The background of the entire page is a close-up, slightly blurred image of the American flag, showing the stars and stripes. The top portion is dark blue with white stars, and the bottom portion is red and white stripes.

**City of  
Independence**

*"America's Fame Is In Our Name."*

**Zoning  
Ordinance**

CITY OF INDEPENDENCE

ZONING ORDINANCE

Adopted August 27, 1990

First Revision Adopted June 25, 1998

Second Revision Adopted October 9, 2006

Third Revision March 18, 2017

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CITY OF INDEPENDENCE, IOWA

ZONING ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, BUCHANAN COUNTY, IOWA:

ARTICLE 1

TITLE, PURPOSE, NATURE, AUTHORITY, AND DEFINITIONS

Section 1.00. TITLE.

This Ordinance shall be known as and may be referred to and cited as the “Zoning Ordinance of the City of Independence, Iowa.”

Section 1.01. PURPOSE

The various use districts which are created by this Ordinance and the various articles and sections of this Ordinance are adopted for the purpose among others of:

- 1.01.01. Carrying out the Comprehensive Plan for the City of Independence, Iowa;
- 1.01.02. Promoting the public health, safety, morals, comfort, general welfare, and preserving the natural, scenic and historically significant areas of the City;
- 1.01.03. Helping to achieve greater efficiency and economy of land development by promoting the grouping of those activities which have similar needs and are compatible;
- 1.01.04. Encouraging such distribution of population, classification of land use, and distribution of land development throughout the City that will tend to facilitate adequate and economic provision of transportation, communication, water supply, drainage, sanitation, education, recreation, and other public requirements;
- 1.01.05. Lessening or avoiding congestion in the public streets and highways;
- 1.01.06. Protecting against fire, explosion, noxious fumes, flood panic, and other dangers in the interest of public health, safety, comfort, and general welfare;
- 1.01.07. Helping to insure that all residential, commercial, and manufacturing structures as well as other types of structures will be accessible to fire fighting and other emergency equipment;

- 1.01.08. Prohibit the formation or expansion on nonconforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district;
- 1.01.09. Promoting the development of residential neighborhoods which are free of noise, dust, fumes, and heavy traffic volumes in which each dwelling unit is assured of light, air, and open spaces;
- 1.01.10. Helping to prevent land development activities which lead to roadside blight, and to minimize the effects of nuisance producing activities;
- 1.01.11. Promoting and guiding the continued growth and expansion of the City while protecting the natural, economic, historic and scenic resources of the City;
- 1.01.12. Conserving the taxable value of land and buildings throughout the City; and
- 1.01.13. Defining the powers and duties of the Zoning Officer and other bodies as provided herein.

Section 1.02. NATURE.

This Ordinance classifies and regulates the use of land, buildings, and structures within the corporate limits of the City of Independence, Iowa, and hereinafter set forth. The regulations contained herein are necessary to promote the health, safety, convenience, morals and welfare of the inhabitants, and to preserve the natural, scenic and historically significant areas of the City by dividing the City into zoning districts and regulating there in the use of the land and the use and size of the buildings as to height and number of stories, the coverage of the land by buildings, and the density of population.

Section 1.03. AUTHORITY

This Ordinance, in pursuance of the authority granted by the Revised Statutes of the State of Iowa, Chapter 414, Section 1, shall be known and cited as the "Zoning Ordinance of the City of Independence, Iowa."

Section 1.04. DEFINITIONS.

For the purpose of the Ordinance and in order to carry out the provisions contained herein, certain words, terms, phrases, and illustrations are to be interpreted and defined herein.

Words used in the present tense shall include the future tense; the singular number includes the plural, and the plural number includes the singular. The word "lot" includes the word "plot" or "parcel" and the word "building" includes "structure." The word "shall" is mandatory, and the word "may" is permissive. The following words, terms and

phrases are hereby defined as follows and shall be interpreted as such throughout these regulations. Terms not herein defined shall have the meaning customarily assigned to them.

- 1.04.01. Accessory Building or Use. An “accessory building or use” is a building or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building or use.
- 1.04.02. Administrative Officer. The individual designated by this Ordinance to administer the zoning ordinance and who is responsible for the enforcement of the regulations imposed by said ordinance. This person may also be referred to as the “Zoning Administrator.”
- 1.04.03. Agriculture. The use of land for agricultural purposes including farming, dairying, pasturage, agriculture, apiculture, horticulture, floriculture, viticulture, fish farm, and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the product; provided, however, that the operation of such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.
- 1.04.04. Alley. A public way, other than a street, twenty (20) feet or less in width affording secondary means of access to abutting property.
- 1.04.05. Alterations, Structural. “Structural alterations” means any change in the supporting member of a building such as bearing walls, columns, beams, or girders.
- 1.04.06. Apartment. “Apartment” means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three (3) or more such rooms or suites.
- 1.04.07. Auto Laundry. An “auto laundry” is a building, or portion thereof, containing facilities for washing more than two (2) automobiles; using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices, or providing space, water, equipment, or soap for the complete or partial hand-washing of such automobiles, whether by operator or by a customer.
- 1.04.08. Automobile Service Station. An “automobile service station” is any building, structure or land used for the dispensing, sale, or offering for sale at retail of any vehicular fuels, oils, or accessories and in connection with which is performed general vehicular servicing as distinguished from automotive repairs.

- 1.04.09. Basement. A “basement” is a story having part but not more than fifty (50) percent of its height below the average grade of the adjoining ground (as distinguished from a “cellar”). A basement shall be counted as a story for purposes of height measurement.
- 1.04.10. Bed and Breakfast Home. “Bed and breakfast home” means a private residence which provides lodging and breakfast, which is owner/occupied and in which no more than two (2) guest families may be lodged at the same time. The bed and breakfast lodging shall be subordinate and incidental to the main residential use of the private residence. Only one (1) bed and breakfast home conditional use permit (see Section 3.23) per residence shall be permitted.
- 1.04.11. Billboard. A “billboard” is a type of sign having more than one hundred (100) square feet of display surface which is either erected on the ground or attached to or supported by a building for structure.
- 1.04.12. Block. The property abutting on one side of the street and lying within the two nearest intersecting streets, an unsubdivided acreage or railway right-of-way.
- 1.04.13. Board of Adjustment. “Board of Adjustment” shall mean the Zoning Board of Adjustment of the City of Independence, Iowa.
- 1.04.14. Boarding, Rooming, and Lodging House. “Boarding, rooming, and lodging house” means a building other than a hotel where, for compensation and by arrangement, meals, lodging, or lodging and meals are provided for three (3) or more persons on a weekly or monthly basis.
- 1.04.15. Building. “Building” means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.
- 1.04.16. Building Height. “Building height” means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof. (See Figure 7.)
- 1.04.17. Building Official. The agent so designated by the City Council.
- 1.04.18. Carport. A roofed structure providing space for the parking of motor vehicles and enclosed on not more than three (3) sides. For the purpose of this Ordinance a carport attached to a principal building shall be considered a part of the principal building and subject to all yard requirements therein.

- 1.04.19. Cellar. A “cellar” is a story having fifty (50) percent or more of its height below the average grad of the adjoining ground. A cellar shall not be counted as a story, for purposes of height measurement.
- 1.04.20. Child Care Center. A “child care center” is any place, home, or institution which receives three (3) or more children under the age of sixteen (16) years, and not of common parentage, for care apart from their natural parents, legal guardian, or custodians, when received for regular periods of time for compensation.
- 1.04.21. Clinic. A building or buildings used by physicians, dentists, veterinarians, or osteopaths, chiropractors, and allied professions for out-patient care of person requiring such professional service.
- 1.04.22. Consignment and Auction Sale Operations. “Consignment and auction sale operations” means a business, which on an ongoing basis, stores and sells personal proper to the public indoors.
- 1.04.23. Developmentally Disabled. A disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:
- (a) Attributable to mental retardation, cerebral palsy, epilepsy, or autism;
  - (b) Attributable to any other condition found to be closely related to mental retardation;
  - (c) Attributable to dyslexia resulting from a disability; or
  - (d) Attributable to a mental or nervous disorder.
- 1.04.24. Drive-in Restaurant or Refreshment Stand. A “drive-in restaurant or refreshment stand” is any place or premises principally used for the sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on or off the premises.
- 1.04.25. Driveway. A private roadway, providing access for vehicles to a parking space, garage, dwelling or other structure.
- 1.04.26. Dwelling. A “dwelling” is any building or portion thereof which is designed for, or used for, residential purposes and is not less than twenty (20) feet in width. Does not include a tent, cabin, trailer, or mobile home.
- 1.04.27. Dwelling, Condominium. A multiple dwelling as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership



solely by the owners of the units with each owner having an undivided interest in the common real estate.

- 1.04.28. Dwelling, Multiple-Family. A “multiple-family dwelling” is a residential building designed for occupancy by three (3) or more families, with separate housekeeping and cooking facilities for each.
- 1.04.29. Dwelling, Row. Any one of three (3) or more attached dwellings in a continuous row, each dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls. Also referred to as a “townhouse.”
- 1.04.30. Dwelling, Single-Family. A “single family dwelling” is a detached residential dwelling unit, other than a mobile home, designed for occupancy by one (1) family only.
- 1.04.31. Dwelling, Two-Family. A “two-family dwelling” is a detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families with separate housekeeping and cooking facilities for each.
- 1.04.32. Dwelling, Unit. A “dwelling unit” is a dwelling which consists of one (1) or more rooms which are arranged, designed, or used as living quarters for one (1) family only.
- 1.04.33. Easement. A grant of one (1) or more property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.
- 1.04.34. Egress. An exit.
- 1.04.35. Eminent Domain. The authority of a government to take, or to authorize the taking of, private property for public use for just compensation.
- 1.04.36. Environmental Impact Statement (EIS). A statement on the effect of development proposals and other major activities which significantly affect the environment.
- 1.04.37. Essential Services. “Essential services” are the erection, alteration, or maintenance, by public utilities, municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service

by such public utilities or municipal or other governmental agencies for the public health, safety or general welfare, but not including buildings.

- 1.04.38. Family. One (1) or more persons occupying a single dwelling unit, provided that all members are related by blood, marriage, or adoption. No non-families shall contain over four (4) persons.
- 1.04.39. Family Home. A community-based 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 person and any necessary support personnel. A “family home” does not mean in individual foster care family as licensed under Chapter 237 of the Code of Iowa.
- 1.04.40. Farm or Farmland. A parcel of land used for agricultural purposes and the growing and production of all agricultural products thereon, and their storage on the area, or for the raising thereon of livestock.
- 1.04.41. Farm Animal. The production, keeping or maintenance for sale, lease or personal use of animals useful to humans, including but not limited to: dairy animals, poultry, livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals, bees, fish, and fur animals, but not including rabbits kept as pets.
- 1.04.42. Feasibility Study. An analysis of a specific project or program to determine if it can be successfully carried out.
- 1.04.43. Feedlot. Any parcel of land or premises on which the principal use is the concentrated feeding within a confined area of cattle, hogs, sheep or poultry. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.
- 1.04.44. Fence, Non-Residential. A barrier and/or structure erected in a district other than an “R” District intended to provide security, mark a boundary, or a means of landscaping, with the centerline of said barrier to be located inside the designated property line, provided no such fence is constructed of salvage material or uses barbed wire closer than six (6) feet to the ground except a fence used purely for agricultural purposes.
- 1.04.45. Fence, Residential. A barrier and/or structure erected in an “R” District intended to provide security, mark a boundary, or as a means of landscaping, with the centerline of said barrier to be located inside the designated property line. Such fence shall be constructed of materials

commonly used for landscape fencing such as masonry block, lumber, or chain link, but shall not include corrugated sheet metal, barbed wire, or salvage material.

- 1.04.46. Flag Lot. A “flag lot” is a lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way.
- 1.04.47. Flood. The temporary overflowing of water onto land which is usually devoid of surface water.
- 1.04.48. Floodplain. The channel and the relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by floodwater. (See Figure 1.)
- 1.04.49. Frontage. That side of a lot abutting on a street; the front lot line.
- 1.04.50. Garage, Private. “Private garage” means an accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory.
- 1.04.51. Garage, Public. “Public garage” means a building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.
- 1.04.52. Garage, Storage. “Storage garage” means a building or portion thereof designed or used exclusively for term storage by prearrangement of motor-driven vehicles, as distinguished from daily storage furnished transients, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired or sold.
- 1.04.53. Grade. The degree of rise or descent of a sloping surface. (See Figure 2.)
- 1.04.54. Grade, Finished. The final evaluation of the ground surface after development. (See Figure 3.)
- 1.04.55. Grade, Natural. The evaluation of the ground surface in its natural state before man-made alterations. (See Figure 3.)
- 1.04.56. Group Care Facility. A facility which provides resident services to seven (7) or more individuals, of whom one or more are unrelated. These individuals are handicapped, aged, or disable, are undergoing rehabilitation, and are provided services to meet their needs. This category includes any licensed or supervised federal, state or county health/welfare agencies, such as group homes (all ages), halfway house, resident schools, resident facilities, and foster or boarding homes.

- 1.04.57. Historic Preservation. The protection, rehabilitation, and restorations of districts, sites, buildings, structures, and artifacts significant in American history, architecture, archaeology, or culture.
- 1.04.58. Home Occupation. A gainful occupation conducted within the confines of a dwelling unit that is clearly incidental and secondary to residential occupancy and does not change the character thereof. (See Section 3.21.)
- 1.04.59. Home Industry. An occupation or profession conducted entirely within an enclosed accessory building(s) and/or dwelling unit which is clearly incidental and secondary to the residential occupancy and does not change the character thereof (See Section 3.22).
- 1.04.60. Hotel. A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in distinction by contrast to a boarding house or rooming house.
- 1.04.61. Household. A family living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.
- 1.04.62. Ingress. Access or entry.
- 1.04.63. Institution. A building occupied by a non-profit establishment for public use.
- 1.04.64. Junkyard. "Junkyard" means any area where waste, discarded, or salvaged materials are bought, sold, exchanged, stored or abandoned, baled or packed, disassembled, or handled, including the dismantling or "wrecking" of automobiles or other vehicles or machinery, house wrecking yards, house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.
- 1.04.65. Kennel, Dog (Commercial). Any parcel of land on which three (3) or more dogs, six (6) month old or older are kept for the purposes of breeding, grooming, boarding or other activities associated with the care of dogs for commercial purposes.
- 1.04.66. Kennel Dog (Private). Any parcel of land on which three (3) or more dogs are kept, however, this shall not include breeding, grooming, boarding or other activities associated with the care of dogs other than the owner's dogs.

- 1.04.67. Laundromat. An establishment providing washing, drying and/or dry cleaning machines on the premises for rental use to the general public for family laundering and/or dry cleaning purposes.
- 1.04.68. Loading Space. An off-street space or berth used for the loading or unloading of vehicles.
- 1.04.69. Lodging House. A building or place where lodging or boarding is provided for compensation for three (3) or more, but not exceeding twenty (20) individuals, not open to transient guests, in distinction by contrast to hotels open to transients.
- 1.04.70. Lot. For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as herein required. Such lot shall have frontage on a public street or private street and may consist of:
- (a) A single lot of record;
  - (b) A portion of a lot of record;
  - (c) A combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and
  - (d) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.
- 1.04.71. Lot Area. The total area within the lot lines of a lot, excluding any street right-of-way. (See Figure 6.)
- 1.04.72. Lot, Corner. "Corner lot" means a lot abutting upon two (2) or more streets at their intersections. (See Figure 5.)
- 1.04.73. Lot Depth. "Lot depth" means the mean horizontal distance between the front and rear lines. (See Figure 4-A.)
- 1.04.74. Lot, Double Frontage. "Double frontage lot" means a lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot. (See Figure 5.)
- 1.04.75. Lot, Interior. "Interior lot" means a lot other than a corner lot. (See Figure 5.)
- 1.04.76. Lot Line. A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space. (See Figure 4-A.)
- 1.04.77. Lot Line, Front. The line separating the lot from the street on which it fronts. (See Figure 6.)

- 1.04.78. Lot Line, Rear. The lot line opposite and most distant from the front lot line. (See Figure 6.)
- 1.04.79. Lot Line, Side. Any lot line other than a front or rear lot line. (See Figure 4-A).
- 1.04.80. Lot, Minimum Area of. The smallest lot area established by the Zoning Ordinance on which a use or structure may be located in a particular district.
- 1.04.81. Lot of Record. “Lot of record” means a lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder of the County in which it is located.
- 1.04.82. Lot, Reversed Frontage. A corner lot, the side street line of which is substantially a continuation of the front line of the first platted lot to its rear. (See Figure 4-B.)
- 1.04.83. Lot Width. “Lot width” means the width of a lot measured at the building line and at right angles to its depth. (See Figure 4-A.)
- 1.04.84. Lumber Yard. A premises on which primarily new lumber and related building materials are sold.
- 1.04.85. Manufactured Home. A factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. Section 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles.
- 1.04.86. Manufacturing. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, or resins or liquors.
- 1.04.87. Massage Establishment. A “massage establishment” shall be construed and deemed to mean any place of business wherein massage (as the practice of a profession, scientifically applied to the patient by a massage therapist’s hands) is administered or used.
- 1.04.88. Mobile Home. Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also

include any such vehicle with motive power not registered as a motor vehicle in Iowa. A “mobile home” is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976. If a mobile home is placed outside a mobile home park, the home is to be assessed and taxed as real estate. Nothing in this Ordinance shall be construed a permitting for occupying a mobile home in other than an approved mobile home park site. No commercial business shall be carried on in a mobile home or trailer constructed as a mobile home except when used as a temporary office upon obtaining a permit from the administrative officer for a period of one hundred eighty (180) days.

- 1.04.89. Mobile Home Park or Trailer Park. A site, lot, field, or tract of land on which three (3) or more mobile homes, manufactured homes, or modular homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer, or septic, and electrical services available.
- 1.04.90. Motor Court or Motel. A “motor court or motel” is a building or groups of buildings used primarily for the temporary residence of motorists or travelers with parking facilities conveniently located to each unit, and may include accessory facilities such as swimming pools, restaurants, meeting rooms, etc.
- 1.04.91. Nonconforming Use. A use or activity which was lawful prior to the adoption, revision or amendment of a Zoning Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.
- 1.04.92. Nursing Home. “Nursing home” means a home for the aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept, or provided with food, shelter and care, for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment, or care of the sick or injured.
- 1.04.93. Overhang. The part of a roof or wall which extends beyond the façade of a lower wall.
- 1.04.94. Parking Lot. A parcel of land devoted to unenclosed parking spaces.
- 1.04.95. Parking Space. “Parking space” means a surfaced area, enclosed in the principal building, an accessory building, or an unenclosed area having an area of not less than two hundred (200) square feet exclusive of driveways, permanently reserved for the temporary storage of one (1) automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

- 1.04.96. Planned Unit Development (PUD). An area of a minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one (1) or more residential clusters or planned unit residential developments and one (1) or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified.
- 1.04.97. Planning Commission. "Planning Commission" shall mean the Planning Commission of the City of Independence, Iowa.
- 1.04.98. Principal Use. The main use of land or structures as distinguished from an accessory use.
- 1.04.99. Rebuilding. "Rebuilding" shall mean the construction of an automobile from the parts of two (2) or more other automobiles.
- 1.04.100. Recreational Vehicle. A vehicle which is (i) built on a single chassis; (ii) four hundred (400) square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- 1.04.101. Right-of-way. The land area and the right to possession, are secured or reserved by the contracting authority for road purposes.
- 1.04.102. Road. All property intended for use by vehicular traffic, dedicated or intended for public or private road, street, alley, highway, freeway or roadway purposes or to public easements therefore.
- 1.04.103. Rooming House. A building where a room or rooms are provided for compensation to three (3) or more persons.
- 1.04.104. Sanitary Land Fill. Land utilized for disposing of solid wastes in accordance with the rules and regulation of the Department of Natural Resources.
- 1.04.105. Satellite Dish Antenna. A "satellite dish antenna" shall mean a satellite receiver, a satellite ground dish antenna or a satellite rooftop antenna which may or may not be able to rotate to enable the "dish" to aim at different satellites for the purpose of television reception.
- 1.04.106. Sidewalk. A paved, or surfaced area, paralleling and usually separated from the street, used as a pedestrian walkway.
- 1.04.107. Sign. "Sign" means any structure or part thereof or devise attached thereto or painted, or represented thereon, which displays or includes any letter, work, model, banner, flag, pennant, insignia, device or



representation used as, or which is in the nature of an announcement, direction or advertisement. "Sign" includes "billboard" but does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, education charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

- 1.04.108. Site Plan. A plan (to scale) showing uses and structures proposed for a parcel of land as required by the regulations involved.
- 1.04.109. Stable, Private. A building or structure used or intended to be used for housing only of horses belonging to the owner of the property for noncommercial purposes.
- 1.04.110. Stable, Public and Riding Academy. A building or structure used or intended to be used for the housing only of horses on a fee basis. Riding instruction may be given in connection with a public stable or riding academy.
- 1.04.111. Stable, Riding Club. A building or structure used or intended to be used for the housing only of horses by a group of persons for non-commercial purposes.
- 1.04.112. Story. "Story" means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.
- 1.04.113. Story, Half. A space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than four (4) feet above the top floor level.
- 1.04.114. Street. A "street" is a general term used to describe a public right-of-way which provides a channel for vehicular and pedestrian movement, and may provide for vehicular and pedestrian access to properties adjacent to it, and which may also provide space for the location of utilities (both above and below ground).
- 1.04.115. Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures includes buildings, mobile homes, billboards and poster panels.
- 1.04.116. Swimming Pool. A "swimming pool" is a tank of water either above or below grade level in which the depth of water exceeds twenty-four (24) inches. "Swimming pools," hot tubs, whirlpool baths and tubs, jacuzzi-type tubs or baths, and ponds shall be considered swimming pools if they are located outdoors.

- 1.04.117. Trailer Camp or Tourist Camp. “Trailer camp or tourist camp” means an area providing spaces for two (20 or more recreational vehicles, or tent sites for temporary occupancy, with necessary incidental services, sanitation and recreation facilities to serve the traveling public.
- 1.04.118. Yard. “Yard” means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building shall be used. (See Figure 4-A.)
- 1.04.119. Yard, Front. “Front Yard” means a yard extending across the full width of the lot and measured between the front lot line and the building. (See Figure 4-A.)
- 1.04.120. Yard, Rear. “Rear yard” means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard. (See Figure 4-A.)
- 1.04.121. Yard, Side. “Side yard” means a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto. (See Figure 4-A.)

ARTICLE II

ESTABLISHMENT OF DISTRICTS, ZONING MAPS, BOUNDARY INTERPRETATIONS, ANNEXED TERRITORY

Section 2.00. DISTRICTS.

In order to classify, regulate, and restrict the location of trades and industries, and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas and to regulate and determine the area of yards, courts, and other open spaces within and surrounding such buildings, the City of Independence, Iowa, is hereby divided into eleven (11) classes of districts.

Agricultural District

"A-1" Agricultural District

Residential Districts

"R-1" Single Family Residential

"R-2" Mixed Residential District

"R-3" Multiple Residential District

"R-4" Mobile Home Park District

"R-P" Planned Residence District

"R/C-1" Mixed Residential/Commercial District

Commercial Districts

"C-1" Central Commercial District

"C-2" Commercial District

Manufacturing Districts

"M-1" Light Industrial and/or Manufacturing District

"M-2" Heavy Industrial and/or Manufacturing District

Section 2.01. BOUNDARIES AND OFFICIAL MAP.

The boundaries of these districts are indicated upon the Official Zoning Map of the City of Independence, Iowa, which, with all notations, designations, references, and other matters shown thereon, shall be as much a part of this Ordinance as is fully described

and set forth herein. The said Official Zoning Map shall be on file in the office of the City Clerk of Independence, Iowa.

