Identification of other cellular sites owned or operated by the applicant within the City.

J. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

K. A description of the feasible location(s) of future towers or antennas within the geographic area based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
9. Factors Considered in Granting Conditional Use Permits for Towers. In addition to any standards for consideration of conditional use permit applications pursuant to Section 176.36(6) of this chapter, the Zoning Board of Adjustment shall consider the following factors in determining whether to issue a conditional use permit, although the Zoning Board of Adjustment may waive or reduce the burden on the applicant of one or more of these criteria if the Board concludes that the goals of this section are better served thereby.

A. Height of proposed tower;
B. Proximity of the tower to residential structures and residential district boundaries;
C. Nature of uses on adjacent and nearby properties;
D. Surrounding topography;
E. Surrounding tree coverage and foliage;
F. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
G. Proposed ingress and egress; and
H. Availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures, as discussed in subsection 10 of this section.

10. Availability of Suitable Existing Towers, Other Structures or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the decision maker that no existing tower, structure or alternative technology can accommodate the applicant’s needs. Evidence submitted shall address the following:

A. No existing towers or structures are located within the geographic area that meet the applicant’s engineering requirements.
B. Existing towers or structures are not of sufficient height to meet applicant’s engineering requirements.
C. Existing towers or structures do not have sufficient structural strength to support applicant’s proposed antenna and related equipment.
D. The applicant’s proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant’s proposed antenna.

E. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

F. Other limiting factors that render existing towers and structures unsuitable are demonstrated.

G. Alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable.

11. Setbacks. The following setback requirements shall apply to all wireless communications towers:

   A. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.

   B. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

12. Separation. The following separation requirements shall apply to all wireless communications towers.

   A. Separation From Residentially Zoned Property.

      (1) Wireless communications towers shall be separated from any residentially zoned property (regardless of development status) by a distance of 300 feet or 300% of the height of the tower, whichever is greater.

      (2) Separation distances between towers and residentially zoned property shall be measured by drawing or following a straight line from the base of the proposed tower to the nearest point of the residential district boundary.
B. Separation Distances Between Towers.

(1) Separation distances between towers shall be measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower.

(2) The separation distances (listed in linear feet) shall be as shown in Table 1.

<table>
<thead>
<tr>
<th>TABLE 1</th>
<th>Existing Towers – Types</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Lattice</td>
</tr>
<tr>
<td>Lattice</td>
<td>5,000</td>
</tr>
<tr>
<td>Guyed</td>
<td>5,000</td>
</tr>
<tr>
<td>Monopole 75 Feet in Height or Greater</td>
<td>1,500</td>
</tr>
<tr>
<td>Monopole Less than 75 Feet in Height</td>
<td>750</td>
</tr>
</tbody>
</table>

13. Security Fencing. Towers shall be enclosed by fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.

14. Landscaping. The following requirements shall govern the landscaping surrounding ground-based towers unless the tower is located in an Industrial zoned district.

A. Ground-based towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjoining properties. The standard buffer shall consist of an evergreen hedge with an ultimate height of at least 5 feet and a planted height of at least 36 inches outside the perimeter of the compound.

B. In locations where the visual impact of the ground-based tower would be minimal, the landscaping requirement may be reduced or waived by the decision maker.
C. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

15. Buildings or Other Equipment Storage. Any buildings and support equipment associated with antennas or towers are subject to the following:
   
   A. When located on a roof or top of an existing structure, the buildings and support equipment shall be located as far from the edge of the roof or top as possible.
   
   B. When located on the ground, the buildings and support equipment shall meet or exceed the minimum setbacks of the applicable zoning district.
   
   C. Roof-mounted buildings and support equipment shall be screened by parapet walls or screen walls in a manner compatible with the building’s design, color and material.
   
   D. Ground-mounted buildings and support equipment shall be enclosed by a 6-foot high wood fence. An evergreen hedge with an ultimate height of at least 5 feet and a planted height of at least 36 inches shall be planted along the perimeter of the fence.

16. Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety days shall be grounds to remove the tower or antenna at the owner’s expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

17. Nonconforming Uses.
   
   A. Not Expansion of Nonconforming Use. Towers that are constructed and antennas that are installed in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.
   
   B. Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New
construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.

C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding subsection 16, bona fide non-conforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a conditional use permit and without having to meet the setback and separation requirements specified in subsections 11 and 12. The type, height, and location of the tower on site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in subsection 16.

176.41 AMENDMENTS.

1. Authority. The regulations and restrictions imposed and district boundaries created by this ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed.

2. Intent. The amendment process herein established is intended to provide a means for making changes in the text of this ordinance and in the official zoning district map.

3. Initiation of Amendments. An amendment may be initiated by a motion of the Council or Commission, or by the filing of an application for such action by property owners within the area proposed to be changed or affected by the proposed amendment.

4. Application for Amendment. Each application requesting a change in the text of this ordinance or the Zoning District Map shall contain at least the following information, when applicable:

   A. Applicant’s name and address and his/her legal interest in the subject property.

   B. The titleholder’s name and address, if different than the applicant.

   C. Street address or common description and complete legal description of the property.

   D. Present zoning district of the property.
E. Proposed zoning district of the property.
F. A description of the amendment or change requested.
G. A statement describing the reasons for the request.
H. A vicinity sketch map of appropriate scale covering sufficient adjoining property to clearly indicate nearby street patterns, property lines, and other significant features which will have a bearing upon the request. This map shall also identify existing zoning districts within 600 feet of the subject property.

5. Notification Signs.
   A. Each applicant requesting an amendment to the official zoning district map shall secure notification signs from the Clerk which shall be conspicuously posted by the applicant on the property for which application has been made. The signs shall be placed so that they may be seen from an adjoining street and in cases of double-fronted or corner lots, signs shall be posted on both sides of the lot. The signs shall include the date, time, and place of the meeting or public hearing (as appropriate) and a brief description of the request.
   B. Notification signs shall be posted at least four (4) days prior to the public meeting or public hearing of the Commission respecting the request.
   C. Notification signs shall be posted at least seven (7) days prior to the public hearing of the Council respecting the request and shall remain posted until the conclusion of the public hearing.
   D. If the notification signs are not posted in accordance with the preceding requirements, no action shall be taken on the application.

   A. The Commission shall review each proposed amendment to the Zoning Ordinance and report is recommendations to the Council.
   B. Before submitting its report to the Council, the Commission shall hold at least one public meeting thereon.

   (1) If an application for a change in the official Zoning District Map involves ten (10) acres or more of land, then the Commission shall not submit its report to the Council
until the Commission has first held a public hearing thereon.

(2) The Commission may, in its discretion, hold a public hearing on any proposed amendment to the Zoning Ordinance prior to submitting its recommendations to the Council.

(3) Due notice of public hearings held by the Commission on proposed amendments to the Zoning Ordinance shall be given as follows: publication at least once in a newspaper published in Linn County and of general circulation in the City, which date of publication shall be in accordance with Section 362.3 and 414.4 of the Code of Iowa.

(4) Following the public meeting or public hearing, the Commission shall recommend to the Council that the proposed amendment be approved, approved with modifications, or denied. These recommendations shall then be certified and submitted to the Council within thirty (30) days of each public meeting or public hearing.


A. After receiving the Commission recommendations on proposed amendments, the Council shall hold a public hearing on said amendments and due notice thereof shall be given by publication in a legal newspaper of general circulation published in Linn County and of general circulation in the City in accordance with Section 362.3 and 414.4 of the Code of Iowa.

B. After holding such public hearing, the Council shall vote on the passage of the proposed amendment.

C. In case of a written protest against a change or repeal in zoning classification which is filed with the Clerk and signed by the owners of 20% or more of the area of the lots included in the proposed change or repeal, or by the owners of 20% or more of the property which is located within 200 feet of the exterior boundaries such property, the change or repeal shall not become effective except by the favorable vote of at least ¾ of all the members of the Council.

8. Filing Fee. Any person making application or petition for amendment of the Zoning Ordinance or to change the Zoning District
classification of a parcel of land shall at the time of application or petition pay a filing fee. The amount of filing fee shall be set by resolution of the Council. The filing fee is not refundable.

9. Limitation on Successive Applications.
   A. Whenever any application requesting an amendment to the Zoning Ordinance has been denied by the Council, or when an application has been withdrawn by the applicant after consideration by the Commission and recommendation but prior to the Council action, another application requesting the same change on the same property shall not be considered by the Commission or Council during the succeeding twelve months since the time said application was denied by the Council or withdrawn by the applicant.
   B. However, such new application may be considered within the twelve-month period if the Council determines that at least one of the following has occurred:
      (1) The request is for a different zoning classification.
      (2) A different parcel of property is involved.
      (3) The request is for a planned development district.
      (4) There has been a material change in circumstances.

10. Expiration. Whenever any application requesting an amendment to the Zoning Ordinance or Zoning District Map has been tabled at the request of the applicant for a period of six months, or the applicant has not taken affirmative action to process the application for a period of six months, said application shall be considered to be expired. The Council may, at their discretion, extend the expiration date for a period of three months upon request of the applicant.

176.42 VIOLATION AND PENALTY. Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter shall be in violation of this Code of Ordinances. Each day that a violation is permitted to exist shall constitute a separate offense. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the City Council, in addition to other remedies, may institute any proper action or proceedings in the name of the City to prevent such unlawful erection construction, reconstruction, alteration, repair, conversion, maintenance, or use,
to restrain, correct, or abate such violations, to prevent the occupancy of said building structure, or land, or to prevent any illegal act, conduct, business, or use in or about said premises.

176.43 LANDSCAPING AND SCREENING STANDARDS.

1. Intent. The landscaping and screening regulations are intended to improve the physical appearance of the community; to improve the environmental performance of new development by contributing to the abatement of heat, glare, and noise and by promoting natural percolation of storm water; reducing the visual impact of parking lots, unsightly equipment, or materials from the view of persons on the public streets or adjoining properties and buffering from uncomplimentary land uses and by improving the quality of air, to buffer potentially incompatible land uses from one another and to conserve the value of property and neighborhoods within the City. The scale and nature of landscaping materials shall be appropriate to the size of the structures and the available space. Materials shall be located to avoid interference with overhead or underground utilities and utility easements or vehicular and pedestrian movement and visibility. Growth characteristics should be considered.

2. Applicability. Landscaping and Buffering Standards shall apply to development within the R-5, R-6 and R-6A Multi-Family Residential Zoning Districts. The standards shall also apply to all Office Districts, all Commercial Districts, except the C-2 Zoning District, and all Industrial Districts. Parking Lot Landscaping and Street Front Landscaping shall be required of any development with off-street parking areas except single family residential development or development located in the C-2 Zoning District. The landscaping and screening requirements standards shall apply to:

   A. New development, including principle and accessory structures on property located with the districts listed in this section.

   B. Expansion and reconstruction of parking lots with forty (40) or more parking spaces.

   C. Expansion and major renovation of an existing building that includes significant site modification as determined by the Planning and Development Department based on site conditions and improvements. Major renovation will generally increase the assessed valuation of the subject property by at least fifty percent
(50%). In the event that the property owner or developer does not agree with the Planning and Development Department determination regarding the applicability of the standards an appeal to that determination may be filed for review by Zoning Board of Adjustment.

D. The landscaping and screening requirements shall not apply to golf course, park, cemetery and nursery developments.

3. Applicability and Exceptions of Landscaping and Screening Elements. The landscaping and screening requirements include a number of design elements as identified in this section. These elements will have varying applicability depending on the Zoning District and adjoining land uses. For the purpose of this section, undeveloped properties shall be considered based on their expected use based on the Future Land Use Map of the Marion Comprehensive Plan.

<table>
<thead>
<tr>
<th>Design Elements</th>
<th>Applicable Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Trees</td>
<td>Street trees are not permitted in any zoning district except by appeal to the Marion Tree Board</td>
</tr>
<tr>
<td>Street Front Landscaping</td>
<td>Multiple Family, Office, Commercial (except C-2) and Industrial Districts.</td>
</tr>
<tr>
<td>Parking Lot Landscaping</td>
<td>Multiple Family, Office, Commercial (except C-2) and Industrial Districts.</td>
</tr>
<tr>
<td>Bufferyards</td>
<td>All Multiple Family, Office, Commercial and Industrial Districts where the property adjoins Single, Two-family, Multiple Family Districts, Office Districts and Industrial Districts. See Matrix below. For the purpose of this section the term district shall also include property designated for such uses under the Future Land Use Map of the Marion Comprehensive Plan.</td>
</tr>
</tbody>
</table>

**Bufferyard Matrix**  
*(X Denotes Required Bufferyard)*

<table>
<thead>
<tr>
<th>District*</th>
<th>Single Family</th>
<th>Multiple Family</th>
<th>Office</th>
<th>Commercial</th>
<th>Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single/Two Family</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multiple Family</td>
<td>X</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>Office</td>
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<td>Industrial</td>
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</tr>
</tbody>
</table>

*District shall mean areas zoned, developed, or designated for such use under the Future Land Use Map of the Marion Comprehensive Plan.*
4. Definitions. The following definitions shall be used for terms contained within this section.

A. Berm - A mound or embankment of earth, usually two to six feet in height, used to shield or buffer properties from adjoining uses, highways or noise.

B. Bufferyard - A landscaped area along lot lines provided to separate and partially obstruct the view of two (2) adjacent land uses or properties from one another. No structures except fences shall be allowed in the bufferyard.

C. Deciduous overstory tree - A shade producing woody plant having a mature height and spread of at least thirty (30) feet with one well-defined trunk having no branches at or near the base.

D. Deciduous shrubs - Woody plants that range from three (3) to fifteen (15) feet tall at maturity and often are multi-stemmed with low branching.

E. Deciduous understory tree - A woody plant at least fifteen (15) feet tall at maturity with one or more well-defined trunks.

F. Evergreen/conifer shrub - A woody plant having green needle-like foliage throughout the year and ranging from three (3) to fifteen (15) feet tall at maturity and often are multi-stemmed with low branching.

G. Evergreen/conifer tree - An upright cone-bearing plant having green needle-like foliage throughout the year and at least fifteen (15) feet at maturity.

H. Landscaped area - The area within the boundaries of a given lot consisting primarily of plant material, including but not limited to grass, trees, shrubs, flowers, vines, ground cover and other organic plant materials. Inorganic materials, such as brick, stone, or aggregate, may be used within landscaped areas as identified in this section.

I. Landscaping Plan - A plan containing the information provided for in Section 176.43(3).

J. Minimum street landscaping - The minimum landscaped area which must be provided in a street yard, expressed as a percent of the total area contained within that street yard.

K. Street yard (Street Frontage) - A contiguous area along the street right-of-way.
L. Vehicular use area (Parking Area) - All areas subject to vehicular traffic, including but not limited to access-ways, driveways, loading areas, service areas and parking stalls for all types of vehicles. This definition shall not apply to covered parking structures, underground parking lots or public streets.

5. General Requirements. Landscaping and screening requirements shall be subject to the following general requirements:

A. Landscaping plans to be provided for each phase of the development review and building permit processes - the detail and extent of such plans shall include detailed landscape plans provided with the building permit. At a minimum the landscaping plan shall require the following:

1. The applicants name and address and interest in the property.
2. The owners name and address, if different from the applicant, and the owners signed consent to the filing of the plan.
3. The street address and legal description of the property.
4. Title, scale, north marker, and date.
5. Zoning classification of site and all adjoining property(s).
6. All lot lines, easements and rights-of-way.
7. All surrounding roads including names.
8. The total square foot of the vehicle use areas and the street yard.
9. Location, scientific name, common name, quantity and size of all existing plant materials and designation of all vegetation to remain and/or be removed.
10. Proposed landscaped planting by location, scientific name and common name, planting size and planting method. A plant list should be provided listing this information and keyed to plant location on the plan.
11. All existing and proposed drainage and detention areas.
12. Designation of area(s) to be used for snow storage.
(13) Other information or documentation as the Zoning Administrator may deem necessary to allow a full and proper consideration and disposition of the particular plan.

B. Landscaping shall be provided within the minimum setback area along street frontages as provided in this section.

C. Bufferyards between various types of land use and residential areas, both existing and planned shall include design elements in a combination to provide effective buffering with consideration of existing topography and site conditions. The proposed plan for said design elements shall be reviewed by the Planning and Development Department to determine consistency with the provision of this section. Placement of trees and shrubs shall be designated to meet City requirements regarding minimum sight lines from driveways and intersections, proximity to utility lines, and underground utility easements. These factors shall be addressed by the Marion Engineering and Planning and Development Department as part.

D. Landscaping plans provided for construction shall identify the minimum size and number of required trees, shrubs, and provisions for living groundcover such as grass. Non-living ground cover such as rock and walk on bark, that does not exceed twenty-five percent (25%) of the overall planting area may be used. Impervious materials, such as concrete or asphalt paving, shall not be used within required landscaping areas with the exception of sidewalk areas or edging.

E. Existing appropriate mature trees and vegetation may be incorporated into overall site design and shall be considered in meeting the requirements of this section. The extent that such existing vegetation meets the requirements of these standards shall be reviewed and approved by the Planning and Development Department.


A. No trees are permitted to be located within the public street right-of-way without obtaining approval from the Marion Tree Board per the requirements of Section 152.05 (9). The location,
size, and number of trees within the right-of-way is to be determined by the Tree Board at time of appeal.

B. Living ground cover, such as grass, shall be provided within right-of-way areas of all districts. Non-living materials (such as walk on bark, mulch, and ornamental rock) may be used for up to twenty-five percent (25%) of the right-of-way exclusive of access.

7. Street Front Landscaping. All areas adjoining public or private street frontage shall be landscaped to include trees, shrubs, and living ground cover as required by this section. Landscape areas between the public or private street and parking areas are strongly encouraged to include mounding to enhance the screening of vehicles from the street. For the purpose of this section, said street front landscape depth of the Commercial and Industrial Zoning District shall average at least fifteen feet (15') along street frontages and ten feet (10') along street side frontages. Double frontage lots shall maintain a minimum street front landscape depth of five feet (5'). Landscape depth for Multiple Family and Office Districts shall comply with the underlying setback required under the Zoning District. Street front landscaping shall include all areas along public or private street frontage, public or private street side setbacks, and setbacks along other property lines boarding a public or private side setback, and setbacks along other property lines bordering a public or private street. For lots having a depth of less than one hundred fifty feet (150') and a total area not exceeding twenty thousand (20,000) square feet the minimum street frontage landscape depth shall be at least five feet (5').

A. Landscaping shall comply with the general standards indicated below. It is intended that the standards shall provide landscape design flexibility in plant section while still meeting the objectives of this section.

B. Trees. Street trees shall be provided at a rate of one tree per forty feet (40') of frontage excluding driveway openings. A minimum of fifty percent (50%) of the required trees shall be at least two inch (2") diameter shade trees. The remaining trees may be any combination, at least two inch (2") diameter shade trees, at least one and one-half inch (1½") flowering trees and/or six foot (6') high evergreen trees. Street frontage trees shall not be required for lots having a depth of less than one hundred fifty feet (150') and an area not exceeding twenty thousand (20,000) square feet.
C. Shrubs. Six (6) per one thousand square feet (1000 sf) of planting area where parking does not adjoin street and sufficient shrubs to provide sixty-six percent (66%) screening to a height of three feet (3’) where parking adjoins a street. Up to twenty percent (20%) of the required shrubs may be replaced by ornamental grasses or perennial flowers at a rate of four (4) such plants per shrub replaced.

D. Ground Cover. Living ground cover, such as grass, shall be provided within all required street frontage landscaped areas. Non-living materials (such as walk-on bark, mulch, and ornamental rock) may be used for up to twenty-five percent (25%) of the landscaped area.

E. The specific location of trees and landscaping within the required setback area shall be approved by the Planning and Development Department based on site characteristics.

F. Mounding, not exceeding one foot (1’) in height for every three (3) of depth is strongly encouraged to screen vehicles for street frontages adjoining parking lots with a depth of ten feet (10’) or greater.

8. Parking Lot Landscaping. All parking lots shall include landscaping and trees located within the parking area as required by this section. Trees required by this section shall be in addition to trees and landscaping required under other sections of this section. It is the objective of this section to provide shade within parking areas and break up large expanses of parking lot pavement.

A. Trees at a rate of one (1) tree per twelve (12) parking spaces shall be provided for all parking lot areas. Required parking area trees shall be large shade tree varieties and have a minimum two inch (2”) diameter at breast height at the time of planting.

B. For parking lot areas having forty (40) or more spaces such trees shall be located in protected landscape areas within the parking lot with the provision that up to fifteen percent (15%) of the required trees may be located within ten feet (10’) of the parking lot perimeter. The location, size, and design of the landscaped areas shall be approved by the Planning and Development Department to ensure viability of the planting and protection from damage by vehicles while also meeting the objectives of this section.
C. For parking lot areas with forty (40) or more spaces, a continuous planter, including trees, shall be provided for every fourth parking bay. Said continuous planter shall include large shade trees planted no closer than twenty (20) foot centers. The width and design of said continuous planter shall be approved by the Planning and Development Department to ensure viability of the planting and protection from damage by vehicles.

D. Planter areas shall be a minimum width of six feet (6') measured from the inside of the protective curbing. These areas may be widened to accommodate head in parking with a thirty inch (30") vehicle overhang into the planter area so long as the required six foot (6') minimum width for the tree planting is maintained.

9. Bufferyards. Yards separating multiple family, office, commercial, and industrial development closer than one hundred feet (100') from Zoning Districts where bufferyard is required by this section shall provide an effective buffer as indicated in this section. It is the objective of the bufferyard to lessen, rather than completely eliminate, land use conflicts between such uses. It is not expected that bufferyards will totally screen such uses. It is expected that the bufferyard design elements identified below will provide immediate lessening of land use conflicts and such buffering will be enhanced over time as landscaping matures. Bufferyards may include a combination of elements including setback distances as separation, tree and shrubs, solid fencing, and/or berming. It is encouraged that existing topography and vegetation be included in the design of the bufferyard as approved by the Planning and Development Department. Retention of existing matures trees is strongly encouraged in meeting the requirements of this section. The standards provided in the bufferyard options identified below may be used in combination to meet the intent of this section.

A. Rear bufferyards shall have a minimum depth of fifteen feet (15') and include standards as identified below.

(1) Natural Buffers. Four (4) evergreen variety trees, two flowering variety trees, and ten (10) shrubs per one hundred feet (100') of linear distance (evergreen shrubs to be spaced at five feet (5') on center with a minimum mature height of five feet (5') or fifteen (15) large deciduous shrubs, per one hundred feet (100') of linear distance planted in a staggered double row.
(2) Structural Buffers. Solid six foot (6') high wall or fence with two (2) evergreen variety trees, two (2) flowering variety trees, and five (5) large shrubs per one hundred feet (100') of linear distance.

(3) Earthen Berm Buffer. Minimum fifteen foot (15') rear bufferyard with berming not to exceed a 1'3 slope, three (3) large evergreen trees, two (2) flowering variety trees per one hundred (100) feet of linear distance, and sufficient evergreen shrubs with a combined height (berm and mature shrub) of five feet (5') to form a continuous screen within three (3) years of planting and/or sufficient deciduous shrubs with a combined height of five feet (5') to form a continuous screening within three (3) years of planting.

B. Side bufferyards shall have a minimum depth of fifteen feet (15') and include standards as identified below.

(1) Natural Buffer - Evergreen. Four (4) evergreen variety trees, two (2) flowering variety trees and ten (10) evergreen shrubs per one hundred feet (100') of linear distance.

(2) Natural Buffer – Deciduous. Four (4) deciduous variety trees, two (2) flowering variety trees, and fifteen (15) large shrubs per one hundred feet (100') of linear distance.

(3) Structural Buffers. Solid six foot (6') high wall or fence with two (2) flowering trees and five (5) large shrubs per one hundred feet (100') of linear distance.

10. Additional Landscaping/Screening Requirements. Landscape and building elements shall be used to screen areas of low visual interest or visually intrusive site elements (such as trash collection, open storage, service areas, loading docks and blank walls) from off-site view. Such screening shall be established on all sides of such elements except where an opening is required for access. If access is possible only on a side that is visible from a public street, a removable or operable screen shall be required.

A. Screening of Ground Mounted Mechanical Units. For all uses, except any individual lot occupied by a single-family, two-family, or three-family dwelling, all ground-mounted mechanical
units, including but not limited to: air-conditioning condensers, heat pumps, ventilation units, computer cooling equipment, etc., and any related utility structures and equipment, that are visible from any adjacent public thoroughfare shall be visibly screened from public view. The screen shall be designed and established so that the area or element being screened is no more than twenty (20) percent visible through the screen.

B. Screening of Roof Mounted Mechanical Units. All roof-mounted mechanical units shall be screened from adjacent public thoroughfares by the use of an opaque screening material compatible with the architecture of the building or architecturally designed screening such as a parapet wall. The screening of the roof-mounted units shall be designed to blend with the building and roof materials. Additional screening may be required due to topographic differences in the adjoining properties.

