

UNIFIED DEVELOPMENT CODE

CHAPTER 165 **of the** **CODE OF ORDINANCES** **of the** **CITY OF** **HIAWATHA, IOWA**

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CHAPTER 165

UNIFIED DEVELOPMENT CODE

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165.01 TITLE AND AUTHORITY. This chapter shall be known as the “City of Hiawatha Unified Development Code,” and has been referred to as the “Development Code” or “Code” when a shortened title is necessary. This chapter is adopted by authority of, and for the purposes set forth in the *Code of Iowa* and shall be codified as Chapter 165 of the Municipal Code, City of Hiawatha, Iowa.

165.02 ADOPTION AND REPEALS.

1. Amending Ordinance. This is an Ordinance amending respectively the Hiawatha Zoning Ordinance and the Hiawatha Subdivision Regulations, which became effective August 1, 1983, and was subsequently codified as Chapters 165 and 166 of

the Municipal Code of Hiawatha, Iowa, by repealing said Ordinances and all subsequent amendments thereto, except as hereafter provided in Sections 165.90 and 165.91 of this Code, and enacting a new Ordinance in lieu thereof to establish a Unified Development Code for Hiawatha, Iowa, and providing for the administration, enforcement and amendment thereof; and to repeal all ordinances or resolutions in conflict therewith.

2. Land Use Related Ordinances Previously Adopted. All ordinances theretofore passed by the City Council, rezoning specific parcels of property whereby conditions or site development plans were enacted, or, other requirements made of the property owners in connection with the rezoning of said property, are herewith specifically preserved and exempted from all repealed provisions of this Ordinance. All such conditions, site development plans, or other requirements are continued in full force and effect as set forth in such ordinances, and are herewith ratified, confirmed, and re-enacted the same as set forth in such ordinances.

165.03 PURPOSE AND INTENT. The purpose of this Code is to protect, promote, and enhance the public health and safety; to provide for planned and orderly development in the City of Hiawatha in a manner consistent with constitutional rights of property owners; and to balance the needs of a changing population with legitimate environmental concerns. It is the intent of this Code to establish a balance between the legitimate rights of property owners and the achievement of community goals important to the protection of public welfare. More specifically, this Code is adopted to achieve the following objectives:

1. Relate proposals for development to the goals, policies and provisions in the Hiawatha Comprehensive Plan and to use the plan as a guideline in evaluating development proposals.
2. Provide a comprehensive regulatory system for the development and use of land in the City of Hiawatha.
3. Secure equitable handling of all development proposals through uniform application of procedures and development standards.
4. Coordinate the development of land with the City's and other agencies' ability to provide essential services.
5. Promote the development of a safe, efficient circulation system.
6. Encourage the economic health of the City of Hiawatha.
7. Preserve and enhance the natural environment in and around Hiawatha through sound development practices.

165.04 APPLICABILITY.

1. Territorial Application. This Code shall apply to all structures, land, and uses within the corporate limits of Hiawatha, Iowa, and to the land within two miles of which the City of Hiawatha has extra territorial jurisdiction as set forth in the *Code of Iowa*.
2. General Prohibition. No building or structure; no use of any building, structure or land; and no lot of record or zoning lot, now or hereafter existing, shall hereafter be established, altered, moved, divided, or maintained in any manner except in accordance with the provisions of this Code.
3. Covenants. Persons owning property in the City of Hiawatha may have a covenant recorded against their property which affects how the land may be used or developed. It is hereby noted, such covenants constitute a private party agreement

between the property owner imposing the covenant and subsequent owners. The City does not have the power or obligation to enforce such covenants. If the City is a party to a recorded covenant, then the City has the authority to enforce its provisions.

4. Private Agreements. This Code is not intended to abrogate, annul or otherwise interfere with any easement, covenant, or other private agreement or legal relationship. However, where the regulations of this Code are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements or legal relationships, the regulations of this Code shall govern.

165.05 RELATIONSHIP TO OTHER REQUIREMENTS.

1. Relationship to Other Laws. Nothing in this Code shall be construed as exempting any person from other requirements of the City of Hiawatha or State and Federal laws and regulations. To the extent the requirements of this Code differ from other applicable City, State or Federal requirements, the more restrictive requirements shall apply.

2. Minimum Requirements. In their interpretation and application the provisions of this Code shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort, convenience, prosperity, and general welfare.

3. Application of Regulations. Where the conditions imposed by any provision of this Code upon the use of land or buildings or upon the bulk of buildings, are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Code or of any other law, code, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

165.06 SEVERABILITY. It is the intention of the City Council that each section, paragraph, sentence, clause and provision of this chapter is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this chapter, nor any part thereof other than that affected by such decision.

165.07 EFFECTIVE DATE. This Code shall be in full force and effect from and after its passage, approval, and publication as provided by law.

165.08 LOCATION OF CERTIFIED COPY AND ZONING DISTRICT MAP.

1. Certified Copy of Code. Upon approval of this Code, a certified copy including all official maps referred to in these regulations shall be recorded and kept on file in the office of the City Clerk.

2. Zoning District Map. The “Zoning District Map” shall not be set out in the Municipal Code and shall remain on file in the office of the City Clerk after adoption and publication and shall constitute a part of this Chapter 165 of the Municipal Code the same as if set out therein.

165.09 CONSTRUCTION AND INTERPRETATION.

1. General. Nothing herein shall be construed as creating any rights or protection for any third party. The requirements of this Code are intended to protect and benefit the City of Hiawatha only, and not any third party beneficiary.

2. Interpretation. In the interpretation of this Code the rules and definitions of this chapter shall be observed and applied, except when the context clearly indicates otherwise.
- A. Words used or defined in one tense or form shall include other tenses and derivative forms.
 - B. Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
 - C. The masculine gender shall include the feminine and the feminine gender shall include the masculine.
 - D. The word “shall” is mandatory.
 - E. The word “may” is permissive.
 - F. The words “municipal code” or “code” means the Municipal Code of the City of Hiawatha, Iowa.
 - G. The word “person” includes individuals, firms, corporations, associates, and any other similar entities.
 - H. The word “county” means the County of Linn, Iowa.
 - I. The word “city” means the City of Hiawatha, Iowa and/or persons authorized to perform specified functions on behalf of the City of Hiawatha, Iowa.
 - J. The words “City Council” means the City Council of the City of Hiawatha, Iowa.
 - K. The words “Planning and Zoning Commission” mean the Planning and Zoning Commission of the City of Hiawatha, Iowa.
 - L. The word “state” means the State of Iowa.
 - M. In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

165.10 ZONING REGULATIONS.

165.11 PURPOSE AND INTENT. The purpose and intent of the Hiawatha Unified Development Code, as set forth in this section are to improve and protect the public health, safety, comfort, convenience and general welfare. The fulfillment of this purpose and intent is to be accomplished by seeking:

- 1. To lessen congestion on the public streets.
- 2. To avoid undue concentration of population.
- 3. To prevent the overcrowding of land, thereby ensuring living and working conditions and preventing the development of blight and slums.
- 4. To establish adequate standards for the provision of light, air and open spaces.
- 5. To facilitate the provision of adequate transportation, and of other public requirements and services such as water, sewerage, schools and parks.
- 6. To zone and subdivide property with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

7. To protect residential, business, commercial, and industrial areas alike from harmful encroachment by incompatible uses and to ensure that land allocated to a class of uses shall not be usurped by other inappropriate uses.
8. To avoid the inappropriate development of lands and provide for adequate drainage, curbing of erosion and reduction of flood damage.
9. To fix reasonable standards to which improvements, buildings and structures shall conform.
10. To prevent such additions to, and alterations/remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed herein.
11. To foster a more rational pattern and relationship among residential, business, commercial and manufacturing uses for the mutual benefit of all.
12. To isolate or control the location of unavoidable nuisance producing uses.
13. To prescribe penalties for any violation of the provisions of this Code or of any amendment thereto.

165.12 APPLICABILITY.

1. Accordance with Comprehensive Plan. The standards and requirements contained in this Code, and the district mapping reflected on the Hiawatha Zoning District Map, have all been made in accordance with the Comprehensive Plan for the City.
2. General Application. All buildings and structures erected hereafter, all uses of land or buildings established hereafter, all alterations or relocation of existing structures occurring hereafter and all enlargements of, additions to, changes in, and relocation of existing uses occurring hereafter shall be subject to all regulations of this Code which are applicable to the districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses in place on the date of the passage of this chapter which do not comply with the regulations of this Code shall be allowed to continue subject to the provisions of Section 165.70 of this Code relating to nonconforming uses.
3. Conversion of Use or Building. The conversion of any use or building either to another use or to increase the size or area of the existing use, including the conversion of any building or the conversion of any dwelling to accommodate an increased number of dwelling units, families, or residents, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this Code, and only when the resulting occupancy will comply with the requirements in such district, with respect to minimum lot size, lot area per dwelling unit, percentage of lot coverage, dimensions of yards and other open spaces, height, floor area ratio, off-street parking and any other applicable requirements, except as may be allowed by the provisions of Section 165.70.
4. Building Permits Issued Prior to Effective Date of Chapter. Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this chapter, and provided that construction is begun within six months of such effective date and diligently prosecuted to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further may, upon completion, be occupied under

a Certificate of Occupancy by the use for which originally designated even if said building or structure is nonconforming under the terms of this Code.