If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matters portrayed on the Official Zoning Map, the resolution number and date of said change shall be recorded by the City Clerk on the Official Zoning Map. Failure to so record shall constitute insufficient notice.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council by resolution shall adopt a new Official Zoning Map which shall supersede the prior official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Ordinance or any subsequent amendment thereof.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Maps accompanying and made a part of this Ordinance, the following rules apply:

The district boundaries are either street lines or alley lines unless otherwise shown, and where the districts designated on the maps accompanying and made a part of this Ordinance are bounded approximately by street lines or alley lines, the street lines or alley lines shall be construed to the boundary of the district, street and alley right-of-way not included in zoned areas.

Where boundaries are indicated so they approximately follow lot lines and are not more than twenty (20) feet distant therefrom, such lot lines shall be interpreted to be the boundary of the district.

Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.

Boundaries indicated as approximately following corporate limits shall be construed as following corporate limits.

Boundaries indicated as approximately following the center lines of rivers, streams, creeks or other waterways shall be construed to follow such center lines.

Where no other indication of the district boundary is made and no dimensions are shown, the location of the boundary shall be determined by the use of the scale appearing on the maps.

Publication of the legal description of the property or properties zoned or rezoned shall constitute an official amendment to the Official Zoning Map; and, such, said maps or portions of said maps need to be published.

Section 2.02. ANNEXED TERRITORY.

All territory which may hereafter be annexed to the City of Independence shall be classed automatically as being in an "A-1" Agricultural District until such classification shall have been changed by amendment of this Ordinance as provided hereafter.

ARTICLE III

GENERAL REGULATIONS AND PROVISIONS

Section 3.00. CONFORMANCE REQUIRED.

Except as hereinafter provided, no building, structure or premises, shall hereafter be used, and no building shall be erected, extended, converted, moved, rebuilt, or altered, except in conformity with all the district regulations established by this Ordinance for the district in which it is located.

Section 3.01. CONTINUING EXISTING USES.

The use of a building existing at the time of the enactment of this Ordinance may be continued even though such use may not conform with the regulations of this Ordinance for the district in which it is located. Any use in existence at the adoption hereof which was not authorized "nonconforming use" under previous zoning ordinances shall not be authorized to continue as a nonconforming use pursuant to this Ordinance, or amendments thereto.

Section 3.02. NONCONFORMING USES OR BUILDINGS.

No existing building or premises devoted to a use not permitted by this Ordinance in the district in which such building or premises is located, except when required by law, shall be enlarged, extended, reconstructed, substituted or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building or premises is located except as follows:

3.02.01. Substitution. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use of a building, structure, or land has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

3.02.02. Discontinuance. In the event that a nonconforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

Section 3.03. REPLACING DAMAGE BUILDINGS.

Any nonconforming building or structure damaged more than sixty (60) percent of its replacement value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or Act of God, shall not be restored or reconstructed and used as before such happening, but if less than sixty (60) percent is damaged above the foundation, it may be restored, reconstructed, or used as before provided that it be started within one (1) year of such happening.

Section 3.04 REPAIRS AND MAINTENANCE.

Ordinary repairs and maintenance of a structure containing a nonconforming use shall be permitted.

Section 3.05. REQUIRED YARD PER BUILDING.

No yard or other open space or lot area requirement shall be considered as providing a yard or open space or lot area requirement for a building on any other lot, and no yards or other open space or lot area requirement about an existing building or any building hereafter constructed for the purpose of complying with the provisions of this Ordinance, shall be considered as providing a yard or open space or lot area requirement for any other building.

Section 3.06. ONE PRINCIPAL BUILDING PER LOT.

Every building hereafter erected or structurally altered shall be located on a lot as defined herein and in no case shall there be more than one main building on one lot unless otherwise provided by this Ordinance. More than one (1) industrial, commercial, or institutional building may be erected upon a single lot or tract in a district permitting these uses, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such building nor shall there be any change in intensity of use regulations.

Section 3.07. REQUESTS FOR REZONING.

All petitions for rezoning, special permits, variance, etc., must be in writing stating the exact legal description of land involved, the purpose for which the land is to be used, the disruption expected to be incurred on the area's natural setting, and the methods to be implemented to lessen the severity of disruption on the area. Said petitions must be received by the Zoning Administrator ten (10) days prior to a stated or special meeting of the Planning and Zoning Commission. A preliminary plat plan and accompanying application fee, as prescribed by resolution of the City Council, shall be submitted with a petition for rezoning for subdivisions. (See Subdivision Ordinance.)

Section 3.08. WATER SUPPLY AND SEWAGE DISPOSAL.

Every residence, business, trade or industry hereafter established, which requires water supply and sewage disposal facilities, shall provide facilities which conform with the regulations of the City of Independence and the County Department of Health.

Section 3.09. STREET FRONTAGE REQUIRED.

Except as permitted in this Ordinance, no lot shall contain any building used in whole or in part for residence purposes, unless such lot abuts for at least forty (40) feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least twenty (20) feet wide to a street, and there shall be not more than one (1) single family dwelling for such frontage or easement, except that a

common easement of access at least twenty-four (24) feet wide may be provided for two (2) or more such single family dwelling or for one (1) or more two family or multiple dwellings.

Section 3.10. ACCESSORY USES.

Accessory uses are permitted in any zoning district in connection with any principal use which is permitted, provided that they comply with the following:

- 3.10.01. No accessory use is permitted within the limits of a front yard.
- 3.10.02. Accessory uses shall not be nearer to the side or rear lot line than is stipulated within each zoning district.
- 3.10.03. Accessory uses shall not occupy more than thirty (30) percent of the rear yard.
- 3.10.04. No accessory building or structure shall be used for dwelling purposes.

Section 3.11. LOT SIZES.

No building or structure, or part thereof, shall hereafter be built, moved or remodeled and no building, structure or land shall hereafter be used, occupied, arranged or designed for use or occupancy on a lot which is smaller in area, or area per dwelling unit, narrower in width, or shallower in depth than the minimum requirements of the district in which the land is located.

Section 3.12. CORNER LOTS.

For corner lots platted after the effective date of this Ordinance, the street side yard shall be equal in width to the setback regulations of the lots to the rear having frontage on the intersecting street.

Section 3.13. AREA REGULATIONS.

No building or structure, or part thereof shall hereafter be built or moved or remodeled and no building, structure, or land shall hereafter be used, occupied or designed for use or occupancy so as to provide any setback or front side or rear yard that is less than that specified for the zoning district in which such district or use of land is located or maintained.

Section 3.14. FRONT YARD.

In any "R" district, there shall be a minimum front yard required as stated in the yard requirements for that particular district; provided, however, that where lots comprising thirty (30) percent or more of the frontage within two hundred (200) feet of either side lot line are developed with buildings at a greater setback, the front yard setback shall be the average of these building setbacks and the minimum setbacks required for the



undeveloped lots. In computing the average setback, buildings located on reversed corner lots or entirely on the rear half of lots shall not be counted. The required setback as computed herein need not exceed fifty (50) feet in any case.

Section 3.15. REQUIRED YARD CANNONT BE REDUCED.

No lot shall be reduced in area so as to make any yard or any other open space less than the minimum required by this Ordinance. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space required under this Ordinance for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this Ordinance.

Section 3.16. BUILDING LINES ON APPROVED PLATS.

Whenever the plat of land subdivisions on record in the office of the County Recorder shows a setback building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this Ordinance unless specific yard requirements in this Ordinance require a greater setback.

Section 3.17. PENDING APPLICATIONS FOR BUILDING PERMITS.

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

Section 3.18. LOT AREA COMPUTATION.

In all districts, lot area requirements shall be computed exclusive of street, road, alley, or highway right-of-way.

Section 3.19. GASOLINE FILLING STATIONS.

No gasoline filling station or a commercial customer or employee parking lot for twenty-five (25) or more motor vehicles, or a parking garage or automobile repair shop, shall have an entrance or exit for vehicles within two hundred (200) feet along the same side of a street, of any school, public playground, church, hospital, public library, or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut.

No gasoline filling station or public garage shall be permitted where any fuel filling appliance is located within twelve (12) feet of any street line or within twenty-five (25) feet from any "R" district, except where such appliance is within a building.

In any district where permitted, a service station shall be subject to the following regulations:

- 3.19.01. The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard area.
- 3.19.02. All major repair work shall be done within a completely enclosed building.
- 3.19.03. All automobile parts, dismantled vehicles and merchandise shall be stored within the confines of the building during the hours when the business is not operating.

Section 3.20. APPROVED PLATS.

Whenever the plat of a land subdivision on record in the office of the County Recorder shows a setback building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this Ordinance unless specific yard requirements in this Ordinance require a greater setback.

Section 3.21. TINY/SMALL HOUSE.

- 3.21.01. Definitions
  - (a) Tiny House – Structure up to four hundred (400) square feet in size.
  - (b) Small House – Structure between four hundred (400) and one thousand (1,000) square feet in size.
- 3.21.02. Lot sizing for tiny or small structures. Lot sizing will be on a case by case basis to come in front of the Planning & Zoning Commission for recommendation to the Independence City Council.
- 3.21.03. Accessory Buildings Sizing. Accessory building/garage may be up to one hundred fifty (150) percent of the primary structure.
- 3.21.04. Set Backs. Must meet all set backs as set by the Zoning Ordinance.
- 3.21.05. Building Code. Must be built to all current codes adopted by the City of Independence.
- 3.21.06. Water and Sewer Service. All primary structures must have their own water and sewer service from City main to structure.

- 3.21.07. General Regulations. All Tiny/Small structures must meet all general regulations, codes, and provisions as set forth in the City of Independence Zoning Ordinance with the exceptions of lot sizing and accessory building sizing.

Section 3.22. HOME INDUSTRIES.

No gainful industry shall be conducted within a personal residence without a home industry permit.

- 3.22.01. Application and Contents. The application for a home industry permit shall contain the name and address of the applicant; industry to be conducted in the residence; that the industry to be conducted in the residence meets the applicable fire and safety codes for the new use; and shall be accompanied by both an application fee and an inspection fee as prescribed by resolution of the City Council.

- 3.22.02. Procedure. The application, together with a Petition of Agreement to the proposed home industry signed by seventy-five (75) percent of the property owners within three hundred (300) feet of the residence where the home industry will be, shall be presented to the Planning and Zoning Commission who shall review the application and make a recommendation for denial or approval to the City Council. The City Council shall review the recommendation of the Planning and Zoning Commission and may either affirm or deny the application for a home industry permit.

- 3.22.03. Limitations. A home industry shall encompass no more than thirty (30) percent of the habitable area inside the residence or an adjoining, attached, or unattached enclosed structure. The home industry shall also be limited to the first floor or basement of any residence or the first floor of an adjoining enclosed structure. An adjoining enclosed structure shall not be used for commercial (for profit) automobile repair, storage or other related purposes.

- 3.22.04. Expiration, Renew. and Revocation. A home industry permit shall be valid for one (1) year and renewed on a yearly basis with thirty (30) days of the expiration date of July 1, by applying to the City Council for renewal and shall be accompanied by a renewal fee as prescribed by resolution of the City Council. Should the home industry permit not be renewed as required, a new permit must be applied for and approved before the existing home industry may be allowed to continue. Because operating a home industry in a residential district is a privilege, a previously approved application may be revoked upon substantial compliance of the surrounding neighborhood or upon violation of this Ordinance or any ordinance of the City of Independence.

3.22.05. Non-Transferability. The home industry permit shall be valid only for the person at the residence indicated on the permit and should the industry be discontinued or the home sold, the existing permit shall immediately expire.

Should the holder of a valid home industry permit desire to terminate the home industry prior to the renewal date of July 1, said holder shall not receive a refund for any unexpired time remaining on the permit.

3.22.06. Signage. A home industry shall be allowed one (1) sign that is a maximum of three (3) square feet in area.

Section 3.23. BED AND BREAKFAST HOME CONDITIONAL USE PERMIT.

3.23.01. To obtain a conditional use permit for a bed and breakfast home, the applicant must satisfy the following criteria:

- (a) There shall be no more than two (2) guest rooms per structure.
- (b) Only breakfast may be served to the guest residing in the structure.
- (c) Off-street parking shall be required. Off-street parking ratio shall be one (1) space per guest room and a minimum of two (2) spaces for the owner. The parking spaces shall meet the standards established by the City.
- (d) Guests shall register upon arrival, stating their names, current residence address, and the license plate number of the vehicle that is being used by the guest. The registration form shall be kept by the owner for a period of three (3) years and shall be available for examination by a representative of the City upon one (1) day's notice.
- (e) The condition use permit is not transferable.
- (f) The establishment must comply with local and State regulations regarding all applicable permits and licenses including, but not limited to, fire, health, food service, hotel, liquor, revenue, building, zoning permits, and licenses.
- (g) Conditional use permits to operate a bed and breakfast home must be renewed each year on July 1, and are subject to review at the time of renewal.

3.23.02. Applicability of Other Sections. The provisions of 3.21.01, 3.21.02, 3.21.04, 3.21.05, and 3.21.06, relating to home occupation permits, shall be applicable to the bed and breakfast home condition use permit.

3.23.03. Limitations. A bed and breakfast home conditional use permit shall only be issued for private residences located within an R-2 Residence District.

Section 3.24. WIND TURBINES.

- |                               |                                     |
|-------------------------------|-------------------------------------|
| 3.24 (1) Purpose              | 3.24 (6) Requirements and Standards |
| 3.24 (2) Definitions          | 3.24 (7) Other Applicable Standards |
| 3.24 (3) Applicability        | 3.24 (8) WECS Permit Process        |
| 3.24 (4) Procedures           | 3.24 (9) Release of Liability       |
| 3.24 (5) District Regulations |                                     |

**3.24 (1) PURPOSE.** This Chapter establishes regulations for the installation and operation of Wind Energy Conversion Systems (WECS) within the City of Independence. The purpose of this regulation is to promote the safe, effective, and efficient use of wind energy conversion systems to reduce the on-site consumption of utility-supplied electricity. In addition, this ordinance provides a permitting process for wind energy systems to ensure compliance with the provisions of the requirements and standards established or referenced herein. The provisions of this ordinance shall not guarantee wind rights or establish access to the wind.

**3.24 (2) DEFINITIONS.**

1. "WECS" shall mean Wind Energy Conversion System. That is, 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 and/or distributed into the electrical grid.
2. "Aggregated Project" shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but also included as part of the aggregated project.
3. "Commercial WECS" shall mean a WECS of equal to or greater than one-hundred (100) kilowatts in total name plate generating capacity.
4. "Non-Commercial WECS" shall mean a WECS of less than one-hundred (100) kilowatts in total name plate generating capacity.
5. "Fall Zone" shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower could collapse in the event of a structural failure. This area is commonly similar to the total height of the structure.
6. "Tower Height" shall mean the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

7. "Total Height" shall mean the height above grade to the rotor blade at its highest point.
8. "Feeder Line" shall mean 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 electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.
9. "Meteorological Tower" shall mean those towers which are erected primarily to measure wind speed and directions plus other data relevant to site 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.
10. "Micro-WECS" shall mean WECS of one (1) kilowatt name plate generating capacity or less and utilizing supporting towers of forty (40) feet or less.
11. "Nacelle" shall mean the key components of the wind turbine, including the gearbox, yaw system, and electrical generator.
12. "Property line" shall mean the boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.
13. "Rotor diameter" shall mean the diameter of the circle described by the moving rotor blades.
14. "Substation" shall mean any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than thirty-five thousand (35,000) volts (35 kilovolts) for interconnection with high voltage transmission lines. High voltage transmission lines shall be located outside of the road right of way.
15. "Tower" shall mean the tower of a wind turbine which shall include the vertical structures that support the electrical generator, rotor blades, or meteorological equipment.
16. "Transmission Line" shall mean those electrical power lines that carry voltages of at least sixty-nine thousand (69,000) volts (69 kilovolts) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
17. "Public conservation lands" shall mean land owned in fee title by City, County, State, or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, Federal Wildlife Refuges, Hunting Preserve, and Waterfowl Production Areas. For the purpose of this Chapter, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

18. "Wind turbine" shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

**3.24 (3) APPLICABILITY.** It shall be unlawful to construct, erect, install, alter, or locate any WECS within the city limits of Independence and being authorized by the Independence City Council in a public hearing.

**3.24 (4) PROCEDURES.**

1. Applications for a WECS Permit shall be made on a permit application to the City of Independence.
2. No WECS or wind turbine shall be constructed, erected, converted, installed, reconstructed, enlarged, located, relocated, structurally altered, or otherwise developed including the placement of additional buildings and appurtenances without obtaining a zoning placement permit and being in full compliance with the terms of this section and other applicable codes, regulations, and policies adopted by the City, County, State, or Federal Government.
3. Rezoning or map amendment shall be applied for and reviewed under the procedures established in this Ordinance, except where noted below. Reasonable fees shall be charged for rezoning per parcel or tract of land as well as a fee for each tower included in the application. Said fees shall be determined by the City of Independence Zoning Department.
4. The application for all WECS shall include the following information:
  - a. The name(s) and address of the project applicant.
  - b. The name of the project owner.
  - c. The legal description of the site where development is planned.
  - d. Evidence that the applicant is the owner of the property where development is planned or written approval of the property owner authorizing the applicant to make application for the WECS.
  - e. A preliminary description of the project including: number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
  - f. Preliminary site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale or include accurate dimensions with aerial photos or drawings.
5. The building permit (after zoning approval) for the Commercial WECS shall include:
  - a. Final site plan.

- b. Final legal description.
  - c. Engineer's certification.
  - d. The latitude and longitude of individual wind turbines.
  - e. A U.S. Geological Survey topographical map, or map with similar data, or the property and surrounding area, including any other WECS within ten (10) rotor diameters of the Proposed WECS.
  - f. Location of wetlands, scenic, and natural areas [including bluffs] within one thousand three-hundred twenty (1,320) feet of the proposed WECS. [dependent on DNR/Iowa Code]
  - g. An acoustical analysis.
  - h. Federal Aviation Administration (FAA) Permit Application.
  - i. Location of all known Communications Towers within two (2) miles of the proposed WECS.
  - j. Discontinuation and Decommissioning Plan.
  - k. Description of potential impacts on nearby WECS and wind resources on adjacent properties.
6. In addition to the rezoning fee, the applicant must also file a bond in an amount determined by the Independence City Council. Said Bond shall be from a surety company authorized to do business in the State of Iowa and Buchanan County. The bond shall be conditioned that the applicant under this section will pay to the City any and all damages caused to the streets, highways, and bridges, by applicant.
7. Aggregated Projected Procedures: Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews, and as appropriate, approvals.

**3.24 (5) DISTRICT REGULATIONS.**

- 1. WECS may be permitted as a Principal Permitted in any of the zoning districts, as set forth in the City of Independence zoning ordinance long as bulk requirements and setback requirements are addressed. Said bulk requirements are shown in Table 1 below.
- 2. Setbacks: Substations and Accessory Facilities
  - a. Minimum setback standards for substations, feeder lines, and fences shall be consistent with the standards for accessory structures established in the City of Independence Zoning Ordinance.



- b. Substation setbacks:
  - i. Ten (10) feet, structure setback from road right-of-way located wholly outside the right-of-way.
  - ii. Property lines ten (10) feet; structure setback from property lines; side yard.

**Table 1.**

**WECS Setback Requirements: Wind Turbines and Meteorological Towers**

	<b>Wind Turbine – Non-Commercial Micro WECS</b>	<b>Wind Turbine – Non-Commercial WECS</b>	<b>Wind Turbine – Commercial WECS</b>	<b>Meteorological Towers</b>
<b>Property Lines</b>	1.1 times the total height or the distance of the fall zone as certified by a professional engineer plus 10 feet.	1.1 times the total height or the distance of the fall zone as certified by a professional engineer plus 10 feet.	1.25 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
<b>Neighboring Dwellings<sup>1</sup></b>	1,000 feet. This setback requirement may be reduced by the Zoning Administrator subject in maintaining adequate health and safety requirements or waived by the dwelling occupant or owner.	1,000 feet.	1,200 feet.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
<b>Road Rights-of-Way<sup>2</sup></b>	The distance of the fall zone as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The distance of the fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	1.1 times the height may be reduced for minimum maintenance roads.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.

<sup>1</sup> The setback for dwelling shall be reciprocal in that no dwelling shall be constructed within one-thousand two-hundred (1,200) feet of a commercial wind turbine; unless a release of liability is received from the WECS.

<sup>2</sup> The setback shall be measured from future rights-of-way if a planned change or expanded right-of-way is known.

<b>Other Rights-of-Way (Railroads, grasslands, or hunting preserve)</b>	The lesser of 1.1 times the total height or the fall by a professional engineer plus 10 feet.	The lesser of 1.1 times the total height or the distance of the fall zone as certified by a professional engineer plus 10 feet.	The lesser of 1.1 times the total height or the distance as certified by a professional engineer plus 10 feet.	The fall zone, as certified by a professional engineer plus 10 feet or 1/1 times the total height.
<b>Public conservation lands managed as grasslands, or hunting preserve</b>	600 feet or 20 yards.	600 feet or 200 yards.	600 feet or 200 yards.	600 feet or 200 yards.
<b>Wetlands</b>	NA	NA	NA	NA
<b>Other structures</b>	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
<b>Other existing WECS</b>	NA	NA	To be determined through cup review based on: relative size of the existing and proposed WECS, alignment of the WECS relative to the predominate winds, topography, extent of the wake interference impacts on existing WECS, other setbacks required waived for multiple turbine projects including aggregated projects.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height. Extent of wake interference impacts on existing WECS shall be considered.

### **3.24 (6) REQUIREMENTS AND STANDARDS.**

1. Safety Design Standards
  - a. Engineering Certification: For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation, and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
  - b. Clearance: Rotor blades or airfoils must maintain at least thirty (30) feet of clearance between their lowest point and the ground.
  - c. Warnings: For all commercial WECS, a sign or signs shall be posted on the tower, transformer, and substation warning of high voltage.
2. Height Standard
  - a. Total height – Non-Commercial WECS shall have a total height of less than two hundred (200) feet.
  - b. Total Height must also be in compliance with all municipal airport ordinances within Buchanan County or adjoining counties. This shall include, but not be limited to, the Independence Municipal Airport Ordinance.
  - c. Commercial WECS shall be in compliance with Section 3.24 (6) (2)(b), above, as well as all setback requirements as outlined in Table 1.
3. Meteorological towers may be guyed.
4. Color and Finish: All wind turbines and towers that are part of a commercial WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective. Exceptions may be made for metrological towers, where concerns exist relative to aerial spray applicators.
5. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration 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. Exceptions may be made for metrological towers, where concerns exist relative to aerial spray applicators.
6. Other Signage: All signage on site shall comply with Sign Regulations of the City of Independence Ordinance. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle or base of the WECS.
7. Feeder Lines: All communications and feeder lines, equal to or less than thirty-four and one-half (34.5) kilovolts in capacity, installed as part of a WECS shall be buried where reasonable feasible.

8. Waste Disposal: Solid and hazardous waste, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal regulations.
9. Impact on Public Infrastructure: Reimbursement of all costs related to excessive wear and tear to any public infrastructure such as, but not limited to, City roads and bridges, and to any highway system, storm water management related improvements and or/public utilities that are caused by the construction, maintenance, or removal of any WECS shall be reimbursed to the affected local government. A determination shall be made by the City Council after consultation of an engineer hired by the City with the costs billed to those owning the WECS or applicable official to establish if excessive wear and tear or damage has occurred and to estimate the costs of repair for said work. Any damage to any haul routes, as determined by the Engineer, shall be reimbursed to the local government affected and shall be billed to the corporation or company owning said WECS to be paid within forty-five (45) days of issuance and may be subject to late charges, interest, or penalties as allowed by law. All haul routes shall be reviewed and approved by the City on use of any City roads prior to construction, maintenance, or removal of any WECS. In order to review proposed haul routes and/or work locations, WECS manufacturer(s) or owner(s) and/or their contractors shall contact the City a minimum on one (1) month prior to starting any work in the City. In addition, the applicant must also file a bond in an amount determined by the City Council. Said bond shall be from a surety company authorized to do business in the State of Iowa and the City of Independence. The bond shall be conditioned that the applicant under this section will pay to the City any all damages caused to the streets, highways, and bridges, by applicant.
10. Discontinuation and Decommissioning: A WECS shall be considered discontinued after one (1) year without energy production, unless a plan is developed and submitted to the City of Independence Zoning Administrator outlining the steps and schedule for returning the WECS to service.
  - a. All WECS and accessory facilities shall be removed to a depth of seven (7) feet including footing and foundations within one-hundred eighty (180) days of the discontinuation of use.
  - b. Each Commercial WECS shall have a decommissioning plan outlining the anticipated means and cost of removing each WECS at the end of their serviceable life or upon becoming discontinued.
  - c. The cost estimates associated with a decommissioning plan shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning WECS, or such other person with suitable expertise or experience with decommissioning WECS.
  - d. The decommissioning plan shall identify the financial resources that will be available to pay for the decommissioning and removal of the WECS accessory facilities.