C. Screening of Trash Receptacles. For all uses, except any individual lot occupied by a single-family, two-family, or three-family dwelling, using a common trash receptacle and all nonresidential uses:

1. Solid material screening or full screening landscaping on three sides to a height that screens the containers, typically six feet (6'). Use of materials that are not solid, such as slates in chain-link, shall not be used to meet this requirement.

2. Enclosure openings directly visible from a public right-of-way and/or adjoining residential areas shall have a solid material gate. For larger enclosures areas a separate gate access is encouraged.

3. Access drives shall be constructed of material and thickness to accommodate truck loading. Year round accessibility to the enclosure area for service trucks shall be maintained by the property owner or tenant.

4. Enclosures shall be of an adequate size to accommodate expected containers. It is encouraged to design the enclosure area to be expandable to accommodate future additional containers.

5. Enclosure structures shall be designed to protect the walls from damage by containers. Such protection may be
provided by use of barrier curbing, reinforced masonry walls, or other similar means.

(6) Materials and elevations for enclosures that are attached to buildings shall be designed to be compatible with the main structure.

(7) If enclosures are to be attached to buildings they shall comply with applicable fire and building codes.

(8) Trash enclosures shall not be located within a required street front or street side setbacks or occupy area used for required parking spaces.

11. Administrative Requirements.

A. Previously Approved Site Plans. Any site plan or landscaping plan approved by the Planning and Development Department prior to the effective date of the ordinance codified in this section shall remain enforceable and in force.

B. Installation. All landscaping required by this section shall be installed prior to occupancy or commencement of a use. If the landscaping cannot be installed prior to occupancy or commencement of a use because of climatic conditions, the building inspector may issue a temporary certificate of occupancy and grant a delay of landscaping installation until the calendar date of June 1 immediately following the date of said temporary certificate of occupancy.

C. Maintenance of Required Landscaping. Trees and vegetation, irrigation systems, fences, walls and other landscaping elements shall be considered as elements of the project in the same manner as parking, building materials and other site details. The applicant, landowner or successors in interest shall be responsible for the regular maintenance of all landscaping elements in good condition. All landscaping shall be maintained free from disease; pests, weeds and litter, and all landscape structures such as fences and walls shall be repaired and replaced periodically to maintain a structurally sound condition in order to maintain the required landscaping of the site.

D. Rights-Of-Way, Easements, and Drainage. Required landscaping shall not disturb drainage systems or be placed upon easements of rights-of-way.
12. Changes to Approved Landscape Plan. The landscaping shall be installed and maintained according to the approved landscape plan except where authorized changes are permitted. The approved landscape plan and supporting data shall be binding on the applicants, their successors, and grantees.

(Ord. 03-21 – Nov. 03 Supp.)

176.44 EU EXCLUSIVE USE DISTRICT.

1. General Intent. Activities placed in an exclusive use zone are those uses that cannot be readily classified as agricultural, residential, business, professional office, or industrial uses; however, such activities are generally intense uses of property and shall be directed to areas land use designated for industrial purposes. To this end, the exclusive use zone:

A. Establishes Specific Standards. Classification of these activities within exclusive use zones will enable specific site location, design and performance standards to be enumerated and applied for the basis of evaluation criteria. Such standards will protect the public health, safety and welfare more adequately, and will assure more equal treatment of the same or similar uses.

B. Avoids Confusion Concerning Requirements. By specifically delineating the standards to be applied to these activities, perception, understanding and enforcement of these standards will be enhanced.

C. Increases Compatibility with Adjacent Uses. Exclusive use zones are intended to make the considered activities more compatible with adjacent uses, allow greater flexibility in site selection for the activity, and require the zoning of the site to be re-examined upon termination of the permitted activity within such an exclusive use zone.

2. Regulations In Exclusive Use Zones. The regulations adopted in this section relating to each exclusive use zone shall include but not be limited to the following:

A. Definition. A detailed definition of the specific use or uses to be permitted.

B. Site Design and Location Standards. Specific site design and location standards may be established prior to reclassification of property.
C  Operational Standards. Performance standards may be established relating to those aspects of the activity that must be controlled to protect the public health, safety, or welfare.

D.  Bonding Requirements. Performance bonds or letters of credit may be required, and the amount, duration and supervisory agency should be established.

E.  Reference to Other Applicable Laws. A listing of local, state and federal requirements applicable to such use may be included to facilitate effective coordination between the various agencies having jurisdiction over the particular use. Such a list shall not be considered exhaustive but is merely to be available to assist persons requesting such zoning.

3. Procedures and Standards for Approval. The procedures and standards for approval of an Exclusive Use Zone are as follows:

A.  Creation of New Exclusive Use Zone(s). A proposal for creation of an Exclusive Use Zone shall be processed as an amendment to the zoning regulations. Each new Exclusive Zone adopted shall be designated Exclusive Use Zone (Number) (Name of Use) in order of adoption. The abbreviated designation shall be EU-1, EU-2, etc. A “Findings of Fact” shall be included in the Exclusive Use Zone Ordinance to ensure that the spirit and intent of Exclusive Use District Regulations are met.

B.  Zoning District Reclassification to an Exclusive Use Zone. Any activity that must be conducted within an Exclusive Use Zone shall be permitted only upon approval of the zoning district reclassification by the City Council. Requests for reclassification shall be made according to the procedures set forth in the proposed Exclusive Use Zone Ordinance.

(Ord. 05-14 – Nov. 05 Supp.)

176.45 EU-1 EXCLUSIVE USE ZONE 1 SANITARY LANDFILL.

1. Findings of Fact. The following facts establish the need to place sanitary landfills into an Exclusive Use Zoning District.

A.  Characteristics of a Sanitary Landfill. A sanitary landfill is primarily a one-of-a-kind community facility which may be a necessary part of the community's waste disposal system. The high volume of heavy truck traffic and the potential for associated noise, odor and other nuisance-like characteristics suggest industrial zoning would be appropriate. However, a sanitary
landfill has limited duration use, and the filled land may not be suitable for industrial uses that require substantial weight bearing foundations. This limitation makes industrial zoning inappropriate for the location of subsequent uses on this land. Major factors in determining the proper site location for landfills are the suitability of the soil and underground drainage systems - neither of which is usually factors in the location of industrial zones. Therefore, the site location criteria for a sanitary landfill must be defined separately.

B. Need for Specific Standards. If proper sanitary landfill standards are not strictly adhered to, the operation may result in an open dump and create a serious health hazard. A completed landfill will settle and require periodic maintenance. Because of this settlement factor, special design and construction must be utilized for buildings constructed on a completed landfill. As a result of all these factors listed above, sanitary landfills must be placed in an exclusive use zone that includes specific design standards and appropriate protection for subsequent use.

2. General Intent. The major purposes and objectives of this zone are to place sanitary landfills in an exclusive use zone in order to establish site location and design standards which will:

A. Protect public health by preventing water pollution, rodent infestation, air pollution, or other health hazards as would occur as a result of improper location, design, or operation of a landfill.

B. Protect public safety by requiring proper design of access roads to accommodate the heavy equipment necessary for collection, transportation and disposal of solid wastes.

C. Improve compatibility with adjacent uses by requiring adequate screening and set back, regular policing of access road and heavily traveled routes to the site, and careful review of subsequent uses allowed on the landfill site.

D. Promote public welfare by providing a suitable location for the disposal of the solid wastes generated by the community and preserve prime agricultural ground.

E. Incorporate local siting approval as specified in Iowa Code §455.305A. This State Code provision requires that prior to siting of a proposed, new sanitary landfill the City Council must approve the site based on meeting certain criteria. It is the intent of this section that to the greatest extent possible that the local siting
approval process and the zoning district reclassification process run concurrently.

3. Other Applicable State of Iowa Laws and Administrative Code Requirements. Other State of Iowa laws and administrative code requirements may apply to an application, including, but not limited to laws and rules related to: the issuance or renewal of permits for construction and operation of sanitary landfills, processing facilities, composting facilities, recycling facilities, solid waste management facilities, infectious waste incinerator projects, and waste tire facilities; handling and disposal of hazardous waste and waste oil; and local approval.

4. Applicability. The requirements and performance standards as herein provided shall apply to all new or lateral expansions of lawful sanitary landfill projects.

5. Principal Permitted Uses. Sanitary Landfill.

6. Accessory Uses.
   A. Transfer Station
   B. Recycling Facility
   C. Compost Facility
   D. Household Hazardous Waste Facility
   E. Agricultural Uses
   F. Wild Life Refuge or Similar Public Purpose Uses

7. Site and Structure Requirements.
   A. Minimum Lot Area. There shall be no minimum lot area requirement, except that a site must be of sufficient size to accommodate the amount of waste estimated for deposit during the planned life of the landfill.
   B. Minimum Lot Width. None
   C. Setback Requirements. The principal permitted use, including all activities related to operation of the principal permitted use such as stock piles, shall meet the following minimum setback requirements:
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Front Yard Setback  200 Feet
Rear Yard Setback   200 Feet
Side Yard Setback   200 Feet
Corner Side Yard Setback 200 Feet
Maximum Structure Height 100 Feet

D. Accessory Uses, Buildings and/or Structures. All accessory uses, buildings and/or structures, except those as set forth in subsection 6(E) and 6(F) herein, shall meet the same site and structure requirements as principal permitted uses and shall be set out in the application.

E. Fencing. The footprint of the planned waste disposal area shall be enclosed with a substantial wall, chain link fence, other adequate barrier, at least eight (8) feet in height, designed to keep people, children and animals out of the active landfill area, or an alternative provision which will accomplish the same. The entrance gate must be capable of being locked and posted for non-entry.

F. Sign and Directions. Necessary identification and directional signs shall be provided. A sign shall be posted at the entrances to inform the public of the hours of operation, cost of disposal, and rules and regulations regarding disposal. Interior signage shall be provided that directs users to the appropriate unloading area.

G. Lighting. Lighting shall be provided in such a way as to not interfere with roadway traffic, spill over on adjacent properties, and/or pollute the night sky.

H. Parking. Two (2) spaces per employee shall be required.

I. Buffer. The landfill shall be adequately buffered on all sides between the footprint of the planned waste disposal area and perimeter boundaries of the property so as to offset fugitive dust, noise, vibration and visual impact to adjacent property. All screening and buffering shall be completed on site. The buffer areas shall be landscaped and graded consistent with the approved site plan prior to the acceptance of any solid waste.

8. Application for Landfill Siting and EU - Exclusive Use District Reclassification. The applicant shall submit an application for zoning district reclassification and local site approval to the City Council. The Council shall forward the application to the Department to review the
completeness of the application. A complete application includes the following:

A. A completed application form. The application must be on forms as provided by the Department which will include, but not be limited to, information required by Iowa law for local siting approval. The application form must be signed by the owner(s) of the property as such and, if applicable, the entity seeking the reclassification as applicant.

B. The application fee for the specific review and processing of the rezoning reclassification shall be set by the Council.

C. The applicant shall provide proof of written notice and proof of publication of notice of their intent to submit an application to the Council for local siting approval and zoning district reclassification in the manner as prescribed for in Iowa Code §455B.305A(3). One complete paper copy and one complete electronic copy of the mailing list utilized to provide written notice to property owners shall be provided to the Council.

D. The applicant shall demonstrate notice to the Iowa Department of Natural Resources (IDNR) that the local siting process has been initiated.

E. Detailed plans, maps and reports shall be submitted in the numbers as indicated herein or as approved by the Department. The data in the following reports shall be prepared in a form which facilitates its use in proper engineering design of the landfill. Problem areas must be delineated and recommendations for proper solution included in the report. The following shall be submitted:

   (1) Map or Aerial Photograph. The map or photograph shall be at a scale of not more then 400 ft. to the inch. The map or photograph shall locate the boundaries of the site and identify the following:

   a. North compass point.

   b. Zoning and land use within one mile.

   c. Haul routes to and from the site with load limits or other restrictions.

   d. Residential structures and other buildings within at least one mile.
e. Section lines and/or other legal boundaries.

f. Nearby runway used or planned to be used by turbojet or piston-type aircraft at FAA certified airports.

g. Lakes, ponds, watercourses, wetlands, dry runs, and/or rock outcroppings within one mile of the site.

h. Topography and drainage patterns within one mile.

i. All wells within one mile.

j. A bench mark.

(2) A Major Site Development Plan. The plan shall be prepared in the following manner and with the following information:

a. Number of Copies and Size. Ten (10) copies on 8½" x 11" sheet size minimum - larger as required (18" x 24" preferred). Ten (10) copies of the same site development plan on 11" x 17" sheet size (must be legible).

b. Scale. 1" = 50' or as approved by the Zoning Administrator.

c. Preparation. Only by an engineer certified in the State of Iowa.

d. Orientation. Include North directional arrow and map scale indication.

e. Location map showing relation to surrounding roads, streams, and public facilities.

f. Address and legal description of parcel or lot.

g. Title block including the name, address and phone number of the petitioner and owner and the engineer's name, seal, the date, and the date of all revisions.

h. Existing and proposed zoning classification, use of property, number of employees.

i. Ownership, land use, and zoning of all adjoining properties.
j. Any anticipated planned systems for collection, storage, transport, and disposal of leachate, methane or other byproduct of the facility.

k. Existing and proposed property lines (proposed property lines must be delineated in a heavier line weight). Provide dimension of existing and proposed lot boundaries.

l. Existing and proposed right-of-way lines, setback lines and buffer areas.

m. Existing contour lines at intervals of ten (10) feet.

n. Proposed contour lines at intervals of five (5) feet.

o. Watercourses, floodways, flood plains, and wetlands.

p. Any unique natural feature.

q. Location and dimensions of all existing and proposed structures. All structures shall be delineated in square feet, and dimensions to existing and/or proposed lot lines must be provided as well as dimensions between structures.

r. Existing and proposed structures must be labeled as to their use (i.e. existing warehouse). Structures include wells, fences, septic, utility poles, LP tanks, etc. Also existing roads must be shown.

s. Existing and proposed parking spaces (number, type, dimension and class). Must provide notation of the number of spaces required and the number provided.

t. All utility easements.

u. Radius of curvature of ingress and egress drives.

v. Circulation patterns of traffic.

w. Access to all public and private streets.
x. Location and size of existing or proposed free standing and/or attached signs and their illumination techniques if applicable.

y. All existing and proposed locations, intensity, height, spacing, efficiency, and shielding of all exterior lighting.

z. Locations of outside refuse collection areas, and the type of screening to be provided. Refuse containers must be enclosed from public view.

aa. Estimate of increase in vehicle trips per day by type of vehicle.

bb. Any other information deemed necessary by the Zoning Administrator.

(3) Traffic Routing Plan. The plan must be prepared by a qualified traffic engineer. The plan must comply with the City's Major Street Ordinance and delineate the following:

a. Major transportation routes.

b. Overpasses with height limitations.

c. Bridges with weight limitations.

d. Railroad crossings.

e. Flow of traffic to proposed site by type.

f. Current and anticipated daily traffic flows to site.

(4) Preliminary Hydrogeologic Investigation Report. The report must be prepared by a registered professional engineer licensed in the State of Iowa or qualified hydrogeologist. Information included in the report must include:

a. General site description including slope, topography, surface drainage and geologic setting.

b. Description and characteristics of soils including soil types, dominant soil texture, hydraulic conductivity, and suitability of soil for cover and liner construction.

c. Description and characteristics of bedrock including type, thickness, and physical
characteristics (ease of excavation, fractures, sinkholes, direction of dip, and solution holding capacity), porosity, and hydraulic conductivity.

d. Description of site hydrogeology, including distance to permanent streams, springs and lakes, depth to water table, flood hazard potential and underlying aquifer characteristics.

e. An assessment of the impact on any existing hydrogeological conditions on the proposed or surrounding site.

f. Specific recommendations as to site suitability for use of the property as a sanitary landfill.

(5) Habitat and Wetland Inventory. A listing of plant and animal species prepared from the records of the Iowa Department of Natural Resources - Preserves and Ecological Service Bureau. The applicant shall request that the Bureau search its records to determine the presence of or habitat for any threatened or endangered species or communities and any forest, prairies or wetlands or the potential thereof. The applicant shall submit a wetland delineation report prepared by a qualified consultant. An assessment of the impact on any habitat or wetland on the proposed or surrounding sites shall be completed by a qualified consultant.

(6) Impact Report on Archaeological, Historical, or Architecturally Significant Properties. An assessment of the impact on any archaeological, historical, or architecturally significant properties on the proposed or surrounding sites. The applicant is required to request review and comment from the State Historical Society of Iowa and the Marion Historic Preservation Commission.

(7) Report on Compliance with Solid Waste Planning Documents. The applicant shall submit a report on how its proposed sanitary disposal project is consistent with the Cedar Rapids/Linn County Solid Waste Agency Integrated Solid Waste Management Plan and the East Central Iowa Council of Government's Regional Solid Waste
Management Plan. A letter of compliance from each entity must accompany the report.

(8) Need. The applicant must provide a report that outlines the need for siting of the new or lateral expanded sanitary landfill. Current supporting data must accompany the report which substantiates the need as well as the type and size of sanitary landfill.

(9) Operations Site Plan(s) and Report(s). The plans and reports shall indicate the following:

a. The proposed fill area.
b. Any borrow area.
c. Access roads.
d. On-site drives.
e. Grading plan and cross sections to identify ultimate height above existing grade.
f. Special drainage devices, if necessary.
g. Location and type of fencing.
h. Structures existing or to be located on the site.
i. Existing wooded areas, trees, ponds or other natural features to be preserved.
j. Existing and proposed utilities.
k. Conceptual timetable and sequence of phasing of landfill operations on the site.
l. Proposed method of operation including weighing of wastes, cross-sectioning the site at definite time intervals, thickness of cover material, depth of cells and lifts, compaction, wet weather procedures, cold weather procedures, amount, type and size of equipment and personnel.
m. Proposed methods to prevent surface water runoff of possible pollutants.
n. Proposed systems for collection, storage, transport, and disposal of leachate.
o. Conceptual plan for control of methane gas including recovery, collection, monitoring and disposal.

p. Any other pertinent information to indicate clearly the orderly development and operation of the facility.

(10) Land Value Assurance Program. The applicant shall submit a conceptual plan on how the proposed land value assurance program will operate and shall include the following at a minimum:

a. Written description of overall program, goals, objectives, intent and schedule.

b. Identification of property owners who may be eligible for the program and duration for eligibility.

c. Number and type of appraisals to be conducted, how appraisals should be conducted and who pays for the appraisals.

d. Period of time during which program exists.

e. Explanation and example of how compensation could be calculated.

(11) Conceptual End Use Plan. The plan shall include the following:

a. A proposed plan and schedule for site restoration and completion.

b. A plan outlining the ultimate land use of the site, or a plan that demonstrates possible ultimate land uses.

c. Any other pertinent information that would address final site restoration and possible future reuses of the property.

d. The applicant must provide in a written report on how maintenance after closure will be ensured in compliance with State Code requirements for closure and post closure.
9. Procedure for Zoning District Reclassification and Local Siting Approval. The following procedure shall be followed for review of the zoning district reclassification:

A. The Council, upon receipt of a complete application, shall forward copies of the joint application for local siting approval and zoning reclassification to the Commission. The Commission and Council shall hold one joint public informational meeting within thirty (30) days of receipt of a complete application. The purpose of the meeting is to provide an outline of how the City will process, review and make a decision on the application. The applicant shall provide a complete overview of the application submitted and address how compliance with all federal, state, and local site and structure requirements and all performance standards are either being met or an alternative solution is being proposed.

B. The Commission shall, within thirty (30) days after the public informational meeting, hold a special meeting to consider the joint application and shall formulate and forward to the Council a recommendation regarding the zoning district reclassification.

C. Notice of the special meeting to consider the joint application shall be published in the official newspapers in accordance with Iowa Code §331.305 utilizing the same mailing list of property owners as provided by the applicant as prescribed in Iowa Code §455B.305A(3). The Department shall notify property owners of the special Commission meeting by ordinary first class mail.

D. The Council shall receive the recommendation of the Commission and hold a public hearing in conformance with Iowa Code §455B.305A(5) and this section. The Council shall not make a decision on the joint application until the public has had an additional thirty (30) day opportunity to provide written comments on the application for zoning district reclassification.

E. Notice of the public hearing shall be published in the official newspapers in accordance with Iowa Code §331.305 utilizing the same mailing list of property owners as provided by the applicant as prescribed in Iowa Code §455B.305A(3). The Department shall notify property owners of the public hearing by ordinary first class mail.
F. At the conclusion of the thirty (30) day review period the Council shall determine upon first consideration the zoning district reclassification. The Council can approve, continue consideration or deny the application. If the reclassification is denied the joint application shall be deemed concluded.

G. Within fourteen (14) days after approval of first consideration the Council shall hold second consideration of the zoning district reclassification request. The Council may approve, continue or deny the application. If the reclassification is denied the joint application shall be deemed concluded.

H. Within fourteen (14) days after approval of second consideration the Council shall hold third and final consideration of the rezoning district reclassification. The Council may approve or deny the application. If the reclassification is denied, the joint application should be deemed concluded. If the zoning district reclassification is approved, the Council shall have the joint application submitted to the Zoning Board of Adjustment for consideration of the local siting approval request.

I. An applicant shall not file a request for zoning district reclassification and/or local siting approval, which is substantially the same as a request which was denied, within the preceding two years. The two-year time period starts from date of issuance of the Council's written decision.

J. Prior to final approval of the rezoning classification the applicant and Council shall sign an agreement which binds the applicant to meeting local conditions of the rezoning classification.

10. City Council Reclassification Evaluation Criteria. The following criteria shall be the basis upon which the Commission shall formulate their recommendation to the Council and upon which the Council shall render their decisions on reclassification.

A. Need Criteria. The project is necessary to accommodate the solid waste management needs of the area in which the project is intended to serve. In addition, the following standards shall be met:

(1) The applicant's proposal conforms to the most currently approved East Central Iowa Council of Government's - Regional Solid Waste Plan.
(2) The applicant's proposal conforms to the most currently approved Cedar Rapids/Linn County Solid Waste Agency's - Integrated Solid Waste Management Plan.

(3) The applicant's proposal justifies the size and type sanitary landfill proposed.

B. Protection of the Public Health, Safety, and Welfare Criteria. The project is located and proposed to be operated so that the public health, safety, and welfare will be protected. In addition, the following standards shall be met:

(1) Public health shall be protected by preventing water pollution, ground water contamination, excessive noise, odor or dust, leachate contamination, methane gas exposure, rodent infestation, air pollution, or other health hazards as would occur as a result of improper location, design, or operation of a landfill.

(2) Public safety shall be ensured by requiring proper design of access roads to accommodate the heavy equipment necessary for collection, transportation and disposal of solid wastes.

(3) Compatibility of land uses shall be assured by requiring adequate screening, buffering and set back, regular policing of access road and heavily traveled routes to the site, and careful review of subsequent uses allowed on the landfill site.

(4) Public welfare shall be protected by providing a suitable location for the disposal of the solid wastes generated by the community.

C. Compatibility Criteria. The project is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property. In addition, the following location and design standards must be met:

(1) The landfill cannot significantly impact a unique scenic, cultural or historic area. If unavoidable, the applicant will provide mitigation either in design provisions or host community benefits.
(2) The landfill cannot be located in a primary residential area as designated on the most recently adopted City of Marion Future Land Use Plan.

(3) The landfill cannot be located in park and open space areas as designated on the most recently adopted City of Marion Future Land Use Plan.

(4) The applicant shall provide a land value assurance program, as defined herein, for all privately owned properties within one mile of the landfill boundaries and to the host community and all other affected taxing bodies for loss of taxable valuation.

D. Plan of Operation Criteria. The project is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents. To this end the applicant must demonstrate, in their site plan, operational site plan, and plan of operations that the additional following standards can be met:

(1) An aggressive and effective vector and litter control program shall be provided.

(2) Solid waste will not be deposited in such a manner that material or leaching from the waste could cause pollution of ground or surface waters.

(3) All fill areas are accessible for solid waste disposal during all weather conditions under which solid waste can be received.

(4) An aggressive soil erosion program and cover maintenance program are provided. To that end the finished surface of the site must be kept in good repair, covered with soil, and seeded with native grasses or other suitable vegetation immediately upon completion or promptly in the spring to areas terminated during winter conditions.

(5) The facility management and its employees are properly trained in landfill operations and that an emergency response program is provided for.

E. Traffic Patterns and Roadway Provisions. The site should be easily reached by asphalt or concrete paved city or county trunk roads, state highways or federal interstates. All roads to the site should be of sufficient width and construction to safely handle all
sizes of trucks when fully loaded during all weather conditions. Problems such as narrow bridges, low underpasses, and steep grades on access routes must be avoided. The City may require the applicant to pay in whole or in part the cost to the City for providing roadway improvements necessary for the siting of a landfill. In addition, the following standards must be met:

1. The traffic patterns to and from the project have been designed to minimize the impact on existing traffic flows.
2. Safe design of entrances and exits, with provision for right turn deceleration lanes, protected left turn lanes, acceleration lanes and, if needed, signalization of intersections.
3. The site should be accessible at all times. Several access routes are planned so that if one route is temporarily unusable, the site can still be reached.
4. The distance of driveway entrance or exit from any adjacent lot line should be at least one hundred twenty-five (125) feet. The landfill access drive, within one hundred fifty (150) feet of the public street, shall be paved.
5. The on-site roads to the unloading area should be of all weather construction and wide enough to permit two-way truck travel. Road grades should be designed for the largest fully loaded trucks to travel at a reasonable rate.