165.13 INTERPRETATION OF REGULATIONS.

1. Use Determinations. The purpose of a use determination is to verify if a proposed use which is not listed in the Land Use Matrix for a given zoning district may be established in that district. The City Council shall determine whether a use not expressly identified shall be allowed in a district as a permitted use, conditional use, or accessory use. Action by the City Council to either approve or disapprove such use shall be by official resolution. In issuing such use determination, the City Council shall be guided by the following standards:

A. Permitted or Conditional. The City Council shall determine whether a use not listed in the Land Use Matrix is to be considered a permitted or conditional use in a particular zoning district based on its similarity to the uses listed. No use interpretation shall permit any use in a district as a permitted use if such use is already listed in the district as a conditional use.

B. Minimum Requirements Met. No use interpretation shall permit any use in any district unless it can comply with all regulations established for that particular district.

C. Compliance with Conditional Use Permit Requirements. If the proposed use is more similar to uses listed as conditional uses than it is to the listed permitted uses in the district for which it is proposed, then any interpretation permitting such use shall identify it as a conditional use and specify that before such use may be established the requirements of Section 165.83 herein must be met.

D. Accessory. Uses not listed for a given zoning district may be established as accessory uses whenever the City determines that they are clearly incidental and subordinate to a primary use allowed in that district, are associated with its operation and will not have an adverse impact on adjacent properties.

E. Planned Unit Development Overlay Districts. Uses which are not listed in a zone district underlying a PUD designation may be permitted if determined by the City to be compatible with and/or accessory to the proposed development and other allowed uses.

2. Addition of Uses Permitted by District Through Interpretation. All uses permitted by City Council through the use interpretation procedure described in Section 165.13(1) immediately preceding, shall, by amendment, be added to the appropriate district of the Land Use Matrix and Land Use List at the next periodic updating and revision of this Code.

3. Unlawful Existing Uses. Any building, structure, or use which was not lawfully existing at the time of the adoption of this Code shall not become or be made lawful solely by reason of the adoption of this Code; and to the extent or manner that said unlawful building, structure, or use is in conflict with the requirements of this Code, said building, structure, or use remains unlawful hereunder.

165.14 ESTABLISHMENT OF ZONING DISTRICTS. The zoning districts established by this Code are named and described below. They consist of basic districts and overlay districts, both of which are considered zoning districts for the purposes of this Code. The relationship between the zoning districts established by this Code and zoning districts established under previous enactments of City Zoning Regulations is stated in Section 165.17(3).

1. A-Agriculture Zone District. The A-Agriculture Zone District is intended to preserve existing agriculture and other non-intensive uses to prevent premature development and non-orderly encroachment of intensive urban uses, and to help guide urban growth into suitable areas.
2. R-1 Single Family Residence District. The R-1 Single Family Residence District is intended to provide single family areas on lots larger than other R Districts and protect such areas from the encroachment of incompatible uses.
3. R-3 Single Family Residence District. The R-3 Single Family Residence District is intended to provide and maintain residential areas characterized predominantly by single family dwellings. This District is intended to provide for development on lots of moderate size and to protect these residential areas from encroachment of incompatible uses.
4. R-5 Residence District. The R-5 Residence District is intended to provide areas for a wider range of housing types including one-family dwellings, homes on zero lot lines, and two-family attached units while maintaining a moderate density residential character.
5. R-7 Multiple Family Residence District. The R-7 Multiple Family Residence District is intended to provide and maintain areas for higher density residential uses with certain compatible institutional housing types and limited non-dwelling uses.
6. R-MH Mobile Home Park Residence District. The R-MH Mobile Home Park Residence District is intended to accommodate mobile home parks in those areas of the city where such use will be compatible with existing and future development. This District will generally be associated with outlying areas of the City and should be well served by arterial streets to provide adequate access.
7. C-ORS Office/Research/Service District. The C-ORS Office/Research/Service District is designed to provide areas for the development of office, research, service, production and assembly. It is designated to accommodate office buildings, similar structures and complementary uses in a mutually compatible environment.
8. C-2 Neighborhood Convenience District. The C-2 Neighborhood Convenience District is intended to provide convenience shopping for persons residing in adjacent residential areas, and to permit only such uses as are necessary to satisfy those basic shopping needs which occur frequently and so require shopping facilities in relative proximity to places of residence.
9. C-3 Restricted Highway Commercial District. The C-3 Highway Commercial District is intended to accommodate those motorist-oriented commercial activities which are compatible with the predominantly retail uses permitted in other commercial districts, and whose service area is not confined to any one neighborhood or community.
10. C-4 General Highway Commercial District. The C-4 District is intended primarily to furnish areas served by a wide variety of services. The mix of uses is

intended to be extremely broad and more intense than the C-2 or C-3 districts and provide the transition to I-1 and I-2 Districts.

11. C-R Commercial-Recreation District. The C-R Commercial-Recreation District is primarily designed to accommodate those commercial-recreational facilities which occupy large tracts of land and/or generate substantial volumes of traffic.

12. C-WH Commercial Warehouse District. The C-WH Commercial Warehouse District is primarily intended to accommodate wholesale establishments and warehouses and a limited number of heavy commercial uses whose service area is not confined to any one neighborhood or community. Within the district, general retail uses would be incompatible.

13. I-1 Restricted Industrial District. I-1 Restricted Industrial District is intended to provide an environment suitable for light industrial activities that do not create appreciable nuisances or hazards and which seek a hazard and nuisance free environment.

14. I-2 General Industrial District. The I-2 General Industrial District is intended to accommodate those industrial activities which may produce nuisances or hazards in areas that are relatively remote from residential and commercial development.

15. FP Flood Plain Overlay District. The FP Flood Plain Overlay District is superimposed over other districts. The City has established the Flood Plain Overlay District to address developments which require special attention and treatment regardless of the underlying land use allowed by the City's Zoning Regulations. The Flood Plain Overlay District is intended to alert developers to issues they need to address in preparing an application for development. This District includes lands subject to inundation as a result of a 100-year flood, i.e. a flood having a one percent chance of being equaled or exceeded in any given year. Regulations which apply to the Flood Plain Overlay District are stated in Section 165.16 and Chapter 161 Flood Plain.

16. PUD Planned Unit Development Overlay District. The PUD Planned Unit Development Overlay District is intended to encourage innovation and flexibility in planning the development of land so development is compatible with the site's physical and environmental characteristics. This District allows for flexibility in zone district requirements as well as permitted uses. The Planned Unit Development Overlay District provides an opportunity for the development of a mixture of uses and housing types in a coordinated manner. The intent underlying zone district shall guide the development. It is incumbent upon the person proposing the PUD to justify the PUD, and the variations from the underlying zone district. A PUD is considered an amendment to the underlying zone district regulations. Section 165.66 specifies the PUD requirements and Sections 165.90 and 165.91 refer to amendments.

17. CPR Center Point Road District. The CPR Center Point Road District is intended primarily to provide areas for the development of commercial and residential uses in the core area of the City located along Center Point Road. The CPR Center Point Road District shall be divided into districts each with its own requirements including uses and regulations. The districts within the Center Point Road zoning district area shall be designated as follows: CPR-1, CPR-2 and CPR-3.

165.15 LAND USE REGULATIONS.

1. Types of Uses. This section regulates the establishment of land uses in each of the zoning and overlay districts. Uses have been divided into four types which are listed and described below:

A. Principal Permitted Uses. Principal permitted uses are land uses allowed in a given zoning district without special review because they are considered compatible with the intent of the district. However, the buildings or structures which contain such uses, and the site development necessary for their establishment must meet the development regulations and plan review requirements established in this Code. Permitted uses are indicated in the Land Use Matrix in Figure I by the letter “P.”

B. Conditional Uses. Conditional uses are land uses which have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. Conditional uses as listed for each district may be permitted within that district upon approval by the Board of Adjustment in accordance with the procedures provided in Section 165.83 in which conditions may be imposed to insure compatibility, and a conditional use permit must be obtained before a conditional use is established. However, any use lawfully established prior to the effective date of this Code may so continue without approval by the Board of Adjustment. However, for any expansion or addition of structures, parking areas or driveways, there shall be a site development plan approved according to the requirements of Section 165.84, prior to construction or issuance of a building permit if required. Conditional uses may also be denied if it is not possible to mitigate adverse impacts. Conditional uses are indicated in the Land Use Matrix in Figure I by the letter “C.”

C. Accessory Uses. Accessory uses are land uses which are clearly incidental and subordinate to the principal use of a property, and cannot be established unless the principal use is also established.

(1) Accessory uses are located on the same zoning lot as the principal building, structure, or use served, except as otherwise expressly authorized by the provisions of this Code.

(2) Accessory uses contribute to the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of or to the principal building, structure, or use served.

D. Uses Not Allowed; Uses Not Listed. Uses not allowed are land uses which cannot be established in a given zoning district because they are considered incompatible with the intent of the district. Uses which are not listed in the Land Use Matrix are not allowed in a given zoning district unless indicated otherwise using the procedure for making use determinations (see Section 165.13). Uses in addition to those permitted in the underlying zone of a PUD overlay district must be justified by the applicant and may be approved as part of the PUD approval.