- e. The City of Independence will require financial security in the form of a cash escrow, and irrevocable letter of credit or a performance bond to ensure that decommissioning of a Commercial WECS or Non-Commercial WECS is completed as required in this procedure.

**3.24 (7) OTHER APPLICABLE STANDARDS.**

1. Noise: The noise level measured at the property line of the property on which the WECS has been installed shall not exceed sixty (60) decibels (dBA). In the event of an alleged nuisance, the City of Independence shall request that the decibel level be determined by the Iowa Department of Natural Resources.
2. Electrical codes and standards: All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
3. Federal Aviation Administration: All WECS shall comply with FAA standards and permits, including the Independence Municipal Airport Ordinance and International Building Code.
4. Building Code: All WECS shall comply with the ICC Code adopted by the City of Independence.
5. Interference: The applicant(s) shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant(s) shall notify all communication tower operators within two (2) miles of the proposed WECS location upon application to the City of Independence for permits. No WECS shall be constructed so as to interfere with the City of Independence, Buchanan County, or Iowa Department of Transportation microwave transmissions.
6. A WECS Permit may be revoked any time the WECS does not comply with the rules and regulations set forth in this ordinance of WECS Permit. The revocation of the WECS Permit requires the WECS to be physically removed within one-hundred eighty (180) days.

**3.24 (8) WECS PERMIT PROCESS.** All WECS Permit applications shall be approved by the Independence City Council after recommendation for Independence Planning and Zoning Commission following the standards and procedures as set forth in the City of Independence Zoning Ordinance.

**3.24 (9) RELEASE OF LIABILITY.** The City of Independence shall be fully released of any liability associated with any WECS built within the city limits of Independence, Iowa.



ARTICLE IV

FLOOD PLAIN REGULATIONS

Section 4.00. PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 4.00.01. Restrict or Prohibit Use. Restrict or prohibit uses which are dangerous to health, safety, or property due to water or erosion or in flood heights or velocities.
- 4.00.02. Require Protection. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction.
- 4.00.03. Alteration of Channels or Flood Plain. Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
- 4.00.04. Filling and Grading. Control filling, grading, dredging and other development which may increase erosion or flood damage.
- 4.00.05. Flood Barriers. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section 4.01. OBJECTIVES.

The objectives of this chapter are:

- 4.01.01. Life and Health. To protect human life and health.
- 4.01.02. Costs. To minimize expenditure of public money for costly flood control projects.
- 4.01.03. Rescue Efforts. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- 4.01.04. Business Interruptions. To minimize prolonged business interruptions.
- 4.01.05. Damage Public Facilities. To minimize damage to public facilities and utilities such as water and gas mains, electric, and telephone and sewer lines, streets and bridges located in flood plains.

- 4.01.06. Tax Base. To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas.
- 4.01.07. Home Buyers. To insure that potential home buyers are notified that property is in a flood area.

Section 4.02. DEFINITIONS.

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

- 4.02.01. Appeal. A request for a review of the building inspector’s interpretation of any provision of this chapter or a request for a variance.
- 4.02.02. Area of Special Flood Hazard. The land in the flood plain within the City subject to a one (1) percent or greater chance of flooding in any given year.
- 4.02.03. Base Flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- 4.02.04. Basement. Any enclosed area of building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
- 4.02.05. Development. Any man-made 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.
- 4.02.06. Factory-built Home Park. 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 chapter, factory built homes include mobile homes, manufactured homes and modular homes and also include park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.
- 4.02.07. Factory-built Home Park. A parcel or contiguous parcels of land divided into two (2) or more factory-built home lots for rent or sale.
- 4.02.08. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters;



(b) The unusual and rapid accumulation of runoff of surface waters from any source.

4.02.09. Flood Hazard Boundary Map (FHBM). The official map of the City issued by the Federal Insurance Administration where the boundaries of the areas of special flood hazards have been designated as Zone A.

4.02.10. Flood Insurance Rate Map (FIRM). The official map of the City on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

4.02.11. Flood Insurance Study. The official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the Flood Hazard Boundary-Floodway Map and the water surface elevation of the base flood.

4.02.12. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

4.02.13. Historic Structure. Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State inventory of historic places if Iowa has adopted a historic preservation program which has been approved by the Secretary of Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (i) by an approved State program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior.

4.02.14. Lowest Floor. The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

(a) The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that meet or exceed the following minimum criteria:

1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and

2. The bottom of all openings shall be no higher than one (1) foot above grade; and
  3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit floodwaters.
- (b) The enclosed areas is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
- (c) Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least three (3) feet above the one hundred (100) year flood level; and
- (d) The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria (a), (b), (c) and (d) above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

- 4.02.15. Mean Sea Level. The average height of the sea for all stages of the tide.
- 4.02.16. New Construction. Structures for which the “start of construction” commenced on or after March 14, 1977.
- 4.02.17. Recreational Vehicle. A vehicle which is (i) built on a single chassis; (ii) four hundred (400) square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- 4.02.18. Start of Construction. The first placement of permanent construction of a structure (other than a factory-built home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearings, grading, and fillings; nor does it include the installation of streets and/or walkways; no 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 as part of the main structure. For a structure (other than a factory-built home) without a basement or poured footings, the “start of construction” includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For factory-built home subdivisions, “start of construction” means the affixing of the factory-

built homes with factory-built home parks or factory-built home subdivisions, and “start of construction” is the date on which the construction of facilities for servicing the site on which the factory-built home is to be affixed (including, at a minimum, the construction of streets, either final site grading or pouring of concrete pads, and installation of utilities) is completed.

- 4.02.19. Structure. 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.
- 4.02.20. Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
- 4.02.21. Substantial Improvement. Any improvement to a structure which satisfies either of the following criteria:
- (a) Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before “start of construction” of the improvement. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (ii) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”
  - (b) Any addition which increases the original floor area of a building by twenty-five (25) percent or more. All additions constructed after the FIRM Date shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five (25) percent.
- 4.02.22. Variance. A grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

Section 4.03. LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the City.

Section 4.04. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard are identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for the City of Independence" dated October 18, 1988, and said report, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps and any revision thereto, are hereby adopted by reference and declared to be a part of this chapter.

Section 4.05. ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required in conformance with the provisions of this chapter.

Section 4.06. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

Section 4.07. ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 4.08. INTERPRETATIONS.

In their interpretation and application, the provisions of this chapter shall be: (i) considered as minimum requirements; (ii) shall be liberally construed in favor of the governing body; and (iii) shall be deemed neither to limit nor repeal any other powers granted under State statutes.

Section 4.09. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such the areas will be free from flooding or flood damages. This chapter shall no create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

Section 4.10. DESIGNATION OF BUILDING INSPECTOR.

The building inspector is hereby appointed to administer and implement the provisions of this chapter.

Section 4.11. DUTIES AND RESPONSIBILITIES OF INSPECTOR.

Duties of the building inspector shall include, but not be limited to:

- 4.11.01. Review for Compliance. Review all development permits to assure that the permit requirements of this chapter have been satisfied.
- 4.11.02. Required Permits. Review permits for proposed development to assure that all necessary permits have been obtained from Federal, State or local government agencies from which prior approval is required.
- 4.11.03. Watercourse Alterations. Notify adjacent communities and/or the Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- 4.11.04. Maintenance of Altered Watercourse. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- 4.11.05. Elevations. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- 4.11.06. Elevation. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed.
- 4.11.07. Certification of Flood proofing. When flood proofing is utilized, for a particular structure, obtain certification from a registered professional engineer or architect.
- 4.11.08. Interpret Boundaries. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation.
- 4.11.09. Base Flood Elevation Data. When base flood elevation data has not been provided in accordance with Section 4.04 of this chapter, contact the Department of Natural Resources to compute such data, in order to administer the provisions of Sections 4.16 through 4.19 of this chapter.

- 4.11.10. Records. Keep records pertaining to the provisions of this chapter and maintain them for public inspection.

Section 4.12. PERMIT PROCEDURES.

Application for a development permit shall be made to the building inspector on forms furnished by the inspector and may include but not be limited to the following: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; fill storage of materials; drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- 4.12.01. Elevation. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures.
- 4.12.02. Elevation. Elevation in relation to mean sea level to which any nonresidential structure has been flood proofed.
- 4.12.03. Engineer's Certificate. Certificate from a registered professional engineer or architect that the nonresidential flood proofed structure meets the flood proofing criteria in Section 4.17 of this chapter.
- 4.12.04. Watercourse Alteration. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Section 4.13. VARIANCES.

The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

- 4.13.01. Prohibited. No variance shall be granted for any development within the floodway which would result in an increase in the hundred (100) year flood level. Consideration of the effects of any development of flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
- 4.13.02. Cause. 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.

- 4.13.03. Required to Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 4.13.04. Notice to Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing signed by the Zoning Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance and (ii) such construction increases risks to life and property.
- 4.13.05. Department of Natural Resources Approval. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

Section 4.14. HEARINGS BY BOARD OF ADJUSTMENT.

Upon the filing with the Board of Adjustment of an appeal, an application for a Conditional Use or a request for a Variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonable deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

Section 4.15. DECISIONS OF BOARD OF ADJUSTMENT.

The Board shall arrive at a decision on an appeal, Conditional Use or Variance within a reasonable time. In acting on an appeal, the Board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a Conditional Use or Variance, the Board shall consider such factors as contained in this section and all other relevant sections of this chapter and may prescribe such conditions as contained in subsection (4.15.02.) of this section.

- 4.15.01. Factors Upon Which the Decision of the Board Shall Be Based. In passing upon applications for Conditional Use or requests for Variances, the Board shall consider all relevant factors specified in other sections of this chapter 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 lands or downstream to the injury of others.

- (c) The proposed water supply and sanitation 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 community.
- (f) The requirements of the facility for a flood plain location.
- (g) The availability of alternative locations not subject to flooding for the proposed use.
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (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 article.

4.15.02. Conditions Attached to Conditional Uses or Variances. Upon consideration of the factors listed above, the Board may attach such conditions to the granting of Conditional Uses or Variances as it deems necessary to further the purpose of this Article. Such conditions may include, but are not necessarily 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 modification, 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 purposes of this article.



(e) Flood proofing Measures. Flood proofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, 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 flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. Such flood proofing measures may include, but are not necessarily limited to the following:

1. Anchorage to resist flotation and lateral movement.
2. Installation of watertight doors, bulkheads, and shutters, or similar methods of construction.
3. Reinforcement of walls to resist water pressures.
4. Use of paints, membranes, or mortars to reduce seepage of water through walls.
5. Addition of mass or weight structures to resist flotation.
6. Installation of pumps to lower water levels in structures.
7. Pumping facilities or comparable practices for subsurface drainage systems for building to relieve external foundation wall and basement flood pressures.
8. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.
9. Construction to resist rupture or collapse caused by water pressure or floating debris.
10. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup sewage and storm waters into the buildings or structures.
11. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding.

(f) Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be

presented to the court within thirty (30) days after the filing of the decision in the office of the Board.

Section 4.16. NONCONFORMING USES.

A structure or the use of a structure on land which was lawful before the passage or amendment of this article but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

- 4.16.01. Value. No structural alteration, addition, or repair to any nonconforming structure over the life of the structure shall exceed fifty (50) percent of its value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.
- 4.16.02. Use Discontinued. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this article. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for six (6) months.
- 4.16.03. Destroyed. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (50) percent or more of its value prior to destruction, it shall not be constructed except in conformity with the provisions of this article.
- 4.16.04. Nuisances. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming use.
- 4.16.05. Conditional Use. Except as provided in Section 4.16.04., any use which has been permitted as a Conditional Use or Variance shall be considered a conforming use.

Section 4.17. GENERAL STANDARDS.

In all areas of special flood hazards the following provisions are required:

- 4.17.01. Anchors. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- 4.17.02. Flood Resistant. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 4.17.03. Minimize Damage. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

- 4.17.04. Water Supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- 4.17.05. Sanitary Sewers. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters.
- 4.17.06. On Site Waste Disposal Systems. On site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- 4.17.07. Prohibited Storage. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited.
- 4.17.08. Restricted Storage. Storage of other material and equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- 4.17.09. Flood Control Structural Works. Flood control structural works such as levees, floodwalls, etc. shall provide, at a minimum, protection from a one hundred (100) year flood with a minimum of three (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.

Section 4.18. SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4.05. or Section 4.12.09., of this chapter, the following provisions are required:

- 4.18.01. All structures shall (i) be adequately anchored to prevent flotation, collapse or lateral movement of the structure; (ii) be constructed with materials and utility equipment resistant to flood damage; and (iii) be constructed by methods and practices that minimize flood damage.
- (a) Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basements, elevated a minimum of three (3) feet above the one hundred (100) year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than three (3) feet above the one hundred (100) year flood level and extend at such elevation at least eighteen (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 and issuance of a Conditional Use Permit, 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 buildings shall be provided with a means of access which will be passable by wheeled vehicles during the one hundred (100) year flood.

1. All new construction, all substantial improvements and/or improvements of substantially damage structures within Zones A1-30 and Zone A on the Community's Flood Insurance Rate Map (FIRM) shall be designed and constructed so that the first floor is at least three (3) feet (36 inches) above the base flood level elevation. Any basement area, together with attendant utilities and sanitary facilities below that level, shall be designed so that the structure is watertight with walls that are impermeable to the passage of water without human intervention. Basement walls shall be built with the capacity to resist hydrostatic and hydrodynamic loads and the effects of buoyancy resulting from the one hundred (100) year frequency flood and shall be designed so minimal structural damage will occur if this design flood is exceeded.
  2. Basements constructed in accordance with this regulation shall not be used for sleeping purposes.
  3. A registered professional engineer or architect shall certify that the flood proofing measures used in the structure satisfy these standards. This certification shall include the specific elevation (in relation to mean sea level) to which the structure is flood proofed.
  4. The community shall certify that the structure has been built in accordance with this design.
- (b). Non-residential Buildings. All new and substantially improved non-residential buildings shall have the lowest first floor (including basement) elevated a minimum of three (3) feet above the one hundred (100) year flood level, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the one hundred (100) year flood; and that the structure, below the one hundred (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 flood proofed shall be maintained by the Zoning Administrator.

- (c) 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 be either certified by a registered professional engineer or meet or exceed the following minimum criteria:
    - a. A minimum of two (2) openings have a total net area of not less than one (1) 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 (1) foot above grade.
    - c. Openings may be equipped with screens, covers, valves, or other coverings or devices provided that 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.
- (d) Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement.
- (e) 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 three (3) feet above the one hundred (100) year flood level.

(f) Detached garages, sheds and similar accessory type structures are exempt from the one hundred (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. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
5. The structure's service facilities, such as electrical and heating equipment, shall be elevated or flood proofed to at least three (3) feet above the one hundred (100) year flood level.

(g) All recreational vehicles placed on sites within the flood plain as identified on the community's FIRM, shall either (i) be on the site for fewer than one hundred eighty (180) consecutive days; (ii) be fully licensed and ready for highway use; or (iii) meet the permit requirements and the elevation and anchoring requirements for "Factory-built homes" of this Ordinances. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

4.18.02. Special Floodway Provisions. In addition to the General Flood Plain Standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of floodwaters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway limits. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation.

(a) No use shall be permitted in the floodway that would result in any increase in the one hundred (100) year flood level. Consideration of the effects of any development of flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

- (b) All uses within the floodway shall:
  - 1. Be consistent with the need to minimize flood damage.
  - 2. Use construction methods and practices that will minimize flood damage.
  - 3. Use construction materials and utility equipment that are resistant to flood damages.
- (c) No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.
- (d) Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable General Flood Plain Standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.
- (e) Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
- (f) 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 flood way within the time available after flood warning.
- (g) Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
- (h) Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
- (i) Pipeline river or 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.

Section 4.19. STANDARDS FOR SUBDIVISION PROPOSALS.

Subdivision proposals (including factory-built home parks, and subdivisions) shall comply with the following standards:

- 4.19.01. Minimize Damage. All subdivision proposals shall be consistent with the need to minimize flood damage.
- 4.19.02. Public Utilities and Facilities. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- 4.19.03. Drainage. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- 4.19.04. Flood Elevations. Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of fifty (50) lots or five (5) acres.
- 4.19.05. Dry access is required during the one hundred (100) year flood.
- 4.19.06. Structures within the subdivision shall comply with and satisfy the specific standards set forth in Section 4.18. of this article.

Section 4.20. AMENDMENTS.

The regulations, restrictions and boundaries set forth in this article may from time to time be amended, supplemented, change, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City. The regulations of this article are in compliance with the National Flood Insurance Program Regulations as published in the Federal Register, Volume 41, Volume 207, dated October 26, 1976. No amendments or supplements shall be made to this article without the approval of the State Department of Natural Resources.

Section 4.21. DETERMINATION OF THE COST OF REPAIR OF RECONSTRUCTION TO DAMAGED BUILDINGS.

The determination of the cost of repair or reconstruction to damaged buildings shall be made pursuant to appropriate applicable FEMA guidelines. Copies of the applicable FEMA guidelines shall be retained on file for public inspection and use in the office of the City Clerk of Independence, Iowa.

Section 4.22. MANAGEMENT AND ADMINSTRATIVE PROCEDURES.

Permit procedures as described in Section 4.12 shall be followed, as well as the following procedures to establish an orderly and consistent process of determining eligibility for issuance of a building permit and/or flood plain development permit or



denial of a building permit and/or flood plain development permit within the floodplain of the City of Independence, Iowa. The procedure shall be as follows, but not limited to:

4.22.01. Application for building permit and/or floodplain development permit is received by building official or said official's agent.

(a) Determination of location structure within floodplain.

1. Floodway and/or Channelization of Stream.

a. Permit Denied.

2. Floodway Fringe one hundred (100) Area of Stream.

a. Determination of occupy able space.

(NON-OCCUPY ABLE SPACE)

1. Floodplain development application is required.

2. Elevation certification is required by engineer or architect that the structure meets flood proofing criteria and/or flood proofed basement criteria.

3. Watercourse alteration description as to extent to which any watercourse will be altered or relocated by proposed project.

b. After receipt of required information and project meets floodplain criteria.

1. Floodplain Development permit and/or building permit is issued and kept on file.

2. Inspections are conducted as necessary to insure compliance.

3. Upon completion of project, a final inspection is conducted and a certificate of occupancy, flood proofing certificate and/or residential basement flood proofing certificate is issued, if project is within compliance.

c. After receipt of required information and it is determined the project does not meet all flood plain criteria:

1. All applications, elevation certificates and other information are submitted to:

a. Board of Adjustment for consideration of a variance covered in Section 4.13.

i. Approved by the Board of Adjustment.

1. Submitted to Iowa Department of Natural Resources for concurrence and/or approval of variance. The Iowa

Department of Natural Resources must approve variance before the City of Independence Board of Adjustment may issue the variance.

2. After Iowa DNR approval:
  - a. Floodplain Development permit and/or building permit issued and kept on file.
  - b. Inspections are conducted as necessary to insure compliance.
  - c. Upon completion of project a final inspection is conducted and a certificate of occupancy, flood proofing certificate and/or residential basement flood proofing certificate is issued if project is within compliance.
  - d. The Iowa DNR is notified of completion of project.
3. Denied by Iowa DNR.

- ii. Denied by Board of Adjustment.
  1. No permit is issued.

(OCCUPIABLE SPACE)

1. Floodplain development application is required.
2. Elevation certification is required by engineer or architect that the structure meets flood proofing criteria and/or flood proofed basement criteria.
3. Watercourse alteration description as to extent to which any watercourse will be altered or relocated by proposed project.

- d. After receipt of required information and project meets floodplain criteria and is 3-0" above one hundred (100) year flood elevation:
  1. Floodplain Development permit and/or building permit is issued and kept on file.
  2. Inspections are conducted as necessary to insure compliance.
  3. Upon completion of project, a final inspection is conducted and a certificate of occupancy, flood proofing certificate and/or residential basement flood proofing certificate is issued if project is within compliance.
  
- e. After Receipt of required information, it is determined the project does not meet all floodplain criteria:
  1. All applications, elevation certificates and other information are submitted to:
    - a. Board of Adjustment for consideration of variance covered in Section 4.13.
    - b. After Iowa DNR approval.
      - i. Floodplain Development permit and/or building permit issued and kept on file.
      - ii. Inspections are conducted as necessary to insure compliance.
      - iii. Upon completion of project, a final inspection is conducted and a certificate of occupancy, flood proofing certificate and/or residential basement flood proofing certificate is issued if project is within compliance.
      - iv. The Iowa DNR is notified of completion of project.
    - c. Denied by Iowa DNR.
  2. Denied by Board of Adjustment.
    - a. No permit is issued.

## ARTICLE V

### BULK REQUIREMENTS

#### Section 5.00. BULK REQUIREMENTS.

All new buildings shall conform to the building regulations established herein for the district in which each building shall be located. Further, no existing building shall be enlarged, reconstructed, structurally altered, converted or relocated in such a manner as to conflict or to further conflict with the bulk regulations of this Ordinance for the district in which such buildings shall be located.

Minimum bulk requirements are listed on Table 1 Bulk Requirements, Independence, Iowa, on the following page.

**Table 1: Bulk Requirements.**

District Use	Maximum Building Height <sup>3</sup>	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Side Street, Corner Lot	Minimum Rear Yard
<b>A-1</b>							
SINGLE FAMILY	35 Ft. or 3 Stories	3 Acres	200 Ft.	58 Ft.	35 Ft.	58 Ft.	58 Ft.
OTHER PERMITTED USES	---	3 Acres	200 Ft.	58 Ft.	35 Ft.	58 Ft.	58 Ft.
<b>R-1</b>							
SINGLE FAMILY	35 Ft. or 3 Stories	10,000 Sq. Ft.	80 Ft.	25 Ft.	8 Ft.	25 Ft.	30 Ft.
NOT SERVED BY PUBLIC WATER AND/OR PUBLIC SEWER	35 Ft. or 3 Stories	30,000 Sq. Ft.	80 Ft.	25 Ft.	8 Ft.	25 Ft.	30 Ft.
OTHER PERMITTED USES	---	30,000 Sq. Ft.	160 Ft.	40 Ft.	16 Ft.	40 Ft.	40 Ft.
<b>R-2</b>							
SINGLE FAMILY	35 Ft. or 3 Stories	7,000 Sq. Ft.	66 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
MULTI-FAMILY (UP TO 2 FAMILY)	35 Ft. or 3 Stories	8,000 Sq. Ft.	70 Ft.	25 Ft.	7 Ft.	25 Ft.	25 Ft.
OTHER PERMITTED USES	---	10,000 Sq. Ft.	80 Ft.	30 Ft.	7 Ft.	40 Ft.	30 Ft.
<b>R-3</b>							
SINGLE FAMILY	---	6,000 Sq. Ft.	60 Ft.	20 Ft.	5 Ft.	25 Ft.	30 Ft.
TWO FAMILY	---	7,200 Sq. Ft.	60 Ft.	20 Ft.	5 Ft.	25 Ft.	30 Ft.
MULTI-FAMILY (3 PLEX OR LARGER)	35 Ft. or 3 Stories	8,000 Sq. Ft.	65 Ft.	20 Ft.	10 Ft.	25 Ft.	35 Ft.
OTHER PERMITTED USES	---	1 Acre	180 Ft.	40 Ft.	16 Ft.	40 Ft.	40 Ft.
<b>R-4</b>							
PER UNIT	---	4,000 Sq. Ft.	40 Ft.	20 Ft.	10 Ft.	---	10 Ft.
MOBILE HOME PARK	25 Ft.	5 Acres	360 Ft.	40 Ft.	40 Ft.	40 Ft.	40 Ft.
<b>R/C-1</b>							
THE "R-2" BULK REQUIREMENTS MUST BE MET IF THE USE OF THE LAND IS RESIDENTIAL.							
THE "C-2" BULK REQUIREMENTS MUST BE MET IF THE USE OF THE LAND IS COMMERCIAL.							
THE "R-2" BULK REQUIRMENTS MUST BE MET IF THE USE OF THE LAND IS COMMERCIAL, AND ADJOINS RESIDENTIAL.							
PERMITTED USES IN "R/X-1" ARE SET FORTH IN ARTICLE XI OF THIS ORDINANCE.							
C-1	35 Ft. or 3 Stories	---	---	---	<sup>4</sup>	---	---
C-2	35 Ft. or 3 Stories	---	---	25 Ft.	<sup>5</sup>	---	25 Ft.
M-1	---	---	---	25 Ft.	10 Ft.	25 Ft.	25 Ft.
M-2	---	---	---	25 Ft.	10 Ft.	25 Ft.	25 Ft.
ACCESSORY BUILDINGS FOR R-1, R-2, & R-3 DISTRICTS <sup>6</sup>	18 Ft. or 1 story, whichever is lower	---	---	---	<sup>7</sup>	Same as permitted uses	<sup>8</sup>

<sup>3</sup> Maximum Height shall be measured by either the designated footage or by stories, whichever is lower.