F. Previous Operating Experience of a Private Agency. A private applicant shall submit information regarding the previous operating experience of the agency and its subsidiaries or parent corporation in the area of solid waste management or related activities. Past performance shall be considered as an indicator of how the proposed landfill could likely affect the health, safety, and welfare of area residents or businesses.

11. Zoning Board of Adjustment Siting Evaluation Criteria. The following criteria shall be the basis upon which the Zoning Board of Adjustment shall formulate their decision. The following criteria are site location design standards and/or performance standards which shall be met. This listing of standards is not intended to be inclusive of all that may be required of the applicant to satisfy the evaluation criteria.

A. Protection of the Public Health, Safety, and Welfare Criteria. The project is designed, located and proposed to be
operated so that the public health, safety, and welfare will be protected. In addition, the following standards shall be met:

(1) The fill area is to be located and designed so as to obviate any predictable lateral movement of significant quantities of leachate from the site to standing or flowing surface water or to shallow aquifers that are in actual use or are deemed to be of potential use as a water resource.

(2) The fill area is to be located and designed so that the base of the landfill is at least 5 feet above the high water table unless a greater separation is required to ensure that there will be no significant adverse effect on ground or surface water or a lesser separation is unlikely to have a significant adverse effect on ground and surface waters.

(3) The footprint of the planned waste disposal area is located outside of a delineated flood plain.

(4) The footprint of the planned waste disposal area is so situated as to ensure: i) no adverse effect on any well within 1,000 feet of the site and in existence at the time of application which is being used or could be used without major renovation for human or livestock consumption; or ii) at least 1,000 feet from any such well unless hydrologic conditions are such that a greater distance is required to ensure there is no adverse effect on the well; or an agreement between the owners has been provided for.

(5) The fill area is located so that the source of any community water system in existence at the time of application is within one mile of the site or is at least one mile from the source of any community water system in existence at the time of application. One mile shall be the minimum distance from the fill area unless hydrologic conditions are such that a greater distance is required to ensure no adverse effect on the water system.

(6) The footprint of the planned waste disposal area is not located in fragile land areas including, but not limited to, wetlands, and/or karst terrain.

(7) The footprint of the planned waste disposal area is not located in areas with rare or valuable ecosystems or geologic formations or significant wildlife habitat.
(8) The footprint of the planned waste disposal area is not located in areas with slopes of greater than twenty-five percent.

(9) The design of the landfill shall be compatible with the natural terrain of the surrounding landscape.

B. Plan of Operation Criteria. The project is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents. To this end the applicant must demonstrate, in their site plan, operational site plan, and plan of operations that the additional following standards can be met:

(1) An aggressive and effective vector and litter control program shall be provided.

(2) Solid waste will not be deposited in such a manner that material or leaching from the waste could cause pollution of ground or surface waters.

(3) All fill areas are accessible for solid waste disposal during all weather conditions under which solid waste can be received.

(4) An aggressive soil erosion program and cover maintenance program are provided. To that end the finished surface of the site must be kept in good repair, covered with soil, and seeded with native grasses or other suitable vegetation immediately upon completion or promptly in the spring to areas terminated during winter conditions.

(5) The facility management and its employees are properly trained in landfill operations and that an emergency response program is provided for.


A. Inspection. An inspection of the entire site shall be made by the Iowa Department of Natural Resources, or their designee, to determine compliance with IDNR approved plans and specifications prior to issuance of an occupancy permit by the Department. In addition, an inspection of the entire site shall be made by the designee(s) of the Council to determine compliance with all site and structure requirements or other standards to be met as outlined in the written decision of the Council prior to issuance of an occupancy permit by the Department. Any
necessary correcting work as directed by IDNR or the County shall be performed before the landfill project is accepted as completed and ready for issuance of an occupancy permit by the Department.

B. Subsequent Zoning. The Exclusive Use District (EU) designation replaces the previous zoning classification and, upon completion of the sanitary landfill operation, no other use shall be permitted without a rezoning and map amendment as provided in this chapter.

13. Waiver of Requirements or Standards. Whenever strict application of the requirements or standards of this section would result in substantial hardship or injustice, the Zoning Board of Adjustment, after recommendation by the Planning and Zoning Commission, may vary or modify such requirements or standards. Said waiver or modification may be granted so long as the applicant can demonstrate the public health, safety, welfare, and interests of the City and the surrounding area are protected, and that the general intent and spirit of this section are preserved.

(Ord. 05-14 – Nov. 05 Supp.)

176.46 WIND ENERGY CONVERSION SYSTEM.

1. For use in this section, the following terms are defined:

A. “Aggregate project” means those which are developed and operated in a coordinated fashion, but have multiple entities separately owning one or more of the individual WECS within the larger project. These projects are prohibited in this section.

B. “Commercial WECS” means a WECS which is intended to produce electricity specifically for sale to a regulated or non regulated utility or for use off site. WECS which have a rated capacity equal to or greater than 100 kW will be considered commercial in this section.

C. “Fall zone” means the area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.

D. “Feeder line” means any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electrical grid, in the case of
interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.

E. “Gigawatt” (GW) is equal to 1,000,000,000 Watts.

F. “Guyed tower” means a tower that is supported, in whole or in part, by guy wires and ground anchors.

G. “Kilowatt” (kW) is equal to 1,000 Watts.

H. “Lattice tower” means a self-supporting tower with three or four sides, open, steel framed structure used to support equipment.

I. “Megawatt” (MG) is equal to 1,000,000 Watts.

J. “Meteorological tower” for the purpose of this Wind Energy Conversion System section, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Iowa Department of Transportation, or other similar applications to monitor weather conditions.

K. “Monopole tower” means a tower consisting of a single pole, constructed without guy wires and ground anchors.

L. “Non-Commercial WECS” means a WECS which has a rated capacity of up to 100 kW which is incidental and subordinate to a permitted use on the same parcel and which is intended to produce electricity primarily for use on site. Such system may be connected to the electrical grid when a parcel on which the system is installed also receives electrical power supplied by a utility company. Excess electrical power generated and not presently needed for on-site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code.

M. “Residential WECS” consists of a wind turbine, tower, and associated control or conversion electronics, which has a rated capacity of not more than 10 kW and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for onsite use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for onsite use may be used by the utility company.
N. “Rotor diameter” means the diameter of the circle described by the moving rotor blades.

O. “Total system height” means the height above grade of the system, including the generating unit and attached blades or rotors.

P. “Tower” means the vertical component of a WECS that elevates the wind turbine generator and attached blades/rotors above the ground.

Q. “Tower height” means the height above grade of the fixed portion of the tower, excluding the generation unit and attached blades or rotors.

R. “Watt” (W) is the International System of Units' standard unit of power, the equivalent of one joule per second.

S. “WECS - Wind Energy Conversion System” means an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations, and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

T. “Wind turbine generator” means the component of a wind energy conversion system that transforms mechanical energy from the wind into electrical energy.

2. Permitted Uses.

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<th>Residential WECS  (Up to 10 kW)</th>
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or the U.S. Department of Energy. Non-certified residential wind turbines must submit a description of the safety features of the turbine, prepared by a registered mechanical engineer.

H. Compliance with the Building Code. Building permit applications for all WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Building Code and certified by a licensed professional engineer shall also be submitted.

I. Compliance with Federal Aviation Administration (FAA) Regulations. All WECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

J. Compliance with the National Electric Code. Building permits for WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of the installation conforms to the National Electric Code.

K. Utility Notification. No WECS shall be installed until evidence has been given that the utility company has been informed of the customer’s intent to install an interconnected customer-owner generator.

L. Tower Configuration. Any WECS tower under fifty (50) feet in total system height may have a monopole, guyed wire, or lattice design for the support of wind generation equipment. All WECS towers with a total system height of more than fifty (50) feet shall only be allowed a monopole design.

M. Total System Height. Residential WECS shall have a total system height of no greater than 50 feet, or twenty (20) feet above the tree canopy, with a maximum total system height of 70 feet. Non-commercial WECS shall have a maximum total system height of one hundred (100) feet.

N. Color and Finish. All WECS shall be white or grey in color. All finishes shall be matt or non-reflective.

O. Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on
migrating birds. Red pulsating incandescent lights should be avoided.

P. Signage. One sign, limited to 4 square feet, shall be posted at the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the phone number of the owner/operator to call in case of emergency.

Q. Climbing Apparatus. All climbing apparatus shall be located at least 12 feet above the ground, and the tower must be designed to prevent climbing within the first 12 feet.

R. Fencing. To limit access to the tower, an opaque fence 6 feet high with smooth side to the outside with a locking portal shall be placed around the WECS. Residential WECS shall be exempt from these regulations.

S. Landscaping. All landscaping requirements shall comply with Section 176.43 of the Marion Zoning Ordinance. Residential WECS shall be exempt from these regulations.

T. Maintenance. Structures and facilities shall be well maintained in an operational condition that poses no potential safety hazard.

U. Insurance. The owner/operator of a WECS must demonstrate adequate liability insurance.

V. Removal. If the WECS remains nonfunctional or inoperative for a continuous period of 1 year, the system shall be deemed discontinued and shall constitute a public nuisance. The owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, including foundations, transmission equipment, and fencing from the property. Nonfunctioning or lack of operation may be proven by reports from the interconnected utility. If removal of towers and appurtenant facilities is required, the Zoning Administrator shall notify the owner/operator. Each WECS shall have a Decommissioning Plan outlining the anticipated means and cost of removing the WECS at the end of its serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning or person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS.
W. Lot Size. No residential WECS shall be constructed on a parcel measuring less than 5 acres and no non-commercial WECS shall be constructed on a parcel measuring less than 10 acres.

4. Submittal Requirements.

A. Application. An applicant for a WECS permit shall submit at least 9 full copies of a site plan, prepared by a professional engineer licensed to practice in the State of Iowa. The professional engineer shall certify, in writing, that the site plan meets all engineering requirements of the City of Marion Code of Ordinances. Site plan requirements shall include:

1. A site plan drawn to scale no greater than 1 inch equals 50 feet, based on a certified instrument survey by a surveyor licensed in the State of Iowa.

2. Location of the WECS on the site and total height of the system, including blades, rotor diameter, and ground clearance. The area of the base of each tower and depths shall be indicated.

3. Utility lines, telephone lines and any other lines, both above and below ground, within a radius of 2,000 feet. Information presented shall contain details as how the power will be delivered to the grid, including the route and size of poles and towers to be used.

4. Property lot lines, land uses and the location and dimensions of all existing structures and uses on and off site within 2,000 feet of each WECS.

5. Dimensional representation of the various structural components of the wind tower construction, including the base and footing.

6. Design data indicating the basis of design, including manufacturer’s dimensional drawings and installation and operation instructions.

7. Certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Marion Fire Prevention and Building Code.

8. Certification that the electrical system design is in compliance with accepted engineering practices and with the appropriate provisions of the National Electric Code.
(9) Certification that the rotor over speed control system is in compliance with accepted engineering practices.

(10) The applicant shall provide a shadow flicker and blade glint zone model for any proposed WECS as requested by staff. The model shall:

a. Model and describe the zones where shadow flicker and blade glint will likely be present within the project boundary and a 2 mile radius beyond the project boundary. Include the topography, existing residences, wind speeds and directions, and existing vegetation and roadways. The model shall represent the most probable scenarios of wind consistency, sunshine constancy, and wind directions and speeds.

b. Calculate the locations of shadow flicker and blade glint caused by the proposed project; the expected durations of the flicker and glint at these locations and the total number of possible hours per year of flicker and glint at all locations.

(Ord. 07-33 – Feb. 08 Supp.)

176.47 CENTRAL CORRIDOR OVERLAY DISTRICT. The regulations set forth in this section, or elsewhere in this chapter when applicable, shall apply in the Central Corridor Overlay District.

1. Statement of Intent. The Central Corridor Overlay District is intended to enhance the visual appearance and image of the Central Corridor and advance the public welfare through the resulting benefits to the economy and quality of life for the City of Marion. The Central Corridor extends between Highway 13 and Tama Street through the City of Marion and is the primary gateway to the community and points beyond. The City has recognized the importance of 7th Avenue/Business 151 to the City of Marion as a thoroughfare for regional traffic, the impact its character has on the image of the community, and the need to provide restrictions and guidelines to enhance the visual appearance and image of the Central Corridor.

2. Applicability. The restrictions, regulations, and guidelines on development and construction set forth by this section shall apply to the Central Corridor (CC) Overlay District shown on the Official Zoning Map of the City. If the restrictions, regulations and guidelines of the CC Overlay District require standards, height regulations, bulk regulations,
open space and landscaping requirements, off-street parking and loading requirements, buffer requirements, architectural standards, sign regulations, lighting standards, street right-of-way improvements, or other requirements and standards which are greater, or different than those set forth in the underlying zoning district, the requirements and standards of this section shall govern.

3. Bulk Regulations. The following additional bulk requirements shall be observed in the Central Corridor Overlay District:

   A. Lot Area. No subdivision of land shall create a lot of less than one (1) acre in size. Furthermore, no re-subdivision of any parcels shall reduce in size any existing lot.

   B. Lot Width. No subdivision of land shall create a lot of less than 200'. Furthermore, no re-subdivision of any parcels shall reduce in width any existing lot.

   C. Multiple use of a lot by more than one (1) principal building is permitted, if the site is developed as a complex and the approved site plan demonstrates that buildings are compatible in architectural design and use of exterior materials; organized in close physical proximity, utilizing a centralized open space, and provided parking areas are not located between buildings within the complex.

4. Open Space and Landscaping Requirements. On-site open space and landscaping requirements shall be the same as required for the underlying zoning district.

   A. Parking lot designs and landscaping standards of Section 176.43 of this chapter shall also apply within the C-2, Central Business District Commercial zoning district.

5. Off-Street Parking, Access and Loading. Off-street parking and loading requirements shall be the same as required for the underlying zoning district, with the following additional requirements:

   A. Parking areas and loading areas, including loading dock, shall be placed and screened to be obstructed from view from any public street.

   B. No part of any parking or loading space and associated access drive shall be closer than five (5) feet to any public street right-of-way or public street easement to permit adequate area for landscape screening and to perpetuate the desired open space
character within this overlay district. A waiver up to 2’ may be issued upon staff review.

C. Greater setbacks than noted in (B) above may be required if future right-of-way is required for 7th Avenue/Business 151 to meet the designated widths of a major arterial street as identified in the Comprehensive Plan.

D. Redevelopment of a site within the Central Corridor, greater than 25% of the assessed value of the building and property, shall require that all access to the site be examined and brought into conformance to City Design Standards for access management, however in no case shall access to the site be completely eliminated.


7. Architectural Standards. The requirements, guidelines, and standards set forth in this section shall apply to any development or redevelopment of property within the Central Corridor Overlay District.

A. Statement of Intent. In the interest of promoting the general welfare of the community and to protect the value of buildings and property, the image and character of a community is considered important. It is recognized that the community should be visually attractive, as well as financially prosperous and the manner in which a use is accomplished is as important as the use. The quality of architecture and building construction is important to the preservation and enhancement of building and property values, prevention of the physical deterioration of buildings and the promotion of the image of the community and the general welfare of its citizens. Architectural design and use of materials for the construction of any building shall be subject to the approval of the City Council.

B. Architectural Standards. Architectural plans for buildings shall include: Documentation to be submitted shall include building elevations showing the building’s design and exterior materials and any other information as deemed necessary to make a determination. Detailed information relating to any lighting or signage on the structure shall be provided, including backlit material or accent lighting. The architectural design shall be in accordance with the standards as contained in this section.

(1) Development Within the Area Identified as the Marion Central Corridor. Building architectural design
within this area shall recognize the importance of material strength and permanency through the selection of building materials, and the principle of structural strength and permanency shall dominate the structural and exterior materials and components. The primary material shall constitute at least 75 percent of the wall area, excluding glass. The primary exterior material shall consist of a combination of brick, architectural concrete panels, textured concrete block, or architectural steel, or stone panels. The standard shall apply to all sides of any building. The remaining exterior material shall be considered as building trim. For the purposes of this section, trim is defined as an ornamental design feature, that when removed does not significantly alter the appearance of the building. It would commonly consist of building elements like moldings, cornices, parapet, frieze, sills, lintels, stringcourse, quoining, and ledgometry. The maximum amount of trim on the wall area, excluding glass, shall not exceed 25 percent. No wood, masonite, asphaltic exterior wall or roof material, aluminum or steel siding, non-architectural sheet metal, non-textured concrete block, stucco, vinyl, E.I.F.S. (Exterior Insulation and Finish Systems) or other similar materials shall constitute a portion of any building, except as trim.

(2) Wall Area Defined. In the application of these requirements, some standards are based upon a percentage of the wall area. The wall area is defined as the total square feet of the exterior elevation of the building that is vertical to the ground. It may contain a gable end or dormer in the same plane of view. It does not contain the elevation area of a pitched roof, but would include the area of a parapet wall. Each elevation must comply with the standards unless otherwise provided for herein or as approved by the City Council.

(3) Nonresidential Buildings included under the Central Corridor Overlay District. In order to achieve continuity along this corridor, buildings abutting or within 300 feet of 7th Avenue/Business 151 shall be designed in conformance with paragraph (1) and in addition, shall have brick constitute at least 50 percent of the wall area that faces the arterial street, excluding glass.

(4) General Provisions.

(a) Adequate treatment or screening of negative aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters and HVAC mechanical units) from any public street and adjoining properties shall be required. Preference is given to siting
loading docks or loading areas out of view from public streets.

(b) The City Council, in its sole discretion and after receiving a recommendation from the Planning and Zoning Commission, may approve additional primary materials on a case-by-case basis, provided that such materials exhibit the structural strength and permanency desired, contain sufficient architectural relief, and do not detract from the desired aesthetic character of the building and the surrounding area.

(Ord. 10-22 – Aug. 10 Supp.)

176.48 MORATORIUMS. The City Council by resolution may establish a temporary moratorium on the enforcement of any provision of this Code of Ordinances where it finds that enforcement of said provision will hinder reaction to or recovery from any natural or man made disaster or emergency situation located in the City or the metropolitan area and that a moratorium is in the best interests of the public health, safety and welfare. The resolution establishing a temporary moratorium may establish such conditions and restrictions as the City Council deems appropriate in the circumstances then existing. The City Council may also enact temporary ordinances that are not a part of the permanent Code of Ordinances and enforce the temporary ordinances as provided in either Section 1.06 or Chapter 4 of this Code of Ordinances. The establishment of a temporary moratorium shall not create any property interest or right in any person or entity benefiting from the moratorium and a moratorium may be terminated by the City Council at such time as it deems expedient without prior notice. This section does not authorize the City Council to grant any permanent variance to any of the provisions of this chapter or to grant any special use permit.

(Ord. 10-06 – May 10 Supp.)

176.49 URBAN AGRICULTURE.

1. Statement of Purpose. The purpose of this section is to establish zoning regulations for the operation of urban agriculture activities and to provide standards for the siting, design, maintenance and modification of urban agriculture activities that address public safety, and minimize impacts on residents and historic resources in the City of Marion.

2. Definitions. For the purposes of this section, the following words and phrases shall have the meanings indicated:

A. "Beekeeper" means a person or persons managing and maintaining honey bees in a hive or hives.

B. "Coldframe" means a temporary, unheated outdoor structure, no higher than thirty-six (36") inches, used for protecting seedlings and plants from the cold. Coldframes may be erected for up to 6 months during any given calendar year.
C. "Colony" means a natural group of honey bees having a queen or queens.

D. "Composting" means a process of accelerated biodegradation and stabilization of organic material under controlled conditions yielding a product which can safely be used as fertilizer.

E. "Comprehensive Farm Review" means an evaluation by the Planning and Development Department staff of the City of Marion for the overall design and siting of an urban farm and farm structures. Activities defined as urban agriculture must conform to the Zoning Code, specifically this section, in all other respects, and must be processed and approved by the Planning and Development Department for the City of Marion.

F. "Controlled Environment Agriculture (CEA)" means any agricultural technology that enables the grower to manipulate the environment to desired growing and/or cultivation conditions.

G. "Farm Area" means the area of a lot designated for activities and uses defined as urban agriculture.

H. "Farmers' Market" means a public market administered by a market manager and held multiple times per year to connect and mutually benefit local farmers, communities and shoppers. Vendors may include local farmers, farmers' cooperatives and producers selling any of the following: whole produce; value-added agricultural products such as jams, jellies, and pickles; prepared food; all agricultural, and horticultural products including but not limited to whole produce; plants; flowers; meats; dairy products; shellfish and finfish; and other food-related products.

I. "Farm Stand" means a farm structure such as a table, stall or tent, in use during that urban farm's growing season, and operated by a sole vendor for the sale of agricultural or horticultural products.

J. "Farm Structures" means those structures that may include but are not limited to sheds (tool and packing), compost bins, shade pavilions, farm stands, trellises or other vertical supports for growing crops, and structures used to extend the growing season such as greenhouses, hoophouses, coldframes, freight containers, and similar structures.

K. "Greenhouse" means a permanent structure made of glass, plastic, or fiberglass in which plants are cultivated year round under controlled temperature and humidity settings.

L. "Ground Level Urban Farm" means the use of a lot on the ground plane for urban agriculture for commercial purposes, whether for profit or nonprofit.
M. "Hive" means a manufactured receptacle or container prepared for the use of honey bees that includes movable frames, combs and substances deposited into the hives by honey bees.

N. "Honey Bee" means a subset of bees in the genus Apis, primarily distinguished by the production and storage of honey and the construction of perennial, colonial nests out of wax.

O. "Hoophouse" means an outdoor structure made of flexible PVC piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape, generally tall enough for a person to enter standing up.

P. "Local" means from Iowa or Midwestern States.

Q. "Open Air Rooftop Farm" means an unenclosed area of a rooftop that is used for urban agriculture for commercial purposes, whether for profit or nonprofit.

R. "Raised Bed" means a method of cultivation in which soil is placed over a geotextile barrier, and raised and formed into three (3) to four (4) foot wide mounds. The soil may be enclosed by a frame generally made of untreated wood. Raised beds are not considered a structure.

S. "Roof Level Urban Farm" means the use of a roof for urban agriculture for commercial purposes, whether for profit or nonprofit.

T. "Rooftop Greenhouse" means a permanent structure located on a roof made of glass, plastic, or fiberglass in which plants are cultivated year round.

U. "Urban Agriculture" means the use of a lot for the cultivation of food and/or horticultural crops and accessory composting. Such use may include the accessory keeping of hens, ducks or honey bees where allowed by underlying zoning.

V. "Urban Farm, Ground Level, Large" means a ground level urban farm with a farm area greater than one (1) acre that is used for urban agriculture for commercial purposes, whether for profit or nonprofit.

W. "Urban Farm, Ground Level, Small" means a ground level urban farm with a farm area less one (1) acre that is used for urban agriculture for commercial purposes, whether for profit or nonprofit.

X. "Urban Farm, Roof Level, Large" means a roof level urban farm with a farm area greater than one (1) acre that is used for urban agriculture for commercial purposes, whether for profit or nonprofit.

Y. "Urban Farm, Roof Level, Small" means a roof level urban farm with a farm area less one (1) acre that is used for urban agriculture for commercial purposes, whether for profit or nonprofit.
Z. "Vertical Agriculture" means an exterior building wall or other vertical structure designed to support the growing of agricultural or horticultural crops.

3. Applicability. No urban agriculture activity shall be conducted, or farm structure erected, except in compliance with the provisions of this section. The provisions of this section apply to all urban agriculture activities, whether such activity is a primary use or an accessory use; provided, however, that the provisions of this section shall not apply to any of the following:

A. Any urban agriculture activity for which appeal to the Board of Adjustment for any zoning relief has been made prior to the first notice of hearing before the Zoning Commission for adoption of this section, and provided that such zoning relief has been or is thereafter granted by the Board of Adjustment pursuant to such appeal; or

B. Any urban agriculture activity conducted or farm structure erected pursuant to a building permit issued prior to the first notice of hearing before the Zoning Commission for adoption of this section.

C. Notwithstanding the above, any replacement of either such urban agriculture activity or farm structure described in this section with another urban agriculture activity or farm structure must comply with all the requirements of this section.

4. Permit Required.

A. Permit Required. No person shall grow or maintain an urban farm within the City of Marion without a valid urban farm permit obtained from the permitting officer under the provisions of this section.

B. Application. In order to obtain a permit, an applicant must submit a completed application on forms provided by the permitting officer, either online or in paper form, and paying all fees required by this section.