2. Land Use Matrix. Figure I[†] is hereby designated as the City Land Use Matrix. The Land Use Matrix contains a list of land uses and indicates if a given land use is

[†] **Editor’s Note.** Figure I – Land Use Matrix is found at the end of this chapter.

allowed as a permitted or conditional use in Hiawatha Zoning Districts. Figure I lists land uses allowed by zoning district. It is the intent of this Code that Figure I and the text of this Code be consistent. Where an inconsistency occurs, the text of this Code shall govern. Where regulations for specific land uses have been established, the regulations appear in Section 165.16 and the Land Use Matrix in Figure 1. If a land use is not listed in the Land Use Matrix, Section 165.13 establishes a procedure for determining whether this use is allowed as permitted or conditional in a given district.

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165.16 LAND USES AND REGULATIONS BY DISTRICT. Land use regulations and standards for development in all districts are provided by zone districts.

1. A-Agriculture Zone District.
 - A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
 - B. Lot Size, Density and Bulk Requirements.

Uses	Minimum Lot Size Requirement			Minimum Yard Requirements					Maximum Height
	Lot Area	Lot Width	Lot Area Per D.U.	Front Yard	Interior Side Yards		Corner Side Yard	Rear Yard	
					Single	Combined			
Principal Permitted Uses:									
Single-Family Dwellings	1 acre	150 feet	1 acre	35 feet	15 feet	30 feet	25 feet	35 feet	3 habitable stories or 35 feet
Family Home	1 acre	150 feet	1 acre	35 feet	15 feet	30 feet	25 feet	35 feet	35 feet
Agriculture Use Structures	---	---	---	35 feet	15 feet	30 feet	25 feet	35 feet	45 feet
Other Uses	1 acre	150 feet	---	35 feet	15 feet	30 feet	25 feet	35 feet	45 feet
Conditional Uses:									
Group Homes	1 acre	150 feet	1 acre	35 feet	15 feet	30 feet	25 feet	35 feet	3 habitable stories or 35 feet
Other Uses	As specified by Board of Adjustment								
Supplementary Side Yard Requirements:	For all permitted principal and conditional uses, the minimum width of a required single side yard shall be increased by one foot for every 200 square feet that the surface area of a structure wall on the same lot and facing such side yard exceeds 900 square feet in area. However, the additional width required shall not exceed 15 feet.								

- C. Special Use Permit. See Sections 165.25 and 165.85.
- D. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Sections 165.23(9).
- E. Home Occupations. Home occupations are permitted subject to the provisions of Section 165.26.
- F. Signs. Signs shall be permitted according to the provisions of Chapter 166.
- G. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 165.30-165.36.

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2. R-1 Single Family Residence District.

A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.

B. Lot Size, Density and Bulk Requirements.

Uses	Minimum Lot Size Requirement			Minimum Yard Requirements					Maximum Height
	Lot Area	Lot Width	Lot Area Per D.U.	Front Yard	Interior Side Yards		Corner Side Yard	Rear Yard	
					Single	Combined			
Principal Permitted Uses:									
One-Family Unit, Detached	10,000 sq. ft.	70 feet	10,000 sq. ft.	30 feet	8 feet	17 feet	20 feet	30 feet	3 habitable stories or 35 feet
Family Home	10,000 sq. ft.	70 feet	10,000 sq. ft.	30 feet	8 feet	17 feet	20 feet	30 feet	35 feet
Agriculture Use Structures	3 acres	---	---	30 feet	15 feet	30 feet	20 feet	30 feet	35 feet
Other Uses	10,000 sq. ft.	70 feet	---	30 feet	15 feet	30 feet	20 feet	30 feet	35 feet
Conditional Uses:									
Cemetery Use Structures	10 acres	300 feet	---	30 feet	15 feet	30 feet	20 feet	30 feet	35 feet
Day Care Center	10,000 sq. ft.	70 feet	---	30 feet	15 feet	30 feet	20 feet	30 feet	3 habitable stories or 35 feet
Group Homes	1 acre	70 feet	10,000 sq. ft.	30 feet	8 feet	17 feet	20 feet	30 feet	3 habitable stories or 35 feet
Nursery Use Structures	10 acres	200 feet	---	30 feet	15 feet	30 feet	20 feet	30 feet	35 feet
Supplementary Side Yard Requirements:	For all permitted principal and conditional uses, the minimum width of a required single side yard shall be increased by one foot for every 200 square feet that the surface area of a structure wall on the same lot and facing such side yard exceeds 900 square feet in area. However, the additional width required shall not exceed 15 feet.								

C. Special Use Permit. See Sections 165.25 and 165.85.

D. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Sections 165.23(9).

E. Home Occupations. Home occupations are permitted subject to the provisions of Section 165.26.

F. Signs. Signs shall be permitted according to the provisions of Chapter 166.

G. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Sections 165.30-165.36.

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3. R-3 Single Family Residence District.

A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.

B. Lot Size, Density and Bulk Requirements.

Uses	Minimum Lot Size Requirement			Minimum Yard Requirements					Maximum Height
	Lot Area	Lot Width	Lot Area Per D.U.	Front Yard	Interior Side Yards		Corner Side Yard	Rear Yard	
					Single	Combined			
Principal Permitted Uses:									
One-Family Unit, Detached	7,500 sq. ft.	60 feet	7,500 sq. ft.	25 feet	5 feet	14 feet	20 feet	25 feet	3 habitable stories or 35 feet
Family Home	7,500 sq. ft.	60 feet	7,500 sq. ft.	25 feet	5 feet	14 feet	20 feet	25 feet	35 feet
Other Uses	10,000 sq. ft.	70 feet	---	25 feet	12 feet	25 feet	20 feet	25 feet	35 feet
Conditional Uses:									
Agriculture Use Structures	3 acres	---	---	25 feet	5 feet	14 feet	20 feet	25 feet	35 feet
Cemetery Use Structures	5 acres	200 feet	---	25 feet	12 feet	25 feet	20 feet	25 feet	35 feet
Day Care Center	7,500 sq. ft.	60 feet	---	25 feet	12 feet	25 feet	20 feet	25 feet	3 habitable stories or 35 feet
Group Homes	7,500 sq. ft.	60 feet	7,500	25 feet	5 feet	14 feet	20 feet	25 feet	3 habitable stories or 35 feet
Supplementary Side Yard Requirements:	For all permitted principal and conditional uses, the minimum width of a required single side yard shall be increased by one foot for every 200 square feet that the surface area of a structure wall on the same lot and facing such side yard exceeds 900 square feet in area. However, the additional width required shall not exceed 15 feet.								

C. Special Use Permit. See Sections 165.25 and 165.85.

D. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Section 165.23(9).

E. Home Occupations. Home occupations are permitted subject to the provisions of Section 165.26.

F. Signs. Signs shall be permitted according to the provisions of Chapter 166.

G. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Sections 165.30-165.36.

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4. R-5 Residence District.

A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.

B. Lot Size, Density and Bulk Requirements.

Uses	Minimum Lot Size Requirement			Minimum Yard Requirements					Maximum Height
	Lot Area	Lot Width	Lot Area Per D.U.	Front Yard	Interior Side Yards		Corner Side Yard	Rear Yard	
					Single	Combined			
Principal Permitted Uses:									
One-Family Unit, Detached	6,000 sq. ft.	50 feet	6,000 sq. ft.	25 feet	5 feet	14 feet	20 feet	25 feet	3 habitable stories or 35 feet
Family Home	6,000 sq. ft.	60 feet	6,000 sq. feet	25 feet	5 feet	14 feet	25 feet	25 feet	3 habitable stories or 35 feet
Group Home	6,000 sq. ft.	60 feet	6,000 sq. feet	25 feet	5 feet	14 feet	25 feet	25 feet	3 habitable stories or 35 feet
Zero Lot Line	3,500 sq. ft.	40 feet	3,500 sq. feet	25 feet	7 feet	15 feet	20 feet	25 feet	3 habitable stories or 35 feet
Two-Family Unit, Attached	6,000 sq. feet	60 feet	3,000 sq. feet	25 feet	5 feet	14 feet	20 feet	25 feet	3 habitable stories or 35 feet
Conditional Uses:									
Day Care Center	5,000 sq. ft.	50 feet	---	25 feet	12 feet	25 feet	25 feet	25 feet	3 habitable stories or 35 feet
Other Uses	As specified by Board of Adjustment								
Supplementary Side Yard Requirements:									

C. Special Use Permit. See Sections 165.25 and 165.85.

D. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Section 165.23(9).

E. Home Occupations. Home occupations are permitted subject to the provisions of Section 165.26.

F. Signs. Signs shall be permitted according to the provisions of Chapter 166.

G. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Sections 165.30-165.36.

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5. R-7 Multiple Family Residence District

A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.