<sup>4</sup> None required except adjoining any "R" District, in which case not less than 15 feet.

<sup>5</sup> The Independence City Council reserves the authority to determine the set-back requirement on a case-by-case basis.

<sup>6</sup> Maximum Coverage of Lot for Accessory Buildings shall be thirty (30) percent of rear yard.

<sup>7& 8</sup> Accessory building to be placed in the rear or side yards may reduce minimum side and rear yard requirements to four (4) feet.

ARTICLE VI

“A-1” AGRICULTURAL DISTRICT

Section 6.00. GENERAL DESCRIPTION.

The “A-1” Agricultural District is intended to provide regulations for land situated on the fringe of the urban area that is used primarily for agricultural purposes, but which will be undergoing urban development in the near future. Many tracts in this District will be in close proximity to developing residential, commercial, or industrial uses. The purpose of this district is to restrict the permitted uses to those which are compatible with both agricultural uses and the developing residential, commercial, or industrial use.

Section 6.01. PRINCIPAL USES PERMITTED.

Property and buildings in an “A-1” Agricultural District shall be used only for the following purposes:

- 6.01.01. Agricultural crops only – see Section 6.02.10.
- 6.01.02. Single family dwellings.
- 6.01.03. Manufactured housing.
- 6.01.04. Churches and temples.
- 6.01.05. Airports and landing fields, provided that adequate approach and clear zones are obtained.
- 6.01.06. Public schools, elementary, junior high, and high schools.
- 6.01.07. Parochial or private schools having similar curricula as public schools and having no rooms used regularly for housing or sleeping purposes.
- 6.01.08. Public buildings, public and semi-public parks, playgrounds or community buildings.
- 6.01.09. Golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
- 6.01.10. Accessory uses and buildings which are customarily incidental to any of the above stated uses.

Section 6.02. USE EXCEPTIONS.

The following uses shall be permitted, subject to review and approval of the Board of Adjustment in accordance with provisions contained herein:

- 6.02.01. Hospitals, rest, nursing, convalescent, and family homes; homes for children and aged; off-street parking and yards comparable for other institutional uses to be provided under its Article.
- 6.02.02. Public utilities.
- 6.02.03. Cemetery or mausoleum.
- 6.02.04. Recreational development for seasonal or temporary use.
- 6.02.05. Roadside stand for sale of produce raised on the premises.
- 6.02.06. Extraction of sand, gravel, topsoil or other natural resources provided the land is restored to a condition suitable for the permitted uses of this district.
- 6.02.07. Dog kennels.
- 6.02.08. Riding stables.
- 6.02.09. Greenhouses and plant nurseries operated for commercial purposes and truck gardening.
- 6.02.10. Dairy farming, livestock farming, poultry farming, general farming, and other agriculture activities.

Section 6.03. HEIGHT REGULATIONS.

Shall be those regulations as specified in Section 5.00.

Section 6.04. LOT AREA, FRONTAGE, AND YARD REQUIREMENTS.

Shall be those regulations as specified in Section 5.00.

Section 6.05. OFF-STREET PARKING AND LOADING REQUIREMENTS.

Shall be those regulations as specified in Section 16.00.

Section 6.06. SIGN REGULATIONS.

Shall be those regulations as specified in Section 17.00.

ARTICLE VII

“R-1” SINGLE FAMILY RESIDENTIAL DISTRICT

Section 7.00. GENERAL DESCRIPTION.

The “R-1” is the most restrictive Residential District. The principal use of land is for single family dwellings and related recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area. The residential areas are intended to be defined and protected from encroachment of uses which are not appropriate to a residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different uses.

Section 7.01. PRINCIPAL USES PERMITTED.

Property and buildings in an “R-1” Single Family Residential district shall be used only for the following purposes:

- 7.01.01. Single Family dwellings.
- 7.01.02. Manufactured housing.
- 7.01.03. Churches and temples, upon approval of City Council.
- 7.01.04. Public schools, parochial and/or private schools having similar curricula as public schools and having no rooms used regularly for housing or sleeping rooms.
- 7.01.05. Public and/or semi-public parks and playgrounds.
- 7.01.06. Accessory uses which are customarily incidental to any of the above state uses. Accessory uses shall include private garages and carports, private swimming pools, and private greenhouses not operated for commercial purposes.

Section 7.02. USE EXCEPTIONS.

The following uses shall be permitted subject to review and approval of the Board of Adjustment in accordance with provision contained herein:

- 7.02.01. Hospitals, family homes, nursing homes, convalescent homes, public buildings, and/or community buildings, with the same off-street parking and yards as those required for other institutional uses under this Ordinance.
- 7.02.02. Public utilities.



7.02.03. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.

7.02.04. Any other uses deemed appropriate on review and recommendation by the Planning and Zoning Commission, with approval of the City Council, which are of the same general character as the foregoing permitted uses.

Section 7.03. HEIGHT REGULATIONS.

Shall be those regulations as specified in Section 5.00.

Section 7.04. LOT AREA, FRONTAGE, AND YARD REQUIREMENTS.

Shall be those regulations as specified in Section 5.00.

Section 7.05. OFF-STREET PARKING AND LOADING REQUIREMENTS.

Shall be those regulations as specified in Section 16.00.

Section 7.06. SIGN REGULATIONS.

Shall be those regulations as specified in Section 17.00.

ARTICLE VIII

“R-2” MIXED RESIDENTIAL DISTRICT

Section 8.00. GENERAL DESCRIPTION.

The “R-2” Mixed Residential District is to provide for two-family and medium population density. The principal use of land may range from single family to two-family dwelling units. Certain uses are permitted which are more compatible functionally with intensive residential uses than with commercial uses. The recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area are included. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

Section 8.01. PRINCIPAL USES PERMITTED.

Property and buildings in a “R-2” Mixed Residential District shall be used only for the following purposes:

8.01.01. Any use permitted in the “R-1” Single Family Residential District.

8.01.02. One (1) and two (2) family dwellings.

Section 8.02. USE EXCEPTIONS.

The following uses shall be permitted subject to review and approval of the Board of Adjustment in accordance with provisions contained herein:

8.02.01. Private kindergartens and day nurseries, and child care centers.

8.02.02. The taking of borders or the leasing of rooms by a resident family, providing total number does not exceed two (2) per building.

8.02.03. Public utilities.

8.02.04. Mortuary or funeral homes.

8.02.05. Home occupations.

8.02.06. Any other use deemed appropriate on review and recommendation by the Planning and Zoning Commission, with approval of the City Council, which are of the same general character as the foregoing permitted uses.

Section 8.03. HEIGHT REGULATIONS.

Shall be those regulations as specified in Section 5.00.

Section 8.04. LOT AREA, FRONTAGE, AND YARD REQUIREMENTS.

Shall be those regulations as specified in Section 5.00.

Section 8.05. OFF-STREET PARKING AND LOADING REQUIREMENTS.

Shall be those regulations as specified in Section 16.00.

Section 8.06. SIGN REGULATIONS.

Shall be those regulations as specified in Section 17.00.

ARTICLE IX

“R-3” MULTIPLE RESIDENTIAL DISTRICT

Section 9.00. GENERAL DESCRIPTION.

The “R-3” Multiple Residential District is to provide for high population density. The principal use of land may range from single family to multiple-family dwelling units including condominiums and row housing. Certain other uses are permitted which are more compatible functionally with intensive residential uses than with commercial uses. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of each user permitted in the district.

Section 9.01. PRINCIPAL USES PERMITTED.

Property and buildings in an “R-3” Multiple Residential District shall be used only for the following purposes:

- 9.01.01. Any use permitted in the “R-1” and “R-2” Residential Districts.
- 9.01.02. Three-plexes and larger dwelling structures.
- 9.01.03. Religious and educational institutions.
- 9.01.04. Boarding and lodging houses.
- 9.01.05. Accessory uses and buildings which are customarily incidental to any of the above uses.

Section 9.02. USE EXCEPTIONS.

The following uses shall be permitted subject to review and approval of the Board of Adjustment in accordance with provisions contained herein:

- 9.02.01. Home occupations.
- 9.02.02. Hospitals (except animal hospitals), day nurseries or care facilities, nursing and convalescent homes, medical clinics, public buildings and/or community buildings with the same off-street parking and yards as these required for other institutional uses under this Ordinance.
- 9.02.03. Group care facilities.
- 9.02.04. Planned unit developments upon tracts of ten (10) acres or more, subject to the requirement in Article XVIII.

9.02.05. Any other uses deemed appropriate on review and recommendation by the Planning and Zoning Commission with approval of the City Council which are of the same general character as the foregoing permitted uses.

Section 9.03. HEIGHT REGULATIONS.

Shall be those regulations as specified in Section 5.00.

Section 9.04. LOT AREA, FRONTAGE, AND YARD REQUIREMENTS.

Shall be those regulations as specified in Section 5.00.

Section 9.05. OFF-STREET PARKING AND LOADING REQUIREMENTS.

Shall be those regulations as specified in Section 16.00.

Section 9.06. SIGN REGULATIONS.

Shall be those regulations as specified in Section 17.00.

ARTICLE X

“R-4” MOBILE HOME PARK DISTRICT

Section 10.00. GENERAL DESCRIPTION.

The “R-4” Mobile Home District is intended and designed for high density mobile home development. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

Section 10.01. PRINCIPAL USES PERMITTED.

Property and buildings in an “R-4” Mobile Home District shall be used only for the following purpose:

10.01.01. Mobile home parks.

10.01.02. Accessory uses and buildings which are customarily incidental to the above stated uses, but not involving the conduct of business.

Section 10.02. USE EXCEPTIONS.

Other uses may be permitted when deemed appropriate on review by the Board of Adjustment, providing the uses are determined to be the same general character as the foregoing permitted uses.

Section 10.03. HEIGHT REGULATIONS.

Shall be those regulations as specified in Section 5.00.

Section 10.04. LOT AREA, FRONTAGE, AND YARD REQUIREMENTS.

Shall be those regulations as specified in Section 5.00.

Section 10.05. OFF-STREET PARKING AND LOADING REQUIREMENTS.

Shall be those regulations as specified in Section 16.00.

Section 10.06. SIGN REGULATION.

Shall be those regulations as specified in Section 17.00.

ARTICLE XI

“R/C-1” MIXED RESIDENTIAL/COMMERCIAL DISTRICT

Section 11.00. GENERAL DESCRIPTION.

The “R/C-1” Mixed Residential/Commercial District is designed to accommodate Commercial development that can co-exist with Residential occupancies within a specific corridor as defined below.

- 11.00.01. Corridor 1. 2<sup>nd</sup> Street SE to 6<sup>th</sup> Street SE, one (1) city block to the east and west of 3<sup>rd</sup> Avenue SE
- 11.00.02. Corridor 2. 3<sup>rd</sup> Street NE to 10<sup>th</sup> Street NE, one (1) city block to the east and west of 5<sup>th</sup> Avenue NE
- 11.00.03. Corridor 3. 6<sup>th</sup> Avenue NE and 6<sup>th</sup> Avenue SE to the East City Limits, one (1) city block to the north and south of 1<sup>st</sup> Street East.
- 11.00.04. Corridor 4. 2<sup>nd</sup> Avenue SW and 2<sup>nd</sup> Avenue NW to the West City Limits, one (1) city block to the north and south of 1<sup>st</sup> Street West.

Section 11.01. PRINCIPAL USES PERMITTED.

Property and buildings in an “R/C-1” Mixed Residential/Commercial District shall be used for the following purposes:

- 11.01.01. Any use permitted in “R-1,” “R-2,” and “R-3” Residential Districts.
- 11.01.02. Any use as described by corridor and use such as the following:
  - Corridor 1(a). Those lots which abut 3<sup>rd</sup> Avenue SE shall be:
  - Corridor 2(a). Those lots which abut 5<sup>th</sup> Avenue NE shall be:
  - Corridor 3(a). Those lots which abut 1<sup>st</sup> Street East shall be:
  - Corridor 4(a). Those lots which abut 1<sup>st</sup> Street West shall be:

1. LOW IMPACT RETAIL BUSINESS SUCH AS THE FOLLOWING:

- Art Shops.
- Barbershops and beauty parlors.
- Book stores.
- Camera stores.

Collection office of public utility.

Dance studios.

Florist shops.

Gift shops.

Music studios.

Photographic studios.

Radio and television sales and repair shops.

Shoe and hat repair shops.

Tailor and dressmaking shops.

2. LOW IMPACT PROFESSIONAL OFFICE SUCH AS THE FOLLOWING:

Legal.

Insurance.

Accounting.

Investment.

Counseling.

Corridor 1(b). Those lots which about 4<sup>th</sup> Avenue SE and 2<sup>nd</sup> Avenue SE shall be:

Corridor 2(b). Those lots which about 4<sup>th</sup> Avenue NE and 6<sup>th</sup> Avenue NE shall be:

Corridor 3(b). Those lots which about 2<sup>nd</sup> Street NE and 2<sup>nd</sup> Street SE shall be:

Corridor 4(b). Those lots which about 2<sup>nd</sup> Street SW and 2<sup>nd</sup> Street NW shall be:

LOW IMPACT PROFESSIONAL OFFICE SUCH AS THE FOLLOWING:

Legal.



Insurance.

Accounting.

Investment.

Counseling.

Corridor 1(c). Those interior lots located on 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Street SE of Corridor #1 shall default to the lot of which it abuts and/or the most restrictive use as described for those lots which abut 2<sup>nd</sup> Avenue and 4<sup>th</sup> Avenue SE.

Corridor 2(c). Those interior lots located on 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> Street NE of Corridor #2, shall default to the lot of which it abuts and/or the most restrictive use as described for those lots which abut 4<sup>th</sup> Avenue NE and 6<sup>th</sup> Avenue NE.

Corridor 3(c). Those interior lots located on 6<sup>th</sup> Avenue NE, 7<sup>th</sup>, 8<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, 17<sup>th</sup> Avenue NE, 6<sup>th</sup> Avenue St, 7<sup>th</sup>, 8<sup>th</sup>, Terrace Drive SE, and 14<sup>th</sup> Avenue SE of Corridor #3, shall default to the lot of which it abuts and/or the most restrictive use as described for those lots which abut 2<sup>nd</sup> Street NE and 2<sup>nd</sup> Street SE.

Corridor 4(c). Those interior lots located on 2<sup>nd</sup> Avenue NW, 3<sup>rd</sup>, 4<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 13<sup>th</sup>, 15<sup>th</sup>, 16<sup>th</sup>, 17<sup>th</sup>, 19<sup>th</sup> Avenue NW, 2<sup>nd</sup> Avenue SW, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 17<sup>th</sup>, 20<sup>th</sup> Avenue SW of Corridor #4, shall default to the lot of which it abuts and/or the most restrictive use as described for those lots which abut 2<sup>nd</sup> Street NW and 2<sup>nd</sup> Street SW.

11.01.03. Accessory uses and buildings which are customarily incidental to the above stated uses.

11.01.04. Any other use determined by the City Council to be of the same general character as the foregoing permitted uses.

#### Section 11.02. USE EXCEPTIONS.

The following uses shall be permitted, subject to review and approval by the Board of Adjustment in accordance with the provisions stated herein:

11.02.01. Apartment above first story level of a store or shop with off-street/on-site parking.

11.02.02. Any other uses deemed appropriate on review and recommendation by the Planning and Zoning Commission, with approval of the City Council, which are of the same general character as the foregoing permitted uses.

ARTICLE XII

“C-1” CENTRAL COMMERCIAL DISTRICT

Section 12.00. GENERAL DESCRIPTION.

The “C-1” Central Commercial District is designed to accommodate the needs of the Central Business District, allowing a wide range of services and goods permitted for consumer daily and occasional shopping and service needs.

Section 12.01. PRINCIPAL USES PERMITTED.

Property and buildings in a “C-1” Central Commercial District shall be used only for the following purposes:

12.01.01. Any use permitted in the “R-3” Multiple Residential District.

12.01.02. Any local business or service establishment such as the following:

Animal Hospital or Veterinary Clinic, provided all phases of the business conducted on the premises be within a building where noises and odors are not evident to adjacent properties.

Antique shops.

Apartments on main floor with a maximum of fifty (50) percent of the total floor area at the back of the building, and a minimum of five hundred (500) sq. ft., also any floor area above the first story of a store or shop, with off-street/on-site parking.

Apparel shops.

Art shops.

Automobile accessory stores.

Bakeries or bakery outlets, retail sales only.

Banks, savings and loan associations, and similar financial institutions.

Barbershops and beauty parlors.

Bicycle shops, sales and repair.

Book stores.

Bowling alleys.

Business offices, professional offices and studios.

Camera stores.

Car wash with truck bay.

Clothes cleaning and laundry pickup stations.

Collection office of public utility.

Consignment and auction sales operations, but excluding the sale of livestock, fish, fowl, or animals of any kind.

Dairy stores.

Dance halls and/or dance studios.

Delicatessens.

Department stores.

Drug stores.

Dry goods stores.

Florist shops.

Furniture stores.

Gas stations/convenience stores.

Gift shops.

Grocery stores, including supermarkets.

Hardware stores.

Hobby shops.

Household appliance, sales and repair.

Jewelry stores and watch repair shops.

Launderettes, coin-operated dry cleaning establishments.

Liquor stores.

Locker plant for storage and retail sales only.

Leather goods store.

Music stores and music studios.

Paint and wallpaper stores.

Pet shops.

Photographic studios, printing and developing establishments.

Physical fitness/health centers.

Plumbing and heating shops.

Post office.

Printing and lithographing shops.

Publishing, broadcasting, and engraving establishments.

Radio and television sales and repair shops.

Restaurants.

Shoe and hat repair shops.

Sporting goods stores.

Tailor and dressmaking shops.

Theaters.

Toy stores.

Upholstering shops.

Variety stores.

Video equipment rental and sales.

12.01.03. Accessory uses and buildings which are customarily incidental to the above stated uses.

12.01.04. Any other use determined by the City Council to be of the same general character as the foregoing permitted uses.

Section 12.02. USE EXCEPTIONS.

The following uses shall be permitted, subject to review and approval by the Board of Adjustment in accordance with the provisions stated herein:

- 12.02.01. Agricultural feed and seed sales, excluding grinding, mixing, and blending.
- 12.02.02. Nurseries.
- 12.02.03. Roadside stands for the sale of fresh fruit, vegetables, nursery stock and plant food.
- 12.02.04. Apartment above first story level of a store or shop with off-street/on-site parking.
- 12.02.05. Any other uses deemed appropriate on review and recommendation by the Planning and Zoning Commission, with approval of the City Council, which are of the same general character as the foregoing permitted uses.

Section 12.03. HEIGHT REGULATIONS.

Shall be those regulations as specified in Section 5.00.

Section 12.04. LOT AREA, FRONTAGE, AND YARD REQUIREMENTS.

Shall be those regulations as specified in Section 5.00.

Section 12.05. OFF-STREET PARKING AREAS AND LOADING REQUIREMENTS.

Shall be those regulations as specified in Section 16.00.

Section 12.06. SIGN REGULATIONS.

Shall be those regulations as specified in Section 17.00.

ARTICLE XIII

“C-2” COMMERCIAL DISTRICT

Section 13.00. GENERAL DESCRIPTION.

The “C-2” Commercial District is intended and designed for business, profession and occupations which are located in areas other than the Central Business District, and require off-street parking areas and loading spaces.

Section 13.01. PRINCIPAL USES PERMITTED.

Property and Buildings in a “C-2” Commercial District shall be used only for the following purposes:

- 13.01.01. Any use permitted in the “C-1” Central Commercial District.
- 13.01.02. Automobiles, trailers, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots).
- 13.01.03. Carpenter and cabinet making shops.
- 13.01.04. Drive-In restaurants.
- 13.01.05. Hotels and motels.
- 13.01.06. Lumber yards.
- 13.01.07. New and used car dealerships.
- 13.01.08. Printing, publishing, and engraving.
- 13.01.09. Rental stores.
- 13.01.10. Restaurants and taverns.
- 13.01.11. Service Station. A setback requirement often ten (10) feet on each side and twenty-five (25) feet in the rear yard required for all service stations in the “C-1” Central Commercial District.
- 13.01.12. Sheet metal shops.
- 13.01.13. Accessory uses and buildings which are customarily incidental to the above stated uses and including temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.

Section 13.02. USE EXCEPTIONS.

The following uses shall be permitted, subject to review and approval of the Board of Adjustment in accordance with the provisions contained herein.

13.02.01. Automobile, trailer, motorcycle, boat and farm implement service and/or repair establishments, including automobile rebuilding so long as said rebuilding occurs within the principal building. A fence shall be required for automobile rebuilding uses, which fence shall be of such material as to obstruct vision into the area, a minimum height of eight (8) feet and a maximum often ten (10) feet, which fence shall not enclose an area in excess of thirty thousand (30,000) square feet. Furthermore, vehicles stored within the fenced area for rebuilding purposes only, shall not be stacked.

The paragraph shall not be construed to include automobile, tractor or machinery wrecking and rebuilding and used parts yards.

13.02.02. Any other uses deemed appropriate on review and recommendation by the Planning and Zoning Commission with approval of the City Council which are of the same general character as the foregoing permitted uses.

Section 13.03. HEIGHT REGULATIONS.

Shall be those regulations as specified in Section 5.00.

Section 13.04. LOT AREA, FRONTAGE, AND YARD REQUIREMENTS.

Shall be those regulations as specified in Section 5.00.

Section 13.05. OFF-STREET PARKING AREAS AND LOADING REQUIREMENTS.

Shall be those regulations as specified in Section 16.00.

Section 13.06. SIGNS.

Shall be those regulations as specified in Section 17.00.



## ARTICLE XIV

### “M-1” LIGHT INDUSTRIAL AND/OR MANUFACTURING DISTRICT

#### Section 14.00. GENERAL DESCRIPTION.

The “M-1” Light Industrial and/or Manufacturing District is intended primarily for the conduct of manufacturing, assembling, and fabrication. It is designed to provide an environment suitable for industrial activities that do not create appreciable nuisances or hazards. The uses permitted in this District make it most desirable that they be separated from residential uses.