C. Requirements. The requirements to the receipt of a permit include:

(1) All requirements of this section are met;

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

(3) All judgments in the City's favor and against the applicant have been paid in full;

(4) The applicant has provided notice to the residents of all immediately adjacent dwellings of the applicant's intent to obtain a permit;
(5) The applicant has provided a site plan consistent with the requirements of a Comprehensive Farm Review.

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

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

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

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

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

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

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

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

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

H. Appeals. No permit may be denied, suspended, revoked, or not renewed unless notice and an opportunity to be heard is given the applicant or holder of the permit. In any instance where the permitting officer has denied, revoked, suspended, or not renewed a permit, the applicant or holder of an urban farm permit may appeal the decision to the City Manager, or designee other than the permitting officer within ten (10) business days of receipt by the applicant or holder of the permit of the notice of the decision. The applicant or holder of the permit will be given an opportunity for a hearing. The decision of the officer hearing the appeal, or any decision by the permitting officer which is not appealed in accordance to this section shall be deemed final action.
5. Urban Farm, Ground Level.

A. Urban Farm, Ground Level.

(1) Use Regulations. The primary activity to be performed on an urban farm shall be the cultivation of plants and horticultural crops; other activities may be subject to permitting.

(a) Urban Farm, Ground Level, Small. Small ground level urban farms are allowed in all districts.

(b) Urban Farm, Ground Level, Large. Large ground level urban farms are allowed in all industrial districts. Large ground level urban farms are conditional in all other districts.

(2) Maximum Height of Farm Structures. Farm structures, including but not limited to hoophouses, sheds and shade pavilions, shall be subject to the applicable height limits in the underlying zoning.

(a) Setbacks for Farm Structures.
   
   i. Subject to Section 176.32, Accessory Buildings and Uses, all farm structures shall be set back five (3) feet from all property lines in all districts.

(3) Signage. The following regulations shall apply to signage used for urban farms:

(a) Types of Signage:
   
   i. All ground level urban farms shall be required to post one (1) identification sign, not exceeding six (6) square feet in total area, attached at a height of no more than four (4) feet high stating only the name of the ground level urban farm and contact information.

   ii. One (1) temporary sign shall be allowed for a farm stand and may be displayed during sales hours but must be removed from the premises and stored inside a structure when the farm stand is not in operation. Temporary farm stand signs shall not encroach upon sidewalks, driveways and/or other rights of way, and shall be displayed so as not to create a nuisance or hazard.
(b) Sign Design Review.
   i Urban farm signage shall be reviewed as required by Section 176.31 Signs.
   ii Urban farms subject to Comprehensive Farm Review shall provide, as part of their CFR submittal, a signage plan showing proposed signage and related architectural features on the sign frontage.

6. Urban Farm Roof Level.
   A. Rooftop Greenhouse.
      (1) Use Regulations. The primary activity to be performed on an urban farm shall be the cultivation of plants; other activities may be subject to permitting.
         (a) Rooftop greenhouses are allowed in all commercial, office and industrial districts.
         (b) Rooftop greenhouses are conditional in all other districts.
      (2) Maximum Height. Rooftop greenhouses shall be no higher than twenty-five (25) feet from the roof surface.
   B. Urban Farm, Roof Level.
      (1) Use Regulations. The primary activity to be performed on an urban farm, or within a farm structure, shall be the cultivation of plants; other activities may be subject to permitting.
         (a) Urban Farm, Roof Level, Small. Small roof level urban farms are allowed in all districts.
         (b) Urban Farm, Roof Level, Large. Large roof level urban farms are conditional in all districts.
      (2) Maximum Height of Farm Structures. Farm structures, including but not limited to hoophouses, sheds and shade pavilions, shall be subject to the applicable height limits in the underlying zoning except for rooftop greenhouses shall be no higher than twenty-five (25) feet from the roof surface.

7. Comprehensive Farm Review.
   A. Purpose of Comprehensive Farm Review. The purpose of the Comprehensive Farm Review ("CFR") requirement of this section is to ensure that all urban farms are sited and designed in a manner that is sensitive to the surrounding neighborhood. In addition, any urban agriculture activities that are designed as part of a new building,
including but not limited to rooftop agriculture, are integrated into the overall design and architecture of the new building through Comprehensive Farm Review.

B. Applicability of Comprehensive Farm Review. Comprehensive Farm Review shall be required for all urban farms.

C. Urban Farm Permit. A Comprehensive Farm Review shall be completed prior to issuance of an urban farm permit.

D. Conditional Use Permit Approval. Comprehensive Farm Review shall be reviewed and approved as a part of the conditional use permitting process for large ground level or large roof level urban farms. The Board of Appeal shall not grant a conditional use permit for large urban farm or large roof level farm unless the conditions of this section are met.

E. Information Required to be a Complete Application for Comprehensive Farm Review.

(1) The information required for Comprehensive Farm Review shall include:

(a) At minimum, a sketch plan showing planted areas, footprints for all farm structures, driveways, parking areas, and landscape buffers; and

(b) At minimum, a sketch drawing for farm structures; and

(c) Photographs of existing site and adjacent properties to provide site context; and

(d) Proposed plans for irrigation, and controls for storm water runoff as required by City of Marion.

(e) Proposed signage plan showing proposed signage.

(2) Such submission materials shall describe or illustrate the dimensions, location and appearance of:

(a) All proposed urban agriculture activities, materials used, screening, fencing, landscaping, and the like, in a manner that is sensitive to the surrounding area; and

(b) Any existing buildings which will remain along with the proposed urban agriculture activities, if applicable, and any farm structures within the visible context of such activity.
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F. Design Guidelines. This subsection establishes the following design guidelines for all proposed urban farms subject to Comprehensive Farm Review.

(1) Site Plan.

(a) Site planning, including location of farm structures, vehicular access, and parking areas, should be designed to enhance the street frontage and surrounding buildings and spaces. In addition, placement of farm structures should respect significant landscape features on the site, such as rock outcroppings, drainage areas, and mature trees.

(b) Vehicular access and egress to and from an urban farm should minimize traffic impacts on the adjacent roadways and provide safe visual access for drivers and pedestrians.

(c) Composting, equipment storage, and disposal areas should not be located in the front setback, unless there are special circumstances that make it necessary. While a driveway may be allowed in the front setback, the parking zone shall only be permitted within the side or rear setbacks of the property.

(d) Composting which is accessory to an urban farm shall be used primarily to support onsite operations, and shall comprise no more than five (5%) percent of the lot area.

(2) Structures.

(a) New farm structures should be compatible with the size, scale and material of the surrounding built and natural environment.

(3) Perimeter Fencing.

(a) Any perimeter fencing for ground level urban farms may be made of one or more materials, such as masonry (piers or walls), metal pickets, decorative metal, post and rail, wrought iron, shadow box, vinyl coated chain link, or board-type wood. The use of uncoated metal chain link fencing is discouraged. The use of plywood sheeting also is discouraged. Two or more materials may be used in combination with each other, and piers and walls may be used in combination with fences.
(4) Screening.
   (a) Walls and Fences.
   i Screening walls and fences may be made of one or more materials, such as masonry (piers or walls), decorative metal, shadow box, or board-type wood. The use of un-coated metal chain link fencing is discouraged. The use of plywood sheeting also is discouraged. Two or more materials may be used in combination with each other, and piers and walls may be used in combination with fences.
   (b) Landscape Screening.
   i Street-facing landscape elements, such as fencing, street trees, plantings and signage, should be compatible with the surrounding architecture and environment provided pursuant to this section may be all deciduous or all evergreen, or a mixture of both types. Shrubs shall be densely planted. Trees required by this section may be evergreen or a combination of deciduous and evergreen, and of a sufficient size to provide adequate screening. Existing mature trees and shrubs shall be maintained unless this is not possible.

(5) Lighting.
   (a) Lighting for ground level urban farms, roof level urban farms, and rooftop greenhouses should be limited to that required for operational and safety purposes of any activity defined as urban agriculture so as not to create a nuisance through excessive brightness to abutting residential uses. For ground level urban farms, roof level urban farms and rooftop greenhouses abutting residential uses, applicant shall supply a lighting schedule and plans to mitigate fugitive light.

(6) Materials.
   (a) For greenhouses, at least seventy percent (70%) of all roofs and walls should consist of transparent materials.
   (b) For hoophouses, materials should consist of flexible PVC or metal tubing and transparent or
translucent plastic covering. Hoophouses shall be secured to the ground.

G. Design Requirements. This subsection establishes the following design requirements for proposed urban farms subject to Comprehensive Farm Review.

1. Screening and Buffering.
   (a) Any composting, loading or disposal areas that abut (a) a public street, (b) a public park, (c) a residential district or residential use shall be screened from view as provided. Such screening can include trees, shrubs, and perennial borders and/or screening walls and fences. Any fencing shall not be less than fifty (50%) percent opaque and shall be no less than three (3) feet and no more than six (6) feet high.
   (b) Any material or equipment stored outdoors shall be surrounded by a wall or fence or vegetative screen of such height, not less than six (6) feet high, as may be necessary to screen such material or equipment from view from any public street or public open space.

   (a) All urban farms required to comply with this section shall be maintained exclusively for the activities defined as urban agriculture so long as a use requiring them exists.
   (b) Urban farms shall be used in such a manner in which at no time shall they constitute a nuisance or a hazard to the surrounding neighborhood. Urban farms shall be maintained in a healthy growing condition, especially in the off-season.
   (c) There shall be no parking of vehicles or equipment between a fence, hedge or other landscape screening and the public way, such as the street or sidewalk. Inside storage of any materials, supplies, or products is preferred.

8. Accessory Composting.
   A. Accessory Composting.
      (1) Use Regulations. Accessory composting shall be allowed where any ground level urban farm, roof level urban farm is permitted.
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(2) Maximum Height.
   (a) Maximum height of composting structures or bins shall not exceed five (5) feet for ground level and roof level urban farms in any district.
   (b) On a roof level urban farm, any composting must be contained within an enclosed bin that does not have direct contact with flammable materials.

(3) Setbacks.
   (a) Compost bins, structures and windrows shall be set back five (5) feet from all property lines on ground level urban farms in all districts.
   (b) Compost bins, structures and windrows shall not be located in the front yard or in a side yard that abuts a street in all residential and commercial districts.

(4) Lot Coverage.
   (a) Composting which is accessory to an urban farm shall be used primarily to support onsite operations, and shall comprise no more than seven and a half (5 %) percent of the lot area.

   A. Use Regulations.
      (1) Accessory keeping of honey bees shall be allowed as a conditional use in all zoning districts, the Board of Appeal shall not grant a conditional use permit for the accessory keeping of honey bees unless the conditions of the section are met.
   B. Maximum Number of Hives.
      (1) The maximum number of hives on any given lot or roof for personal consumption of honey bee products shall be two (2).
   C. Maximum Height and Size.
      (1) No hive shall exceed five (5) feet in height and twenty (20) cubic feet in size on any lot.
   D. Beekeeping Requirements.
      (1) Setbacks.
         (a) Where there is a wall, fence or similar barrier between the subject property and adjacent property, no setback from the property line is required. Where there is no wall, fence or similar barrier between subject
property and adjacent property, hives shall be set back five (5) feet from the property line.

(b) Hives shall not be located in the front yard or in a side yard that abuts a street in all residential and commercial districts.

(c) No hive shall be located closer than ten (10) feet from a public sidewalk.

E. Hive Placement and Flyways.

(1) For any ground level hive that is within twenty(20) feet of the doors and/or windows of the principal building on an abutting lot, either of the following conditions must exist:

(a) The hive opening must face away from doors and/or windows; or

(b) A flyway of at least six (6) feet in height comprising of a lattice fence, dense hedge or similar barrier must be established in front of the opening of the hive such that the honey bees fly upward and away from neighboring properties. The flyway shall be located within three (3) feet of the entrance to the hive and shall extend at least two (2) feet in width on either side of the hive opening.

F. Compliance with State and Local Laws.

(1) All beekeeping shall comply with applicable State and local laws and regulations.

10. Farmers Markets and Farm Stands.

A. Farmers Markets.

(1) Use Regulations. Farmers markets shall be subject to the following use regulations:

(a) Farmers markets on a lot or lots are allowed where retail is allowed by the applicable underlying zoning.

(b) Farmers markets on a lot or lots are conditional where retail is not allowed by the applicable underlying zoning.

(2) Permitting Requirements.

(a) The operation of a farmers market requires all applicable permits as required by Iowa Administrative Code, 481 Chapter 30 Food and Consumer Safety.
B. Farm Stands. Up to one (1) farm stand may be constructed given the following regulations:

(1) Use Regulations.

(a) Accessory farm stands selling and/or distributing only horticultural and agricultural products are allowed where urban farms are allowed provided that a single stand does not exceed two-hundred (200) square feet in total floor area.

(b) Accessory farm stands are conditional in all other districts where retail is not allowed by the applicable underlying zoning, unless they are accessory to an urban farm.

(c) Accessory farm stands are only permitted to sell products produced on the urban farm upon which the stand is accessory.

(2) Placement and Safety.

(a) Accessory farm stands shall not encroach upon sidewalks, driveways and/or other rights of way, and shall be erected so as not to create a nuisance or a hazard.

(3) Permits Required.

(a) The operation of a farm stand requires all applicable permits as required by Iowa Administrative Code, 481 Chapter 30 Food and Consumer Safety.

11. Abandonment.

A. Removal Requirements. Any urban farm which has been abandoned shall be cleared and restored to its original state. The owner/operator shall physically remove all farm structures no more than one hundred and eighty (180) days after the date of discontinued operations. More specifically, site clearing shall consist of:

(1) Physical removal of all farm structures, farm equipment and machinery;

(2) Disposal of all composting and agricultural waste in accordance with local and state waste disposal regulations; and

(3) Stabilization of re-vegetation of the site as necessary to minimize erosion. The Building Inspections Department may allow the owner to leave landscaping in order to minimize erosion and disruption to vegetation.
B. Abandonment. The former ground level or roof level urban farm site shall be considered abandoned when it fails to operate for more than one year without the written consent of the Building Inspections Department.

C. The Building Inspections Department shall determine what proportion of the site is inoperable for the facility to be considered abandoned. If the applicant fails to remove the farm structures, farm equipment and machinery in accordance with the requirements of this section within one hundred and eighty (180) days of abandonment, the Building Inspections Department shall have the authority to enter the property and conduct all removal activities.

12. Regulations.

A. The City of Marion City Council may promulgate regulations to administer this section.


A. The provisions of this section are severable, and if any provision of this section shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this section.

(Ord. 15-11 – May 15 Supp.)

176.50 CENTRAL CORRIDOR ZONING DISTRICTS.

1. Purpose: The purpose of the Central Corridor Zoning Districts is to promote a built environment which is street-oriented while encouraging pedestrian activity, and residents living, working and shopping along the corridor.

2. Applicability: The zoning districts, design standards, and permitted uses indicated within the Marion Central Corridor Districts Plan – 2019 are hereby adopted as an amendment to the Zoning Code and shall be illustrated on the Zoning Map. Where inconsistencies exist between the Central Corridor regulations and other provisions of the Municipal Code, the Central Corridor regulations shall apply.

3. District and Sub-District Boundaries: The Central Corridor District is known as the area generally between 2nd Street & 31st Street and 5th Avenue and 9th Avenue. The District incorporates the sub-districts of the Uptown Marion Main Street District and locally and nationally recognized Historic Districts. Both sub-districts will have additional review processes outlined within this ordinance and said sub-district boundaries shall be applied to the base district designation.
4. Uptown 1 (U-1) District Standards: The U-1 Uptown District is the Central Business District which includes the Central Business Historic District. The intent of the U-1 district is to preserve and promote the quality of life and historic business district. These regulations are intended to preserve the historic buildings and in turn ensure the continued commercial viability by maintaining the use of quality building materials, encouraging pedestrian traffic, and preserving and enhancing community gathering spaces. The historic reference for this type of urban form is seen on the north side of 7th Avenue, between 10th and 13th Street. As such, new development and preservation of existing buildings are required to emulate this historic urban form.
CHAPTER 176  ZONING REGULATIONS

KEY

PROPERTY LINE
PARKING AREA

Parking

Location (Distance from Property Line)

Front Setback 20'  
Side Setback 0'  
Side Street Setback* 5'  
Rear Setback 0'

* Setback may be waived when a screening element is provided in the form of a solid wall, or densely planted compact hedge. Such screening shall be not less than four (4) feet in height and shall be adequately maintained. The design of the screening element is subject to approval by the Community Development Director.

Required Parking Spaces

Off-street parking is not required.

Notes

Parking not allowed between building and curb.

On corner lots, primary parking drive shall not be located on primary street.

Connectivity is encouraged between adjacent lots.

Parking may be provided off-street within 300' as or shared parking.

Setback Encroachments

Location

Front 8' max.  
Side Street 8' max.  
Rear 5' max.

Notes

Canopies, awnings, and balconies may encroach over the BTL into the right-of-way on the street sides and into the setback on the rear, as shown in the shaded areas. Encroachments shall not be within two (2') feet of the back-of-curb (BOC).

Special exceptions may be allowed with the approval of the Community Development Director.

Frontage Types

Forecourts

Depth 20’ min., not to exceed width
Width 20’ min., 50% of lot width max.

Stoops

Depth 4’ min., 6’ max.

Storefront

Depth 0’ min., 6’ max.
5. Uptown 2 (U-2) District Standards: The U-2 Uptown District is located adjacent to the U-1 District and in context with the roundabouts at 7th Street and 15th Street. The U-2 District is intended to be a more intensive use district than the U-1 District and allows for full block buildout and higher densities. The District encourages residential, service, and retail uses to develop in a mixed-use environment that supports Uptown living, shopping and working. Similar to the U-1 District, quality materials, and pedestrian circulation and amenities are encouraged to provide community gathering spaces.

### Building Placement

**Setback** (Distance from Property Line)

- Front: 12' max.  
- Side Street, Corner Lot: 12' max.  
- Side: 12' max.  
- Rear: Adjacent to Residence: 15’ min.  
- Adjacent to any other use: 10’ min.

**Building Form**

- Primary Street - Percent of bldg. on SB line 80%  
- Lot Width: 18’ min.  
- Lot Depth: 120’ min.  
- Lot Coverage: 90% max.

**Notes**

- N/A

### Height

- Building Minimum: 2 stories  
- Building Maximum: 4 stories  
- Ground Floor Finish Elevation: 12” max. above sidewalk

**Notes**

- All floors must have a primary ground floor entrance that faces primary or side street.

- Rear-facing buildings, loading docks, overhead doors, and other service entries are prohibited on street-facing facades.

- Any building over 75’ wide must be broken down to read as a series of buildings no wider than 75’ each.

- Mansard roof forms are not allowed.

- Buildings greater than 16 units must provide adequate common space for residents in the form of community rooms, roof terraces or courtyards.
Parking lot screening per Sec. 176.29.1.H.(7)

Key
- PROPERTY LINE
- PARKING AREA

Parking

<table>
<thead>
<tr>
<th>Location</th>
<th>Distance from Property Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Setback*</td>
<td>5’</td>
</tr>
<tr>
<td>Side Setback</td>
<td>0’</td>
</tr>
<tr>
<td>Side Street Setback*</td>
<td>5’</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>10’</td>
</tr>
</tbody>
</table>

* Setback may be waived when a screening element is provided in the form of a solid wall, or densely planted compact hedge. Such screening shall be not less than four (4) feet in height and shall be adequately maintained. The design of the screening element is subject to approval by the Community Development Director.

Required Parking Spaces

Off-street parking is not required.

Notes

Parking not allowed between building and curb.

On corner lots, primary parking drive shall not be located on primary street.

Connectivity is encouraged between adjacent lots.

Parking may be provided off-street within 300’ in parking lots.

Key
- PROPERTY LINE
- ENROACHMENT AREA
- SETBACK LINE

Setback Encroachments

<table>
<thead>
<tr>
<th>Location</th>
<th>Distance into the setback area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front</td>
<td>8’ max.</td>
</tr>
<tr>
<td>Side Street</td>
<td>8’ max.</td>
</tr>
<tr>
<td>Rear</td>
<td>5’ max.</td>
</tr>
</tbody>
</table>

Notes

Storefronts, stoops, balconies, bay windows and awnings may encroach into the setback area.

Frontage Types

<table>
<thead>
<tr>
<th>Terrain</th>
<th>Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terrace</td>
<td>3’ min.</td>
</tr>
<tr>
<td>Forecourts</td>
<td>20’ min. not to exceed width</td>
</tr>
<tr>
<td>Width</td>
<td>20’ min., 50% of lot width max.</td>
</tr>
<tr>
<td>Stoops</td>
<td>4’ min., 6’ max.</td>
</tr>
<tr>
<td>Storefront</td>
<td>0’ min., 6’ max.</td>
</tr>
</tbody>
</table>

Notes

Landscape buffer is required between U-2 and adjacent residential, consistent with Section 176.43.
6. Urban Transition Residential 1 (UTR-1) District Standards: The UTR-1, Urban Transition Residential District is a transitional zoning district located between 7th and 8th Avenues. This District is adjacent to exiting low density residential areas north of 8th Avenue and generally shares a rear property line with more intense commercial development adjacent to 7th Avenue. The intent of the district is to promote residential development in medium densities to serve as a buffer between commercial development and primarily low density residential neighborhoods. Lower density multi-unit development is encouraged in the district.

![Diagram of Urban Transition Residential 1 District Standards]

**Key**
- PROPERTY LINE
- BUILDING ENVELOPE
- SETBACK LINE

**Building Placement**

**Setback (Distance from Property Line)**
- Front: 7’ min.; 15’ max.*
- Side Street, Corner Lot: 7’ min.; 15’ max.
- Side: 7’ min.
- Rear: 20’ min.

* 20’ to front of garage.

**Building Form**

- Primary Street - Percent of bldg. on SB line: 60%
- Lot Width: 18’ min.; 120’ max.
- Lot Depth: 120’ max.
- Lot Coverage: 70%

**Accessory Buildings**

- Front Setback: 20’ plus front yard
- Side Setback: 5’ min. (or existing building setback)
- Rear Setback: 5’ min.; 10’ to an alley

**Height**

- Building Minimum: 1 story
- Building Maximum: 3 stories
- Accessory Building Max.: 1 story

**Notes**

- Rear-facing buildings, loading docks, overhead doors, and other service entries are prohibited on street-facing facades.
- Upper floor residential units must have a visible ground floor entrance that faces the street.
- Mansard roof forms are not allowed.
- Buildings greater than 16 units must provide adequate common space for residents in the form of community rooms, roof terraces or courtyards.
CHAPTER 176 ZONING REGULATIONS

**Key**
- **PROPERTY LINE**
- **PARKING AREA**

**Parking**

**Location** (Distance from Property Line)
- Front Setback: 12'
- Side Setback: 0'
- Side Street Setback: 10'
- Rear Setback: 5'
  - Adjacent Residential: 15' w/ buffer

**Required Parking Spaces**
- 1 to 2 family residential: 1.0 / dwelling
- 3 or more family residential: 1.5 / dwelling
- 3 or more bedrooms: 2.0 / dwelling
- Retail/Service: 3.5 space/1,000 GSF
- Lodging: 1.0 space/room

*Reference Section 176.29-2 Parking and Loading for uses not specified; Parking lot screening per Section 176.29-2.H.(7); For Mixed Use developments, parking requirements can be reduced by the shared parking factor.

**Notes**
- On corner lots, primary parking drive shall not be located on primary street.
- Parking not allowed between primary building and curb. Single Family front loaded garages excluded.
- Connectivity is encouraged between adjacent lots.
- Parking only allowed to the back or side of building or in parking garage which is to be located to the back or side of building.
- Landscape buffer is required between UTR-1 and Uptown/Commercial Districts and adjacent residential.

**Setback Encroachments**

**Location**
- Front: 8' max.
- Side Street: 0'
- Rear: 0'

**Notes**
- Porches, balconies, bay windows and awnings, may encroach into the setback.

**Frontage Types**

<table>
<thead>
<tr>
<th>Common Lawn</th>
<th>Depth</th>
<th>Within the front setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Porches</td>
<td>Depth</td>
<td>8' min.</td>
</tr>
<tr>
<td>Height</td>
<td>1 story max.</td>
<td></td>
</tr>
<tr>
<td>Terrace</td>
<td>Depth</td>
<td>8' min.</td>
</tr>
<tr>
<td>Forecourts</td>
<td>Depth</td>
<td>20' min., not to exceed width</td>
</tr>
<tr>
<td>Width</td>
<td>20' min., 50% of lot width max.</td>
<td></td>
</tr>
<tr>
<td>Stoops</td>
<td>Depth</td>
<td>4' min., 6' max.</td>
</tr>
</tbody>
</table>
7. Urban Transitional Residential 2 (UTR-2) District Standards: The UTR-2, Urban Transition Residential District is located between 5th and 6th Avenue; east of 15th Street. Formerly containing warehouse and light industrial uses and is directly adjacent to existing medium density residential areas. The intent of the district is to encourage medium and high density residential development with limited support commercial activities that would buffer the existing single-family neighborhoods from more intensive commercial development along 6th Avenue. Development is encouraged to respect the relationship to the existing lower density residential neighborhoods south of 5th Avenue. Medium and high-density developments are encouraged to orient to 6th Avenue.