B. Lot Size, Density and Bulk Requirements.

Uses	Minimum Lot Size Requirement			Minimum Yard Requirements					Maximum Height
	Lot Area	Lot Width	Lot Area Per D.U.	Front Yard	Interior Side Yards		Corner Side Yard	Rear Yard	
					Single	Combined			
Principal Permitted Uses:									
Family Home	6,000 sq. ft.	60 feet	6,000 sq. ft.	25 feet	5 feet	14 feet	25 feet	25 feet	3 habitable stories or 45 feet
Row House Dwellings	---	30 feet ¹	4,000 sq. ft.	25 feet	8 feet ²	20 feet	25 feet	25 feet	3 habitable stories or 45 feet
Two-Family Unit, Attached	5,000 sq. ft.	50 feet	2,500 sq. ft.	25 feet	5 feet	14 feet	15 feet	25 feet	3 habitable stories or 45 feet
Zero Lot Line	3,500 sq. ft.	25 feet	3,500 sq. ft.	25 feet	5 feet	14 feet	15 feet	25 feet	3 habitable stories or 45 feet
Group Home	6,000 sq. ft.	60 feet	6,000 sq. ft.	25 feet	5 feet	14 feet	25 feet	25 feet	3 habitable stories or 45 feet
Multiple-Family Units	---	60 feet	1,200 sq. ft.	25 feet	8 feet	20 feet	20 feet	25 feet	45 feet
Rooming and Boarding House	---	60 feet	1,200 sq. ft.	25 feet	8 feet	20 feet	20 feet	25 feet	45 feet
Fraternalities and Sororities	---	60 feet	600 sq. ft.	25 feet	8 feet	20 feet	20 feet	25 feet	45 feet
Other Uses	---	60 feet	---	25 feet	8 feet	20 feet	20 feet	25 feet	45 feet
¹ Per row house dwelling ² Interior side yards for other than end row house units are 0.									
Conditional Uses:									
One-Family Unit, Detached	5,000 sq. ft.	50 feet	5,000 sq. ft.	25 feet	5 feet	14 feet	15 feet	25 feet	3 habitable stories or 45 feet
Other Uses	As specified by Board of Adjustment								
Supplementary Side Yard Requirements:	For all permitted principal and conditional uses, the minimum width of a required single side yard shall be increased by one foot for every 200 square feet that the surface area of a structure wall on the same lot and facing such side yard exceeds 900 square feet in areas. However, the additional width required shall not exceed 15 feet.								

C. Special Use Permit. See Sections 165.25 and 165.85.

D. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Section 165.23(9).

E. Home Occupations. Home occupations are permitted subject to the provisions of Section 165.26.

F. Signs. Signs shall be permitted according to the provisions of Chapter 166.

G. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Sections 165.30-165.36.

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- 6. R-MH Mobile Home Park Residence District.
 - A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
 - B. Lot Size, Density and Bulk Requirements.

Uses	Minimum Lot Size Requirement			Minimum Yard Requirements					Maximum Height
	Lot Area	Lot Width	Lot Area Per D.U.	Front Yard	Interior Side Yards		Corner Side Yard	Rear Yard	
					Single	Combined			
Principal Permitted Uses:									
Family Home	6,000 sq. ft.	60 feet	6,000 sq. ft.	25 feet	5 feet	14 feet	25 feet	25 feet	3 habitable stories or 45 feet
Conditional Uses:									
One-Family Unit, Detached	5,000 sq. ft.	50 feet	5,000 sq. ft.	25 feet	5 feet	14 feet	15 feet	25 feet	3 habitable stories or 45 feet
Two-Family Units, Attached	5,000 sq. ft.	50 feet	2,500 sq. ft.	25 feet	5 feet	14 feet	15 feet	25 feet	3 habitable stories or 45 feet
Other Uses	As specified by Board of Adjustment								
Supplementary Side Yard Requirements:	For all permitted principal and conditional uses, the minimum width of a required single side yard shall be increased by one foot for every 200 square feet that the surface area of a structure wall on the same lot and facing such side yard exceeds 900 square feet in area. However, the additional width required shall not exceed 15 feet.								

- C. Additional Standards and Regulations. See Chapter 146 Manufactured Mobile and Modular Homes and Chapter 147 Mobile Home Parks for standards and regulations governing the R-MH district.
- D. Special Use Permit. See Sections 165.25 and 165.85.
- E. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Section 165.23(9).
- F. Home Occupations. Home occupations are permitted subject to the provisions of Section 165.26.
- G. Signs. Signs shall be permitted according to the provisions of Chapter 166.

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7. C-ORS Office/Research/Service District.
 - A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
 - B. Minimum Yard Requirements:
 - (1) Front yards: 25 feet.
 - (2) Corner side yards: 25 feet.
 - (3) Rear yards: 25 feet.
 - (4) Interior side yards: 15 feet.
 - (5) Transitional yards: If C-ORS property is adjacent to an agricultural or residential zone district, the requirements of Section 165.23(6) shall be followed.
 - C. Maximum Height Requirement: 35 feet.
 - D. Conditional Uses. Conditional uses are permitted subject to Section 165.83.
 - E. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Section 165.23(9).
 - F. Signs. Signs shall be permitted according to the provisions of Chapter 166.
 - G. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 165.30-165.36.
 - H. Outdoor Lighting. Outdoor lighting shall be in accordance with the provisions of Chapter 168.

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8. C-2 Neighborhood Convenience District.
- A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
- B. Conditions For Uses Permitted. Uses permitted in the C-2 District are subject to the following conditions:
- (1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
 - (2) Business establishments are restricted to a maximum gross floor area of 12,000 square feet each, exclusive of any floor area devoted to off-street parking or loading facilities.
 - (3) All activities, except for off-street parking or loading shall be conducted within completely enclosed buildings.
 - (4) Establishments of the “drive-in” type offering goods or services directly to customers waiting in parked motor vehicles are not permitted.
- C. Minimum Lot Size Requirements. 1,800 square feet of lot for each dwelling unit.
- D. Minimum Yard Requirements.
- (1) Front yards: 25 feet.
 - (2) Corner side yards: 15 feet.
 - (3) None for rear yard, except for transitional yards.
 - (4) None for interior side yards, except for transitional yards.
 - (5) Transitional yards: If C-2 property is adjacent to an agricultural or residential zone district, the requirements of Section 165.23(6) shall be followed.
- E. Maximum Height Requirement. 35 feet.
- F. Conditional Uses. Conditional uses are permitted subject to Section 165.83.
- G. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of paragraph B of this subsection and Section 165.23(9).
- H. Signs. Signs shall be permitted according to the provisions of Chapter 166.
- I. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 165.30-165.36.
- J. Outdoor Lighting. Outdoor lighting shall be in accordance with the provisions of Chapter 68.

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9. C-3 Restricted Highway Commercial District.
- A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
- B. Conditions For Uses Permitted. Uses permitted in the C-3 District are subject to the following conditions:
- (1) All business, servicing, or processing shall be conducted within completely enclosed buildings, with the following exceptions:
 - a. Establishments of the “drive-in” type, offering goods or services directly to customers waiting in parked motor vehicles and which are permitted in a C-3 zone.
 - b. Outside storage and display of merchandise for sale to the public in accordance with Section 165.23(9).
 - c. Off-street park and loading.
 - d. Activities specifically permitted unenclosed in the Land Use Matrix Figure 1.
 - (2) Drive-in establishments are permitted for any use permitted in the C-2 District unless other restrictions are specified.
 - (3) Repair and servicing of any article, the sale of which is a permitted use in the C-3 District, is permitted unless other restrictions are specified.
- C. Minimum Lot Size Requirements.
- D. Minimum Yard Requirements.
- (1) Front yards: 25 feet.
 - (2) Corner side yards: 15 feet.
 - (3) Rear yards: 15 feet.
 - (4) Interior side yards: 0 feet.
 - (5) Transitional yards: If C-3 property is adjacent to an agricultural or residential zone district, the requirements of Section 165.23(6) shall be followed.
- EXCEPTION: For every three feet that a structure exceeds 45 feet in height, the required front, rear, and side yards shall be increased by one foot.
- E. Maximum Height Requirement. 100 feet.
- F. Conditional Uses. Conditional uses are permitted subject to Section 165.83.
- G. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of paragraph B of this subsection and Section 165.23(9).
- H. Signs. Signs shall be permitted according to the provisions of Chapter 166.

I. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 165.30-165.36.

J. Outdoor Lighting. Outdoor lighting shall be in accordance with the provisions of Chapter 68.

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10. C-4 General Highway Commercial District.
- A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
- B. Conditions For Uses Permitted. Uses permitted in the C-4 District are subject to the following conditions:
- (1) All business, servicing or processing shall be conducted within completely enclosed buildings, with the following exceptions:
 - a. Establishments of the “drive-in” type, offering goods or services directly to customers waiting in parked motor vehicles.
 - b. Off-street parking and loading.
 - c. Outside storage and merchandise displays complying with Section 165.23(9).
 - d. Other activities specifically permitted unenclosed in the Land Use Matrix Figure 1.
 - (2) Repair and servicing of any article the sale of which is a permitted use in the District is allowed.
- C. Minimum Lot Size Requirements.
- D. Minimum Yard Requirements.
- (1) Front yards: 25 feet.
 - (2) Corner side yards: 15 feet.
 - (3) Rear yards: 15 feet.
 - (4) Interior side yards: 0 feet.
 - (5) Transitional yards: If C-4 property is adjacent to an agricultural or residential zone district, the requirements of Section 165.23(6) shall be followed.
- EXCEPTION: For every three feet that a structure exceeds 45 feet in height, the required front, rear, and side yards shall be increased by one foot.
- E. Maximum Height Requirement: 100 feet.
- F. Conditional Uses. Conditional uses are permitted subject to Section 165.83.
- G. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of paragraph B of this subsection and Section 165.23(9).
- H. Signs. Signs shall be permitted according to the provisions of Chapter 166.
- I. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 165.30-165.36.