#### Section 14.01. PRINCIPAL USES PERMITTED.

Property and buildings in an “M-1” Light Industrial and/or Manufacturing District shall be used only for the following purposes:

- 14.01.01. Any use permitted in “C-2,” except that no occupancy permit shall be issued for any school, hospital, clinic, or other institution for human care, or new dwelling, except where incidental to a permitted use.
- 14.01.02. Contractor’s shop and storage yard enclosed by presentable solid fence eight (8) feet high.
- 14.01.03. Bag, carpet, and rug cleaning; provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.
- 14.01.04. Bakeries, other than those whose products are sold at retail only on the premises.
- 14.01.05. Bottling works.
- 14.01.06. Truck or bus garage and repair shop.
- 14.01.07. Farm implement sales, service, repair and assembly.
- 14.01.08. Freight terminal and grain elevator.
- 14.01.09. Building material sales and storage.
- 14.01.10. Wholesaling and warehousing but not including the bulk storage or hazardous chemicals.
- 14.01.11. Welding shop.
- 14.01.12. Light manufacturing and assembly plants.
- 14.01.13. Sheet metal products manufacture.

Section 14.02. USE EXCEPTIONS.

The following uses shall be permitted, subject to review and approval of the Board of Adjustment in accordance with the provisions contained herein:

- 14.02.01. Animal, poultry and bird raising, commercial.
- 14.02.02. Accessory uses and buildings which are customarily incidental to the above stated permitted uses and including temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
- 14.02.03. Any other uses deemed appropriate on review and recommendation by the Planning and Zoning Commission, with approval of the City Council, which are of the same general character as the foregoing permitted uses.

Section 14.03. HEIGHT REGULATIONS.

Shall be those regulations as specified in Section 5.00.

Section 14.04. LOT AREA, FRONTAGE, AND YARD REQUIREMENTS.

Shall be those regulations as specified in Section 5.00.

Section 14.05. OFF-STREET PARKING AREAS AND LOADING REQUIREMENTS.

Shall be those regulations as specified in Section 16.00.

Section 14.06. SIGN REGULATIONS.

Shall be those regulations as specified in Section 17.00.

ARTICLE XV

“M-2” HEAVY INDUSTRIAL AND/OR MANUFACTURING DISTRICT

Section 15.00. GENERAL DESCRIPTION.

The “M-2” Heavy Industrial and/or Manufacturing District is intended to provide for heavy manufacturing, industrial uses and other uses not otherwise provided for in the Districts established by this Ordinance. The intensity of uses permitted in this District makes it most desirable that they be separated from residential and commercial uses.

Section 15.01. PRINCIPAL USES PERMITTED.

Property and buildings in an “M-2” Heavy Industrial and/or Manufacturing District shall be used only for the following purposes:

- 15.01.01. Any use permitted in the “M-1” Light Industrial and/or Manufacturing District except dwellings, schools, hospitals, clinics, or other institutions for human care.
- 15.01.02. Assembly plant.
- 15.01.03. Trucking, express, hauling or storage yards.
- 15.01.04. Concrete mixing, concrete products manufacture, and asphalt plant.
- 15.01.05. Contractor’s equipment storage yard or plant, or rental of equipment commonly used by contractors, storage and sale of livestock, feed and/or fuel, provided dust is effectively controlled, and storage yards for vehicles of a delivery service.
- 15.01.06. Creamery, cheese processing, bottling works, ice cream manufacturing (wholesale), ice manufacturing and cold storage plant.
- 15.01.07. Enameling, lacquering or varnishing businesses.
- 15.01.08. Foundry casting lightweight nonferrous metals or electric foundry not causing noxious fumes or odors.
- 15.01.09. Junk or Salvage Yards. Junk, iron or rags, storage or baling, where the premises upon which such activities are conducted are wholly enclosed within a building, wall or fence. If a fence is the enclosure, the fence shall be of such material as to obstruct vision into the area, a minimum height of eight (8) feet and a maximum of ten (10) feet.
- 15.01.10. Laboratories – experimental, film or testing.
- 15.01.11. Livery stable or riding academy.

- 15.01.12. Manufacture or assembly of any of the following: musical instruments and novelties, electrical appliances, instruments and devices, pottery, electrical signs, advertising structures, sheet metal products, cosmetics, pharmaceutical, farm products, compounding assembling or treatment of articles or merchandise from previously prepared materials such as bond, cloth, cork, fiber, leather, paper, plastics, metals, or stones, tobacco, wax, yarns and wood, and any other manufacturing not herein stated.
- 15.01.13. Sawmill or planing mill, including manufacture of wood products not involving chemical treatment.
- 15.01.14. No occupancy permit shall be issued for any use in conflict with any Ordinance of the City of Independence or law of the State of Iowa regulating nuisances.

Section 15.02. CONDITIONAL USES.

The following uses may be permitted in the “M-2” Heavy Industrial and/or Manufacturing District subject to approval of the Board of Adjustment after notice and public hearing and report from the Planning and Zoning Commission. In its determination upon a particular use at the location requested, the Board shall consider all of the following conditions:

- 15.02.01. That the proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
- 15.02.02. That such use shall not impair an adequate supply of light and air to surrounding property.
- 15.02.03. That such use shall not unduly increase congestion in the streets, or public danger of fire and safety.
- 15.02.04. That such use shall not diminish or impair established property values in adjoining or surrounding property.
- 15.02.05. That such use shall be in accordance with the intent, purpose, and spirit of this ordinance and the land use policies of the City of Independence.
- 15.02.06. That the best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance, shall be employed.

15.02.07. That all principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least two hundred (200) feet from any "R" District and not less than one hundred (100) feet from any district except a "M-1" Light Industrial and/or Manufacturing District.

The uses subject to the above provisions are as follows:

- (a) Agricultural seed processing, storage, and sales.
- (b) Automobile, tractor, or machinery wrecking and used parts yards.
- (c) Cement, lime gypsum or plaster of paris manufacture.
- (d) Chemical manufacture or wholesale storage of chemicals.
- (e) Explosive manufacture or storage.
- (f) Fertilizer and/or agricultural chemical manufacture, blending, and storage.
- (g) Fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour, and the rendering or refining of fats and oils.
- (h) Garbage, offal or dead animal reduction or dumping.
- (i) Gas manufacture and cylinder recharging.
- (j) Petroleum, flammable liquids, and minerals or their products, exploration, extraction, refining or storage.
- (k) Rubber goods manufacture.
- (l) Slaughter houses and stock yards, distillation of bones, glue, size or gelatin manufacture, hide treatment and storage.
- (m) Smelting of tin, copper, zinc or iron ores.
- (n) Transmitting stations.
- (o) Waste paper yard.

#### Section 15.03. HEIGHT REGULATIONS.

Shall be those regulations as specified in Section 5.00.

Section 15.04. LOT AREA, FRONTAGE, AND YARD REQUIREMENTS.

Shall be those regulations as specified in Section 5.00.

Section 15.05. OFF-STREET PARKING AREAS AND LOADING REGULATIONS.

Shall be those regulations as specified in Section 16.00.

Section 15.06. SIGN REGULATIONS.

Shall be those regulations as specified in Section 17.00.

ARTICLE XVI

SPECIAL PROVISIONS

Section 16.00. OFF-STREET PARKING AREAS AND LOADING SPACES.

16.00.01. Off-Street Loading Spaces. In all Districts, in connection with every building or part thereof hereafter erected which is to be occupied by uses requiring receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained on the same premises with such building the following off-street loading spaces:

<u>Gross Floor Areas (Square Feet)</u>	<u>Spaces Required</u>
0 to 19,999	1
20,000 to 29,999	2
30,000 to 39,999	3
40,000 to 49,999	4

For each additional ten thousand (10,000) square feet in excess of fifty thousand (50,000) square feet, on additional off-street loading space shall be required.

Such spaces may occupy all, or any part of a required rear yard or with authorization of the Board of Adjustment, part of any other yard or court space on the same premises.

16.00.02. Provisions of Off-Street Parking. In all Districts, off-street accessory parking areas, in the open or in a garage, shall be provided in connection with the uses set forth hereinafter and to the extent indicated therewith, in addition to the above required loading and unloading spaces. Such areas, in the case of "A" or "R" Districts, shall be on the premises intended to be served; and in the case of "C-1," "C-2," "M-1," and "M-2" Districts, such areas shall be on the premises intended to be served or on adjoining or nearby property within one hundred (100) feet of any part of said premises and in the same or less restricted district.

16.00.03. Number of Parking Spaces Required. In "C-1," employee parking shall be provided at the rate of one (1) space per employee plus the customer spaces as listed below.

Animal Hospitals and Veterinarian Clinics	1 for each 200 square feet of floor area
Auditoriums, Assembly Halls, Dance Halls, Theaters, Gymnasiums, and Skating Rinks	1 space for each 4 seats or bench seating capacity

Automobile or Farm Implement Sales and Service Garages	1 for each 2 employees
Barber Shops and Beauty Parlors	1 for each chair, plus 1
Boarding, Rooming or Lodging House	1 space for each sleeping room
Bowling Alleys	4 for each lane
Clothing Stores, Grocery Stores, Hardware Stores, Jewelry Stores, Pharmacies	1 for each 200 square feet of floor area
Church or Temple	1 for each 5 seats
Community Center, Library, Museum	11 plus 1 for each 300 square feet in excess of 2,000 square feet of floor area
Dental and Medical Clinics	1 for each 300 square feet of floor area except in "R-2," where 3 plus 1 additional per 400 square feet in excess of 1,000 square feet of floor area
Drive-in Restaurant	3 for each employee on maximum shift
Dwelling	2 for each dwelling unit except for "C-1," where 1 is required per dwelling unit
Financial Institutions, Business Offices, Professional Offices and Studios	3 spaces plus 1 additional parking space for each 400 square feet of floor area over 1,000 square feet
Frozen Food Lockers, Laundries, and Dry-Cleaning	1 for each 300 square feet of floor area



Furniture and Household Appliance Sale and Service Establishments	2 spaces per dwelling unit plus 1 space for each 200 feet of floor area devoted to said home occupation
Hospital	1 space for each 3 beds, plus 1 for each 2 employees
Indoor Theaters	1 for each 4 seats
Industrial and/or Manufacturing	1 space for each 1-1/2 employees on the maximum working shift, plus space to accommodate all trucks and other vehicles used in connection therewith
Mortuary or Funeral Home	1 for each 100 square feet of floor area
Motels and Hotels	1 for each unit or suite plus 1 for each 200 square feet of commercial floor area
Printing, Publishing, Engraving Establishments	1 for each 500 square feet of floor area
Private Club or Lodge	1 space for every 7 memberships
Restaurants, Cafes, Nightclubs	1 for each 100 square feet of floor area
Sanitarium, Nursing, Rest, or Convalescent Home	1 for each 6 beds
Schools and Public Buildings	1 for each classroom or office room plus 1 for each 11 seats in main auditorium, stadium or place of public assembly

Skating Rinks	1 for each 100 square feet of floor area
Warehouse, Storage, and Manufacturing Operations	1 for each 2 employees plus 1 for each vehicle used by the industry
Wholesale Display and Sales Rooms and Offices	1 space for each 2 employees

In the case of any use which is not specifically mentioned herein, the provisions for a similar use mentioned shall apply or see Section 16.00.06.

Whenever a building existing prior to the effective date of this Ordinance is enlarged to the extent of fifty percent or more in floor area, said building or use shall then and thereafter comply with the parking requirements set forth herein.

16.00.04. Definition and Interpretation.

1. Parking Space. Each parking space rectangular in shape shall be not less than ten (10) feet wide and twenty (20) feet long, or not less than two hundred (200) square feet in area exclusive of access drives or aisles.
2. Loading Space. Each loading space shall not be less than ten (10) feet wide, sixty five (65) feet in length and fourteen (14) feet in height, exclusive of access and turning areas.
3. Floor Area. In the case of merchandising or service types of uses, "floor area" shall mean the gross floor area used or intended to be used by tenants, or for service to public or customers, patrons, or clients, but shall not include areas used principally for nonpublic purposes, such as toilets or rest rooms, utilities, or dressing rooms.
4. Benches in Place of Public Assembly. In stadiums, sports arenas, churches, and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under the Ordinance.

16.00.05. Development Standards. Off-street accessory parking areas shall be of usable shape, and shall be improved with a durable and dustless surface and so graded and drained as to dispose of all surface water accumulation within the area. Any lighting used to illuminate such

parking areas shall be arranged as to reflect light away from adjoining premises in any "R" District.

- 16.00.06. Exceptions. The Board of Adjustment may authorize on appeal a modification, reduction or waiver of the foregoing requirements, if it should find that in the particular case the peculiar nature of the use, or other exceptional situation or condition would justify such modification, reduction or waiver.

## ARTICLE XVII

### SIGNS

#### Section 17.00. PURPOSE.

The purpose of this Ordinance is to provide that signs shall be safely constructed and kept in a safe condition, and that signs shall not be located so as to cause a safety hazard.

#### Section 17.01. DEFINITIONS.

For use in this Ordinance, the following terms are defined:

- 17.01.01. The term “sign” shall mean and include every sign, billboard and ground sign and shall include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person when the same is placed out of doors in view of the general public.
- 17.01.02. The term “ground sign” as regulated by this Ordinance shall mean any sign supported by up-rights or braces placed upon the ground and not attached to any building and being used for advertising.
- 17.01.03. The term “illuminated sign” shall mean any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.
- 17.01.04. The term “facing” or “surface” shall mean the surface of the sign upon, against or through which the message is displayed or illustrated on the sign.
- 17.01.05. The term “incombustible material” shall mean any material which will not ignite at or below a temperature of one thousand two hundred (1200) degrees Fahrenheit and will not continue to burn or glow at that temperature.
- 17.01.06. The term “person” shall mean and include any person, firm, partnership, association, corporation, company or organization of any kind.
- 17.01.07. The term “structural trim” shall mean the molding, battens, cappings, nailing strips, latticing and platforms which are attached to the sign structure.
- 17.01.08. The term “street line” shall mean the place where the public sidewalk begins and the private property line ends.

Section 17.02. PERMITS REQUIRED.

It shall be unlawful for any person to erect, repair, alter, relocate or maintain with the city any sign or other advertising structure as defined in this Ordinance, without first obtaining an erection permit from the city building inspector and making payment of the fee required by Section 17.07 hereof. All illuminated signs shall, in addition, be subject to the provisions of the Electrical Code, and the permit fees required thereunder.

Section 17.03. BOND REQUIRED.

Persons erecting signs not exempted by Section 17.09. of this Ordinance, shall be required to post a bond in the amount of five hundred (500) dollars with the Independence City Clerk to assure that the sign is removed when its advertising or other commercial use is abandoned.

Section 17.04. APPLICATION FOR ERECTION PERMIT.

Application for erection permits shall be made upon forms provided by the building inspector, and shall contain or have attached thereto the following information:

- 17.04.01. Name, address and telephone number of the applicant.
- 17.04.02. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.
- 17.04.03. Position of the sign or other advertising structure in relation to nearby buildings or structures.
- 17.04.04. One (1) blueprint or ink drawing of the plans and specifications and method of construction and attachment to the building or in the ground.
- 17.04.05. Copy of stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in the amount required by this Ordinance and all other ordinances of the City.
- 17.04.06. Name of person, fir, corporation or association erecting structure.
- 17.04.07. Written consent of the owner of the building, structure or land on which the structure is to be erected.
- 17.04.08. Any electrical permit required and issued for said sign.
- 17.04.09. Such other information as the city building inspector shall require to show full compliance with this Ordinance and all other ordinances of the city.

Section 17.05. ILLUMINATED SIGNS: APPROVAL BY CITY BUILDING INSPECTOR.

The application for a permit for erection of a sign or other advertising structure in which electrical wiring and connections are to be used shall be submitted to the city building inspector. The city building inspector shall examine the plans and specifications regarding all wiring and connections to, determine if the same complies with the Electrical Code of the City of Independence, Iowa, and he shall approve said permit if the said plans and specifications comply with said Code or disapprove the application if non-compliance with said Code is found.

Section 17.06. PERMIT ISSUED.

It shall be the duty of the city building inspector upon the filing of an application for an erection permit to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear the proposed structure is in compliance with all the requirements of this Ordinance and all other ordinances of the City of Independence, Iowa, the city building inspector shall then issue the erection permit. If the work authorized under an erection permit has not been completed within six (6) months after date of issuance, the said permit shall become null and void.

Section 17.07. PERMIT FEES.

Every applicant, before being granted an erection permit, shall pay to the City Clerk a one (1) time permit fee as prescribed by resolution of the City Council, for each sign or other advertising structure regulated.

Section 17.08. INSPECTION.

The city building inspector shall inspect annually, or at such times as he deems necessary, each sign or other advertising structure regulated by this Ordinance for the purpose of ascertaining whether the same is secure or insecure, and whether it is in need of removal or repair.

No inspection fee other than the permit fee as required in Section 17.07. shall be charged during the calendar year in which the sign or other advertising structure is erected.

Section 17.09. UNSAFE AND UNLAWFUL SIGNS.

If the city building inspector shall find that any sign or other advertising structure regulated hereunder is unsafe or insecure or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this Ordinance, he shall give written notice thereof to the permit holder and owner of the property. Such notice shall include a statement explaining the alleged violations and deficiencies, an order to repair or remove said sign, and an explanation of the consequences of failure to comply with said order. If the permit holder fails to remove or alter said sign so as to comply with the order within ten (10) days after such notice,

said sign or other advertising structure may be removed or altered to comply by the city building inspector at the expense of the permit holder or owner of the property on which it is located. The permit holder may appeal the order of the city building inspector to the council, and, if such an appeal is on file, the ten (10) days compliance period shall be extended until ten (10) days following the council's decision on the matter. If, however, the city building inspector finds that any sign or other advertising structure poses a serious and immediate threat to the health or safety of any person, he may order the removal of such sign summarily and without notice to the permit holder or owner of the property. Such an order may be appealed to the council; and if the council reverses, it shall order restitution at the city's expense.

Section 17.10. PERMIT REVOCATION.

Any permit holder who fails to comply with a valid order of the city building inspector within the allotted time period, or who fails to pay reasonable removal or repair expenses assessed under the preceding section, shall have his permit as to such sign or signs revoked, and another permit for the erection or maintenance of such sign or signs shall not be issued to said permit holder for a period of one (1) year from the date of revocation.

Section 17.11. SIGN MAINTENANCE.

Every sign shall be maintained in a safe, neat, and attractive condition by its owner. The sign supports shall be kept painted/treated to prevent rust, deterioration, rotting, or corrosion.

Section 17.12. WIND PRESSURE AND DEAD LOAD REQUIREMENTS.

All signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than forty (40) pounds per square foot of area; and shall be constructed to receive dead loads as required in the Building Code or other ordinances of the City of Independence, Iowa.

Section 17.13. REMOVAL OF CERTAIN SIGNS.

Any sign now or hereafter existing which no longer advertises a bona fide business conducted or a product sold, shall be taken down and removed by the owner, agent or person having the beneficial use of the property or structure upon which such sign may be found within ten (10) days after written notification from the city building inspector, and, upon failure to comply with such notice within the time specified in such order, the city building inspector is hereby authorized to cause removal of such signs, and any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached.

Section 17.14. EXEMPTIONS.

The provisions and regulations of this Ordinance shall not apply to the following signs, provided, however said signs shall be subject to the provisions of Section 17.09.

- 17.14.01. Real estate signs not exceeding three (3) square feet in area which advertise the sale, rental or lease of the premises upon which said signs are located only.
- 17.14.02. Professional name plates.
- 17.14.03. Signs painted on the exterior surface of a building or structure, provided, however, if said signs have raised borders, letters, characters, decorations or lighting appliances, they shall be subject to the provisions of Section 17.20. and all application provisions of this Ordinance.
- 17.14.04. Signs for public, charitable or religious institutions.
- 17.14.05. Signs denoting the architect, engineer or contractor when placed upon work under construction, and not exceeding sixteen (16) square feet in area.
- 17.14.06. Occupational signs denoting only the name and profession of an occupant in a commercial building, public institutional building or dwelling house.
- 17.14.07. Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.
- 17.14.08. Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary emergency or non-advertising signs as may be approved by the City Council.

**Section 17.15. OBSTRUCTIONS TO DOORS, WINDOWS OR FIRE ESCAPES.**

No sign shall be erected, located or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.

**Section 17.16. SIGNS NOT TO CONSTITUTE TRAFFIC HAZARD.**

No sign or other advertising structure as regulated by this Ordinance shall be erected at the intersection of any streets in such a manner as to obstruct fee and clear vision; or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or devise; or which makes use of the words, "STOP," "LOOK," "DRIVE-IN," "DANGER" or other words, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic. No sign or other advertising structure as regulated by this Ordinance shall have posts, guides or supports located within any street or alley.



Section 17.17. FACE OF SIGN SHALL BE SMOOTH.

All signs or other advertising structures which are constructed on street lines, or within five (5) feet thereof, shall have a smooth surface and no nails, tacks or wires shall be permitted to protrude therefrom, except electrical reflectors and devices which may extend over the top and in front of the advertising structures.

Section 17.18. GOOSE NECK REFLECTORS.

Goose neck reflectors and lights shall be permitted on ground signs, roof signs and wall signs, provided, however, the reflectors shall be provided with the proper glass lenses concentrating the illumination upon the area of the sign as to prevent glare upon the street or adjacent property.

Section 17.19. SPOTLIGHTS AND FLOODLIGHTS PROHIBITED.

It shall be unlawful for any person to maintain any sign which extends over public property which is wholly or partially illuminated by floodlights or spotlights.

Section 17.20. GROUND SIGNS.

17.20.01. Materials required. All ground signs for which a permit is required under this Ordinance shall have a surface or facing of incombustible material, provided, however, that combustible structural trim may be used thereon.

17.20.02. Letters, etc., to be secured. All letters, figures, characters or representatives in cut-out or irregular form, maintained in conjunction with, attached to, or superimposed upon any sign shall be safely and securely built or attached to the sign structure.

17.20.03. Height Limitations. It shall be unlawful to erect any ground sign whose total height is greater than twenty (20) feet above the level of the street upon which the sign faces, or above the adjoining ground level, if such ground level is above street level.

17.20.04. Space between sign and ground and other signs and structures. Ground signs shall have an open space not less than six (6) feet between the base line of said sign and the ground level. This open space may be filled in a platform or decorative lattice work which does not close off more than one-half (1/2) of the square footage of such open space. No ground sign shall be nearer than two (2) feet to any other sign, building or structure.

17.20.05. Set-back line. In all districts, where permitted, ground signs shall be set-back from any proposed or existing right-of-way line of any county road, street or highway as shown on the official adopted street plan, at least as far as the required front yard depth for a principal building in such

districts. Each such ground sign or grouping of ground signs shall be located no closer than one thousand (1,000) feet of one another, regardless of the side of the roadway.

- 17.20.06. Bracing, Anchorage and Supports. All ground signs shall be securely built, constructed and erected upon posts and standards sunk at least three and one-half (3 ½) feet below the natural surface of the ground, and shall be supported and braced by timbers or metal rods in the rear thereof, extending from the top thereof to a point in the ground at least a distance equal to one-half (1/2) the height of such sign, measured along the ground, from the post or standards upon which the same is erected.
- 17.20.07. Supports, etc. to be creosoted. All posts, anchors and bracing of wood shall be treated to protect them from moisture by creosoting or other approved methods when they rest upon or enter into the ground.
- 17.20.08. Premises to be kept free of weeds, etc. All ground signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.
- 17.20.09. All ground signs shall conform to the requirements of Section 17.12. of this Ordinance.

Section 17.21. BUSINESS SIGNS.

- 17.21.01. Signs, any part of which project out from the building from four (4) to eighteen (18) inches shall be erected so that no portion of the sign is less than eight (8) feet above grade.
- 17.21.02. Signs which project more than eighteen (18) inches from the building must be at least twelve (12) feet above grade and may extend a maximum of eight (8) feet.
- 17.21.03. Moving, flashing, rotating, illuminated signs or colored lights that may be confused with traffic lights and therefore be potentially hazardous, are not permitted.
- 17.21.04. Free standing commercial or industrial signs shall not project over the public right-of-way.
- 17.21.05. Signs shall be structurally safe and in good repair as determined by the Administrative Officer, including signs connected to a building façade.
- 17.21.06. One (1) temporary on-site sign, not illuminated and not exceeding four (4) square feet in size advertising the sale or rental of the property may be placed in a required front yard without a permit. Any sign

advertising the sale or rental of property exceeding four (4) square feet in size is required to have a permit.