---

**Key**
- PROPERTY LINE
- SETBACK LINE

**Building Placement**

**Setback** (Distance from Property Line)
- Front: 7’ min.; 15’ max.
- Side Street, Corner Lot: 7’ min.; 15’ max.
- Side: 7’ min.
- Rear: 20’ min.

*20’ to front of a garage.

**Building Form**
- Primary Street - Percent of bldg. on SB line: 60%
- Lot Width: 18’ min.
- Lot Depth: NA
- Lot Coverage: 70%

**Accessory Buildings**
- Front Setback: 20’ plus front yard
- Side Setback: 5’ min. (or existing building setback)
- Rear Setback: 5’ min.; 10’ to an alley

**Notes**
- N/A

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**Height**
- Building Minimum: 1 story
- Building Maximum: 4 stories
- Accessory Building Max.: 1 story

**Notes**
- Rear-facing buildings, and service entries are prohibited on street-facing facades.
- Upper floor residential units must have a visible ground floor entrance that faces the street.
- Mansard roof forms are not allowed.
- Buildings greater than 16 units must provide adequate common space for residents in the form of community rooms, roof terraces or courtyards.
CHAPTER 176
ZONING REGULATIONS

Key
- PROPERTY LINE
- ENCROACHMENT AREA
- SETBACK LINE

Parking
Location (Distance from Property Line)
- Front Setback: 12'; same as building
- Side Setback: 0'
- Side Street Setback: 10'
- Rear Setback: 5'
- Adjacent Residential: 15' w/buffer

Required Parking Spaces*
- 1 to 2 family residential: 1.0 / dwelling
- 3 or more family residential: 1.5 / dwelling
- 3 or more residential bedrooms: 2.0 / dwelling
- Commercial/Retail/Service: 3.0 space/1,000 GSF

* Reference Section 176.29-2 Parking and Loading for uses not specified; Parking lot screening per Section 176.29-2.H.(7); For Mixed Use developments, parking requirements can be reduced by the shared parking factor.

Notes
- Porches, balconies, bay windows, stoops and awnings, may encroach into the setback.

Frontage Types
- Common Lawn: Depth Within the front setback
- Porches:
  - Depth: 8' min.
  - Height: 1 story max.
- Terrace:
  - Depth: 8' min.
- Forecourts:
  - Depth: 20' min., not to exceed width
  - Width: 20' min., 50% of lot width max.
- Stoops:
  - Depth: 4' min., 6' max.

On corner lots, primary parking drive shall not be located on primary street.
Parking not allowed between primary building and curb. Single Family front loaded garages excluded.
Connectivity is encouraged between adjacent lots.
Parking only allowed to the back or side of building or in parking garage which is to be located to the back or side of building.

Landscape buffer is required between UTR-2 and Uptown/Commercial Districts and adjacent residential.
8. Urban Transition Commercial 1 (UTC-1) District Standards: The UTC-1, Urban Transition Commercial District is a transitional zoning district located on the north side of 7th Avenue south of Pucker Street Historic District and on either side of 7th Avenue west of 6th Street. The district provides a buffer to residential areas north of the traditional Central Business District. The intent of the district is to promote commercial development which respects the relationship to adjacent residential neighborhoods. Development will be encouraged to orient entrances to the primary street frontage and respect and be compatible with adjacent residential uses.

<table>
<thead>
<tr>
<th>Building Placement</th>
<th>Setback (Distance from Property Line)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front</td>
<td>5' min.; 15' max.  A</td>
</tr>
<tr>
<td>Side Street, Corner Lot</td>
<td>5' min.; 15' max.  B</td>
</tr>
<tr>
<td>Side</td>
<td>0'</td>
</tr>
<tr>
<td>Rear</td>
<td>Adjacent to Residence: 15'  D</td>
</tr>
<tr>
<td></td>
<td>Adjacent to any other use: 5'  D</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Street - Bldg. Frontage on Setback: 60%  E</td>
</tr>
<tr>
<td>Lot Width</td>
</tr>
<tr>
<td>Lot Depth</td>
</tr>
<tr>
<td>Lot Coverage</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Accessory Buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Setback</td>
</tr>
<tr>
<td>Side Setback</td>
</tr>
<tr>
<td>Rear Setback</td>
</tr>
</tbody>
</table>

| Notes | |
|-------| |
| N/A   | |
CHAPTER 176  ZONING REGULATIONS

Key
PROPERTY LINE
PARKING AREA

Parking
Location (Distance from Property Line)
Front Setback  Same as building
Side Setback  0'
Side Street Setback  10'
Rear Setback
  Adjacent Residential  15' w/ buffer

Required Parking Spaces*
Multi-Unit, Upper Level Dwellings  1.5 space/unit
Commercial/Retail/Service  3.5 space/1,000 GSF
Medical Office  1.0 space/150 GSF
Lodging  1.0 space/room
Bicycle Parking  1.0 space/10 vehicle space

Notes
On corner lots, primary parking drive shall not be located on primary street.
Parking not allowed between Primary building and curb.
Connectivity is encouraged between adjacent lots.
Parking only allowed to the back or side of building or in parking garage which is to be located to the back or side of building.
Landscape buffer is required between UTC-1 and adjacent residential.

Setback Encroachments
Location
Front  4' max.
Side Street  0' max.
Rear  0' max

Notes
Porches, commercial storefronts, balconies, bay windows, stoops and awnings, may encroach into the setback, as shown in the shaded areas.

Frontage Types
Awnings
  Depth  10' max.

Forecourts
  Depth  20' min., not to exceed width
  Width  20' min., 50% of lot width max.

Stoops
  Depth  4' min., 6' max.

Porches
  Depth  8' min.
  Height  1 story max.
9. Urban Transitional Commercial 2 (UTC-2) District Standards: The UTC-2, Urban Transitional Commercial District is located primarily between 6th and 7th Avenue east of the traditional Central Business District. There is a commercial focus to the District with an intent to encourage pedestrian oriented development yet provide for limited off-street parking. Buildings are encouraged to be close to the front and side property lines with parking being directed to the center of the lot. Development in the district is encouraged to provide frontage to 6th and 7th Avenues.

### Building Placement

<table>
<thead>
<tr>
<th>Setback (Distance from Property Line)</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front</td>
<td>5’ min.; 15’ max.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Side Street, Corner Lot</td>
<td>5’ min.; 15’ max.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Side</td>
<td>0’</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rear</td>
<td></td>
<td></td>
<td>15’</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjacent to Residence</td>
<td></td>
<td></td>
<td></td>
<td>10’</td>
<td></td>
</tr>
<tr>
<td>Adjacent to any other use</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Height

<table>
<thead>
<tr>
<th>Building Maximum</th>
<th>4 stories</th>
<th>K</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory Building Max.</td>
<td>1 story</td>
<td></td>
</tr>
</tbody>
</table>

### Notes

All floors must have a primary ground-floor entrance that faces the primary or side street.

Rear-facing buildings, loading docks, overhead doors, and other service entries are prohibited on street-facing facades.

Mansard roof forms are not allowed.

Buildings greater than 16 units must provide adequate common space for residents in the form of community rooms, roof terraces or courtyards.
**Parking**

**Location** (Distance from Property Line)

- Front Setback: 10’
- Side Setback: 0’
- Side Street Setback: 10’
- Rear Setback: 5’ Adjacent Residential: 15’ w/ buffer

**Required Parking Spaces**

- Multi-Unit, Upper Level Dwellings: 1.5 space/unit
- Commercial/Retail/Service: 3.5 space/1,000 GSF
- Medical Office: 1.0 space/150 GSF
- Lodging: 1.0 space/room
- Bicycle Parking: 1.0 space/10 vehicle space

* Reference Section 176.29-2 Parking and Loading for uses not specified; Parking lot screening per Section 176.29-2.H.7. For Mixed Use developments, parking requirements can be reduced by the shared parking factor.

**Notes**

- On corner lots, primary parking drive shall not be located on primary street.
- Parking not allowed between primary building and curb.
- Connectivity is encouraged between adjacent lots.
- Parking only allowed to the back or side of building or in parking garage which is to be located to the back or side of building.
- Landscape buffer is required between UTC-2 and adjacent residential.

**Setback Encroachments**

**Location**

- Front: 8’ max.
- Side Street: 0’ max.
- Rear: 0’ max

**Notes**

Porches, commercial storefronts, balconies, bay windows, stoops and awnings, may encroach into the setback, as shown in the shaded areas.

**Frontage Types**

- Forecourts
  - Depth: 20’ min., not to exceed width
  - Width: 20’ min., 50% of lot width max.

- Stoops
  - Depth: 4’ min., 6’ max.

- Storefront
  - Depth: 0’ min., 6’ max.
10. Urban Commercial 1 (UC-1) District Standards: The UC-1 Urban Commercial District is similar to Marion’s current C-3 General Commercial zoning district. Located on the east end of Marion’s Central Corridor the District serves as a transition district to the standard zoning districts east of the Central Corridor.

**Building Placement**

**Setback** (Distance from Property Line)

- Front: 10’ min.
- Side Street, Corner Lot: 10’ min.
- Side: 10’ min.
- Rear: Adjacent to Residence: 25’, Adjacent to any other use: 5’

**Building Form**

- Primary Street - Bldg. Frontage on Setback: 60%  
- Lot Width: 150’ min.
- Lot Depth: N/A
- Lot Coverage: 70%

**Accessory Buildings**

- Front Setback: 20’ plus front yard
- Side Setback: 5’ min. or existing building setback
- Rear Setback: 5’ min.; 10’ to an alley

**Notes**

- N/A

**Height**

- Building Maximum: 4 stories
- Accessory Building Max.: 1 story

**Notes**

- Rear-facing buildings, loading docks, overhead doors, and other service entries are prohibited on street-facing facades.
- Mansard roof forms are not allowed.
- Buildings greater than 16 units must provide adequate common space for residents in the form of community rooms, roof terraces or courtyards.
### Key
- PROPERTY LINE
- PARKING AREA

### Parking

**Location** (Distance from Property Line)

<table>
<thead>
<tr>
<th>Type</th>
<th>Distance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Setback</td>
<td>10'</td>
</tr>
<tr>
<td>Side Setback</td>
<td>0'</td>
</tr>
<tr>
<td>Side Street Setback</td>
<td>10'</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>5'</td>
</tr>
<tr>
<td>Adjacent Residential</td>
<td>15' w/ buffer</td>
</tr>
</tbody>
</table>

**Required Parking Spaces**

<table>
<thead>
<tr>
<th>Use</th>
<th>Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper Level Dwellings</td>
<td>1.5 space/unit</td>
</tr>
<tr>
<td>Commercial/Retail/Service</td>
<td>3.5 space/1,000 GSF</td>
</tr>
<tr>
<td>Medical Office</td>
<td>1.0 space/150 GSF</td>
</tr>
<tr>
<td>Lodging</td>
<td>1.0 space/room</td>
</tr>
<tr>
<td>Bicycle Parking</td>
<td>1.0 space/10 vehicle space</td>
</tr>
</tbody>
</table>

* Reference Section 176.29-2 Parking and Loading for uses not specified; Parking lot screening per Section 176.29-2.H.(7); For Mixed Use developments, parking requirements can be reduced by the shared parking factor.

### Notes

- On corner lots, primary parking drive shall not be located on primary street.
- Connectivity is encouraged between adjacent lots.
- Landscape buffer is required between UC-1 and adjacent residential.
11. Central Corridor Design Standards: In the interest of promoting the general welfare of the community and to protect the value of buildings and property, the image and character of a community is considered important.

<table>
<thead>
<tr>
<th>Private Frontage Types</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Common Yard:</strong> A planted frontage wherein the building is setback substantially from the property line/right-of-way line. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep setback provides a buffer from the higher speed thoroughfares.</td>
</tr>
<tr>
<td><strong>Porch:</strong> A planted frontage where the building is setback from the property line/right-of-way line with an attached porch permitted to encroach.</td>
</tr>
<tr>
<td><strong>Terrace:</strong> A frontage wherein the building is setback from the property line/right-of-way line by an elevated terrace. This type buffers residential uses from urban sidewalks and removes the private yard from public encroachment. Terraces are suitable for conversion to outdoor cafes.</td>
</tr>
<tr>
<td><strong>Forecourt:</strong> A frontage wherein the building is close to the property line/right-of-way line and the central portion is set back. The forecourt created is suitable for vehicular drop-offs. This type should be located in conjunction with other Frontage types. Large trees within the forecourts may overhang the sidewalk.</td>
</tr>
<tr>
<td><strong>Stoop:</strong> A frontage wherein the building is aligned close to the property line/right-of-way line with the first story elevated from the sidewalk sufficiently to ensure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground floor residential uses.</td>
</tr>
<tr>
<td><strong>Storefront:</strong> A frontage wherein the building is aligned close to the property line/right-of-way line with the building entrance at sidewalk grade. This type is conventional for retail uses. It has substantial glazing on the sidewalk level and an awning that should overlap the sidewalk.</td>
</tr>
</tbody>
</table>

**Shared Parking Factor**

For Mixed Use developments, parking requirements can be reduced by the shared parking factor.

The Shared Parking Factor reduces the required number of parking spaces required when calculated each separate use, i.e. residential and comm/office, and dividing it by the Shared Parking Factor such as 1.4 in the case of a residential and comm/office mixed use building. The uses must be in the same building.
CHAPTER 176  ZONING REGULATIONS

Architectural Features
It is recognized that the community should be visually attractive, as well as financially prosperous and the manner in which a use is accomplished is as important as the use. The quality of architecture and building construction is important to the preservation and enhancement of building and property values, prevention of the physical deterioration of buildings and the promotion of the image of the community and the general welfare of its citizens. Architectural design and use of materials for the construction of any building shall be subject to the approval of the City Council.

Consideration of exterior building materials on all sides, coloration of materials, building height, roof line, size and location of windows and doors, roof mounted appurtenances, and facades.

Design Guidelines

Proportion
The relationship of width and height of the front elevations of adjacent buildings shall be considered in the construction or alteration of a building. The relationship of width and height of windows and doors of adjacent buildings shall be considered in the construction or alteration of a building. Particular attention must be given to the scale of street level doors, walls and windows. Large expanses of blank wall spaces at street level are to be discouraged.

Coloration
Building colors should emphasize light and muted colors, with light earth tones dominant. Saturated hue and bright colors except for use in small areas is not encouraged.

Architectural Features
These features include, but are not limited to cornices, entablatures, doors, windows, shutters, fanlights, and other elements prevailing in the area shall be considered in the construction or alteration of a building. It is not intended that the details of existing buildings be duplicated precisely, but those features should be suggestive of the extent, nature, and scale of details that would be appropriate on new buildings or associated with building alterations.

Exterior Facade Materials

<table>
<thead>
<tr>
<th>Material</th>
<th>Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Material</td>
<td>75% of the wall area (excluding glass).</td>
</tr>
<tr>
<td>Primary Exterior Material</td>
<td>Fired Clay brick, natural stone, glass, architectural concrete panels, textured concrete block, or architectural steel, or stone panels.</td>
</tr>
<tr>
<td>Trim</td>
<td>Not to exceed 25% (excluding glass)</td>
</tr>
<tr>
<td>Trim Includes</td>
<td>Moldings, cornices, parapet, frieze, sills, lintels, string-course, quoining, and ledgemen</td>
</tr>
</tbody>
</table>

Proposed new buildings, additions, and renovations of buildings are subject to the Central Corridor District Standards.

No wood, Masonite, asphaltic exterior wall or roof material, aluminum or steel siding, non-architectural sheet metal, on-textured concrete block, stucco, vinyl, E.I.F.S. (Exterior Insulation and Finish Systems) or other similar materials shall constitute a portion of any building, except as trim.

In order to achieve continuity along this corridor, buildings abutting or within 300 feet of 7th Avenue/Business 151 or 6th Avenue, shall be designed in conformance with the guidelines herein.

Unsightly/utilitarian aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters and HVAC mechanical units) shall be screened from any public street and adjoining properties. Preference is given to siting loading docks or loading areas out of view from public streets.

Sign Regulations
All signage shall conform to requirements of Chapter 176.31 Signs, except as provided for below:

Electric Message Center Signs shall not be permitted within the Central Corridor.

Other Provisions

<table>
<thead>
<tr>
<th>Regulations</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landscape Regulations</td>
<td>176.43</td>
</tr>
<tr>
<td>Temporary Uses Regulations</td>
<td>176.35</td>
</tr>
</tbody>
</table>
12. Permitted Uses:

<table>
<thead>
<tr>
<th>Zoning Districts -- Permitted and Special Uses</th>
<th>U-1</th>
<th>U-2</th>
<th>UTR-1</th>
<th>UTR-2</th>
<th>UTC-1</th>
<th>UTC-2</th>
<th>UC-1</th>
<th>Specific Use Standards</th>
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<tbody>
<tr>
<td><strong>RESIDENTIAL USES</strong></td>
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<td>Artist Live/Work Space</td>
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<tr>
<td>Assisted Living Facility</td>
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<td>Dwelling Unit, Auxiliary (attached)</td>
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<td>Dwelling, Efficiency/Micro</td>
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<td>Dwelling, Two-unit (duplex)</td>
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<td>Dwelling, Three-unit (triplex)</td>
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<td><strong>RETAIL AND SERVICE USES</strong></td>
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<td>Coffee or Tea Room</td>
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<td>Drive-Thru Facility</td>
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<td>Firework Sales</td>
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<td>Funeral Home / Mortuary</td>
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<tr>
<td>Grocery</td>
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<td>Grocery - Neighborhood</td>
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<td>Medical Cannabidiol Dispensaries (Sales)</td>
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<td>Medical/Dental Clinic</td>
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<tr>
<td>Medical/Dental Clinic, Not exceeding 2500 gross floor area</td>
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<tr>
<td>Microbrewery/Micro-Distillery/Micro-Winery</td>
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</table>
### Zoning Districts -- Permitted and Special Uses

<table>
<thead>
<tr>
<th>P = Permitted Use</th>
<th>U-1</th>
<th>U-2</th>
<th>UTR-1</th>
<th>UTR-2</th>
<th>UTC-1</th>
<th>UTC-2</th>
<th>UC-1</th>
<th>Specific Use Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motor Vehicle Rental</td>
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<td>Motor Vehicle Sales and Leasing</td>
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<td>Motor Vehicle Service and Repair, Major</td>
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<td>Office, Business and Professional</td>
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<td>Outdoor Sales, Permanent</td>
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<tr>
<td>Personal Services</td>
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<tr>
<td>Retail Sales Not exceeding 2,500 gross floor area</td>
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<tr>
<td>Sexually Oriented Business</td>
<td>Chapter 127, Code of Ord.</td>
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<td>Tattoo Parlor / Body Piercing Studio</td>
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<tr>
<td>Tavern/Bar</td>
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<tr>
<td>Veterinary Office/Animal Hospital</td>
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### CULTURAL, RELIGIOUS, RECREATIONAL AND ENTERTAINMENT USES

<table>
<thead>
<tr>
<th>U-1</th>
<th>U-2</th>
<th>UTR-1</th>
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<th>UTC-2</th>
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<th>Specific Use Standards</th>
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<tr>
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<tr>
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<td>Lodge or Private Club</td>
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<td>Place of Worship</td>
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<td>C</td>
<td>C</td>
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<td>C</td>
<td>C</td>
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<tr>
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<tr>
<td>Theater (Small/Large)</td>
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</table>
13. Site and Building Plan Review Process: Any proposed substantially improved or new building structure or development, must submit a detailed site plan, building plan and color renderings for review as established below:

A. "Substantial improvement" includes the following:

1. Any new building construction within the Central Corridor or any renovation of an existing structure that involves any modification of the exterior appearance of the structure by virtue of adding or removing exterior windows or doors or altering the color or exterior materials of existing walls.

2. All facade improvements, changes, alterations, modifications or replacement of existing facade materials will be considered a substantial improvement.
(3) A substantial improvement also includes any increase or decrease in existing building height and/or alteration of the existing roof pitch or appearance.

(4) Routine repair or replacement of existing roof materials that do not materially change the appearance, shape or configuration of the existing roof will not be considered a "substantial improvement".

(5) Owner-occupied detached single-family residences will not be subject to these regulations.

(6) Within the Uptown Marion Sub-District "substantial improvement" also includes:

   a. New, modified or replacement awning structures or similar material extensions over the public sidewalk area.

   b. Demolition or removal of any portion of a building otherwise not specified by these regulations.

B. Standard Review: Any proposed substantial improvement or new building structure located in the Central Corridor boundary, including proposed residential facilities, must submit a detailed site plan, colored renderings, elevations, material list, and building plan for review and approval by the Planning and Zoning Commission and the City Council.

C. Uptown Marion Sub-District Review: Any proposed substantial improved or new building structure located within the Uptown Marion Sub-district including proposed residential facilities, must submit a detailed site plan, colored renderings, elevations, material list, and building plan for review and recommendation by the Uptown Marion Street Board of Directors or their designee for consistency with the Uptown Marion Design Guidelines prior to the project being reviewed by the City Planning and Zoning Commission and City Council.

D. Historic Sub-District Review: Any proposed substantial improvement or new building structure located within any local or national historic district within the Central Corridor boundary, including proposed residential facilities, must submit a detailed site plan, colored renderings, elevations, material list, and building plan for review and recommendation by the Historic Preservation Commission or their designee, and a report provided to determine whether the project would be consistent with the historic district. Any substantial improvement or new building structure located within the Historic Sub-District that is determined to detract from the historic district shall be denied.
E. Signage Review: Typical business signage shall be permitted without mandatory site plan review by the Planning and Zoning Commission and City Council. All signage shall conform to requirements of the Chapter 176.31 Signs, except as provided for below:

(1) Electronic Message Center Signs shall not be permitted within the Central Corridor IDO.

(2) In Uptown Marion Sub-District and the Historic Sub-District, signage shall be reviewed by the Uptown Marion Street Board of Directors or their designee for consistency with the Uptown Marion Design Guidelines adopted May 7, 2014 prior to approval of a sign permit.

14. Emergency Repairs: In the case of emergency repairs needed as the result of unanticipated building or facade damages due to events such as fire, vandalism, or weather-related damages, site plan review will not be required, provided that the needed repairs do not alter the appearance of the structure prior to the event causing the unanticipated damages.

(Ord. 19-17 – Aug. 19 Supp.)

176.51 NEW ZONING DISTRICT CLASSIFICATIONS.

Agricultural and Rural Residential Districts

1. AG Agricultural Holding District
   A. The AG, Agricultural Holding District is intended to preserve existing agriculture and other non-intensive uses to prevent premature development and non-orderly encroachment of intensive urban uses; and to help guide urban growth into suitable areas. The AG is characterized by a very rural environment consisting of primarily commercial agricultural activities, and associated farmsteads. Density and intensity standards for this district are designed to ensure that development which requires even a minimum of urban services does not occur until such services are available. As such, the AG District shall either serve as a designation which preserves and protects agricultural activities, or as a holding zone which provides for an interim land use that will easily permit further development at the appropriate time. (35 Acre Minimum)

2. RR-1 Rural Residential District
   A. The RR-1, Rural Residential District is intended to preserve low density residential development which has been annexed into the City. The RR-1 is characterized by its semi-rural character including large single family lots surrounded by ample open-space and large setbacks. Lots are free from agricultural uses. Streets are not typically built to City Standards and maintain a rural cross section; some areas may be served with municipal sewer or water, but most do not. The RR-1 is a
closed district, new zoning to the RR-1 would only be recommended in newly annexed areas (Minimum 3/4 Acre Lot)

Bulk Regulations 176.51-Table1 establishes bulk regulations for the residential districts. Section 176.35 specifies permitted encroachments in yards and setbacks applicable to accessory buildings and structures.
Permitted and Conditional Uses 176.51-Table 4 lists permitted, conditional uses, and permitted as accessory uses for the residential districts.

176.51-Table 1

<table>
<thead>
<tr>
<th>AGRICULTURAL AND RURAL RESIDENTIAL DISTRICT BULK REQUIREMENTS</th>
<th>ZONING DISTRICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>ft = feet</td>
<td>AG</td>
</tr>
<tr>
<td>sf = square feet</td>
<td>RR-1</td>
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<tr>
<td>du = dwelling unit</td>
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</tr>
<tr>
<td>Minimum Lot Area</td>
<td>35 acres</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>150 ft</td>
</tr>
<tr>
<td>Maximum Building Height</td>
<td>35 ft or 2 1/2 stories, whichever is less</td>
</tr>
<tr>
<td>Minimum Front Yard(^1)</td>
<td>50 ft</td>
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<tr>
<td>Minimum Side Yard (Interior)</td>
<td>25 ft</td>
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<tr>
<td>Minimum Side Yard (Corner)</td>
<td>50 ft</td>
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<tr>
<td>Minimum Rear Yard</td>
<td>50 ft</td>
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<tr>
<td>Minimum Open Space</td>
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</tr>
</tbody>
</table>

\(^1\) Where 50% or more of the street frontage of the block has existing principle building setbacks less than the front or corner side yard required by the zoning district, the required front yard or corner side yard may be reduced to the average of the existing front or exterior side yard setbacks on that street frontage of the block. Only front yard setbacks shall be used to compute the reduced front yard setback, only corner side yard setbacks shall be used reduced corner side yard setback.