J. Outdoor Lighting. Outdoor lighting shall be in accordance with the provisions of Chapter 68.

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11. C-R Commercial-Recreation District.
 - A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
 - B. Minimum Yard Requirements.
 - (1) Front yards: 25 feet.
 - (2) Corner side yards: 25 feet.
 - (3) Rear yards: 25 feet.
 - (4) Interior side yards: 15 feet.
 - (5) Transitional yards: If C-R property is adjacent to an agricultural or residential zone district, the requirements of Section 165.23(6) shall be followed.

EXCEPTION: For every three feet that a structure exceeds 45 feet in height, the required front, rear, and side yards shall be increased by one foot.
 - C. Maximum Height Requirement. 100 feet.
 - D. Conditional Uses. Conditional uses are permitted subject to Section 165.83.
 - E. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Section 165.23(9).
 - F. Signs. Signs shall be permitted according to the provisions of Chapter 166.
 - G. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 165.30-165.36.
 - H. Outdoor Lighting. Outdoor lighting shall be in accordance with the provisions of Section 165.28.

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12. C-WH Commercial Warehouse District.
- A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
- B. Minimum Yard Requirements.
- (1) Front yards: 25 feet.
 - (2) Corner side yards: 25 feet.
 - (3) Rear yards: 25 feet.
 - (4) Interior side yards: 15 feet.
 - (5) Transitional yards: If C-WH property is adjacent to an agricultural or residential zone district, the requirements of Section 165.23(6) shall be followed.
- EXCEPTION: For every three feet that a structure exceeds 45 feet in height, the required front, rear, and side yards shall be increased by one foot.
- C. Maximum Height Requirement. 100 feet.
- D. Conditional Uses. Conditional uses are permitted subject to Section 165.83.
- E. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Section 165.23(9).
- F. Signs. Signs shall be permitted according to the provisions of Chapter 166.
- G. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 165.30-165.36.
- H. Outdoor Lighting. Outdoor lighting shall be in accordance with the provisions of Chapter 68.

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13. I-1 Restricted Industrial District.
- A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
- B. Conditions For Uses Permitted. Uses permitted in the I-1 District are subject to the following conditions:
- (1) All business, servicing, or processing, except for off-street parking and off-street loading shall be conducted within completely enclosed buildings, unless otherwise indicated hereinafter.
 - (2) All storage except for motor vehicles in operable condition shall be within completely enclosed buildings or effectively screened with landscaping and building elements or by a solid wall or fence, including solid entrance and exit gates, not less than 6 feet nor more than 8 feet in height. Surfaces of the storage area and accesses shall comply with 165.23(9)(C)(7). Accessory vehicle parking shall be as regulated by Section 165.30 through 165.36. Non-accessory vehicles, machines and equipment shall be regulated by Section 165.23(9) or shall be parked on a parking lot complying with Section 165.30 through 165.36.
 - (3) Use of a lot on which the owner desires to use for storage purposes only without constructing a principal building will have the following requirements:
 - a. No servicing of vehicles or equipment or sales of any items will be allowed for this storage area.
 - b. Storage area shall not have any signage or product representation except what is required for emergency or safety related signs.
 - c. A person shall not store outside a legally or mechanically inoperative or wrecked motor vehicle for a period in excess of 30 days.
 - d. This storage area must have screening as required in Section 165.23(6)(B).
 - e. Access through required screening may be provided only by an opaque gate equaling the height of the screening. Gate must be set at the specified line of the front yard setback for that zoning district and must remain closed except when in actual use. A landscape plan meeting the requirements of the actual zoning district must be supplied with the site plan.
 - f. Storm water detention must be allowed for in the site development process.
 - g. A minimum of 500 feet is required between this use and any residential uses in the Unified Development Code.
 - h. Entrance and access drive shall be of PCC Concrete.

- i. Rock, gravel or dust free surfaces approved by the City Engineer required on any areas used for storage.
 - j. Storage area shall not be the location of multiple semi-trailers which have the effect of creating interior enclosed storage spaces.
 - C. Minimum Yard Requirements.
 - (1) Front yards: 35 feet.
 - (2) Corner side yards: 25 feet.
 - (3) Rear yards: 25 feet.
 - (4) Interior side yards: 15 feet.
 - (5) Transitional yards: If I-1 property is adjacent to an agricultural or residential zone district, the requirements of Section 165.23(6) shall be followed.
- EXCEPTION: For every three feet that a structure exceeds 45 feet in height, the required front, rear, and side yards shall be increased by one foot.
- D. Maximum Height Requirement. 150 feet.
 - E. Conditional Uses. Conditional uses are permitted subject to Section 165.83.
 - F. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of paragraph B of this subsection and Section 165.23(9).
 - G. Signs. Signs shall be permitted according to the provisions of Chapter 166.
 - H. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 165.30-165.36.
 - I. Outdoor Lighting. Outdoor lighting shall be in accordance with the provisions of Chapter 68.

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14. I-2 General Industrial District.
- A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
- B. Conditions For Uses Permitted: Uses permitted in the I-2 District are subject to the following conditions:
- (1) All business, servicing, or processing, within 300 feet of a Residential or Commercial District, shall be conducted within completely enclosed buildings.
 - (2) All storage except for motor vehicles in operable condition shall be within completely enclosed buildings or effectively screened with landscaping and building elements or by a solid wall or fence from the right of way and Residential Districts within 300 feet, including solid entrance and exit gates, not less than 6 feet nor more than 8 feet in height. In the event a solid wall is used to satisfy this requirement the required yards of this district shall apply exterior to the wall. Surfaces of the storage area and accesses shall comply with Section 165.23(9)(C)(7). Accessory vehicle parking shall be as regulated by Section 165.30 through 165.36. Non-accessory vehicles, machines and equipment shall be regulated by Section 165.23(9) or parked on a parking lot complying with Section 165.30 through 165.36.
 - (3) Use of a lot on which the owner desires to use for storage purposes only without constructing a principal building will have the following requirements:
 - a. No servicing of vehicles or equipment or sales of any items will be allowed for this storage area.
 - b. Storage area shall not have any signage or product representation except what is required for emergency or safety related signs.
 - c. A person shall not store outside a legally or mechanically inoperative or wrecked motor vehicle for a period in excess of 30 days.
 - d. This storage area must have screening as required in Section 165.23(6)(B).
 - e. Access through required screening may be provided only by an opaque gate equaling the height of the screening. Gate must be set at the specified line of the front yard setback for that zoning district and must remain closed except when in actual use. A landscape plan meeting the requirements of the actual zoning district must be supplied with the site plan.
 - f. Storm water detention must be allowed for in the site development process.
 - g. A minimum of 500 feet is required between this use and any residential uses in the Unified Development Code.
 - h. Entrance and access drive shall be of PCC Concrete.

- i. Rock, gravel or dust free surfaces approved by the City Engineer required on any areas used for storage.
 - j. Storage area shall not be the location of multiple semi-trailers which have the effect of creating interior enclosed storage spaces.
 - C. Minimum Yard Requirements.
 - (1) Front yards: 35 feet.
 - (2) Corner side yards: 25 feet.
 - (3) Rear yards: 25 feet.
 - (4) Interior side yards: 15 feet.
 - (5) Transitional yards: If I-2 property is adjacent to an agricultural or residential zone district, the requirements of Section 165.23(6) shall be followed.
- EXCEPTION: For every three feet that a structure exceeds 45 feet in height, the required front, rear, and side yards shall be increased by one foot.
- D. Maximum Height Requirement. 150 feet.
 - E. Conditional Uses. Conditional uses are permitted subject to Section 165.83.
 - F. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of paragraph B of this subsection and Section 165.23(9).
 - G. Signs. Signs shall be permitted according to the provisions of Chapter 166.
 - H. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 165.30-165.36.
 - I. Outdoor Lighting. Outdoor lighting shall be in accordance with the provisions of Chapter 68.

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15. FP Flood Plain Overlay District. Any development on or proposed for lands within the jurisdiction of the City which is shown on the Official Zoning Map as being within the boundaries of one floodway, floodway fringe, general flood plain and shallow flooding districts shown on the Official Flood Plain Zoning Map of the City is determined to be within the Flood Plain Overlay District and subject to the flood plain regulations of the City, Chapter 161 of this Code.

16. PUD Planned Unit Development Overlay District. The PUD district is established as an overlay district to be used in conjunction with all the base districts as established in Section 165.14(1) through 165.14(14).

A. General Requirements. Planned Unit Developments are permissible on any size tract of land.

(1) Permitted Uses. When the PUD is to be developed within an A or R District, any use listed as a permitted use in any A or R District may be permitted provided any development adjacent to a district boundary is similar in design to the requirements of the adjacent district or meets the minimum requirements of Section 165.23(6) transitional yards. When the PUD is to be developed in any district other than an A or R District, only the uses listed as permitted uses in the district within which the PUD is to be located may be permitted, except for the C-ORS and C-4 Districts which may include additional uses with approval of the Planning and Zoning Commission and City Council.