Section 17.22. YARD SIGNS.

- 17.22.01. Real Estate Signs shall not be placed in the City right-of-way.
- 17.22.02. Real Estate Open House Directional Signs shall be limited to a maximum placement of three (3) days.
- 17.22.03. Garage/Yard Sale Signs shall not exceed three (3) square feet in area.
- 17.22.04. Garage/Yard Sale Signs shall not be placed in the City right-of-way.
- 17.22.05. Garage/Yard Sale Signs shall be limited to a maximum placement of three (3) days.

Section 17.23. PLANNING AND ZONING COMMISSION AND CITY COUNCIL APPROVAL REQUIRED.

No signs, as permitted by this Ordinance, shall be erected without prior recommendation being obtained from the Planning and Zoning Commission and approval granted by resolution of the City Council.

Section 17.24. COMPLIANCE WITH ALL STATE AND FEDERAL REGULATIONS.

Any signs erected under the provisions of this Ordinance, shall comply in all respects with all pertinent State and Federal regulations.

Section 17.25. PROHIBITIONS ON CORNER LOTS.

No outdoor advertising sign or billboard shall be permitted within a corner lot when the sides are formed by the lines of streets intersecting at an angle of less than sixty (60) degrees and a line joining points on such lines one hundred fifty (150) feet distance from their point of intersection.

Section 17.26. LOCATION OF SIGNS WITHIN RESIDENCE DISTRICTS PROHIBITED.

No outdoor advertising sign shall be permitted where the majority of buildings in a block are exclusively residences on both sides of the street.

Section 17.27. SCENIC AREAS.

No signs shall be erected in any areas designated by the Independence City Council as scenic areas. Scenic areas shall be designated by resolution.

ARTICLE XVIII

PLANNED UNIT DEVELOPMENTS

Section 18.00. PURPOSE.

Any such development shall promote to the extent possible and without adversely affecting adjacent property:

- 18.00.01. A maximum choice in the types of environment available to the public by allowing a development which would not be possible under the strict application of the provisions of Article VII.
- 18.00.02. The permanent preservation of open areas and recreational facilities.
- 18.00.03. A creative approach to the use of land and related physical facilities which results in better development, design, and construction.
- 18.00.04. A development which is consistent with the spirit and intent of the City's comprehensive plan.
- 18.00.05. The efficient use of land resulting in more economic networks of utilities, streets, and other facilities.
- 18.00.06. A use of land which promotes the health, safety, comfort, morals, and welfare of the public.

Section 18.01. REDUCTION OF OTHER STANDARDS.

The foregoing shall not be interpreted to permit the reduction of other standards set forth in Section 19.00.03. and Section 19.00.04.

Section 18.02. PERMITTED USES.

The permitted uses within any such development shall be limited to the following:

- 18.02.01. Single family, two-family, townhouse, row house and multiple-family residential.
- 18.02.02. Parks and playgrounds.
- 18.02.03. Customary accessory or associated uses, such as private garages storage spaces and recreational and community facilities.

Section 18.03. DENSITY.

The maximum residential density within any such development shall be as follows:

<u>Type of Development</u>	<u>Maximum Density</u>
Single Family Dwellings	7 units or 18 bedrooms per acre
Two-Family Dwellings	8 units or 20 bedrooms per acre
Townhouse Dwellings	9 units or 22 bedrooms per acre
Row House Dwellings	11 units or 25 bedrooms per acre
Multifamily Dwellings	12 units or 30 bedrooms per acre

Section 18.04. YARD REQUIREMENTS.

The minimum yard requirements within any such development shall be as follows:

<u>Type of Development</u>	<u>Front</u>	<u>Rear</u>	<u>Side</u>
Single Family Dwelling	25	25	8
Two-Family Dwelling	25	25	8
Townhouse Dwellings	25	35	11
Row House Dwellings	25	35	12
Multifamily Dwellings	30	35	12

Provided that nothing herein contained shall reduce the yard abutting upon any public street to less than twenty-five (25) feet.

Section 18.05. HEIGHT REQUIREMENTS.

The maximum height of any structure within any such development shall not exceed thirty (30) feet. (See Table 1.)

Section 18.06. FLOOR AREA REQUIREMENTS.

The minimum floor area of any dwelling unit within any such development shall be those established by Section 5.00. (See Table 1.)

Section 18.07. PARKING.

The off-street parking within any such development shall be fixed by the Planning and Zoning Commission and the City Council at not less than five hundred (500) square feet nor more than eight hundred (800) square feet for each dwelling unit, exclusive of access drive or aisles.

Section 18.08. SIGNS.

Signs within any such development shall be restricted to those signs permitted by Article XVII.

Section 18.09. IMPROVEMENTS.

All improvements within any such development, including street pavement, the sidewalks and the electric, sewer, water and gas lines and mains, shall be built to the design standards of the City.

Section 18.10. SUBDIVIDE INTO THREE (3) OR MORE LOTS.

If any such development is to be subdivided into three (3) or more lots, then the development shall be subdivided in accordance with the applicable ordinance of the City, provided that the Planning and Zoning Commission and the City Council may:

18.10.01. Reduce the width of any street right-of-way to not less than forty (40) feet.

18.10.02. Reduce the size of any lot to not less than eight thousand (8,000) square feet.

Section 18.11. SITE DEVELOPMENT PLAN.

The petition for use exception pursuant to the provisions of this subsection shall include a site development plan.

Section 18.12. REVIEW BY PLANNING AND ZONING COMMISSION.

Prior to the granting of use exception pursuant to this subsection, the Board of Adjustment shall refer the petition for the use exception and all supporting documents to the Planning and Zoning Commission for its review and recommendation.

Section 18.13. FINDINGS OF FACT.

Any decision of the Board of Adjustment relative to the development shall include, but not by limitation, findings of fact on the following:

18.13.01. The extent to which the development is consistent with the purposes of planned unit developments as set forth in this Section.

- 18.13.02. The extent to which the development meets the requirements and standards of planned unit developments as set forth in this Section.
- 18.13.03. The manner in which the development conforms with the intent and spirit of the City's comprehensive plan.
- 18.13.04. The reasons why the granting of the use exception is deemed to be in the public interest.
- 18.13.05. The relationship and compatibility of the development to the adjacent properties and neighborhood.
- 18.13.06. The desirability of the development as it relates to the well-being of the City.

Section 18.14. CONDITIONS.

Any use exception granted pursuant to this section shall be expressly subject to such conditions as may be necessary to fully carry out the intents and purposes of this Section, the City's Comprehensive Plan and the Zoning Ordinance of the City.

Section 18.15. SUPPORTING DOCUMENTS AND CONDITIONS.

The petition for the use exception and all supporting documents and the conditions to which the use exception is subject, shall be binding upon the titleholders and upon their successors in interest, and shall limit and control the use of the development and the location of buildings and structures within the development as therein set forth.

Section 18.16. CONFORMANCE TO PETITION.

Upon the granting of a use exception pursuant to this subsection, the Zoning Administrator shall issue building permits for construction within the development, provided that the application for such permits conforms to the petition for the use exception and all supporting documents and the conditions to which the use exception is subject.

ARTICLE XIX

NONCONFORMING BUILDINGS, STRUCTURES, AND USES OF LAND

Section 19.00. NONCONFORMING BUILDINGS AND STRUCTURES.

- 19.00.01. General. A nonconforming building or structure existing at the time of adoption of this Ordinance may be continued, maintained, and repaired, except as otherwise provided in this Section. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe.
- 19.00.02. Alteration or Enlargement of Building and Structures. A nonconforming building or structure shall not be added to or enlarged in any manner unless said building or structure including additions and enlargements, is made to conform to all the regulations of the District in which it is located; provided, however, that if a building or structure is conforming as to its use, but nonconforming as to yards or height or off-street parking space, said building or structure may be enlarged or added to, provided that the enlargement or addition complies with the yard and height and off-street parking requirements of the District in which said building or structure is located. No nonconforming building or structure shall be moved in whole, or in part to another location on the lot unless every portion of said building or structure is made to conform to all of the District in which it is located.
- 19.00.03. Building Vacancy. A building or structure or portion thereof, which is nonconforming as to use, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one (1) year shall not thereafter be occupied except by a use which conforms to the use regulations of the District in which it is located.
- 19.00.04. Destruction of Nonconforming Building or Structure. Any nonconforming building or structure which has been or may be damaged by fire, flood, explosions, earthquake, war, riot or any other act of God, may be reconstructed and used as before if it's done within one (1) year of such calamity, unless damaged more than fifty (50) percent of its fair market value, as determined by the Board of Adjustment, at the time of the damage, in which case reconstruction shall be in accordance with the provisions of this Ordinance.



19.00.05. Change of Uses. A nonconforming use of a conforming building or structure may be expanded or extended into any other portion of the structure provided the structure was manifestly arranged or designed for such use at the time of adoption or amendment of the Ordinance, but no such use shall be extended to occupy any land outside such building.

If such a nonconforming use, or a portion thereof, is discontinued or changed to a conforming use, any future use of such building, structure or portion thereof shall be in conformity with the regulations of the district in which such building or structure is located. A vacant or partially vacant conforming building or structure may be occupied by a use for which the building or structure was designed or intended if occupied within a period of one (1) year after the effective date of this Ordinance, but otherwise it shall be used in conformity with the regulations of the district in which it is located. The use of a nonconforming building or structure may be changed to a use of the same or a more restricted district classification; but where the use of a nonconforming building or structure is changed to a use of a more restricted district classification, it thereafter shall not be changed to a use of a less restricted district classification; provided, however, that a building or structure that is nonconforming at the time of adoption of this Ordinance is not in violation. For the purpose of this subsection only, the "R-1" District shall be considered the most restrictive and the "M-2" District the least restrictive District.

Section 19.01. NONCONFORMING USES OF LAND.

A nonconforming use of land, where the aggregate value of all permanent buildings or structures is less than five hundred (500) dollars, existing at the time of adoption of this Ordinance, may be continued for a period of not more than three (3) years there from provided that:

- 19.01.01. Said nonconforming use may not be extended or expanded, nor shall it occupy more area than was in use on the effective date of this Ordinance.
- 19.01.02. If said nonconforming use or any portion thereof is discontinued for a period of one (1) year, or changed, or any future use of such land, or change I use, shall be in conformity with the provisions of the District in which said land is located.

ARTICLE XX

ADDITIONAL REQUIREMENTS, EXCEPTIONS, MODIFICATIONS AND INTERPRETATIONS

Section 20.00. GENERAL.

The requirements and regulations specified elsewhere in this Ordinance shall be subject to Additional Requirements, Exceptions, Modifications, and Interpretations contained in this Article.

Section 20.01. HEIGHT AND SIZE LIMITS.

Height limitations stipulated elsewhere in this Ordinance shall not apply in the following situations:

20.01.01. To barns, silos, or other farm buildings or structures on farms provided these are not less than fifty (50) feet from every lot line; to church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, masts, and aerials; to parapet walls extending not more than four (4) feet above the limiting height of the building. However, if in the opinion of Zoning Administrator, such structure would adversely affect adjoining or adjacent properties, such greater height shall not be authorized except by the Board of Adjustment.

20.01.02. To bulkheads, conveyors, derricks, elevator penthouses, water tanks, monitors and scenery lofts; to monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height than specified, such may be authorized by the Board of Adjustment.

Section 20.02. FRONT YARD EXCEPTIONS AND MODIFICATIONS.

20.02.01. Front yard requirements do not apply to bay windows or balconies that do not project more than two (2) feet into the front yard.

20.02.02. In any District where the average depth of two (2) or more existing front yards on lots within one hundred (100) feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed, front yards may be varied. The depth of the front yard on such lot shall not be less than the average depth of said existing front yards or the average depth of the two (2) lots immediately adjoining or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of the front yard on a lot in any "R" District shall be at least twenty-five (25) feet.

- 20.02.03. For the purpose of determining lot width, that portion of a flag lot used for ingress and egress shall not be included as a part of the required front yard.

Section 20.03. SIDE YARD EXCEPTIONS AND MODIFICATIONS.

- 20.03.01. Along any district boundary line, any abutting side yard on a lot in the less restricted District shall have at least width equal to that required in the more restricted district. Where a lot in an "M" District abuts a lot in an "R" District, the side yard shall be increased by three (3) feet for each story that the building proposed on such lot exceeds the height limit of the said "R" District.
- 20.03.02. On a corner lot the least width of a side yard along the side street lot line shall be equal to the required front yard along the side street. No part of any accessory building shall be nearer a side street lot line than the least depth on any front yard required along such side street.
- 20.03.03. The following projections or structures may be permitted in side yards:
- (a) Accessory buildings or structures subject to the provisions contained elsewhere in this Ordinance.
  - (b) Fences or walls not over six (6) feet above the average natural grade.
  - (c) Fire escapes, three (3) feet from side lot line. Bays and balconies not more than three (3) feet from the building, provided these projections are entirely within planes drawn from either main corner of the side wall. The sum of the lengths of such projection shall not exceed one-third (1/3) of the length of the wall of the main building.
  - (d) Chimneys, flues, belt courses, leaders, sills, pilasters, and lintels, ornamental features, cornices, gutters and the like into or over a required side yard not more than one and one-half (1-1/2) feet.
  - (e) Terraces, steps, uncovered porches, stoops or similar features, not higher than the elevation of the ground story of the building and distant three (3) feet from the side lot line.

Section 20.04. REAR YARD EXCEPTIONS AND MODIFICATIONS.

The following projections or structures may be permitted in rear yards:

- 20.04.01. Accessory buildings or structures subject to the provisions contained elsewhere in this Ordinance.

- 20.04.02. Fences or walls, not over six (6) foot, six (6) inches above the average natural grade.
- 20.04.03. Fire escapes, six (6) feet, bays and balconies, not more than three (3) feet provided these projections are entirely within planes drawn from either main corner of the rear wall, making an interior angle twenty-two and one-half (22-1/2) degrees in the horizontal plane with the rear wall. The sum of the lengths of such projections shall not exceed one-half (1/2) of the width of the rear wall.
- 20.04.04. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, and the like, into or over a required rear yard not more than one and one-half (1-1/2) feet.
- 20.04.05. Terraces, steps, uncovered porches, or similar features not more than ten (10) feet into a required rear yard, nor closer than six (6) feet of an alley or within ten (10) feet of a rear lot line.
- 20.04.06. Swimming pools.

## ARTICLE XXI

### ADMINISTRATION AND ENFORCEMENT

#### Section 21.00. ORGANIZATION.

The administration of this Ordinance is vested in the following four (4) offices of the government of the City of Independence: City Council, Planning and Zoning Commission, Board of Adjustment, and Zoning Administrator.

#### Section 21.01. BASIS OF REGULATIONS.

Regulations are made in accordance with the Comprehensive Plan and designed to preserve the availability of agricultural land to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water sewerage, schools, parks, and other public requirements.

#### Section 21.02. MAYOR AND CITY COUNCIL.

21.02.01. Jurisdiction. The Mayor and City Council of the City of Independence, Iowa, shall discharge the following duties under this Ordinance.

- (a) Appoint a Zoning Administrator whose responsibilities it will be to enforce the provisions of this Ordinance.
- (b) Appoint members of the Board of Adjustment as provided for in this Ordinance.
- (c) Appoint members to the Planning and Zoning Commission as provided for in this Ordinance.
- (d) Receive and decide upon all recommendations concerning amendments, supplements, and changes presented by the Planning and Zoning Commission.
- (e) Receive from the Planning and Zoning Commission all recommendations on the effectiveness of this Ordinance.
- (f) To decide all matters upon which it is required to pass under this Ordinance.

Section 21.03. BOARD OF ADJUSTMENT.

- 21.03.01. Creation. The Board of Adjustment, as established under applicable provisions of the Iowa State Statutes, is the Board of Adjustment referred to in this Ordinance.
- 21.03.02. Appointment-Terms-Removal. The board shall consist of five (5) members to be appointed by the City Council for a term of five (5) years excepting that when the board shall first be created one (1) member shall be appointed for a term of five (5) years, one (1) for a term of four (4) years, one (1) for a term of three (3) years, one (1) for a term of two (2) years, and one (1) for a term of one (1) year. A majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by the City Council for the unexpired term of the member affected.
- 21.03.03. Powers and Duties. The Board of Adjustment is hereby vested with the following powers and duties:
- (a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.
  - (b) To hear and pass on all applications for special exceptions in the manner prescribed in this Ordinance.
  - (c) To hear and pass on all applications for variances from the terms provided in the Ordinance in the manner prescribed and subject to the standards herein.
- 21.03.04. Meetings and Rules. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this article. Meetings shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson, or in his/her absence, the acting chairperson may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, of if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the Zoning Administrator. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the

Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this title, or to affect any variation of this title.

- 21.03.05. Finality of Decisions of the Board of Adjustment. All decisions and findings of the Board of Adjustment on appeals applications for a variance, or application for a special exception, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to judicial review as by law may be provided.

Section 21.04. PLANNING AND ZONING COMMISSION.

- 21.04.01. Creation. The Planning and Zoning Commission of the City of Independence, as established under the applicable provisions of the Iowa State Statutes, is the Planning and Zoning Commission referred to in this Ordinance.

- 21.04.02. Membership. Said Planning and Zoning Commission shall consist of seven (7) members, citizens of the City of Independence, Iowa, and qualified by knowledge or experience to act in matters pertaining to the development of a city plan and who shall not hold any elective office in the municipal government, shall be appointed by the Mayor, subject to the approval of the City Council. Of the seven (7) members, two (2) shall server for a period of one (1) year, two (2) shall serve for a period of two (2) years, one (1) for a period of three (3) years, one (1) for a period of four (4) years, and one (1) for a period of five (5) years. Vacancies shall be filled by appointments for unexpired terms only. All members of the Commission shall serve without compensation except for actual expenses, which shall be subject to the approval of the City Council.

Immediately following their appointment, the members of the Planning and Zoning Commission shall meet, organize, elect such officers as it may deem necessary, and adopt and later change or alter, rules and regulations of organization and procedure consistent with City Ordinances and state laws. The Commission shall keep written records of its proceedings which shall be open at all times to public inspection. The Commission shall also file an annual report to the Mayor and City Council setting forth its transactions and recommendations.

- 21.04.03. Powers and Duties. The Planning and Zoning Commission shall hold the following powers and discharge the following duties under this Ordinance:

- (a) Make such surveys, studies, maps, plans, or charts of the whole of the municipality or any land outside thereof, which in the opinion of the Commission bears relation to the Comprehensive

Plan and shall bring to the attention of the Council, and may publish its studies and recommendations.

- (b) Review all public improvement plans. No such improvements shall be made, site obtained, nor permit issued until the design and proposed location of any such improvement has been submitted to the Planning and Zoning Commission and its recommendations obtained. Should the Commission fail to make recommendations within thirty (30) days' written notice, these requirements shall not act as a stay upon action for any improvement.
- (c) Review all plans, plats, or replats or subdivision or resubdivision of land embraced in the municipality or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions intended for public dedication to the municipality.
- (d) Make careful and comprehensive studies of present conditions and future growth of the municipality with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the municipality and its environment which will promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.
- (e) Hold at least one (1) public hearing before the adoption of any such Comprehensive Plan, notice of which shall be given by local newspaper not less than seven (7) nor more than twenty (20) days before the date of the hearing. The adoption of the plan shall be by resolution of the Commission carried by the affirmative vote of a simple majority of the members.
- (f) Consider any proposed amendments or modifications of the adopted Comprehensive Plan. If the Planning and Zoning Commission disapproves the proposed change, it may be adopted by the Council only by the affirmative vote of at least three-fourths (3/4) of the Council Members.
- (g) Recommend to the City Council changes in the zoning regulations or districts. (See Appendix 1.)
- (h) File recommendations, within thirty (30) days, in connection with any proposed changes in the zoning regulations or districts made by the City Council.



- (i) Expend all sums of money appropriated, and expend all gifts, donations or payments received by the city for city plan purposes.
- (j) Contract debts within the limits of income for the present year.

Section 21.05. ZONING ADMINISTRATOR.

21.05.01. Designation of Zoning Administrator. The Zoning Administrator shall be designated by the Mayor and the City Council.

21.05.02. Powers and Duties of the Zoning Administrator. The Zoning Administrator shall enforce this Ordinance and in addition thereto and in furtherance of said authority, shall:

- (a) Issue all zoning permits and collect any fees.
- (b) Process all applications for variances, special exceptions, and rezoning for referral to the Board of Adjustment.
- (c) Respond to complaints of alleged violations to the Ordinance.
- (d) Provide and maintain a public information service relative to all matters arising out of this Ordinance.
- (e) Provide proper forms to the public for the zoning process.
- (f) Review site plans for conformance with the Ordinance.
- (g) Carry out the administrative duties for both the Planning and Zoning Commission and the Board of Adjustment.

Section 21.06. SECRETARY OF THE PLANNING AND ZONING COMMISSION AND BOARD OF ADJUSTMENT.

21.06.01. Jurisdiction. The Secretary of the Planning and zoning Commission and the Secretary of the Board of Adjustment shall be elected by the members of the Commission and the Board.

- (a) The Secretary of the Planning and Zoning Commission shall attend all meetings of the Commission, take full and accurate minutes of the proceedings, prepare all necessary reports and documents for and on behalf of the Commission and perform such duties and functions as may be necessary for the orderly recording of the business of the Commission.
- (b) The Secretary of the Board of Adjustment shall attend all meetings of the Board, take full and accurate minutes, prepare

all necessary reports and documents for and on behalf of the Board, and perform such other duties and functions as may be necessary for the orderly recording of the business of the Board.

Section 21.07. VARIANCES.

- 21.07.01. Purpose and Findings of Fact. The Board of Adjustment, after a public hearing, may determine and vary the regulations of this Ordinance in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Adjustment makes written findings of fact in accordance with the standards hereinafter prescribed and further, finds that there are no practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Ordinance.
- 21.07.02. Application for Variance. An application for a variance shall be filed in writing with the Zoning Administrator. Said application shall contain such information as the Board of Adjustment may, by rules, require.
- 21.07.03. Standards for Variance. The Board of Adjustment shall not vary the regulations of this Ordinance, as authorized in this Section, unless there is evidence presented to it in each specific case that:
- (a) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  - (b) Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  - (c) Special conditions and circumstances do not result from the actions of the applicant.
  - (d) Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
- 21.07.04. Further Requirements.
- (a) The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

- (b) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- (c) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this title and punishable under Article XXIII.
- (d) Under no circumstances shall the Board of Adjustment grant a variance to allow for use not permissible under the terms of this Ordinance in the District involved, or any use expressly or by implication prohibited by the terms of this Ordinance in the District.
- (e) If a variance is sought to permit building within four (4) feet or less of a property line, the request must be accompanied by a plat prepared by a registered Iowa land surveyor.

Section 21.08. APPEALS.

Any person or persons, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the state and particularly by the Code of Iowa.

Section 21.09. USE EXCEPTION AND OTHER POWERS OF THE BOARD OF ADJUSTMENT.

21.09.01. Use Exception.

- (a) Purpose. The development and administration of this Ordinance is based upon the division of the City into Zoning Districts, within which Districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular District or Districts, without consideration in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular locations. Such use exceptions fall into two categories:
  1. Uses publicly operated or traditionally affected with a public interest; and

2. Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- (b) Initiation of Use Exceptions. Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of any exclusive possessory interest, either of which is specifically enforceable, may file an application to use such land for one (1) or more of the special exceptions provided for in this Ordinance in the zoning district in which the land is located.
  - (c) Application for Special Exception. An application for a special exception shall be filed with the Zoning Administrator on a form as the Zoning Administrator shall prescribe. The application shall be accompanied by such plans and/or data prescribed by the Board of Adjustment and shall include a statement indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.
  - (d) Hearing on Application. Upon receipt in proper form of the Application and Statement referred to in Section 21.09.01(c), the Board of Adjustment shall hold at least one (1) public hearing on the proposed special exception. Notice of time and place of such hearing shall be published not less than seven (7) days, no more than twenty (20) days, in advance of the public hearing in a newspaper of general circulation in the City of Independence. Before an appeal is filed with the Board of Adjustment, the appellant shall pay to the City of Independence a fee as prescribed by resolution of the City Council to cover the publishing and administration costs of said appeal.
  - (e) Authorization. For each application for a special exception the Zoning Administrator shall prepare and file with the Board of Adjustment, findings and recommendations, including the recommended stipulations of additional conditions and guarantees that are deemed necessary for the protection of the public interest.
  - (f) Standards. No special exception shall be granted by the Board of Adjustment unless such Board shall find:

1. That the establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
2. That the special exception will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish and impair property values within the neighborhood;
3. That the establishment of special exceptions will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
4. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
6. That the special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment.