Suburban Residential Districts

1. SR-E Suburban Residential Estate District
   A. The SR-E, Suburban Residential Estate District is intended to accommodate low density single family residential development primarily occurring in the City. The SR-E District is characterized by its semi-rural character including large single family lots surround by ample open-space and large setbacks. SR-E District may include developments annexed into the City after development but are generally built to City Standards and do not maintain a rural cross-section; areas are generally served with municipal sewer and water. (Minimum 1/2 Acre Lot)

2. SR-1 Suburban Low-Density Single-Family Residential District.
   A. The SR-1, Suburban Low Density Single-Family Residential District is intended and designed for lower density single-family areas
of the City free from other uses except those which are both compatible with and convenient to the residents of such a district. (10,000 Minimum Lot)

   A. The SR-2, Suburban Medium Density Single-Family Residential District is intended and designed for medium-density Single-Family areas free from other uses except those which are both compatible with and convenient to the residents of such a district. (8,000 Minimum Lot)

4. SR-3 Suburban Medium-Density Single-Family Residential District (Previously R- 2 District)
   A. The SR-3, Suburban Medium Density Single-Family Residential District is intended and designed for medium-density Single-Family areas free from other uses except those which are both compatible with and convenient to the residents of such a district. (6,000 Minimum Lot)

5. SR-4 Suburban Two-Family Residential District.
   A. The SR-4, Suburban Two-Family Residential District is intended and designed for certain medium density residential areas of the City free from other uses except those which are both compatible with and convenient to the residents of such a district. SR-4 District is characterized by two-family dwellings, typically developed within a condominium regime, but does not include zero lot line development. (8,000 Single Family / 10,000 Two-Family Attached Minimum Lot)

6. SR-5 Suburban Three and Four-Family Residential District
   A. The SR-5, Suburban Three and Four-Family Residential District is intended and designed for certain medium to high density residential areas of the City free from other uses except those which are both compatible with and convenient to the residents of such a district. SR-5 is characterized by three or four family dwellings, typically developed within a condominium regime. This district is designed to serve as a buffer between lower density residential districts and more intensive districts such as medium and high density suburban multiple- family residential or business districts. (12,000 Three-Family / 15,000 Four-Family Attached Minimum Lot)

Bulk Regulations 176.51-Table2 establishes bulk regulations for the residential districts. Section 176.35 specifies permitted encroachments in yards and setbacks applicable to accessory buildings and structures.

Permitted and Conditional Uses Table176.51-Table4 lists permitted, conditional uses, and permitted as accessory use for the residential districts.
### 176.51-Table 2

| ft = ft |
| sf = square feet |
| du = dwelling unit |
| **SUBURBAN RESIDENTIAL DISTRICT BULK REQUIREMENTS** |
| **ZONING DISTRICT** |

<table>
<thead>
<tr>
<th>Minimum Lot Area</th>
<th>SR-E</th>
<th>SR-1</th>
<th>SR-2</th>
<th>SR-3 (Old R-2)</th>
<th>SR-4</th>
<th>SR-5</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/2 acre (21,780 sf)</td>
<td>10,000 sf</td>
<td>8,000 sf</td>
<td>6,000 sf</td>
<td>Single Family: 8,000 sf Two Family: 10,000 sf</td>
<td>Three Family: 12,000 Four Family: 15,000</td>
<td></td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>90 ft</td>
<td>80 ft</td>
<td>70 ft</td>
<td>60 ft</td>
<td>Single Family: 70 ft Two Family: 105 ft</td>
<td>Single Family: 70 ft Two Family: 105 ft Three Family: 120 - 140 ft Four Family: 150 ft - 175 ft</td>
</tr>
<tr>
<td><strong>Maximum Building Height</strong></td>
<td>40 ft or 2 1/2 stories, whichever is less</td>
<td>40 ft or 2 1/2 stories, whichever is less</td>
<td>35 ft or 2 1/2 stories, whichever is less</td>
<td>35 ft or 2 1/2 stories, whichever is less</td>
<td>35 ft or 2 1/2 stories, whichever is less</td>
<td></td>
</tr>
<tr>
<td>Minimum Front Yard&lt;sup&gt;1&lt;/sup&gt;</td>
<td>40 ft</td>
<td>30 ft</td>
<td>25 ft</td>
<td>25 ft</td>
<td>25 ft</td>
<td>25 ft</td>
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<tr>
<td>Minimum Side Yard (Interior)</td>
<td>10 ft</td>
<td>7 ft</td>
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<tr>
<td>Minimum Side Yard (Corner)</td>
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<tr>
<td>Minimum Rear Yard</td>
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<td>35 ft</td>
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<td>25 ft</td>
<td>25 ft</td>
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<tr>
<td>Minimum Open Space</td>
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<td>30%</td>
<td>40%</td>
</tr>
</tbody>
</table>

<sup>1</sup> Where 50% or more of the street frontage of the block has existing principle building setbacks less than the front or corner side yard required by the zoning district, the required front yard or corner side yard may be reduced to the average of the existing front or exterior side yard setbacks on that street frontage of the block. Only front yard setbacks shall be used to compute the reduced front yard setback, only corner side yard setbacks shall be used to compute the reduced corner side yard setback.
Traditional Residential Districts

1. TR-1 Traditional Low-Density Single-Family Residential District.
   A. The TR-1, Traditional Low Density Single-Family Residential District is intended to stabilize and protect the characteristics of mature residential areas typically located near Uptown Marion or a part of the Original City. The district is designed for the preservation of low density single-family areas free from other uses except those which are both compatible with and convenient to the residents of such a district. (6,000 Minimum Lot)

2. TR-2 Traditional Medium-Density Single-Family Residential District.
   A. The TR-2, Traditional Medium Density Single-Family Residential District is intended to stabilize and protect the characteristics of mature residential areas typically located near Uptown Marion or a part of the Original City. The district is designed for the preservation of medium density single-family areas free from other uses except those which are both compatible with and convenient to the residents of such a district. (5,000 Minimum Lot)

3. TR-3 Traditional Two-Family Residential District.
   A. The TR-3, Traditional Two-Family Residential District is intended to stabilize and protect the characteristics of mature residential areas typically located near Uptown Marion or a part of the Original City. The district is designed for the preservation of medium density single and two-family Residential homes free from other uses except those which are both compatible with and convenient to the residents of such a district. Generally multiple family dwellings are converted large single-family homes. (5,000 Minimum Lot)

4. TR-4 Traditional Four-Family Residential District.
   A. The TR-4, Traditional Four-Family Residential District is provided to accommodate those older established areas of the City which contain a mix of single to four family residential homes development near Uptown Marion or a part of the Original City. Generally multiple family dwellings are converted large single-family homes. (5,000 Minimum Lot)

Multiple-Family Residential Districts

1. MR-1 Medium Density Multiple-Family Residential District.
   A. The MR-1, Medium Density Multiple-Family Residential District is intended and designed for certain medium density residential areas of the City. The MR-1 is characterized by medium sized multifamily buildings on a single lot or a multifamily complex consisting of several multiple family buildings on a single lot. The
maximum density in the MR-1 is 8 units per acre. The MR-1 also provides for limited institutional uses that are compatible with surrounding residential neighborhoods.

2. MR-2 High Density Multiple-Family Residential Density.

   A. The MR-2, High Density Multiple-Family Residential District is intended and designed for certain high-density residential areas of the City. The MR-2 is characterized by large multifamily buildings on a single lot or multifamily complex consisting of several multiple family buildings on a single lot. The maximum density in the MR-2 is 20 units per acre. The MR-2 also provides for limited institutional uses that are compatible with surrounding residential neighborhoods.

Bulk Regulations 176.51-Table3 establishes bulk regulations for the residential districts. Section 176.35 specifies permitted encroachments in yards and setbacks applicable to accessory buildings and structures.

Permitted and Conditional Uses Table176.51-Table4 lists permitted, conditional uses, and permitted as accessory use for the residential districts.
176.51-Table 3

| TRADITIONAL & MULTI-FAMILY RESIDENTIAL DISTRICT BULK REQUIREMENTS |
|-------------------------|----------------|----------------|----------------|----------------|----------------|
|                        | ZONING DISTRICT |                 |                 |                 |                 |
|                        | TR-1 | TR-2 | TR-3 | TR-4 | MR-1 | MR-2 |
| ft = ft                |      |      |      |      |      |      |
| sf = square feet        |      |      |      |      |      |      |
| du = dwelling unit      |      |      |      |      |      |      |
| Minimum Lot Area        | 6,000 sf | 5,000 sf | 5,000 sf | 5,000 sf | 8,000 sf | 2 acres (87,120 ft) |
| Minimum Lot Width       | 60 ft | 50 ft | 50 ft | 50 ft | 100 ft | 200 ft |
| Maximum Building Height | 35 ft or 2 1/2 stories | 35 ft or 2 1/2 stories | 35 ft or 2 1/2 stories | 35 ft or 2 1/2 stories | 45 ft or 3 stories | 45 ft or 3 stories1 |
| Minimum Front Yard2     | 15-20 ft | 15-20 ft | 15-20 ft | 15-20 ft | 25 ft | 25 ft |
| Minimum Side Yard (Interior) | 7 ft | 5 ft | 5 ft | 5 ft | 12 ft | 12 ft |
| Minimum Side Yard (Corner) | 12 ft | 12 ft | 12 ft | 12 ft | 12 ft | 12 ft |
| Minimum Open Space      | --   | --   | --   | --   | 40 % | 40%  |
| Landscape Required      | --   | --   | Yes  | Yes  | Yes  | Yes  |

1 Whichever is less, except that the maximum height may increase by one (1) foot for each one-half (1/2) foot that the front, rear and interior and corner side yard setbacks are increased over the required minimums up to a maximum of 100 ft in height with no limit on the number of stories.

2 Where 50% or more of the street frontage of the block has existing principle building setbacks less than the front or corner side yard required by the zoning district, the required front yard or corner side yard may be reduced to the average of the existing front or exterior side yard setbacks on that street frontage of the block. Only front yard setbacks shall be used to compute the reduced front yard setback, only corner side yard setbacks shall be used to compute the reduced corner side yard setback. Shall only apply to the TR-1, TR-2, TR-3 and TR-4 zoning district.

3 25 ft or 20% of the depth of the lot, whichever amount is smaller, but in no event less than 15 ft shall only apply to the TR-1, TR-2, TR-3 and TR-4 zoning district.
### 176.51-Table 4

#### Zoning Districts -- Permitted and Special Uses

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<td>A = Permitted as Accessory Use</td>
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#### RESIDENTIAL USES

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<th>RR</th>
<th>SR-E</th>
<th>SR-1</th>
<th>SR-2</th>
<th>SR-3</th>
<th>SR-4</th>
<th>TR-1</th>
<th>TR-2</th>
<th>TR-3</th>
<th>TR-4</th>
<th>MR-1</th>
<th>MR-2</th>
<th>Specific Use Standards</th>
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<td>Artist Live/Work Space</td>
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<td>Dwelling Unit, Auxiliary (attached)</td>
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<tr>
<td>Dwelling Unit, Auxiliary (detached)</td>
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<tr>
<td>Dwelling, Efficiency/Micro</td>
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<td>Dwelling, One Unit</td>
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<td>Dwelling, Townhouse</td>
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<td>Dwelling, Two-unit (duplex)</td>
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<td>Dwelling, Three-unit (triplex)</td>
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<td>Dwelling, Four-unit</td>
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<td>Dwelling, Multi-Unit</td>
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### 176.51-Table 4

#### Zoning Districts -- Permitted and Special Uses

- **P** = Permitted Use
- **C** = Conditional Use
- **A** = Permitted as Accessory Use

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Business and Mixed-Use Districts

1. BL Local Business District
   A. The purpose of the BL Local Business District is to provide locations for small-scale service and retail uses that primarily serve the convenience needs of residential neighborhoods. The BL District permits a mix of uses, but care must be taken to ensure that adequate access, parking and screening is provided so as not to negatively impact adjoining residential neighborhoods and building design should be compatible with residential properties.

2. BC Community Business District
   A. The purpose of the BC Community Business District is to accommodate mid-size retail and service development along Strategic Regional Arterial corridors such as Tower Terrace Road and Marion Boulevard. Uses in the BC District have the potential to generate significant automobile traffic, and therefore care must be taken to properly design access and parking facilities. Since this district is located along the roads that serve as gateways into Marion, quality building architecture, landscaping and other site improvements are necessary to ensure this type of development enhances Marion’s image.

3. BR Regional Business District
   A. The purpose of the BR Regional Business District is to provide locations along Strategic Regional Arterial corridors for shopping centers and business uses that draw patrons from Marion’s, surrounding communities and the broader region. The BR District consists primarily of large-scale development that has the potential to generate significant automobile traffic. It should be designed in a coordinated manner with an interconnected street network that is consistent with the City’s Comprehensive Plan. Uncoordinated, piecemeal development of small parcels that do not fit into a larger context are discouraged in the BR District. Compatible land uses, access, traffic circulation, storm water management and natural features, all should be integrated into an overall development plan. Because this district is primarily at high-visibility locations, quality building architecture, landscaping and other site improvements are required to ensure superior aesthetic and functional quality.

Bulk Regulations 176.51-Table5 establishes bulk regulations for the residential districts. Section 176.35 specifies permitted encroachments in yards and setbacks applicable to accessory buildings and structures.

Permitted and Conditional Uses 176.51-Table6 lists permitted, conditional uses, and permitted as accessory uses for the residential districts.
### BUSINESS AND INDUSTRIAL DISTRICT BULK REQUIREMENTS

<table>
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<th>ft = ft</th>
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<tbody>
<tr>
<td>sf = square feet</td>
<td>BL Local Bus</td>
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<td>du = dwelling unit</td>
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</table>

- **Minimum Lot Area**
  - 6,000 sf
  - 1 acre (43,560 sf)
  - 1 acre (43,560 sf)

- **Minimum Lot Width**
  - 60 ft
  - 0 ft
  - 0 ft

- **Maximum Building Height**
  - 2.5 stories
    - 35 ft
  - 3 stories
    - 45 ft
  - 3 stories\(^1\)
    - 45 ft

- **Minimum Front Yard**
  - 25 ft
  - 20 ft
  - 20 ft

- **Minimum Side Yard (Interior)**
  - 0 ft\(^2\)
  - 0 ft
  - 15 ft

- **Minimum Side Yard (Corner)**
  - 12 ft
  - 12 ft
  - 15 ft

- **Minimum Rear Yard**
  - 0 ft\(^3\)
  - 0 ft
  - 0 ft

- **Minimum Open Space**
  - --
  - 25% of first 3 acres and 10% of Balance
  - 25% of first 3 acres and 10% of Balance

- **Landscape Required**
  - Yes
  - Yes
  - Yes

---

1. Except that the maximum height may increase by one (1) foot for each one-half (1/2) foot that the front, rear and side yard setbacks are increased over the required minimums, up to a maximum of 150 feet in height with no limit on the number of stories.

2. Except when a lot abuts a Suburban Residential or Traditional Residential District, in which case there shall be a side yard setback of 7 ft.

3. Except when a lot abuts a Suburban Residential or Traditional Residential District, in which case there shall be a rear yard setback of 25 ft or 20 percent for the lot depth, whichever amount is smaller, but in no event less than 15 ft.
## 176.51-Table 6

### Zoning Districts -- Permitted and Special Uses

<table>
<thead>
<tr>
<th>P = Permitted Use</th>
<th>C = Conditional Use</th>
<th>A = Permitted as Accessory Use</th>
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<th>BC</th>
<th>BR</th>
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### Zoning Districts -- Permitted and Special Uses

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CHAPTER 176

ZONING REGULATIONS

176.51-Table 6

<table>
<thead>
<tr>
<th>Zoning Districts -- Permitted and Special Uses</th>
<th>BL</th>
<th>BC</th>
<th>BR</th>
<th>Specific Use Standards</th>
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<td><strong>INDUSTRIAL/STORAGE USES</strong></td>
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<td>Mini-Warehouse</td>
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<tr>
<td>Warehouse/Distribution</td>
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<td><strong>CULTURAL, RELIGIOUS, RECREATIONAL AND ENTERTAINMENT USES</strong></td>
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<td>Art Gallery/Studio</td>
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<td>Carnival (as temporary use)</td>
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<td>Lodge or Private Club</td>
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<td>Theater (Small/Large)</td>
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### 176.51-Table 6

<table>
<thead>
<tr>
<th>Zoning Districts -- Permitted and Special Uses</th>
<th>BL</th>
<th>BC</th>
<th>BR</th>
<th>Specific Use Standards</th>
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<td>Cemetery</td>
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<td>College/University</td>
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<td>Correctional Facility</td>
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<td>Fairground</td>
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<td>Homeless Shelter</td>
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<td>Hospice</td>
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<td>Hospital</td>
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<td>Library</td>
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<tr>
<td>Nursing Home</td>
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<td>Office, Government</td>
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<td>Post Office</td>
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<td>Police Firearms Training Range</td>
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<td>Horse Stables, Private</td>
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</table>
Office/Service and Manufacturing Districts

1. **OS Office/Service District**
   A. The OS Office/Service District is designed to accommodate office and certain service and research uses that require a percentage of lower building coverage and larger setbacks than those types of office and service uses found within the commercial districts. The OS District is designed to provide an open, landscaped appearance along public streets and to provide a buffer area between residential uses and other commercial or industrial uses.

2. **M-1 Light Manufacturing District**
   A. The purpose of the M-1 Light Manufacturing District is to accommodate a wide range of industries whose primary operations occur entirely within enclosed structures and which pose limited potential for environmental impacts on neighboring uses. While the emphasis is on industrial, manufacturing, and related uses, small-scale office and commercial uses intended to serve nearby industries and employees are permitted. The uses typically will include clean, non-objectionable industries whose operating characteristics are either confined completely within the property or result in limited secondary impacts in terms of traffic, air emissions, and hours of operation.

3. **M-2 General Manufacturing District**
   A. The purpose of the M-2 General Manufacturing District is to accommodate a wide range of manufacturing, assembly, processing, and warehousing and office/research activities, both as individual users and in a business park setting. New development and redevelopment in this District shall focus on providing sufficient setbacks, and adequate landscaping and buffering from adjacent non-industrial uses and public rights-of-way. Outdoor storage and loading, and other outdoor activities, shall be adequately screened. Certain general industrial uses that may tend to be objectionable due to their odor, vibrations, smoke, glare, hear, noise, or similar characteristics are provided as conditional uses in this district.

Public Institutional and Recreation and Open Space District

1. **PI Public Institutional District**
   A. The purpose of the PI District is to protect and maintain properties owned by the City, the School District, and public and private outdoor recreation. The development standards are intended to provide flexibility to the public and semi-public entities in the use of their land while protecting surrounding uses.
2. **ROS Recreation and Open Space District**

   A. The purpose of the ROS District is to recognize and protect the environmental functions of certain natural and passive recreational areas, including large City greenways, parks, storm water management areas, golf courses and similar areas. Development within the district is limited in order to protect natural drainage ways and water retention areas, natural habitat for plant and animal life, steep slopes, woodlands and other resources beneficial to the community.

Bulk Regulations 176.51-Table7 establishes bulk regulations for the Office/Service, Manufacturing, Public Lands and Recreation and Open Space districts. Section 176.35 specifies permitted encroachments in yards and setbacks applicable to accessory buildings and structures.

Permitted and Conditional Uses 176.51-Table 8 lists permitted, conditional uses, and permitted as accessory uses for the Office/Service, Manufacturing, Public Lands and Recreation and Open Space districts.
### 176.51-Table 7

<table>
<thead>
<tr>
<th>ft = feet</th>
<th>sf = square feet</th>
<th>du = dwelling unit</th>
<th>ZONING DISTRICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>OS</td>
<td>M-1</td>
<td>M-2</td>
<td>PI</td>
</tr>
<tr>
<td>Office/Service</td>
<td>Conditional Industrial</td>
<td>Limited Industrial</td>
<td>Public Institutional</td>
</tr>
</tbody>
</table>

| Minimum Lot Area | 21,000 sf | --   | --   | --                   |
| Minimum Lot Width | None   | None | None | None                 |
| Maximum Building Height | 3 stories or 45 ft<sub>1</sub> | 3 stories or 35 ft | 3 stories or 45 ft<sub>1</sub> | 3 stories or 45 ft<sub>1</sub> |
| Minimum Front Yard | 25 ft | 25 ft | 25 ft | 25 ft |
| Minimum Side Yard (Interior) | 15 ft | 0 ft | 0 ft | 25 ft |
| Minimum Side Yard (Corner) | 15 ft | 15 ft | 15 ft | 25 ft |
| Minimum Rear Yard | 25 ft | 0 ft | 0 ft | 25 ft |
| Minimum Open Space | 25% of first 3 acres and 10% of Balance | -- | -- | 40% |
| Landscape Required | Yes | Yes | Yes | Yes |

<sup>1</sup> Maximum height may increase by one (1) foot for every one-half (1/2) foot that the front, rear and side yard setbacks are increased over the required minimums, up to a maximum of 150 feet in height with no limit on the number of stories.
### 176.51-Table 8

#### Zoning Districts -- Permitted and Special Uses

<table>
<thead>
<tr>
<th>P = Permitted Use</th>
<th>C = Conditional Use</th>
<th>A = Permitted as Accessory Use</th>
<th>OS</th>
<th>M-1</th>
<th>M-2</th>
<th>PI</th>
<th>ROS</th>
<th>Specific Use Standards</th>
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**RESIDENTIAL USES**

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<th>C</th>
<th>Y</th>
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<tr>
<td>Artist Live/Work Space</td>
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<td>Assisted Living Facility</td>
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<tr>
<td>Dwelling Unit, Auxiliary (attached)</td>
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<tr>
<td>Dwelling Unit, Auxiliary (detached)</td>
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<td>Dwelling, Townhouse</td>
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<tr>
<td>Dwelling, Two-unit (duplex)</td>
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<td>Dwelling, Three-unit (triplex)</td>
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**RETAIL AND SERVICES USES**

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<td>Coffee or Tea Room</td>
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<td>Delayed Deposit</td>
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<td>Drive-Thru Facility</td>
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<td>Firework Sales</td>
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<td>Funeral Home / Mortuary</td>
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<td>Home Improvement Center</td>
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</table>
## 176.51-Table 8

**Zoning Districts -- Permitted and Special Uses**

- **P** = Permitted Use
- **C** = Conditional Use
- **A** = Permitted as Accessory Use

<table>
<thead>
<tr>
<th>Zoning Districts -- Permitted and Special Uses</th>
<th>OS</th>
<th>M-1</th>
<th>M-2</th>
<th>PI</th>
<th>ROS</th>
<th>Specific Use Standards</th>
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<td>Kennel</td>
<td>P</td>
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<tr>
<td>Medical Cannabidiol Dispensaries (Sales)</td>
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<tr>
<td>Medical/Dental Clinic</td>
<td>P</td>
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<tr>
<td>Medical/Dental Clinic, Not exceeding 2500 gross floor area.</td>
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### 176.51-Table 8

#### Zoning Districts -- Permitted and Special Uses

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<th>OS</th>
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### Zoning Districts -- Permitted and Special Uses

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*(Ord. 18-22 – Nov. 18 Supp.)*
176.52 USE STANDARDS.

Any use that is not specifically listed in a zoning district or overlay and that does not fall within a general land use definition of Section 176.06, is prohibited within that district or overlay.

The Accessory Uses specifically listed in the tables of permitted and conditional uses for the zoning districts shall be allowed only as specified in the table. Accessory Uses other than those specifically listed are permitted in all zoning districts, as indicated in the tables of permitted and conditional uses.

1. General Land Use Standards.

A. Agriculture. Agriculture is permitted only on lots of thirty-five (35) acres or more, and the following standards shall be met:

   (1) Retail sales of agricultural products shall be conducted on the premises.

   (2) Agricultural uses are distinct from urban agriculture and private horse stables.

B. Outdoor Uses Generally. All business, sales, service, storage and display of goods, manufacturing, and repairs shall be conducted wholly within enclosed buildings, except where a permanent or temporary outdoor use is specifically allowed by this Ordinance.

C. Outdoor Dining.

   (1) Outdoor Dining shall be permitted only as an accessory use to a restaurant or when specifically permitted in conjunction with a temporary use.

   (2) Outdoor Dining areas shall not be located in a required yard abutting any residential district.

   (3) The sound level of any music or other sound shall not exceed the regulations set in Chapter 53, Noise and Noise Limits of the Marion Code of Ordinances.