(2) Density and Design. The density and design of a PUD shall comply with the following requirements.

a. The average land area for each dwelling unit contained in the site, exclusive of the area occupied by private streets or public right-of-way, shall not be less than the lot area per dwelling unit required in the district within which the development is located.

b. Each development shall provide reasonable visual and acoustical privacy for any dwelling units included therein. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise. Any high-rise buildings included within a PUD shall be located in such a way as to minimize any adverse impact on any adjacent low-rise buildings and shall not unduly encroach on the privacy of the occupants of adjoining low-rise buildings.

c. Yard, setback, lot size, type of dwelling unit, height and frontage requirements may be modified in any PUD, and use restrictions may be also modified in a residential PUD as specified in Section 165.16(16)(A)(1) above provided that the spirit and intent of this section is complied with in the total development plan, as determined by the City Council after report by the City Planning and Zoning Commission. The City Planning and Zoning Commission may determine that certain setbacks shall be required within all or a portion of the site, and

shall determine whether the total development plan complies with the spirit and intent of this section and shall so state in its report to City Council.

(3) PUD Approval. The approval of a PUD shall be by the City Council after recommendation of the City Planning and Zoning Commission, subject to procedures provided in Sections 165.66 and 165.91, and building permits shall not be issued until approval of the Final Development Plan.

(4) Development by Stages. If the sequence of construction of various portions of the PUD is to occur in stages, then the off-street parking and any open space and/or recreational facilities, or any other shared facilities as contained in the Approved Final Development Plan, shall be developed, or committed thereto, in proportion to the number of dwelling units or other establishments intended to be developed during the given stage of construction. Furthermore, at no time during the construction of the project shall the number of constructed dwelling units or other establishments per acre of developed land exceed the overall density per acre established in the Approved Final Development Plan.

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- 17. CPR Center Point Road District CPR-1, CPR-2, CPR-3.
 - A. Land Uses. Land uses shall be as designated in the Land Use Matrix Figure 1.
 - B. Conditions For Uses Permitted.
 - (1) In CPR-1 dwelling units and rooming units are not permitted below the second story.
 - (2) All activities, except for off-street parking or loading, shall be conducted within completely enclosed buildings.
 - C. Minimum Lot Size Requirements. None.
 - D. Minimum Yard Requirements.

Description	CPR-1	CPR-2	CPR-3
Front Yards	0 feet	20 feet	25 feet
Corner Side Yards	15 feet	15 feet	15 feet
Rear Yards	15 feet	30 feet	30 feet
Interior Side Yards – Residential	0 feet	0 feet	0 feet
Interior Side Yards – Commercial	0 feet	0 feet	20 feet
Transitional Yards	0 feet	0 feet	0 feet

- E. Maximum Height Requirements.
 - CPR-155 feet
 - CPR-245 feet
 - CPR-345 feet

In the CPR-1 district no building can exceed three stories. No height of building exceptions permitted in the CPR-1 district.

- F. Conditional Uses. Conditional uses are permitted subject to Section 165.83.
- G. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of paragraph B of this subsection and Section 165.23(9).
- H. Signs. Signs shall be permitted according to the provisions of Chapter 166.
- I. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided in accordance with the provisions of Section 165.30 – 165.36 and the provisions of this section with the provisions of this section taking precedence over the provisions of Section 165.30 – 165.36.

- (1) In District CPR-1 no off-street parking shall be allowed between the right-of-way of Center Point Road and any building except for parking that existed prior to August 1, 2013, and parking in accordance with an approved plan.
- (2) The maximum number of parking stalls required in District CPR-1 shall be four stalls per 1,000 square feet of non-residential space, plus two stalls per residential space.

(3) In commercial areas parking may be located in the yard setback areas.

J. Outdoor Lighting. Outdoor lighting shall be in accordance with the provisions of Chapter 68.

K. Building Location. In District CPR-1 all buildings with any building face adjoining Center Point Road shall be constructed with the primary or front face of the building toward Center Point Road. The preferred location for new buildings in District CPR-1 shall be in accordance with Layout 1 or Layout 2 in Appendix B. Buildings configured in accordance with Layout 3 considered acceptable as an expansion of an existing building or new building where Layout 3 is approved by the City Council as part of a Conceptual Plan. Buildings and parking generally in accordance with Layout 4 in Appendix B are discouraged and are allowed only with approval by the City Council as part of a Conceptual Plan.

L. Architectural Requirements. All buildings located in District CPR-1 and CPR-2 shall be constructed with the primary building material being an architectural masonry product. The desired architectural style or appearance is a distinctive style using clean or simple lines and features. Decorative and ornate architectural features generally not allowed. Individual building must comply with the architectural guidance standards.

M. Access Management and Control. To minimize traffic congestion and conflicting traffic movements along Center Point Road from Blairs Ferry Road to Boysen Road the following access management and control standards shall generally be applicable.

(1) No driveway access directly to Center Point Road shall be permitted within 200 feet of any public street intersecting Center Point Road.

(2) No driveway shall be permitted within 200 feet of an existing driveway.

(3) All driveways and parking lots along Center Point Road shall be developed in a manner in which there will be connectivity between lots. The connectivity requirement is to encourage the movement of vehicles to public streets by means other than direct driveway access to Center Point Road.

N. Conceptual Plan Approval. The standards set forth for building location, architectural requirements and access management and control in the CPR District are inherently discretionary. The final decision with respect to building location, architectural requirements and access management and control requirements in the CPR District rests with the City Council. Any party considering a development with the CPR District that would need to comply with any or all of these three standards is encouraged to submit a Conceptual Plan for review and consideration by the City Council.

(1) A Conceptual Plan must show the building layout including driveway and access. The Conceptual Plan must show an illustration of the architectural features of the building and identify proposed

building materials. It is preferred, but not required, for the Conceptual Plan to illustrate the architectural style in color.

(2) The Conceptual Plan must be sufficiently complete to allow the City to review and consider the issues of building location, architectural requirements and access. The Conceptual Plan is not required to meet additional standards set forth for a site plan.

(3) The Conceptual Plan shall be submitted on drawings not larger than 11-inch by 17-inch.

(4) The Conceptual Plan shall be submitted to the Zoning Administrator. The number of copies required shall be as determined by the Zoning Administrator.

(5) Within 35 days after receipt of a Conceptual Plan the Zoning Administrator shall complete its review in writing.

(6) Following completion of the review by the Zoning Administrator, the Conceptual Plan will be reviewed by the Planning and Zoning Commission. The Zoning Administrator shall place the Conceptual Plan on the next agenda of the Planning and Zoning Commission.

(7) The Planning and Zoning Commission shall consider the Conceptual Plan within 45 days after referral from the Zoning Administrator. Following review by the Planning and Zoning Commission, or the passage of 45 days without consideration by the Planning and Zoning Commission, the Conceptual Plan will be placed on the next available agenda of the City Council for consideration.

(8) The City Council shall consider and take action on the Conceptual Plan within 45 days after referral. In the event the City Council takes no action within 45 days the Conceptual Plan shall be deemed to be denied, unless both parties mutually agree to an extension of the 45 day period.

(9) Construction of the proposed buildings set forth in an approved or conditionally approved Conceptual Plan must be initiated within 36 months following final action by the City Council to approve or conditionally approve the Conceptual Plan. The period of validity of a Conceptual Plan may be extended by the City Council.

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165.17 ZONING DISTRICTS AND ZONING DISTRICT MAP.

1. Zoning District Map. The Zoning District Map is on file in the office of the City Clerk and is hereby incorporated into and made a part of this Code. The boundaries and classifications of the various zoning districts have been enacted and established as shown on said Map, subject to the provisions hereafter set out relating to subsequent district boundary classification changes and amendments. This Map shall be revised from time to time and after approval by resolution of the City Council shall be considered as incorporated into this Code. Said Map is designed and intended as a method and means of setting forth the boundaries and classifications of various zoning districts as the same are shown on said Map. All notations, references, markings, and other information shown thereon are hereby enacted and established as a part of the official "District Map" for the City of Hiawatha, Iowa, and are made a part of this chapter subject to the manner and method hereafter set out for subsequently changing the district boundary classifications.
2. District Boundary Rules. The following rules shall apply with respect to the boundaries of the various districts as shown on the Zoning District Map:
 - A. General Rule. District boundary lines are the centerlines of highways, streets, and alleys; right-of-way lines of railroads and freeways; section, division of section, tract and lot lines; or such lines extended unless otherwise indicated.
 - B. Special Areas. In areas not subdivided into lots and blocks, and wherever a district is indicated as an area adjacent to and paralleling a street or highway, the depth of such areas shall be in accordance with dimensions scaled on the Map at right angles from the centerline of the street or highway, and the length of frontage shall be in accordance with dimensions scaled on the Map from section, quarter section, or division lines, or centerlines of streets and highways, or railroad rights-of-way, unless otherwise indicated.
 - C. Vacated Streets. Whenever any street, alley, or other public way is vacated by official action of the Council the district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation, and all area included in the vacation, shall then and henceforth be subject to all appropriate regulations of the extended districts.
 - D. Submerged Areas. All areas within the corporate limits of the City, which are under water and not shown as included within any district, shall be subject to all of the regulations of the district which immediately adjoins the water area. If the water area adjoins two or more districts, the boundaries of each district shall be construed to extend into the water area in a straight line until they meet the other district.
3. Relationship Between Districts and Prior Enactments.
 - A. Districts Remaining in Effect. The regulations for zoning districts listed in this Section 165.17(3)(A) shall remain in effect for land so designated as of the date of enactment of this Code, unless a designation is later repealed or amended by the City Council.