(g) Conditions and Guarantees. Prior to the granting of any special use, the Board of Adjustment shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the Standards and requirements specified in Subsection (f) above. In all cases in which special exceptions are granted, the Board of Adjustment shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

(h) Denial and Revocation of Special Exception.

1. Denial of Special Exception. No application for a special exception that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Adjustment.

2. Revocation of Special Exception. In any case where special exception has not been established within one (1) year after the date of granting thereof, the, without further action by the Board of Adjustment, the use on review or authorization shall be null and void.
- (i) Other Powers of the Board of Adjustment. The Board of Adjustment is hereby vested with the following additional authority and jurisdiction:
1. Interpretation of District Map. Where the application of the rules for interpretation of district boundaries contained in Section 2.01. leaves a reasonable doubt to the boundary between two (2) Zoning Districts, the Board of Adjustment after notice to the owners of the property and after public hearing, shall interpret the Map in such a way as to carry out the intent and purposes of this Ordinance.
  2. Temporary Uses and Permits. The Board of Adjustment may issue a permit for the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this Ordinance, provided that such use of a true temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than a twelve (12) month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

#### Section 21.10. AMENDMENTS.

- 21.10.01. Procedure. The regulations, restrictions, and boundaries may from time to time, be amended, supplemented, changed, modified, or repealed, but no such amendments shall be made without public hearing before the Council and after a report has been made upon the amendment by the Planning and Zoning Commission. However, the regulation, restriction, or boundary shall not become effective until after a public hearing at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published not less than seven (7) days nor more than twenty (20) days in advance of the public hearing in a newspaper of general local circulation, but in no case shall the public hearing be held earlier than the next regularly scheduled city council meeting following the published notice. In case the Planning and Zoning Commission does not approve the change, or, in the case of a protest filed with the City Council against such change signed by the owner of twenty (20) percent

or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one (1) lot or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto, extending the depth of one (1) lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all members of the City Council. As part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the City Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of that hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change in zoning district.

21.10.02. Rezoning Applications. An application for rezoning shall contain the following items:

- (a) The legal description and local address of the property.
- (b) The present zoning classification and the zoning classification requested for the property.
- (c) The existing use and proposed use of the property.
- (d) The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.
- (e) A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
- (f) A plat showing the locations, dimensions, and use of the applicant's property and all property within two hundred (200) feet thereof, including streets, alleys, railroads, and other physical features.

21.10.03. Fee. Before any action is taken upon an application as provided in this section, the applicant shall pay the Zoning Administrator a fee as prescribed by resolution of the City Council, to cover the approximate cost of the procedure and she/he shall forthwith pay over in this amount to the credit of the general revenue fund of the City. The failure to approve the change will not be construed as any reason for refunding the fee to the applicant.

ARTICLE XXII

BUILDING CONSTRUCTION, CERTIFICATES, FEES

Section 22.00. BUILDING CONSTRUCTION.

No buildings shall hereafter be erected, reconstructed, or structurally altered, nor shall any work be started upon buildings, until a construction permit for the work has been issued by the Zoning Administrator, which permit shall state that the proposed building complies with all provisions of this Ordinance.

Section 22.01. CERTIFICATE OF OCCUPANCY.

No change in the use or occupancy of land, nor any change in use or occupancy in an existing building other than for single family dwelling purposes, shall be made, nor shall any new building be occupied for any purpose other than a single family dwelling or a farming use, until a certificate of occupancy has been issued by the Zoning Administrator. Every certificate of occupancy shall state that the new occupancy complies with the provisions of this Ordinance.

Section 22.02. FEES.

The Zoning Administrator is instructed to issue permits, under this Ordinance, for the construction, reconstruction or alteration of buildings and charge a fee therefore in the following sums:

- 22.02.01. Fee structure for building permits shall be as established by resolution of the City Council.
- 22.02.02. Permit fees for U.S. Government or any political subdivision thereof; the State of Iowa or any political subdivision thereof; or any religious group for the construction of a church or parochial school, may be waived by the City Council.



ARTICLE XXIII

VIOLATIONS AND LEGAL STATUS PROVISIONS

Section 23.00. NOTICE TO VIOLATORS.

If the Zoning Administrator finds that any provision of this Ordinance is being violated, she/he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. She/he shall order discontinuance of any illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation or its provisions.

Section 23.01. RESPONSIBILITY.

The owners, or tenants of any building, structure, land or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.

Section 23.02. CITY REMEDIES.

If 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 may, in addition to other remedies, institute injunction, mandamus, or other appropriate lawful action necessary to prevent, correct, or abate such violation.

Section 23.03. REPEALER.

All ordinances and resolutions or any part thereof in conflict with all or any part of this Ordinance are hereby repealed.

Section 23.04. SEVERABILITY.

If any section or part thereof of this Ordinance shall be held to be unconstitutional by a court of competent jurisdiction, the remainder of the provisions herein shall be deemed to continue in full force and effect.

Section 23.05. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force from and after its final passage, approval and publication as provided by law.

## ARTICLE XXIV

### MUNICIPAL INFRACTIONS

#### Section 24.00. DEFINITIONS.

For use in this chapter the following terms are defined:

- 24.00.01. “Municipal Infraction” means, except for 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, the commission of any act prohibited or declared to be unlawful, an offense or a misdemeanor by this Code of Ordinances, or any ordinance or code herein adopted by reference, or the omission or failure to perform any act or duty required by this Code of Ordinances or any ordinance or code herein adopted by reference, and is punishable by civil penalty as provided herein. (Code of Iowa, Sec. 364.22 [2 and 3])
- 24.00.02. “Repeat Offense” means a recurring violation of the same section of this Code of Ordinances.

#### Section 24.01. VIOLATIONS, PENALTIES, AND ALTERNATIVE RELIEF.

A municipal infraction is punishable by a civil penalty as provided in this section, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in the Code.

- 24.01.01. Schedule of Civil Penalties. The standard civil penalty for each offense shall be as prescribed in Section 4.03. of the City of Independence Code of Ordinances.
- 24.01.02. Repeat Offenses. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense. (Code of Iowa, Sec. 364.22 [1])
- 24.01.03. Alternative Relief. Seeking a civil penalty as authorized in this chapter does not preclude a city from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief. (Code of Iowa, Sec. 364.22 [8])

#### Section 24.02. CIVIL CITATIONS.

An officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in rule of civil procedure 56.1, by certified mail addressed to the defendant at defendant’s last known mailing address, return receipt requested,

or by publication in the manner as provided in rule of civil procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information: (Code of Iowa, Sec. 364.22 [4])

- 24.02.01. The name and address of the defendant.
- 24.02.02. The name or description of the infraction attested to by the officer issuing the citation.
- 24.02.03. The location and time of the infraction.
- 24.02.04. The amount of civil penalty to be assessed or the alternative relief sought, or both.
- 24.02.05. The manner, location, and time in which the penalty may be paid.
- 24.02.06. The time and place of court appearance.
- 24.02.07. The penalty for failure to appear in court.

Section 24.03. CRIMINAL PENALTIES.

This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means. (Code of Iowa, Sec. 364.22 [11])

Figure 1

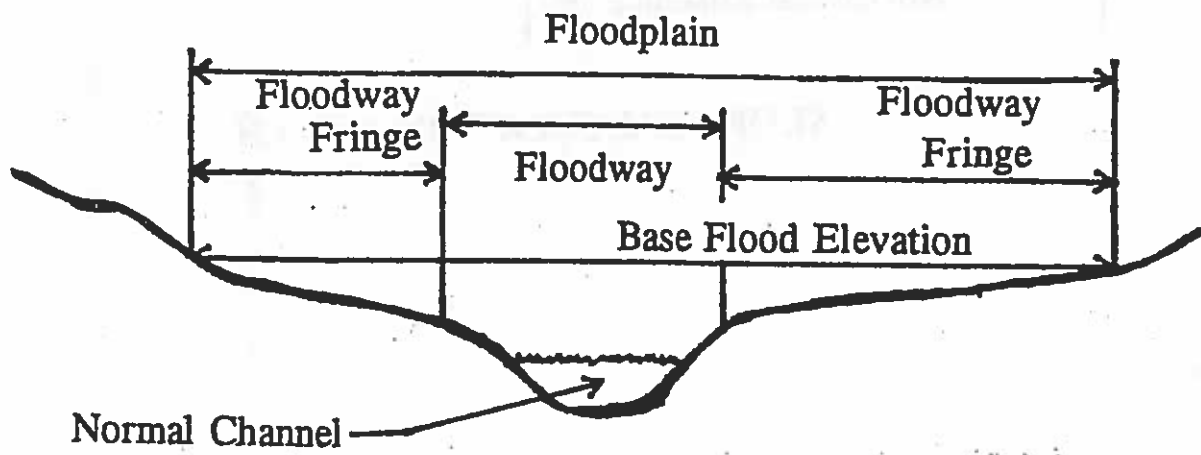


Figure 2

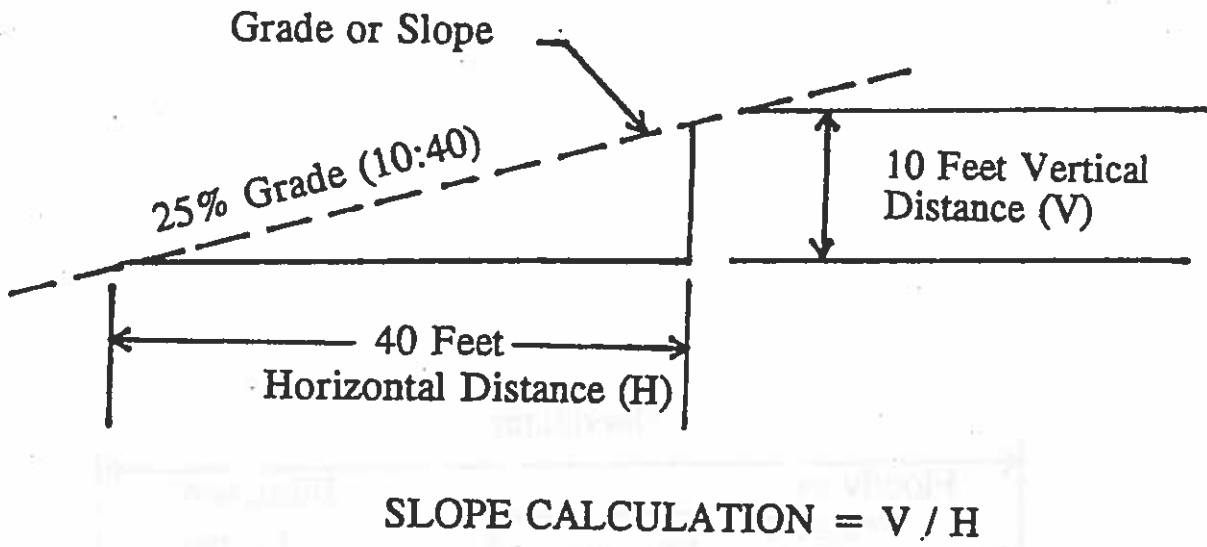


Figure 3

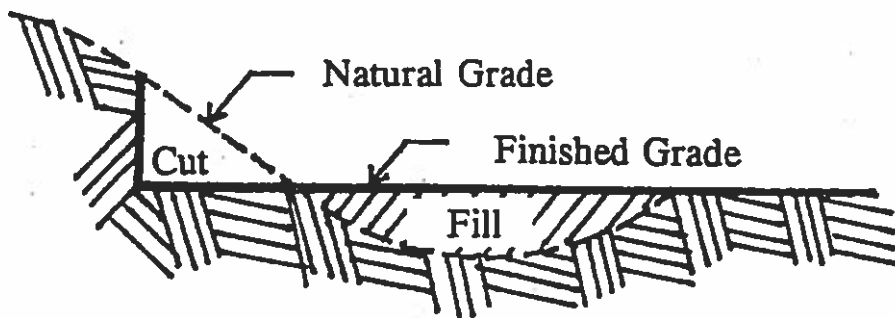


Figure 4-A

Yard Definitions

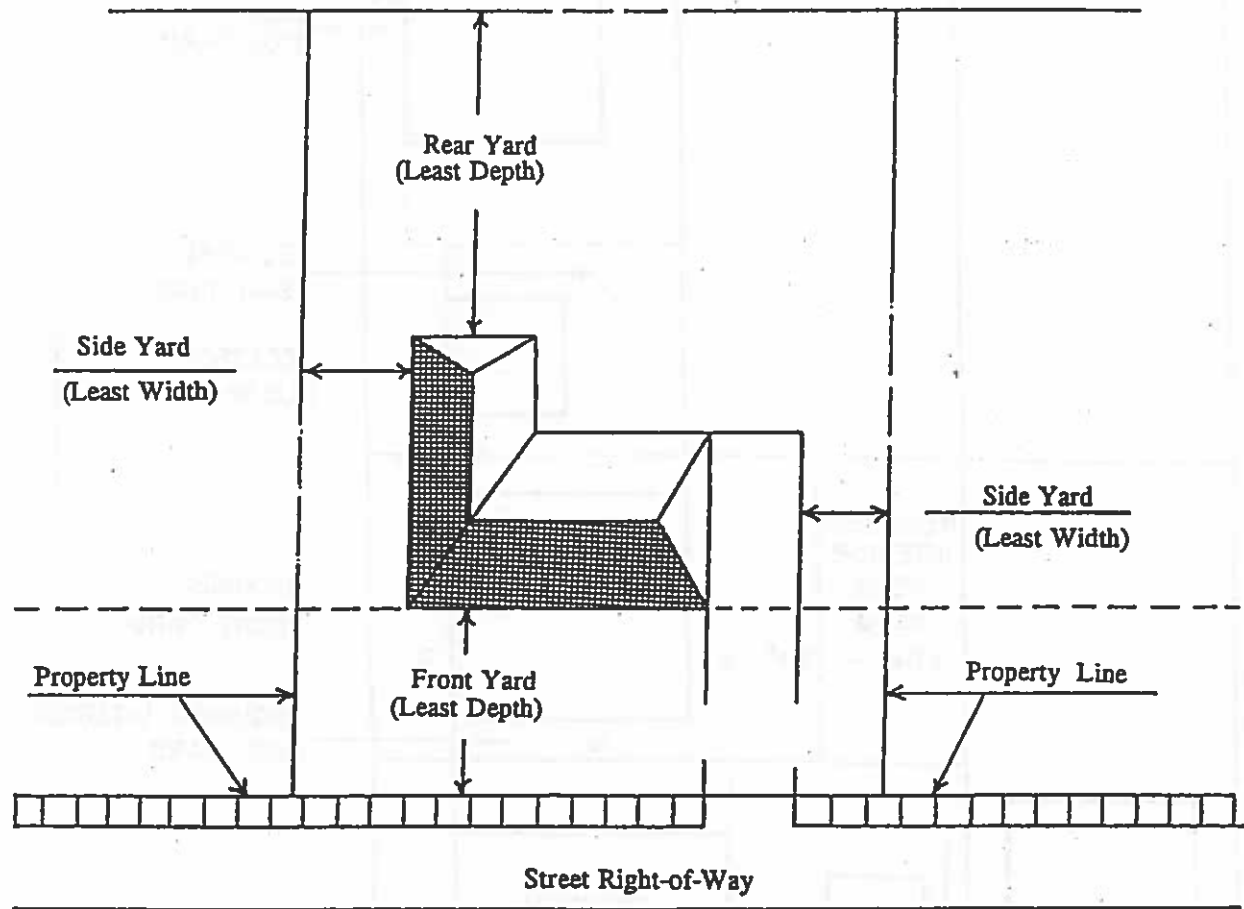


Figure 4-B

Corner and Reverse Corner Side Yards  
R-1 One (1) and Two (2) Family Residence District