D. Outdoor Sales. This section regulates Outdoor Sales areas that are used for longer periods of time than Temporary Outdoor Sales areas, whether permanent or seasonal. These Outdoor Sales areas are permitted only if allowed by the regulations of the zoning district in which the lot is located, and shall conform to the following requirements:

   (1) Outdoor Sales shall not be conducted within 50 ft. of any residential zoning district or public street unless completely screened from view. Complete screening shall consist of an opaque barrier of landscaping, walls, fencing, berms or other methods sufficient in density and height to render the Outdoor Sales areas...
Sales operation invisible from the lot line of any lot in a residential zoning district, and from the street. Outdoor sales located more than 50 feet from residential zoning districts and public streets need not be screened.

(2) The lot coverage of Outdoor Sales areas on the lot shall be limited to not more than five percent (5%) of the lot area; the lot coverage of Temporary Outdoor Sales areas shall not be included in this calculation.

(3) Outdoor Sales shall be conducted only within a designated area.

(4) Outdoor Sales areas and the surrounding premises shall be maintained in an orderly manner, free of litter and other refuse. Storage of goods for sale shall be no more than five (5) feet in height. Outdoor Sales shall not obstruct required access to buildings or parking spaces on the site, or to adjoining property.

(5) Outdoor Sales areas accessory to a Gas Station are permitted without a conditional use, provided their area is limited to a total lot coverage of 30 square feet multiplied by the number of dispensing pumps on the lot, and shall be located only within the pump islands or on a sidewalk adjoining the building. Outdoor Sales accessory to a Gas Station in excess of this limitation shall require a Conditional Use, if required by the district regulations.

E. Outdoor Storage. Outdoor storage, other than parking and storage of commercial and recreational vehicles shall only be allowed as an accessory use as provided in the district regulations, and shall be screened in accordance with Section 176.43.

F. Refuse Dumpsters and Recycling Containers. Outdoor refuse dumpsters, recycling containers, compacting equipment, pallet storage, baled cardboard, and other refuse and recycling materials are permitted as an accessory use in any zoning district, provided that they are screened in accordance with Section 176.43, and that the refuse and recycling materials shall only be permitted to be present on the lot until the next regular refuse and recycling pickup date for the property served.

2. Standards for Specific Uses. The following requirements shall apply to the specified uses allowed as permitted or conditional uses in the zoning districts, in addition to all other applicable provisions of this Ordinance:

A. Artist Live/Work Space. Artist live/work space shall conform to the standards applicable to home occupations, except that the floor area devoted to non-residential activity shall not be limited.
B. Bed and Breakfast Establishment. Bed and breakfast establishments shall comply with the following standards:

1. Guest rooms shall not include cooking facilities.
2. A maximum of five (5) bedrooms may be provided for registered guests.
3. The maximum stay by any guest shall be limited to thirty (30) days.
4. All required guest parking shall be provided on-site.

C. Car Washes.

1. When adjacent to a Residential District, the interior side yard setback and rear yard setback shall be fifteen (15) feet.
2. Vacuum stations and related equipment shall comply with the setbacks of the primary structure.
3. Section 176.43, Landscaping & Screening Standards shall be followed; except that the buffer yard between a residential district and a car wash shall be limited to the structural buffer yard standard.
4. All carwash bays and tunnels and all related equipment shall be designed to minimize the creation of, and reduce the carrying off premise, of airborne particles of water, chemicals, and dust.
5. An on-site queuing plan showing a minimum capacity of three (3) vehicles shall be approved by Planning and Engineering staff.
6. A maximum of two (2) access points are allowed and can be from either the primary or secondary facing street, provided they meet the following standards and receive approval from the City Engineer:
   - SUDAS standards
   - Adopted local regulations
7. If accessory to a gas station, the carwash building shall be constructed of similar materials to the primary structure.

D. Delayed Deposit Services. Delayed deposit services shall have a distance separation of 1,000 feet from any child care center, educational facility, park or recreational facility, religious institution or other delayed deposit service use.
E. Drive-Thru Facilities.

1. An on-site queuing plan shall be approved by Planning and Engineering staff.

2. Landscaped barriers shall separate the stacking lane(s) from parking areas and driveways; except that the bufferyard between a residential district and a drive-thru facility shall be limited to the structural bufferyard standard.

3. An escape opening shall be provided within the landscaped barrier between the stacking lane and driveways when the barrier is longer than 120 feet.

4. One menu board per stacking lane is allowed.

5. On site circulation should be designed to minimize conflict points between pedestrians and vehicles.

6. All signage shall follow Section 176.31 of the Marion Code of Ordinances.

F. Dwelling Units, Auxiliary. Auxiliary dwelling units, attached and detached, are subject to the following standards:

1. Occupancy of any auxiliary dwelling unit shall be limited to no more than two (2) persons.

2. Only one (1) auxiliary dwelling unit, either detached or attached, shall be permitted on a lot.

3. The auxiliary dwelling unit shall have a maximum floor area of not more than seven hundred (700) square feet.

4. Auxiliary dwelling units shall comply with all yard requirements of the zoning district.

5. The vehicle access door of any new garage associated with the construction of an auxiliary dwelling unit shall be set back a minimum of twenty-five (25) feet from any street right-of-way line.

6. No more than one (1) of the units, either the principal dwelling unit or the auxiliary dwelling unit, may be non-owner occupied. A deed restriction shall be recorded prior to issuance of a building permit for the auxiliary dwelling unit to provide notice of this requirement to subsequent owners.

7. Annual registration and inspection of the non-owner-occupied dwelling unit (auxiliary or primary) is required. If the owner fails to register and submit to an inspection, the auxiliary dwelling unit shall not be occupied until compliance is obtained.
(8) The auxiliary dwelling unit shall not be larger in area or height than the principal dwelling unit.

(9) A new separate driveway providing exclusive access to the auxiliary dwelling unit shall not be permitted.

(10) Detached auxiliary dwelling units shall be located at least ten (10) feet from the principal dwelling unit.

(11) Detached auxiliary dwelling units shall not be located closer to the street than the principal dwelling unit.

G. Gas Station.

(1) Restaurants in gas stations shall be required to meet the parking requirements for restaurants in addition to those for gas stations.

(2) Fuel pumps shall be located no closer than twenty (20) feet from any lot line and shall be located so that a vehicle using the fuel pump does not encroach into the public right of way or onto adjoining property.

(3) Pumps and canopies shall be located either:

(a) Behind the principal building, not visible from the street or public space; or

(b) On corner lots may be located on the side of the principal building. However, corner side pumps and canopies shall not be located towards 6th Avenue, 7th Avenue, or public parks, schools, and open spaces.

(c) On corner lots, the principal building shall be built to the intersection.

(d) These regulations do not apply to the BR, M-1, and M-2 districts.

(4) Gas stations shall be buffered from any residential use including mixed-use buildings by a ten (10) foot planting strip, with shrubs and/or trees that form a barrier at least thirty (30) inches tall. A decorative fence or other non-natural barrier can be used with fewer plantings to form an opaque barrier. Other screening requirements in the code for trash and mechanical equipment shall be met.

(5) Lighting shall be shielded downward to prevent glare onto adjacent properties.

(6) Pedestrian routes shall be defined, differentiated from vehicle areas, to the building entrance from the public sidewalk and pumping areas.
(7) A maximum of two (2) access points are allowed and can be from either the primary or secondary facing street, provided they meet SUDAS standards and receive approval from the City Engineer.

(8) Electric charging stations count towards minimum parking requirements.

(9) No outdoor storage or automotive repairs are allowed on site.

(10) Canopies shall have similar color and architectural features as the primary building.

(11) One freestanding monument sign is allowed (see 176.31 for regulations).

H. Group Homes.

(1) Group Home, Small: Off-street parking shall be provided in accordance with the requirements for dwelling units.

(2) Group Home, Large: If off-street parking is needed in excess of what is required for a single-family dwelling, it shall be provided in accordance with the specific needs of the group home, as a condition of the granting of a conditional use.

I. Kennels. Kennels shall comply with the following standards:

(1) Outdoor runs and exercise areas shall be a minimum of one thousand (1000) feet from any residential zoning district.

(2) Outdoor kenneling shall be limited to veterinary offices/animal hospitals in a Manufacturing District.

(3) All animals shall be kept either within completely enclosed structures or under direct control of the kennel operator or staff at all times, and shall be kept within completely enclosed structures between the hours of 10:00 p.m. and 7:00 a.m.

(4) The operation of the kennel shall not allow the creation of noise by any animal or animals under its care which can be heard by any person at or beyond the property line of the lot on which the kennel is located, which occurs a) repeatedly over at least a seven-minute period of time at an average of at least twelve animal noises per minute, or b) repeatedly over at least a fifteen minute period of time, with one minute or less lapse of time between each animal noise during the fifteen-minute period.
J. Medical Cannabidiol Manufacturers. A medical cannabidiol manufacturer shall not operate in any location, whether for manufacturing, possessing, cultivating, harvesting, transporting, packaging, processing, or suppling, within one thousand (1,000) feet of a public or private school existing before the date of the medical cannabidiol manufacturer’s licensure by the department. [Iowa Code 124E.7-10]

K. Medical Cannabidiol Dispensaries.

(1) A medical cannabidiol dispensary shall not operate in any location within one thousand (1,000) feet of a public or private school existing before the date of the medical cannabidiol dispensary’s licensure by the department. [Iowa Code 124E]

(2) A registered dispensary shall not be located in a house, apartment, condominium, or an area zoned for residential use.

L. Motor Vehicle Sales and Leasing Establishments.

(1) Newly established Motor Vehicle Sales and Leasing establishments shall have a minimum lot area of one hundred thousand (100,000) square feet.

(2) All Outdoor Motor Vehicle Display areas shall be landscaped in accordance with Section 176.43, except:

(a) Where an Outdoor Motor Vehicle Display area adjoins a building wall containing showroom display windows, Building Foundation Landscaping may be relocated when:

i An equivalent amount of Building Foundation Landscaping is provided at an alternate location between the building wall and the street, at a location not more than 125 feet from the building wall.

ii The vehicle display area adjacent to the building wall is constructed as a concrete-curbed platform, paved with decorative concrete or masonry.

iii Building Foundation Landscaping is provided adjacent to or within 16 ft. of all exterior corners of the building wall.

(b) Internal Parking Lot Landscaping may be relocated to the perimeter of the Outdoor Motor Vehicle Display area in a location visible from streets adjoining
the lot; however, landscape islands shall be required at the end of all vehicle display rows.

M. Motor Vehicle Service and Repair, Major. Major motor vehicle service and repair shops shall not store or park any vehicle on the lot, including but not limited to wrecked or junk vehicles, for longer than forty-five (45) days. All repair operations shall be conducted within fully enclosed buildings and all storage of vehicles and equipment shall be fully screened by means of fencing or landscaping or a combination thereof.

N. Motor Vehicle Service and Repair, Minor. Minor motor vehicle service and repair shops shall not store or park any vehicle on the site for longer than five (5) business days. Minor motor vehicle service and repair shops with fuel pumps shall also comply with the requirements applicable to Gas Stations. All repair operations shall be fully enclosed, and wrecked or junked vehicles shall not be stored for longer time periods than those specified above.

O. Motor Vehicle Storage. Motor Vehicle Storage shall comply with the following standards.

1. Off-street parking facilities designed to conform with the requirements of Chapter 176.29, Parking & Loading Regulations may be used for Motor Vehicle Storage, in compliance with the following requirements:

   a. No vehicles shall be stored in an off-street parking space required for any other use located on the same or another lot.

   b. Vehicles shall be parked within designated off-street parking spaces and shall not obstruct vehicular access to parking stalls or any portion of the lot.

2. Newly established Motor Vehicle Storage lots shall comply with the requirements applicable to Off-Street Parking Facilities, except:

   a. 176.43-8 Parking Lot Landscaping

   b. Direct access to individual spaces shall not be required.

3. Motor Vehicle Storage lots shall not be used as Off-Street Parking Facilities unless modified to comply with all requirements of this Ordinance.

4. Commercial Vehicles shall only be stored in the M-2 district.
(5) Stored vehicles shall be operable, and no wrecked or junked vehicles shall be permitted.

(6) Signage advertising the vehicles for sale or rental is prohibited.

(7) Motor Vehicle Storage lots shall not be used to conduct retail sales and no retail customers shall be present at any time.

(8) Motor Vehicle Storage lots in the M-1 Light Manufacturing District shall:

(a) Not be located closer than 500 feet to any residentially zoned property.

(b) Not be located on a lot that is less than 2-acres in area.

P. Outdoor Entertainment. Outdoor Entertainment shall be permitted only as an accessory use to a restaurant, except as a temporary use in accordance with Section 176.51.

Q. Sexually Oriented Businesses (as defined and regulated under Chapter 127 of this Code of Ordinances), provided that adult uses shall be subject to the following standards:

(1) No adult use shall be located within one thousand (1,000) feet of any residential district, U-1, U-2, or PI District, or within one thousand (1,000) feet of a place of worship, public park, licensed day care center, school or another adult use.

(2) No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” from any public way or from any adjacent property. This provision shall apply to any display, decoration, sign, show window or other opening.

R. Veterinary Office/Animal Hospital. Veterinary Office/Animal Hospital shall comply with the following standards:

(1) Outdoor exercise areas that directly abut or face any residentially zoned properties, commercially zoned properties, and any public street shall be screened with a 100% opaque non-see-through fence or wall.

(2) All animals shall be kept either within completely enclosed structures or under direct control of the facility operator or staff at all times, and shall be indoors between the hours of 10:00 p.m. and 7:00 a.m.
(3) Veterinary offices/animal hospitals providing onsite service to domestic animals only and include: outdoor kennels, commercial boarding services accept as an accessory use, crematory services or 24-hour emergency service shall be located at least 100 feet from any lot in any Residential District; all outdoor kenneling shall be limited to clinics located in a Manufacturing District.

(4) Noise regulations shall conform with standards set forth in Chapter 53, Noise and Noise Limits of the City of Marion Code.

3. Temporary Uses – General Provisions. A permit shall be required for temporary uses allowed in this Ordinance, except that temporary uses operated or sponsored by a governmental entity and located on a lot owned by that entity do not require a permit, but shall otherwise be subject to the requirements of this Section. The applicant shall submit a site plan or other suitable description to the Zoning Official, with any required permit fee. As a condition of permit issuance, the Zoning Official may require conformance with specific conditions regarding the operation of the temporary use as may be reasonably necessary to achieve the requirements of this Section. If the Zoning Official finds that the applicable requirements have not been met, he may revoke the permit and may require the cessation of the temporary use. Where a permit for a temporary use has been revoked, no application for a new permit shall be approved within six months following revocation. All temporary uses, shall comply with the following requirements:

A. No temporary use shall be established or conducted so as to cause a threat to the public health, safety, comfort, convenience and general welfare, either on or off the premises.

B. Temporary uses shall comply with all requirements of the Fire Code and other applicable codes and regulations. If necessary to ensure the protection of public safety due to the presence of a particular hazard, the Fire Chief may require the operator of the temporary use to employ a fire watch team and/or appropriate security personnel.

C. Temporary uses shall not obstruct required fire lanes, access to buildings or utility equipment, or egress from buildings on the lot or on adjoining property.

D. Temporary uses shall be conducted completely within the lot on which the principal use is located, unless the City Council authorizes the use of City-owned property or right of way.

E. When a permit is required for a temporary use, the Zoning Official shall make an assessment of the number of parking spaces reasonably needed for the permanent uses on the lot where the proposed temporary use is to be located, on the basis of the particular temporary
use, the seasonal demand for parking on the lot at the time the temporary use is proposed, and the availability of other public and
private parking facilities in the area. The Zoning Official may deny the permit for a
temporary use if he finds that the temporary use will result in inadequate parking being
available for permanent uses on the same lot that are not connected with the business
proposing the temporary use.

F. During the operation of the temporary use, the lot on which it is
located shall be maintained in an orderly manner, shall be kept free of
litter, debris, and other waste material, and all storage and display of
goods shall be maintained within the designated area. Storage of goods
for sale shall be no more than five (5) feet in height.

G. Signs for a temporary use shall be permitted only in accordance
with the Section 176.31, Signs.

4. Permitted Temporary Uses.

A. Temporary Outdoor Sales. Temporary Outdoor Sales shall be
limited to three (3) events within one (1) calendar year per lot. These
events shall be restricted to the following time limits: one (1) event of
not more than sixty (60) days, and two (2) events of not more than
thirty (30) days each. This does not include residential sales as defined
within Section 176.35, Supplemental Regulations.

B. Outdoor Arts, Crafts and Plant Shows, Exhibits and Sales.
Outdoor arts, crafts and plant shows, exhibits and sales conducted by a
nonprofit or charitable organization shall be permitted in any
nonresidential zoning district, and may be conducted in addition to the
time limits for Outdoor Sales Areas for a period of not more than seven
(7) days.

C. Carnivals. Carnivals shall meet the requirements of Chapter
131, Amusement Licenses, of the Marion Code of Ordinances.
Carnivals shall be limited to a maximum of 14 days, and a maximum of
three (3) permits may be issued within one calendar year per lot.

D. Temporary Contractor Trailers and Real Estate Model Units.
Temporary contractor trailers and real estate sales trailers or model
units shall be permitted in any zoning district when accessory to a
construction project for which a building permit or site development
permit has been issued. Such uses shall be limited to a period not to
exceed the duration of the active construction phase of such project or
the active selling and leasing of space in such development, as the case
may be. No such use shall contain any sleeping or cooking
accommodations, except those located in a model unit.

E. Temporary Motor Vehicle Storage. Temporary Motor Vehicle
Storage shall be limited to a period of one hundred eighty (180) days.
No lot shall be used for Temporary Motor Vehicle Storage for more
than one hundred eighty (180) days in any one-year period.

(Ord. 18-28 – Nov. 18 Supp.)
176.53 MARION MUNICIPAL AIRPORT LAND USE AND HEIGHT OVERLAY ZONING.

1. General. The Marion Municipal Airport Land Use and Height Overlay Zoning is created by the City of Marion as a result of the adoption of this Section. This ordinance shall regulate and restrict the height of structures, objects, and growth of natural vegetation, as well as land uses, within the vicinity of the Marion Municipal Airport and the projected growth of the airport as detailed in the Airport Layout Plan as amended from time to time. The creation of appropriate overlay zoning and establishing the boundaries of the individual zones, as well as providing for changes in the restrictions and boundaries of such a district is vested in this ordinance. The Marion Municipal Airport Land Use and Height Overlay Zoning Map is incorporated into and made part of this ordinance. The ordinance also provides for the enforcement of the ordinance, the establishment of the Airport Board of Adjustment, and the imposition of penalties related to the implementation of the ordinance.

2. Authority. Iowa Code §329.3 Airport Zoning empowers local municipalities to zone airports including height and land use restrictions.

3. Statement of Intent and Purpose:
   A. The Marion Municipal Airport is acknowledged as an essential public facility to the State of Iowa and the local community.
   B. The creation or establishment of an airport hazard is a public nuisance and poses a potential concern to the surrounding individuals and businesses served by the Marion Municipal Airport.
   C. It is the responsibility of the City of Marion to ensure that there shall be no creation or establishment of a hazard that endangers public health, safety, welfare, and impacts an individual’s quality of life or prevents the safe movement of aircraft at the Marion Municipal Airport.
   D. For the protection of the public health, safety, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.
   E. The prevention of airport hazards shall be accomplished, to the extent legally possible, by proper exercise of police power.
   F. The prevention of new airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards, are considered to a public purpose for which the City of Marion may raise and expend public funds, as an incident to the operation of the Marion Municipal Airport, or to acquire property interest in such airport hazards.

4. Short Title. This ordinance shall be known and may be cited as Marion Municipal Airport Land Use and Height Overlay Zoning, and it is referred to as the “Ordinance” within the following sections.
5. Applicability. This ordinance encompasses a general area around the Marion Municipal Airport. Specific dimensions associated with the zoning boundary are shown in the Marion Municipal Airport Land Use and Height Overlay Zoning Map.

6. Definitions:

A. Airport. (FAA FAR Sec. 152.3} Any areas of land or water that is used, or intended for use, for the landing and takeoff of aircraft. Any appurtenant areas that are used, or intended for use, for airport buildings, other airport facilities, or rights-of-way; and all airport buildings and facilities located on the areas specified in this definition. The Marion Municipal Airport is owned by the City of Marion, Iowa.

B. Airport Elevation. (FAA AC 150/5190-4A) The highest point on an airport's usable landing area measured in feet from sea level.

C. Airport Hazard. {FAA FAR Sec. 152.3} Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near a public airport that obstruct the airspace required for the flight of aircraft landing or taking off at the airport; or is otherwise hazardous to aircraft landing or taking off at the airport.

D. Airport Layout Plan {ALP). (FAA FAR Sec. 152.3} The plan of an airport showing the layout of existing and proposed airport facilities.

E. Airport Overlay Zones. A zone intended to place additional land use conditions on land impacted by the airport while retaining the existing underlying zone. The FAR Part 77 Surfaces and FAA Advisory Circular 150/5300-13 defined Runway Protection Zones have been combined to create five airport zones. The five specific zones create a comprehensive area focused on maintaining compatible land use around airports.

(1) Zone A [Runway Protection Zone] - is intended to provide a clear area that is free of above ground obstructions and structures. This zone is closest to the individual runway ends.

(2) Zone B [Approach Surface] - is a critical overlay surface that reflects the approach and departure areas for each runway at an airport. The size of Zone B is predicated upon the type of approach (visual, non-precision, or precision) that a specific runway has and the type/size of aircraft utilizing the runway.

(3) Zone C [Transitional Surface] - includes those areas that are parallel to the runway pavement and extend from the edge of the primary surface.
(4) Zone D [Horizontal Surface] - is typically elliptical in shape, depending upon the runway types and configurations at an individual airport.

(5) Zone E [Conical Surface] - is the outermost zone of the overlay areas and has the least number of land use restriction considerations. Zone E begins at the edge of the horizontal surface and is 4,000 feet in width paralleling the horizontal surface.

F. Airport Zoning Permit. Airport zoning permit allowing new development or alteration or expansion of a nonconforming use.

G. Airspace. The space lying above the earth or above a certain area of land or water that is necessary to conduct aviation operations.

H. Airport Land Use and Height Overlay Zoning Map. The Marion Municipal Airport Land Use and Height Overlay Zoning Map is compiled from the criteria in FAR Part 77, "Objects Affecting Navigable Airspace." It shows the area affected by the Marion Municipal Airport Land Use and Height Overlay Zoning, and includes the layout of runways, airport boundaries, elevations of Overlay Zones. Applicable height limitation areas are shown in detail.

I. Approach Slope. (FAR Part 77) The ratio of horizontal to vertical distance indicating the degree of inclination of the Approach Surface. The ratio is 34:1 for all runways extended from the primary surface a distance of 10,000 feet.

J. Approach Surface. (FAA AC 150/5190-4A) A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

K. Compatibility. The degree to which land uses or types of development can coexist or integrate.

L. Easement. (FAA AC 5020-1) The legal right of one party to use a portion of the total rights in real estate owned by another party. This may include the right of passage over, on, or below property; certain air rights above the property, including view rights; and the rights to any specified from of development or activity, as well as any other legal rights in the property that may be specified in the easement document.

M. Federal Aviation Administration (FAA). A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control,
air navigation; and promoting the development of a national system of airports.

N. Federal Aviation Administration Advisory Circular (FFA AC). Advisory circular (AC) refers to a type of publication offered by the Federal Aviation Administration (FAA) to provide guidance for compliance with operational standards.

O. Federal Aviation Regulations (FAR). (FAA FAR) Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.

  (1) FAR Part 36. (FAA FAR Sec. 36.1) Regulation establishing noise standards for civil aviation fleet.

  (2) FAR Part 91. (FAA FAR Sec. 91.1) Regulation pertaining to air traffic and general operating rules, including operating noise limits.

  (3) FAR Part 150. (FAA FAR Sec. 150.1) Regulation pertaining to airport noise compatibility planning.

  (4) FAR Part 161. (FAA FAR Sec. 161.1) Regulation pertaining to notice and approval of airport noise and access restrictions.

  (5) FAR Part 77. (FAA FAR Sec. 77.1) Objects Affecting Navigable Airspace - Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

P. General Aviation Airport. Any airport that is not an air carrier airport or a military facility.

Q. Height. Height is utilized for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the official Marion Municipal Airport Land Use and Height Overlay Zoning Map; height shall be measured as the highest point of a structure, tree, or other object of natural growth, measured from the mean sea level elevation unless otherwise specified.

R. Imaginary Surfaces. (FAA FAR Part 77.25) Those areas established in relation to the airport and each runway consistent with FAR Part 77 in which any object extending above these imaginary surfaces, by definition, is an obstruction.
S. Transitional Surface. The transitional surface extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the primary and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.

T. Horizontal Surface. The horizontal surface is a horizontal plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.

U. Conical Surface. The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance of 4,000 feet.

V. Approach Surface. The approach surface is longitudinally centered on an extended runway centerline and extends outward and upward from the end of the runway primary surface.