- (1) FP Flood Plain
- (2) PUD Planned Unit Development. Where a PUD District has been adopted, the PUD agreement or designation in effect as of the date of enactment of this Code shall remain in effect except if amended in accordance with Section 165.66(12) of this Code.

B. Modified Districts. City zoning regulations in effect prior to enactment of this Code included zoning districts which have been retained but have been modified by adoption of this Code. Upon enactment of this Code, land included in a modified district shall be governed by regulations for the district as set forth in this Code. Modified districts include:

- (1) A Agriculture
- (2) R-1 Residential Single Family
- (3) R-3 Residential Single Family
- (4) R-5 Residential
- (5) R-7 Multiple Family Residence
- (6) R-MH Residential Mobile Home
- (7) C-ORS Commercial Office, Research, Service
- (8) C-2 Neighborhood Convenience
- (9) C-3 Highway Commercial
- (10) C-4 Highway Commercial
- (11) C-R Commercial Recreation
- (12) C-WH Commercial Warehouse
- (13) I-1 Industrial
- (14) I-2 Industrial

C. Deleted Districts. Certain districts have been deleted because the provisions of the districts have been included with another district or the differences between the deleted district and another district were minimal. Deleted districts include:

- (1) R-2 Residential
- (2) R-4 Residential
- (3) R-6 Residential
- (4) C-1 Commercial
- (5) I-1A Industrial
- (6) I-2A Industrial
- (7) I-3A Industrial

4. Map Update. The Map shall be updated periodically and become the new "District Map."

A. Changing District Boundary Classifications. In accordance with Section 414.4 of the 1995 Iowa Code, as the same now exists or may be hereafter amended, superseded or replaced by subsequent sections of said Iowa Code, the Council herewith provides the following manner to amend, supplement or change the district boundary classifications as shown on said "District Map." Such amendments, supplements, or changes shall be set out in an ordinance identifying the property by legal description and identifying the zoning district as the same that exists, and the new district to be established for said property. Such ordinance shall, after adoption and publication, be then recorded by the City Clerk as other ordinances. Such ordinance shall make reference to the Zoning Ordinance and "District Map" and shall constitute a part of the City Zoning Ordinance; however, such ordinance shall not repeal or reenact said Map and said Map or Map periodically revised, shall continue to exist and define and establish the boundaries and classifications, as the same exist on said Map except that after such subsequent ordinances are adopted and published as above provided, the boundaries and zoning district classifications as defined in said subsequent ordinances shall supersede the district map and boundaries as shown on any such "District Map" for the particular property described in the subsequent ordinance. Further, such subsequent ordinances shall be considered as special ordinances, and not required to be set out in the Municipal Code.

B. Annexed Territory. All territory which may be annexed to the City of Hiawatha after adoption of this chapter shall be zoned automatically classified in the Agricultural District until otherwise amended according to procedures established in Sections 165.90 and 165.91 of this Code.

(1) Voluntary Annexation. All applications for voluntary annexation of land to the City of Hiawatha may, in addition to the necessary requirements for annexation, include a request by the applicant for a zone classification for the property other than agricultural. Upon receipt thereof, the application shall be referred to the Planning and Zoning Commission for recommendation on the requested zoning pursuant to Sections 165.90 and 165.91 of this Code. The Planning and Zoning Commission shall consider zoning requests in accordance with the land use portion of the Comprehensive Plan and Sections 165.90 and 165.91 of this Code.

(2) Involuntary Annexation. All territory which may be annexed shall be automatically classified in the Agriculture District until otherwise amended according to procedures established in Sections 165.90 and 165.91 of this Code. However, if a majority of the property owners who also represent a majority of the property being annexed, request a zone classification which the Planning and Zoning Commission finds compatible with the land use portion of the Comprehensive Plan, the Commission may consider the request in a report to the City Council.

165.18 and 165.19 - Reserved

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165.20 Reserved.**165.21 GENERAL SUPPLEMENTAL REGULATIONS.**

1. Essential Services. Existing facilities of public and private utilities, railroads and the City, may continue to be operated and maintained in all districts. Certain related new facilities and structures may also be erected, constructed, installed and utilized in all districts. These include buildings, over-head, surface or underground gas, electrical, steam, or water distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, public parking lots, parks, traffic signals, hydrants, towers and poles, railroad switches and signals, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public or private utility, railroad or the City for the public health, safety, or general welfare. However, no new buildings, nor such new structures and uses as substations, railroad lines, generating plants, relay towers, sewage treatment, sanitary landfills and the like, nor any expansion of such existing buildings, structures, and uses by more than twenty-five percent (25%) of the existing size shall be permitted in a district where such use is not allowed as a permitted use, except when so approved by the Board of Adjustment as a conditional use following the procedures contained in Sections 165.83 and 165.84 of this Code.

2. Private Sewage Disposal and Water Supply Systems. Where public sewage disposal or water supply systems are unavailable, there shall be sufficient ground area left unoccupied by structures or paving to allow a proper system of sewage disposal and/or water supply conforming with the applicable standards and requirements of City, County, and State regulations regardless of other provisions of this chapter. Site plans accompanying building permit or certificate of occupancy applications shall clearly show the proposed sewage disposal system and/or water supply system. All such proposed systems shall be subject to approval of the appropriate health and other agencies prior to issuance of a building permit. Coverage of any part of a septic tank field by a building or hard surface shall not be permitted.

3. Temporary Buildings and Structures. Temporary buildings and structures, including mobile homes, that are used for office or storage purposes in conjunction with construction work only, may be permitted on the same lot or one adjacent thereto, in any district during the period that the construction work is in progress but such facilities shall be removed upon completion of the construction work. The City Council may by resolution permit the temporary establishment in a district of a Portland concrete or asphaltic concrete mixing plant in conjunction with the construction of a highway or other large scale project. Such permissions shall contain a termination time and any other conditions deemed necessary and proper to protect surrounding properties. Any temporary buildings and structures permitted by this section need not comply with district yard requirements, but shall be set back from all lot lines and otherwise be located on the property as may be required by the City to reduce any potential safety hazards to vehicles and pedestrian traffic on adjacent public ways, and to also reduce any adverse effects on adjacent properties. However, no permanent structures shall be erected except in conformance with the regulations of the district within which the property is located. Temporary accessory structures shall be permitted in accordance with Section 165.23(9).

4. **Restriction on Use of a Residential Lot for Provision of Access to Adjacent Property.** No part of any lot located in an R district shall be used for vehicular access purposes to any other property which is located in any district other than an A or R district, or to any other property being used for a purpose not allowed in an A or R district as a permitted or conditional use.

5. **Building and Structures Destroyed or Damaged.** Any building or structure which is damaged, partially destroyed; or destroyed or reduced by fire, flood, wind, earthquake or other calamity which renders such building or structure unsafe or unsightly shall be reconstructed, repaired, or altered to restore it to a safe and slightly condition. Such restoration shall be started within one year from the date of such destruction, damage or reduction and shall be diligently prosecuted to completion. If such restoration is not made, the residual building or structure shall be removed by the owner thereof at his expense within said one year period and the premises shall be made safe and slightly. If the owner does not comply with said provision, the Zoning Administrator shall give written notice of said requirement to the owner and give the owner ninety (90) days to comply. Upon the owner's failure to comply with such notice, the Zoning Administrator shall be authorized to cause removal of the premises to a safe and slightly condition and any expense incident thereto shall be paid by the owner.

6. **Use of Air Rights.** The development of air rights above land located in any district and utilized for public or private use shall be permitted subject to all the requirements of the district within which such development is located. Total development on the lot shall be in accordance with requirements of the district within which it is located.

7. **Exceptions to Height Limitations.** In those districts where height limitations are imposed, such height limitations shall not apply to the following appurtenances and structures:

- A. Church spires
- B. Belfries
- C. Monuments
- D. Ornamental towers and spires
- E. Radio, telephone and television antennas, aerials, and relays
- F. Chimneys
- G. Smoke stacks
- H. Flag poles
- I. Silos
- J. Windmills and Wind Generators
- K. Emergency sirens and similar devices
- L. Elevator and stairway bulkheads, and air conditioning equipment
- M. Water towers and cooling towers

8. **Corner Visual Clearance Required.** In all districts nothing shall be erected, placed, planted, or allowed to grow on a corner lot in such a manner as to significantly impede vision between a height of two and one-half feet and ten feet above the center

line street grades of the area described as follows: that triangular shaped area bounded by the street or road right-of-way line of a corner lot or tract and a straight line joining points on said right-of-way lines, 30 feet from said corner.

9. Manufactured Homes and Mobile Homes.

A. A manufactured home may be located in an approved mobile home park, subject to the provisions of Section 165.16(6) of this Code and Chapter 147 of the Municipal Code, or may be located in any district in which single family dwellings are permitted, subject to all applicable requirements with this Code, and including the following:

- (1) Have been manufactured after June 15, 1976, and bear a label certifying compliance with the National Manufactured Home Construction and Safety Standards Act of 1974, and have not been subsequently altered in violation of such standards.
- (2) Have met all City required inspection and/or permits required for any dwelling unit and lot, other than for the factory manufactured structure itself which is governed by Federal standards.
- (3) Be attached to a permanent foundation and be classified and taxed as real property.