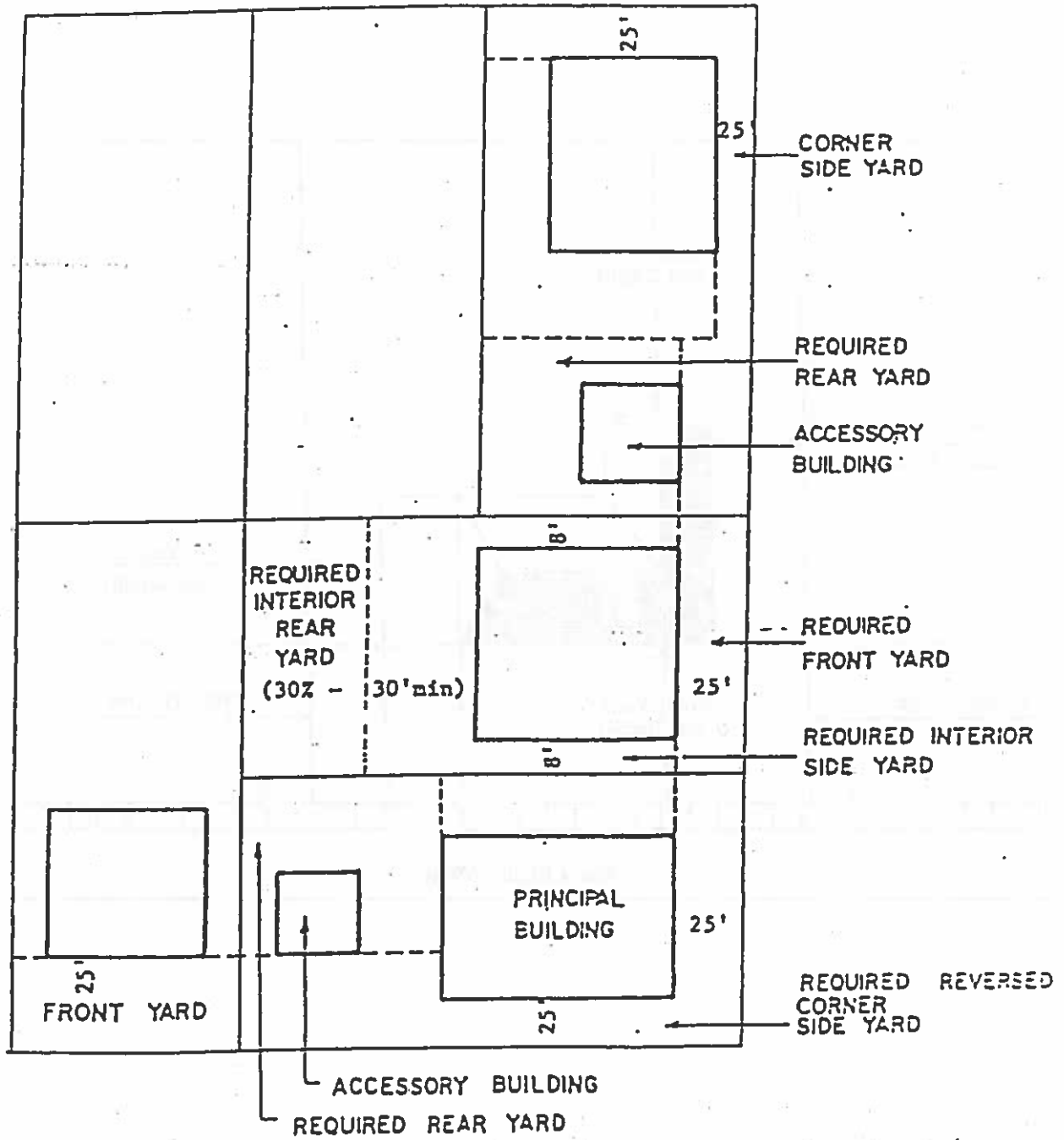


Figure 4-C

Traffic Visibility Across Corner Lots

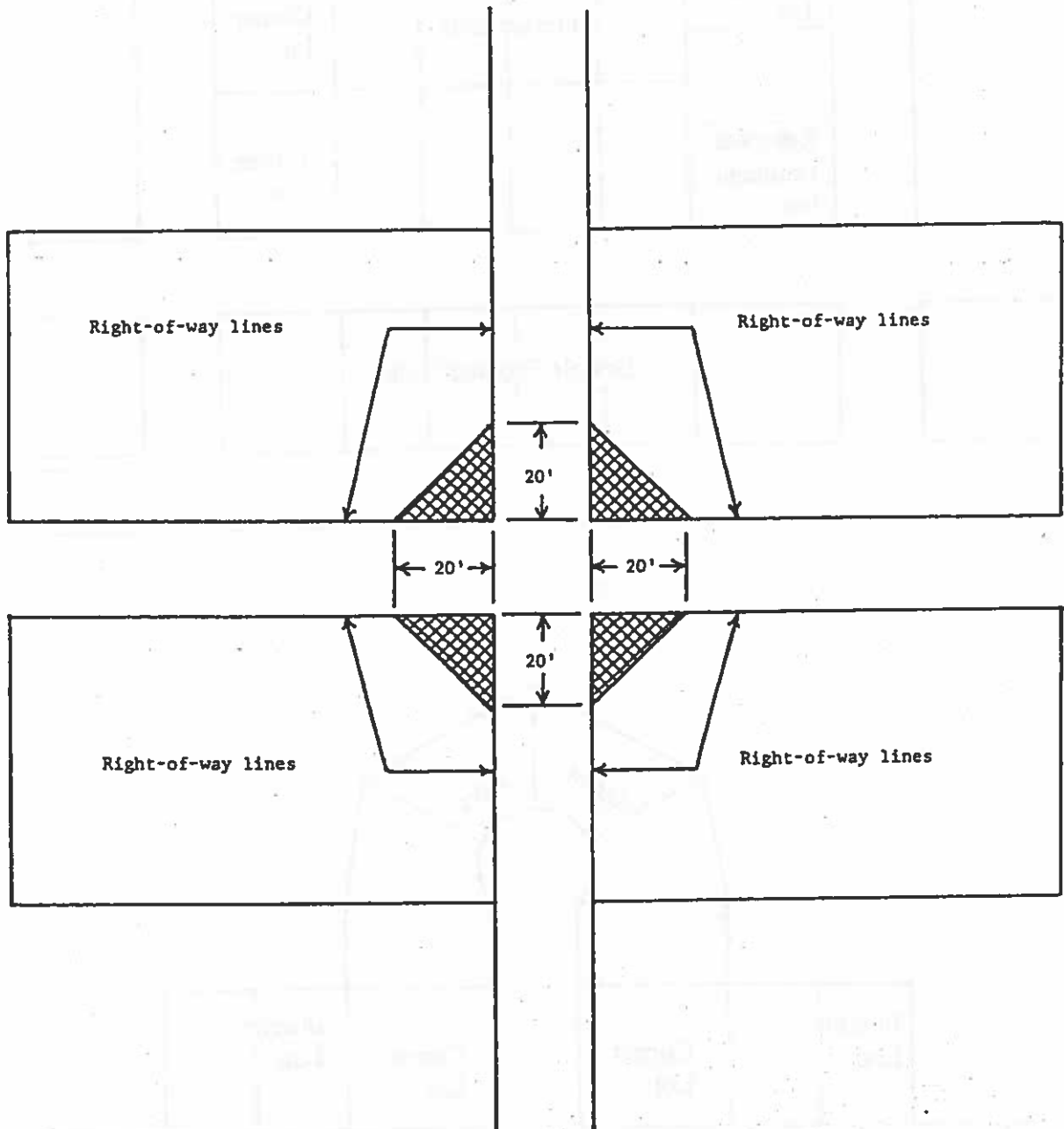




Figure 5

Examples of Lot Definitions

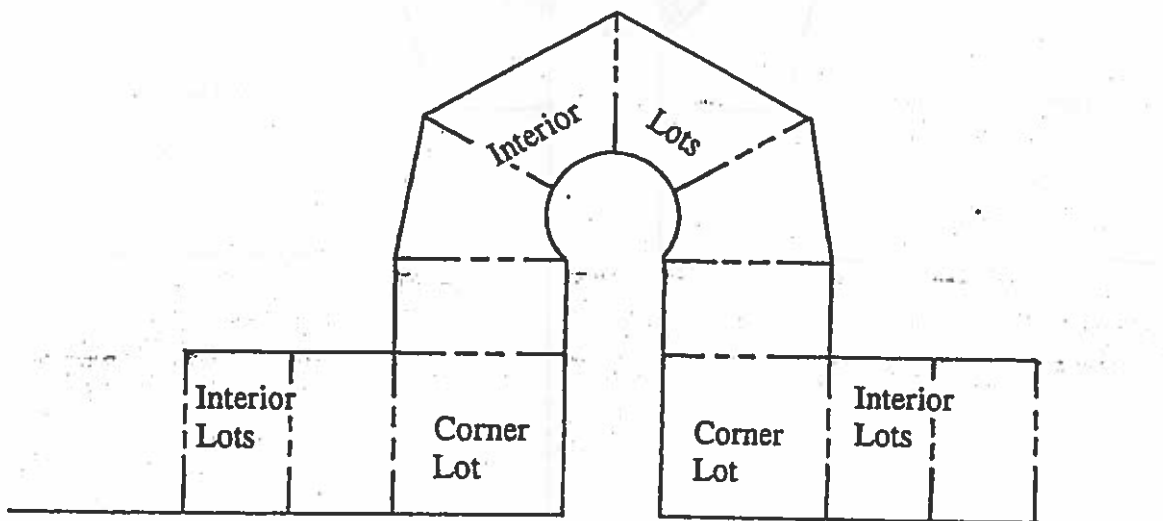
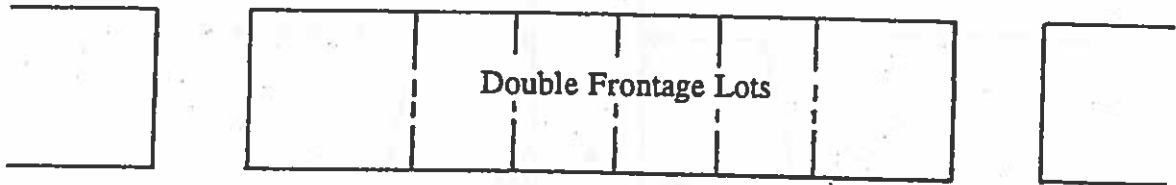
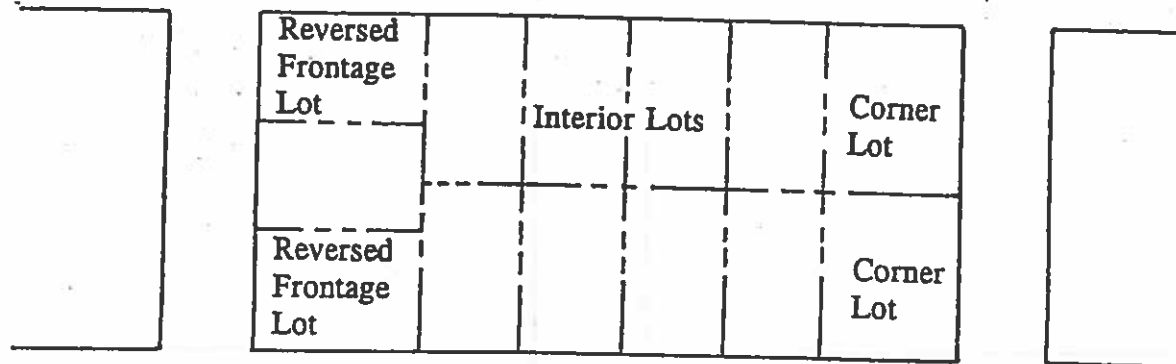
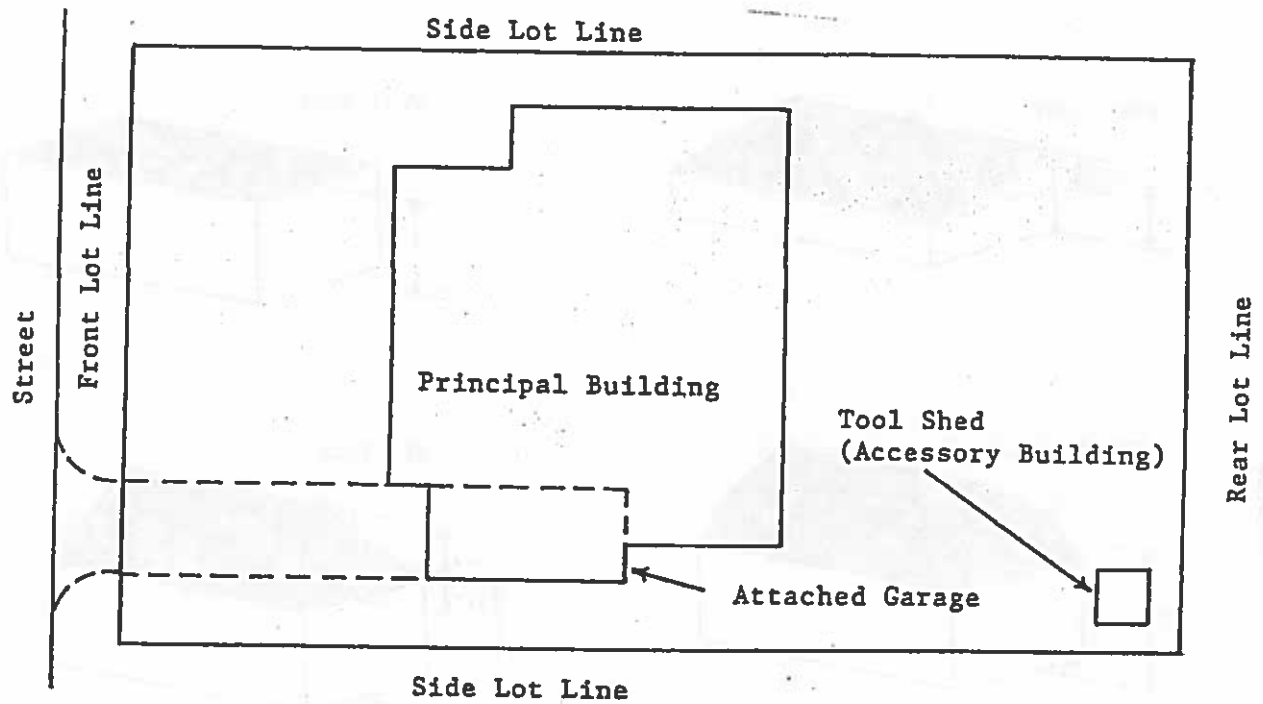


Figure 6

Buildings - Principal and Accessory

Residential District



Commercial District

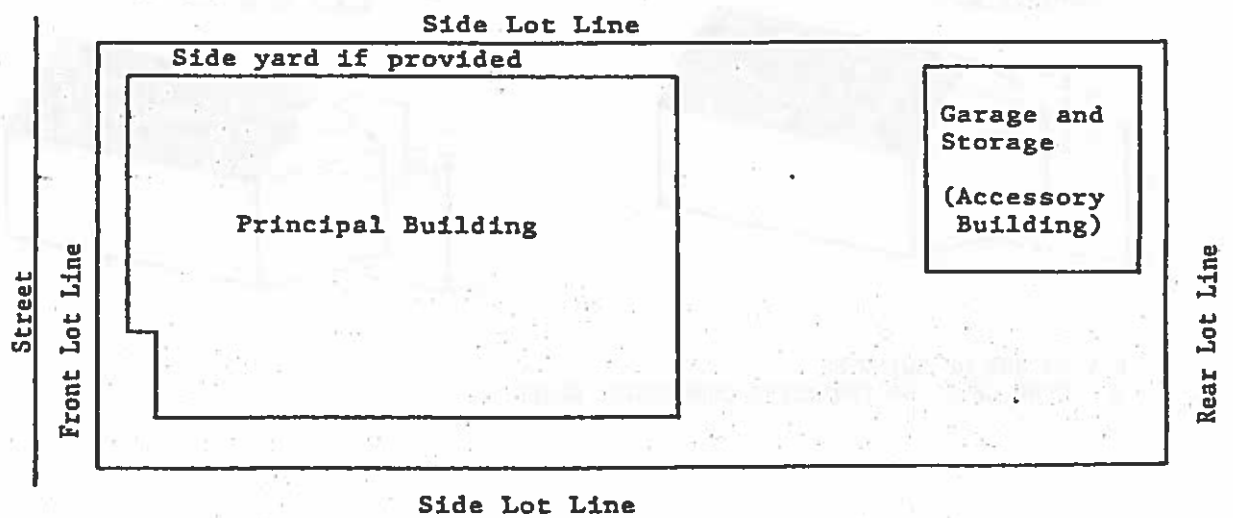


Figure 7

Building Height

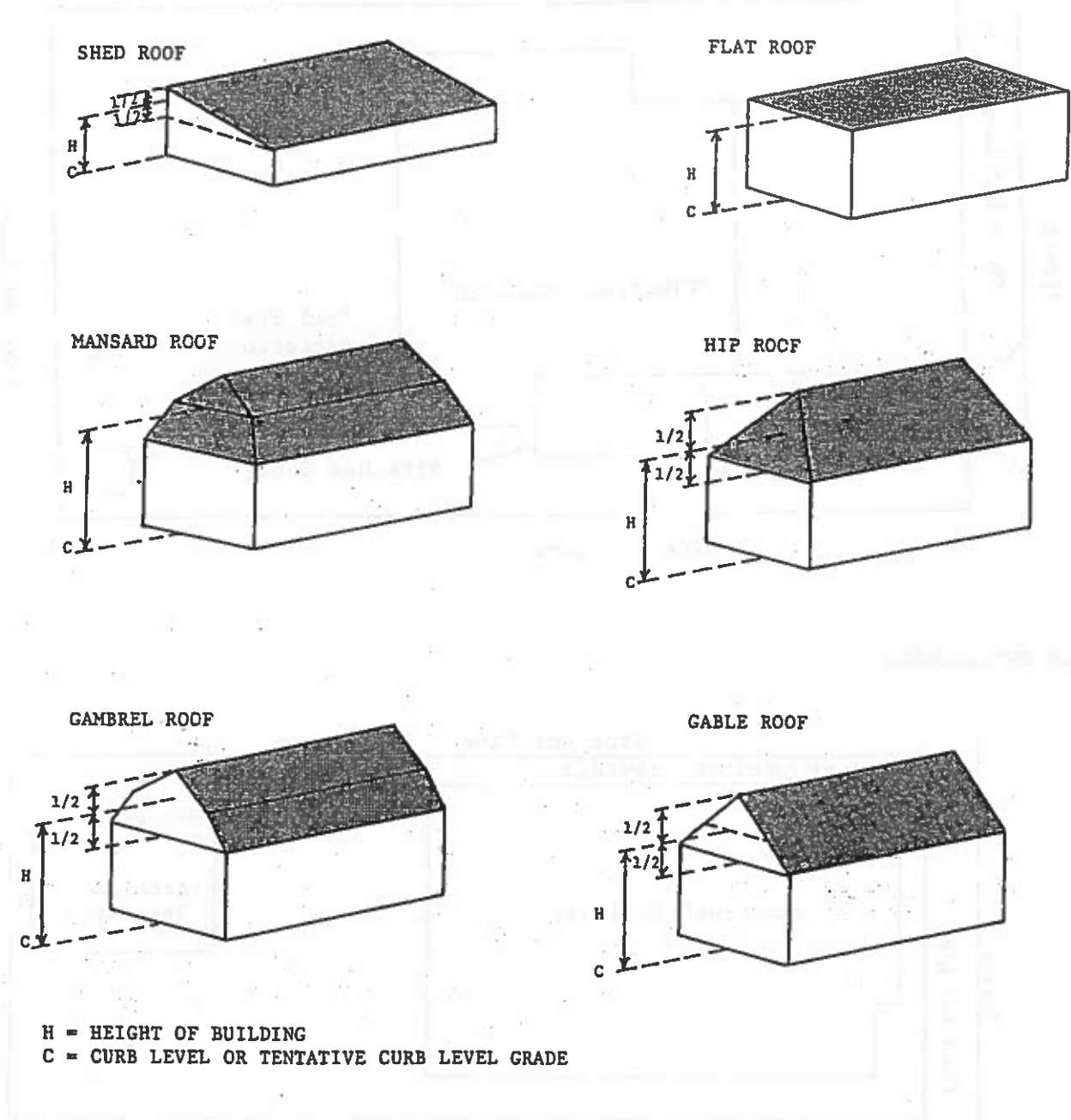


Figure 8-A

Fences, Walls, and Other Structures in Yards - Height Limits Illustrated

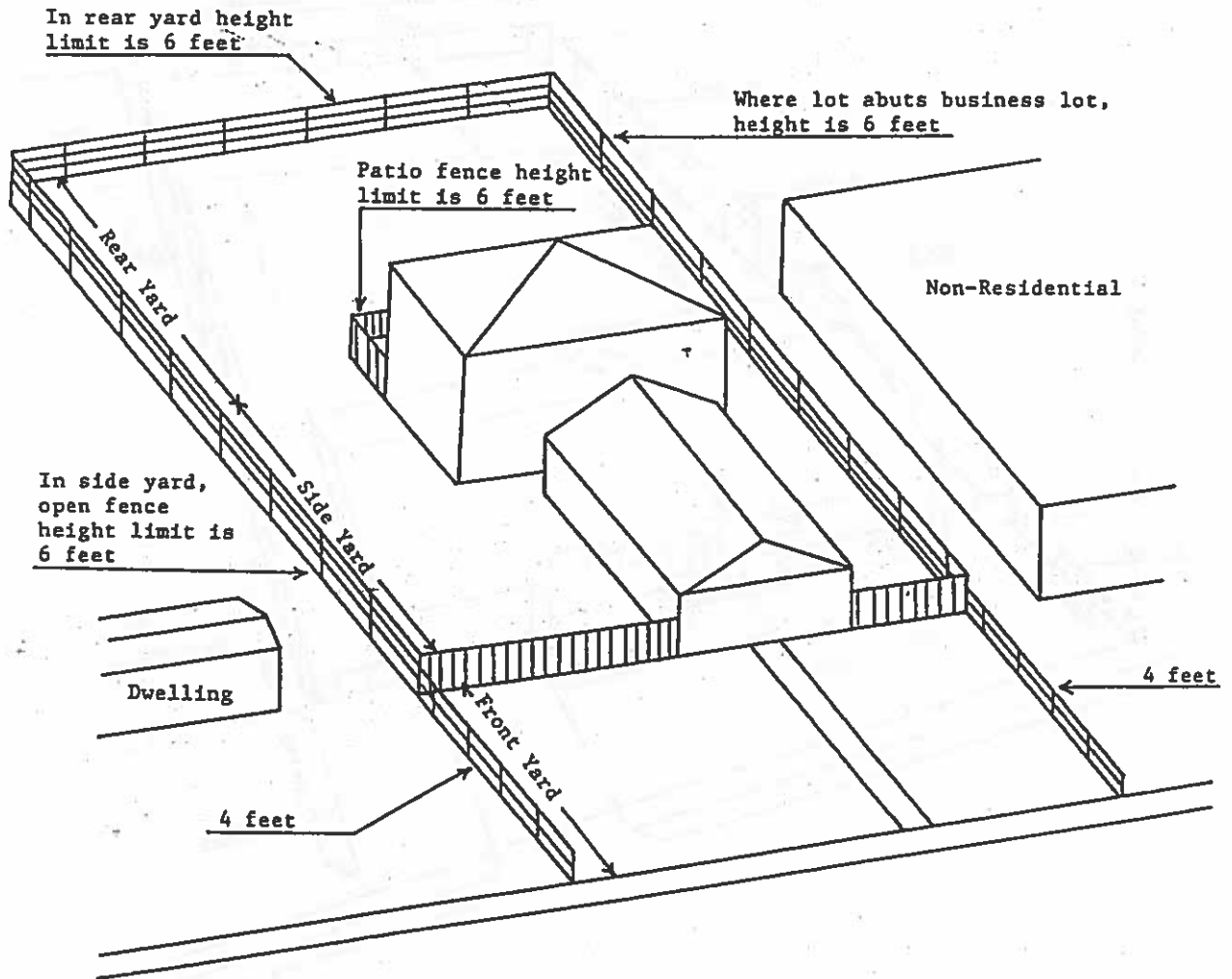


Figure 8-B

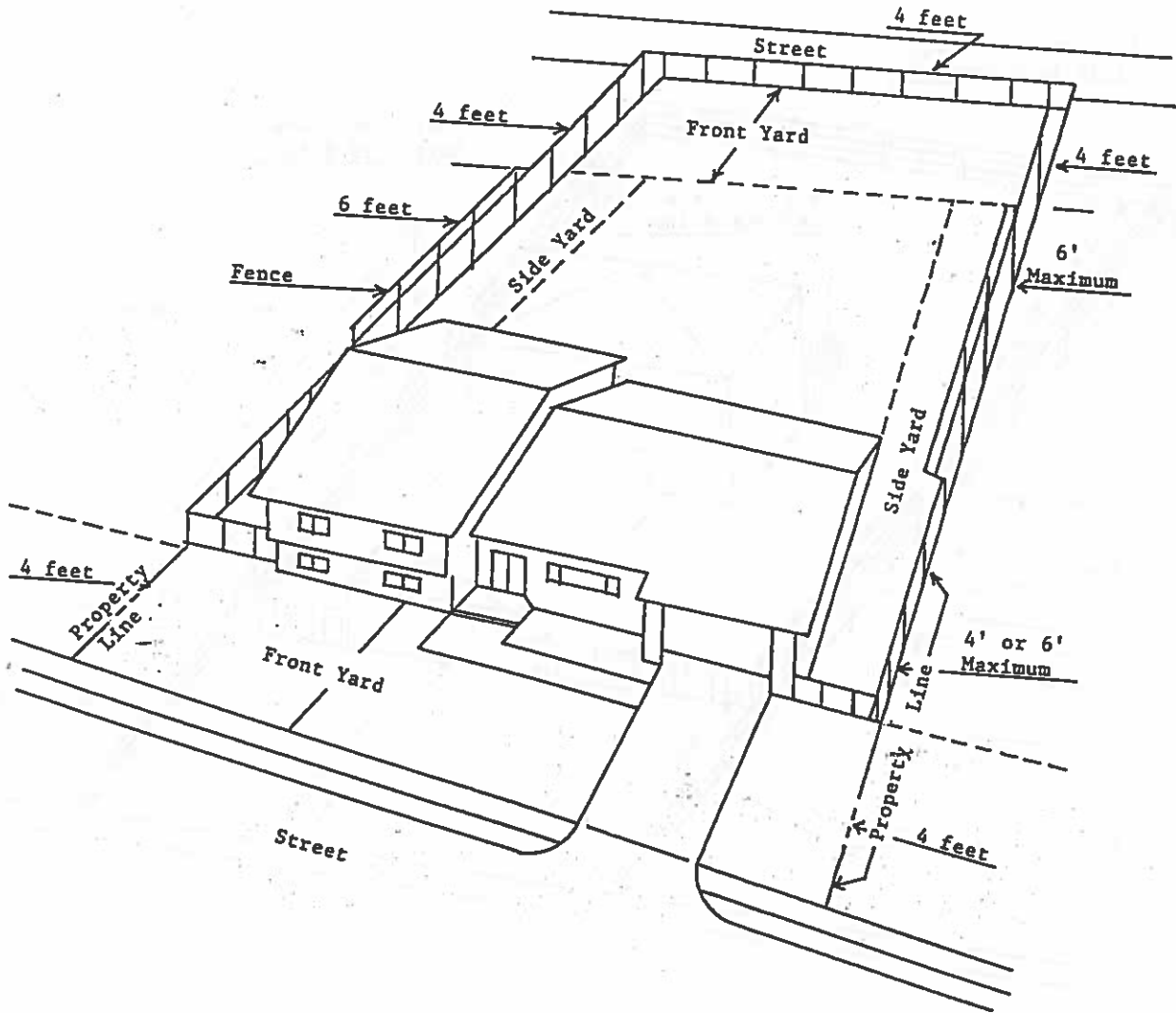


Figure 8-C

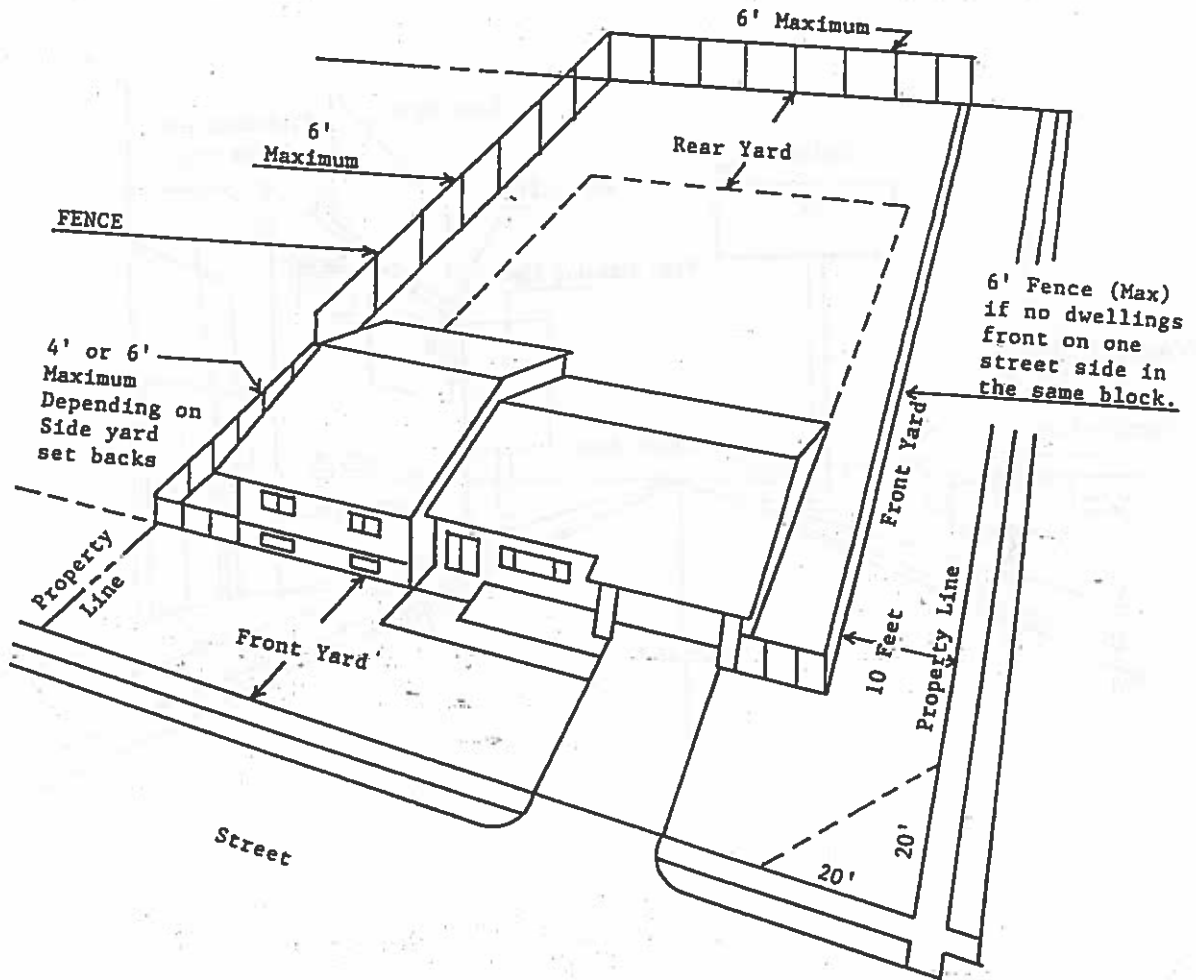


Figure 9

Sign Types