W. Incompatible Land Use. (FAA FAR Sec. 150.7) The use of land which is normally incompatible with the aircraft and airport operations (such as, but not limited to, homes, schools, nursing homes, hospitals, and libraries).

X. Land Use Compatibility. The coexistence of land uses surrounding the airport with airport-related activities.

Y. Lighting and Marking of Hazards to Air Navigation. Installation of appropriate lighting fixtures, painted markings or other devices to such objects or structures that constitute hazards to air navigation.

Z. Mitigation. The minimization, reduction, elimination or compensation for adverse environmental effects of a proposed action.

AA. Noise Impact. A condition that exists when the noise levels that occur in an area exceed a level identified as appropriate for the activities in that area.

BB. Noise Sensitive Area. (FAA AC 91-36D) Defined as an area where noise interferes with normal activities associated with the area’s use. Examples of noise-sensitive areas include residential, educational, health, and religious structures and sites, and parks, recreational areas (including areas with wilderness characteristics), wildlife refuges, and cultural and historical sites where a quiet setting is a generally recognized feature or attribute.
CC. Nonconforming Use. {FAA Web site} Any pre-existing structure, tree, or use of land that is inconsistent with the provisions of the local land use or airport master plans.

DD. Object. {FAA AC 150/5300-13} Includes, but is not limited to above ground structures, navigational aids, people, equipment, vehicles, natural growth, terrain, and parked aircraft.

EE. Obstruction. {FAA AC 150/5190-4A} Any structure, growth, or other object, including a mobile object, which exceeds a limiting height, specific to its geographic location relative to the runway/airport.

FF. Overlay Zone. A mapped zone imposing requirements in addition to those of the underlying zoning district.

GG. Primary Surface. {FAA AC 15 0/5190-4A} A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in FAR Part 77. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

HH. Primary Runway. {FAA AC 150/5325-4B} The runway used for the majority of airport operations. Large, high-activity airports may operate two or more parallel primary runways.

II. Public Use Airport. {FAA AC 150/5190-6} Means either a publicly owned airport or a privately-owned airport open for public use.

JJ. Runway Protection Zone {RPZ}. {FAA AC 150/5300-13} An area off the runway end designed to enhance the protection of people and property on the ground.

KK. Structure. Any object constructed or installed by humans, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structures supporting the same.

LL. Variance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land that is prohibited by a zoning ordinance. A lawful exception from specific zoning ordinance standards and regulations predicated on the practical difficulties and/or unnecessary hardships by the petitioner being required to comply with the regulations and standards from which a variance is sought.

MM. Visual Approach. An approach to an airport conducted with visual reference to the terrain.
NN. Visual Runway. (FAA AC 150/5300-13) A runway without an existing or planned straight-in instrument approach procedure.

OO. Wildlife Hazards. Wildlife (birds, mammals, reptiles), including feral animals and uncontrolled domesticated animals associated with aircraft strike problems, and capable of causing structural damage to airport facilities or attractants to other wildlife that pose a strike hazard.

7. Airport Land Use and Height Overlay Zoning Map. The Marion Municipal Airport Land Use and Height Overlay Zones established by this ordinance are shown on the Marion Municipal Airport Land Use and Height Overlay Zoning Map attached as Exhibit A to Chapter 176.53. Such official Marion Municipal Airport Land Use and Height Overlay Zoning Map may be amended, and all notations, references, elevations, data, zone boundaries, and other information included in the maps are adopted as part of this Ordinance.

8. Airport Zoning Requirements. In accordance with Section 329.10, Iowa Code, there are three (3) principal airport zoning requirements supported by additional information contained within the following remaining sections of this ordinance. These basic zoning requirements state:

A. All airport zoning regulations adopted under this ordinance shall be reasonable and none shall impose any requirement or restriction that is not necessary to make effective the purposes of this ordinance.

B. Airport zoning regulations adopted under this ordinance may require the following:

   (1) The removal, lowering, or other change or alteration of any structure or tree, or a change in use, non-conforming to the regulations when adopted or amended.

   (2) A property owner to permit the City of Marion to install, operate, and maintain on the property markers and lights as necessary to indicate to operators of aircraft the presence of the airport hazard, when adopted or amended.

C. All such regulations may provide that a preexisting nonconforming structure, tree, or use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted.

9. The City of Marion will be responsible for the initial removal of trees, structures, or other natural or man-made obstructions that are not conforming to the regulations of this ordinance when adopted or amended. Any subsequent alterations or removal of any natural or man-made obstructions to the Marion Municipal Airport or its airspace will be responsibility of the property owner.

10. Nonconformities
A. It is the intent of this ordinance to permit legal nonconforming buildings, structures, or natural resources to continue until they are removed but not to encourage their continuance, unless such nonconforming use is determined by the FAA to be a hazard within one of the airport zones and must be altered or changed in accordance with FAA regulations. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used to add other nonconforming structures prohibited elsewhere in the defined airport zones.

B. In accordance with Section 329.10, Iowa Code, and as stated above, any preexisting nonconforming structure, tree, or land use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted. With that stated, where a lawful building or structure exists prior to the effective date of adoption or amendment of this ordinance that cannot be built under the terms of this airport ordinance by reason of restrictions on height or land use compatibility, such structure may be continued so long as it remains otherwise lawful and in compliance with FAA regulations; subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way that increases its nonconformity. Such structure may be enlarged or altered in a way that does not increase its nonconformity.

2. Should such nonconforming structure be destroyed by any means to an extent of more than seventy-five percent (75%) of its replacement cost, it shall be reconstructed only in conformity with the provisions of this airport ordinance.

3. Should any nonconforming structure be moved within the boundaries of any of the five (5) airport zones for any reason or for any distance whatever, it shall thereafter conform to the regulations of this airport zoning ordinance.

4. Discontinuance. In the event a nonconforming building, structure or use is discontinued for a period of one (1) year, the height or land use compatibility shall conform thereafter to the provisions of this airport zoning ordinance.

C. On any nonconforming building or structure, work may be done on ordinary repairs or replacement of non-bearing walls not exceeding seventy-five percent (75%) of the assessed value of the building, provided the cubic content of the building shall not be increased.

D. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part
thereof declared to be unsafe by an official charged with protecting the public safety upon orders of such official.

E. There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, buildings or structures.
11. Establishment of Airport Overlay Zones.
   A. FAR Part 77 Surfaces and the Runway Protection Zones have been combined to create five airport overlay zones. These five zones are designed to maintain compatible land uses around the Marion Municipal Airport. Specific dimensions for the individual zones for each runway end are noted in the following tables and text. The Marion Municipal Airport Land Use and Height Overlay Zoning Map should be consulted to determine the specific area of the impact associated with each zone.

   (1) Airport Overlay - Zone A: Runway Protection Zone (RPZ). Zone A is intended to provide a clear area that is free of above-ground obstructions and structures. This Zone is closest to the individual runway ends. The dimensional standards for Zone A are shown in Table 1.

   Table 1: Runway Protection Zone Dimensions

<table>
<thead>
<tr>
<th>Approach Visibility</th>
<th>Approach Visibility Minimums</th>
<th>Dimensions</th>
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<td>Length L</td>
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<td>Visual and not lower than 1-Mile</td>
<td>Aircraft Approach Categories A &amp; B</td>
<td>1,000</td>
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</table>

1 The RPZ Dimensional standards are for the runway end with the specialized approach visibility minimums. The departure RPZ dimensional standards are equal to or less than the approach RPZ dimensional standards. When an RPZ begins other than 200 feet (60 m) beyond the runway end, separate approach and departure RPZs should be provided. Refer to FAA AC 150/5300-13 Change 11, Appendix 14 for approach and departure RPZs.

   (2) Airport Overlay - Zone B: Approach Surface. Zone B is a critical airport zoning surface that reflects the approach and departure areas for each runway at an airport. The size of Zone B is predicated upon the type of approach (visual, non-precision, or precision) that a specific runway has and the type/size of aircraft utilizing the runway. The following table illustrates the various sizes of Zone B based upon the specific runway criteria. A portion of Zone B is overlain by Zone A because the Approach Surface and RPZ overlap the entire length of the RPZ. Consequently, the length of Zone B begins at the inner edge of the RPZ. This district is centered on the extended runway centerline and extend outward and upward from the end of the runway primary surface at a slope 34
horizontal to 1 vertical (34:1) for the ultimate Approach Surface. Table 2 illustrates the size of Zone B.

(3) Airport Overlay - Zone C: Transitional Surface. Zone C provides an area, relatively free of obstructions, that are in closest proximity, laterally to the runway environs. Zone C includes those areas that are parallel to the runway pavement and extend 1,050 feet from the edge of the primary surface parallel to the runway and extended runway centerline until they reach the end of Zone A at a 90-degree angle and extend to intersect with Zone B. This Zone extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontal for one foot vertical (7:1) from the sides of the primary and approach surfaces. Table 2 illustrates the size of Zone C based upon the specific runway criteria.

a. The west side of Zone C shall extend from 125’ west of the runway centerline to 1091’ west of the runway centerline; the east side of Zone C shall extend from 250’ east of the runway centerline to 1,216’ east of the runway centerline.

(4) Airport Overlay - Zone D: Horizontal Surface. This Zone follows horizontal surface plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. This Zone is elliptical in shape, the radius of which is 10,000 feet from the edge of the primary surface. Table 2 illustrates the size of Zone D based upon the specific runway criteria.

(5) Airport Overlay - Zone E: Conical Surface. This Zone has the least number of land use restrictions. Zone E extends upward and outward from the periphery of the Horizontal Surface at a slope of 20 feet horizontal for one foot vertical (20:1) for a horizontal distance of 4,000 feet from Zone D. Table 2 illustrates the size of Zone E based upon the specific runway criteria.

Table 2: Airport Overlay Zones Size and Configuration

<table>
<thead>
<tr>
<th>Item</th>
<th>Runway Dimensional Standards (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Runway 17</td>
</tr>
<tr>
<td>Primary Surface Width</td>
<td>500</td>
</tr>
<tr>
<td>Zone B – Inner Width</td>
<td>500</td>
</tr>
<tr>
<td>Zone B - end width</td>
<td>3,500</td>
</tr>
<tr>
<td>Zone B - Length</td>
<td>10,000</td>
</tr>
</tbody>
</table>
12. Airport Overlay Zone Land Use Compatibility

A. Underlying zoning district classifications shall dictate permitted, and conditional land uses. Table 3 identifies land uses within the underlying zoning districts which are compatible, not compatible or require additional review:

1. Uses identified as COMPATIBLE shall be considered permitted uses and shall not require additional review.

2. Uses found to be NOT COMPATIBLE shall be considered prohibited uses and shall be precluded from development within the specific zones.

3. Uses found to require ADDITIONAL REVIEW shall be evaluated for general compatibility by the Airport Zoning Administrator for potential conflicting land uses or potential negative effects that may need to be mitigated. If after review by the Airport Zoning Administrator all conditions have been addressed the Zoning Permit shall be issued. Consideration should be given to the following five areas when additional review is required:

   a. Noise sensitive related issues
   b. High concentrations of people
   c. Tall structures
   d. Visual obstructions
   e. Wildlife and bird attractants

Table 3: Airport Land Use Table

<table>
<thead>
<tr>
<th>Land Uses</th>
<th>Zone A</th>
<th>Zone B</th>
<th>Zone C</th>
<th>Zone D</th>
<th>Zone E</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Activities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Detached Single Family Dwelling (i.e. farm dwelling, detached single</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>family house, manufactured/modular/mobile homes if converted to real</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>property and taxed)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Two Family Uses (i.e. two principal dwelling units within one building</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>on the same parcel)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multi-Family Uses (i.e. three or more principal dwelling units within</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>a single building on the same parcel, apartments such as condominium,</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>elder, assisted living, townhouse-style)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Group Living Uses (i.e. assisted living, group care facilities, nursing and convalescent homes, independent group living)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Manufactured Housing Parks</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

**Commercial Activities**

| General Office (i.e. professional office, financial business, government offices) | NC | AR | AR | C | C |
| Sales-Oriented (i.e. appliances, convenience stores, bakeries, electronics, furniture, garden supplies, gas stations, groceries, hardware, malls, strip malls, videos) | NC | AR | AR | C | C |
| Personal Service-Oriented (i.e. retail service-banking establishments, laundromats/dry cleaning, quick printing services, beauty/tanning salons, funeral homes) | NC | AR | AR | C | C |
| Repair-Oriented (i.e. consumer goods-electronics, office equipment, appliances) | NC | AR | AR | C | C |
| Hospitality-Oriented (hotels, motels, convention centers, meeting halls, event facilities) | NC | NC | NC | C | C |
| Outdoor Storage and Display-Oriented (i.e. outdoor storage-lumber yards, vehicles sales, landscape material and nursery product sales, farm supply and equipment sales) | NC | AR | AR | C | C |

**Industrial/Manufacturing Activities**

| Industrial Service Uses (i.e. machine shops, tool repair, towing and vehicle storage, building supply yards, heating/plumbing/electrical contractors, exterminators, janitorial services, fuel oil distributors, solid fuel yards) | NC | AR | AR | C | C |
| General Manufacturing (i.e. manufacturing, compounding, assembling or treatment of most articles, materials, or merchandise) | NC | AR | AR | C | C |
| Heavy Manufacturing (i.e. concrete and asphalt plants, meat packing plants, wet corn milling, manufacturing of animal feed, paper/paperboard mills, ethanol plants) | NC | NC | NC | AR | C |
| Mining and Extraction Uses | NC | NC | NC | AR | C |
| Salvage Operations (i.e. firms that collect, store, and dismantle damaged or discarded vehicles, machinery, appliances, and building material) | NC | NC | AR | C | C |
| Warehouse and Freight Uses (i.e. major wholesale distribution centers, general freight storage, railroad switching yards, bus/rail car storage lots, parcel service, grain terminals) | NC | AR | AR | AR | C |
### Waste-Related Uses
- Recycling centers, sanitary landfills, waste transfer stations, composting, energy recovery plants, sanitary and water treatment facilities, sanitary collection/pumping facilities, hazardous waste collection sites

### Warehouse and Freight Uses
- Major wholesale distribution centers, general freight storage, railroad switching yards, bus/rail car storage lots, parcel service, grain terminals

### Wholesale Sales Uses
- Sale, lease, or rental of products to retailers for industrial, institutional, or commercial business users

### Institutional Activities

<table>
<thead>
<tr>
<th>Activity</th>
<th>NC</th>
<th>AR</th>
<th>AR</th>
<th>AR</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Utility Uses (i.e. utility substation facilities, electrical substations, water and sewer lift stations, water towers)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>College and Universities (i.e. public or private colleges and universities, technical colleges, seminaries)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>General Community Service (i.e. libraries, museums, transit centers, park and ride facilities, senior/community/neighborhood centers, community service centers, police and fire stations)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Daycare Uses (i.e. childcare centers, adult daycare, preschools, after school programs)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Detention Facilities (i.e. prisons, jails, probation centers, juvenile detention homes, halfway houses)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>General Educational Facilities (i.e. public and private elementary, middle, junior, and senior high schools including religious, boarding, military schools,)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Specialized Education Facilities (i.e. specialized trade, business, or commercial courses, nondegree- granting schools)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Hospitals (i.e. hospitals, medical centers)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Religious Assembly Uses (i.e. churches, temples, synagogues, mosques, Masonic, eagles, moose, or elk lodges)</td>
<td>NC</td>
<td>NC</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>
### Infrastructure Activities

<table>
<thead>
<tr>
<th>Activity</th>
<th>Marion</th>
<th>Linn</th>
<th>N. Iowa</th>
<th>C. Marion</th>
<th>AR</th>
<th>C. Marion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communication Transmission Facility Uses (i.e. broadcast, wireless, point to point, emergency towers and antennae)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>AR</td>
</tr>
<tr>
<td>Parking Uses (i.e. ground lots, parking structures)</td>
<td>AR</td>
<td>C</td>
<td>AR</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Transportation Uses (i.e. highways, interstates, local and county roads)</td>
<td>AR</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Utility Uses (i.e. solar power generation equipment, wind generators, wind farms)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>AR</td>
</tr>
</tbody>
</table>

### Agricultural Activities

<table>
<thead>
<tr>
<th>Activity</th>
<th>Marion</th>
<th>Linn</th>
<th>N. Iowa</th>
<th>C. Marion</th>
<th>AR</th>
<th>C. Marion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plant-related (i.e. crop farming, vegetable, fruit, and tree, wholesale plant nurseries)</td>
<td>AR</td>
<td>C</td>
<td>AR</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Animal-related (i.e. livestock operations, dairy farms, horse farms)</td>
<td>AR</td>
<td>C</td>
<td>AR</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Resident-related (i.e. single-family home, mobile home if converted to real property and taxed)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Facility-related (i.e. fuel bulkstorage/pumping facility, grain elevator, livestock/seed/grain sales)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

### Water Bodies

<table>
<thead>
<tr>
<th>Activity</th>
<th>Marion</th>
<th>Linn</th>
<th>N. Iowa</th>
<th>C. Marion</th>
<th>AR</th>
<th>C. Marion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Man-made resources (i.e. mining and extraction, standing bodies of water, wetlands)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

### Parks and Recreation Activities

<table>
<thead>
<tr>
<th>Activity</th>
<th>Marion</th>
<th>Linn</th>
<th>N. Iowa</th>
<th>C. Marion</th>
<th>AR</th>
<th>C. Marion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outdoor Amusement (i.e. theme parks, fairgrounds, racetracks, sports arenas)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Indoor (i.e. physical fitness centers, health clubs, bowling alleys, skating rinks, billiard halls, arcades, indoor theaters)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Golf (i.e. golf driving ranges, outdoor miniature golf, 9+ hole courses)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Parks (i.e. aquatic, mini, private, sports, neighborhood, school, community)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

13. **Ordinance Administration.**

A. As stated in Section 329.13, Iowa Code, all airport zoning regulations adopted under this ordinance shall provide for the administration and enforcement of such regulations by an administrative agency. For purposes of the Marion Municipal Airport Land Use and Height Overlay Zoning, the administration will be enforced by the Airport Zoning Administrator with consultation and cooperation from Linn County Planning and Development. However, in no case, shall such administrative agency be or include any member
of the Airport Board of Adjustment. The duties of any administrative agency designated pursuant to the Iowa Code or this ordinance shall not include any of the powers herein delegated to the Airport Board of Adjustment. The Zoning Administrator for the City of Marion shall be recognized as the official Airport Zoning Administrator since the operation of the Marion Municipal Airport falls within the jurisdiction of the City. If needed, Linn County Planning and Development may be called upon from time to time to consult with and/or confer with the Airport Zoning Administrator about the Marion Municipal Airport Land Use and Height Overlay Zoning regulations.

B. Applications for permits and variances shall be made to the Airport Zoning Administrator or their designees upon forms furnished by the City of Marion. Applications for action by the Airport Board of Adjustment shall be forthwith transmitted by the Airport Zoning Administrator should an applicant request review. Permit applications shall be either granted or denied by the Airport Zoning Administrator according to the regulations prescribed herein.

C. Airport Overlay Zoning Permits.

(1) It shall be the duty of the applicant to provide the Airport Zoning Administrator or their designees with sufficient information to evaluate the proposed action.

(2) The Airport Zoning Administrator or their designees shall evaluate the proposal based upon information provided by the applicant. The Airport Zoning Administrator or their designees shall approve the permit if after evaluation, the proposed project is found to be compatible. Should the proposed project be found to be incompatible after review, the Airport Zoning Administrator or their designees shall deny the permit. Should the permit be denied, the applicant shall have the right to request a variance or an appeal as prescribed in this ordinance.

D. Hazard Markings and Lighting

(1) Lighting and marking requirements will be determined through an FAA 7460-1 airspace analysis. The owner of any structure, object, natural vegetation, or terrain shall be required to install, operate, and maintain such markers, lights, and other aids to navigation necessary to indicate to the aircraft operators in the vicinity of an airport the presence of an airport hazard. Hazard markers and lights shall be installed, operated, and maintained at the expense of the property owner; unless other contractual arrangements have been made and approved by the Marion Municipal Airport Committee.
E. Height Limitations

(1) No structure, object, natural vegetation, or terrain shall be erected, altered, allowed to grow or be maintained within any Airport Overlay Zone established by this ordinance to a height in excess of the applicable height limitations set forth in this ordinance. The permitted height shall not exceed the difference between the grade elevation and the height limitation numbers illustrated on the Marion Municipal Airport Land Use and Height Overlay Map within the various airport overlay districts encompassed by this ordinance.

(2) An FAA 7460-1 airspace review shall provide a portion of the information necessary to evaluate height impacts. However, it shall not be the sole source of review. In order to carry out the provisions of this chapter, there shall be created and established certain airport overlay zones which are depicted on the Marion Municipal Airport Land Use and Height Overlay Zoning Map. A parcel located in more than one Airport Overlay Zone shall be considered to be in the Airport Overlay Zone with the more restrictive height and use limitations. The various Airport Overlay Zones shall be established and defined as detailed in Table 2 above.

F. Airport Board of Adjustment

(1) Any person, property owner, or taxpayer impacted by any decision of this ordinance, may appeal to the Airport Board of Adjustment. According to Section 329.12, Code of Iowa, the governing body of any municipality seeking to exercise powers under Chapter 329, shall by ordinance provide for the appointment of an Airport Board of Adjustment, as provided in section 414.7 for a city, or as provided in section 335.10 for a county. The Airport Board of Adjustment has the same powers and duties, and its procedure and appeals are subject to the same provisions as established in sections 414.9 to 414.19 for a city, or sections 335.12 to 335.21 for a county.

a. The Airport Board of Adjustment shall consist of two (2) members each from the City of Marion and Linn County, selected by the governing body thereof, and one (1) additional member to be selected by the Marion Municipal Airport Committee.

b. The five (5) appointed members will select a chairperson amongst themselves. Airport Board of Adjustment members may be removed for cause by the
appointing authorities (either City of Marion or Linn County) upon written charges and after a public hearing.

c. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was selected. The terms of the Airport Board of Adjustment members shall be for five (5) years, except when the Board is first created, one (1) of the members appointed by each participating governmental jurisdiction shall be appointed for a term of two years and one (1) for a term of four years.

d. The concurring vote of a majority of the Airport Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any regulations adopted pursuant to this chapter or to effect any variance therefrom.

G. Variances

(1) In accordance with Section 329.11, Code of Iowa, any person desiring to erect, alter, or increase the height of any structure, object, or to permit the growth of any natural vegetation, or otherwise use the person's property in violation of Marion Municipal Airport Land Use and Height Overlay Zoning adopted under this ordinance, may apply to the Airport Board of Adjustment for a variance from such zoning regulations. Such variances shall be allowed where a literal application or enforcement of the regulations would result in an unnecessary hardship and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of the regulations and this chapter; provided, however, that any such variance may be allowed subject to any reasonable conditions that the Airport Board of Adjustment may deem necessary to effectuate the purposes of this Ordinance.

H. Judicial Review

(1) Any person or persons, jointly or severally, aggrieved, or any taxpayer, affected, by any decision of the Airport Board of Adjustment, may appeal to the Court of Record as provided in Iowa Code § 414.15.

I. Penalty

(1) Consistent with Chapter 4 of the Marion Code of Ordinances, any person, firm, corporation, or agent in charge of
such building or land who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement any of the provisions of this ordinance or any amendment thereof; or who shall build or alter any building in violation of this ordinance with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor; or a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa, is a municipal infraction and punishable by civil penalty as provided herein (Code of Iowa, Sec. 331.307[3]). Each day that a violation continues to exist constitutes a separate violation.

(2) A municipal infraction for an airport zoning violation in Marion, Iowa is punishable under the following civil penalties: (Code of Iowa, Sec. 331.307[1])

J. Conflicting Regulations

(1) In accordance with Section 329.8, Code of Iowa, where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same area, whether the conflict be with respect to height or structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

K. Severability

(1) If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

L. Effective Date

(1) This ordinance shall be in effect from and after its adoption by the governing body and publication and posting as required by law, as provided for in Chapter 380.6 and 380.7, Iowa Code. (Code of Iowa, Sec. 380.6[1]; Sec. 380.7[3]; and Sec. 362.3)

(Ord. 19-24 – Nov. 19 Supp.)
## EDITOR’S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 176.05 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.

<table>
<thead>
<tr>
<th>ORDINANCE NUMBER</th>
<th>DATE ADOPTED</th>
<th>ORDINANCE NUMBER</th>
<th>DATE ADOPTED</th>
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<tr>
<td>All ordinances amending the zoning map adopted prior to Ordinance No. 96-1</td>
<td>97-30</td>
<td>December 4, 1997</td>
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<td>96-1</td>
<td>February 1, 1996</td>
<td>97-31</td>
<td>January 8, 1998</td>
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<td>96-5</td>
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<td>96-8</td>
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<td>96-15</td>
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<td>98-12</td>
<td>June 18, 1998</td>
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<td>96-17</td>
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## EDITOR’S NOTE

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