B. A mobile home used for residential purposes, if not meeting the standards and qualifications contained within the definition of a Manufactured Home in this Code, shall be located only in an approved mobile home park subject to the provisions of Section 165.16(6) of this Code and Chapter 147 of the Municipal Code. A mobile home which does meet the Manufactured Home definition's standards and qualifications shall be classified as a Manufactured Home and be regulated as a single-family dwelling.

10. Tents. No tent or similar structure shall be erected, used, or maintained for human residence. Erection, use, and maintenance of tents and similar structures for other uses shall be subject to the fire prevention regulations and other applicable regulations of the City.

11. Signs. Signs shall be allowed in each district in accordance with the provisions of Chapter 166 of this Code.

12. Off-Street Parking and Loading Facilities. Off-street parking and loading facilities shall be provided for each use or structure in accordance with the provisions of Sections 165.30-165.36 of this Code.

13. Flood Plain Regulations. The regulations contained in this Code shall be supplementary to flood hazard and damage prevention regulations adopted by the City Council in Chapter 161 of this Code, the Iowa Natural Resources Council and any other public agency having jurisdiction in this matter. In the event of conflict the more restrictive provisions shall apply.

14. Airport Zone – Height and Use Limitations. The Cedar Rapids Airport Zoning Regulations shall supplement the regulations contained in this Code. All properties contained within the jurisdictional boundaries of the airport zoning regulations, as indicated on the current airport zoning map, shall be subject to the regulations contained in such airport zoning regulations for the Cedar Rapids Airport.

15. Nonconformance Created. Uses or structures lawfully established prior to the effective date of this chapter and rendered nonconforming by the provisions thereof, or by subsequent amendments thereto, may continue subject to the provisions of Section 165.70 of this Code.

16. Single-Family Dwelling Buildings. Any building erected or otherwise established for use as a single-family building after the adoption of this chapter shall meet the following requirements:

- A. Have a measured minimum dimension of twenty-four (24) feet for the main body.
- B. Have a minimum floor area of six hundred and sixty (660) square feet.
- C. Have a continuous and complete frost protected perimeter foundation for the main body.

17. Vehicle Repair and Service Restrictions.

A. Residential Zoning Districts.

(1) Vehicle repair, service or maintenance, when done for compensation, shall be limited to only:

- a. Emergency services as defined in Section 165.96(69); and
- b. Oil changes, filter replacement, chassis lubrication, adding or removing of fluids, vacuuming interiors, washing windows, windshield wiper blade replacement, washing of vehicles, engine tune-ups limited only to spark plugs and wires, points, distributor cap, and carburetor adjustment.

(2) All persons providing the services described in subparagraph A(1)(b) above shall be required to first register with the Building Department of the City of Hiawatha on forms provided by the Building Official, and at the time of registration also file a copy of any waste oil disposal permit required by the Department of Natural Resources, have a permanent place of business in a commercial or other district authorizing such use, restrict the service and repair activities on all residential lots to a maximum of four consecutive hours to be conducted only between the hours of 8:00 a.m. and 9:00 p.m. on any one day, and shall comply with all the provisions of nuisance laws and the Hiawatha noise ordinance, compliance with this subsection shall not relieve the person providing the service with compliance with all other provisions of applicable federal, State and local laws and regulations.

(3) A property owner/occupant shall be permitted to perform vehicle repair, service or maintenance only upon vehicles owned by him/her, and also only when such vehicle repair, service or maintenance is done on a property owned or occupied by such vehicle owner, and also subject to the following conditions:

- a. When outside an enclosed structure, activities shall be limited to washing, lubrication, replacement of tires, filters, fluids, plugs, points, lights, battery, windshield wipers, fuses,

spot body repair and spot painting. Once such activities are commenced, the same shall be completed within 48 hours, and shall be limited to only one vehicle during such period of time. Parts, machinery, equipment, fluid, or debris associated with the repair shall be kept within an enclosed structure.

b. When done within an enclosed structure the following activities are permitted: engine rebuilding, repair or replacement of drive train, body and frame components, upholstery, painting, undercoating, repair or replacement of mufflers, tail and exhaust pipes, and similar heavier service and repairs not authorized in subparagraph (3)(a) above.

c. Repair, service and maintenance on a vehicle with a maximum gross weight of 5,000 pounds or more shall be prohibited in a residential zoning district.

B. Commercial Zoning Districts. No vehicle repair, service or maintenance shall be permitted in unenclosed accessory parking facilities or any other unenclosed area in any Commercial Zoning District, except emergency service and repairs defined in Section 165.96(67), and except washing of vehicles. No motor fuel or oil shall be sold in conjunction with any accessory parking facilities provided in C-ORS District. A property owner/occupant of a lot within a Commercial Zoning District, which principal use is residential, will be permitted to perform repair service and maintenance authorized under Subsection 17(A)(3), subparagraphs a. and b., notwithstanding other provisions prohibiting the same.

C. Industrial Zoning Districts. Unless otherwise permitted, no vehicle repair, service or maintenance shall be permitted in or in conjunction with any unenclosed accessory parking facilities or any other unenclosed area in any Industrial District, except emergency service and repairs defined in Section 165.96(69), and except washing of vehicles. A property owner/occupant of a lot within an Industrial Zoning District, which principal use is residential, will be permitted to perform repair, service and maintenance authorized under Subsection 17(A)(3), subparagraphs a. and b., notwithstanding other provisions prohibiting the same.

165.22 SUPPLEMENTAL LOT REGULATIONS.

1. Zoning Lot. In this Code the term “lot” refers to a “zoning lot” unless the context shall clearly indicate that it refers instead to a “lot of record.” A zoning lot is a single tract of contiguous land which, at the time of filing for a building permit or a certificate of occupancy or district boundary change, is designated by the owner or developer as a tract to be used, developed, or built upon as a unit under single or unified ownership or control and assigned to the particular use, building, or structure for which the building permit or certificate of occupancy is issued and including such area of land as may be required by the provisions of this chapter for such use, building, or structure.

2. Minimum Lot Size. Every lot which is created subsequent to the effective date of this ordinance shall conform to the minimum lot size requirements of the district within which it is located. If not otherwise specified by the applicable district regulations, a lot for residential use shall have, as a minimum, sufficient width and depth

to accommodate, within its boundaries, a rectangle measuring 60 feet in width by 100 feet in depth. In a Planned Unit Development a lot shall conform to the minimum lot size requirements of the underlying zone district or 60 feet in width by 100 feet in depth whichever is less.

3. Lot Street Frontage and Access Required. Hereafter no lot shall be created nor shall any principal building be constructed or placed on any lot or tract of land unless such lot or tract has frontage on either a public street or on a private street which has been specifically approved by the City Council for that purpose. In order to be approved such street shall provide permanent and unobstructed vehicular access, have a roadway of adequate width and surface, and meet all other applicable standards and requirements, established by the City. No lot shall be used for residential purposes unless such lot has at least a 50-foot frontage on such street.

4. Division of Lot. No improved lot shall hereafter be divided into two or more lots and no portion of any improved lot shall be sold unless all lots resulting from each division or sale shall conform with all the applicable bulk regulations of the district in which the property is located.

5. Number of Principal Buildings Permitted on a Lot. More than one principal institutional, public or semi-public, multi-family, commercial, or industrial building may be located on a lot provided that no such building or portion thereof is located outside the buildable area of the lot. However, except in the case of Planned Unit Developments not more than one detached single-family or two-family residential building shall be located on the same lot with any other principal building.

6. Lot of Record. In any residence district on a lot of record, on the effective date of this chapter, a single family dwelling may be established even though the lot area and width do not meet the minimum district requirements, provided all other requirements of this chapter are met; however, where two or more contiguous substandard recorded lots are in common ownership and are of such size that together they constitute at least one conforming "zoning lot," such lots or portions thereof shall be so joined, developed, and used for the purpose of forming an effective and conforming zoning lot or lots.

165.23 SUPPLEMENTAL YARD REGULATIONS.

1. General Provision. Any building, structure or use hereafter erected, altered, or established, shall comply with the general yard space requirements of the district within which it is located, except as specified herein.

2. Location of Required Yard. The required yard space for any building, structure or use shall be contained on the same lot as the building, structure or use and such required yard space shall be entirely upon land in a district in which the principal use is permitted.

3. Reduction or Sharing of Required Yards or Space Prohibited. No lot, yard, court, parking area, or other space shall be reduced in area or dimension so as to make said area or dimension less than the minimum required for this chapter. No part of a yard, court, parking area, or other space provided for any building or structure to comply with the provisions of this Code shall be included as part of a yard, court, parking area or other spaces required under this chapter for another building or structure.

4. Required Yards For Existing Buildings. No yards, now or hereafter provided, for a building existing on the effective date of this chapter, shall subsequently be

reduced below, or further reduced if already less than the minimum yard requirements of this chapter for equivalent new construction.

5. Required Yards on Major Streets.
 - A. Major Streets. All applicable building setbacks and yard requirements set forth in this chapter shall be measured and determined from the existing street right-of-way.
 - B. Private Streets. All applicable building setbacks and yard requirements along private streets shall be measured from the nearest line of the access easement.
6. Transitional Yards.
 - A. When a lot within an R-7, or any C and I Zone District adjoins an A or R District then a transitional yard shall be required. The required yard depth shall be either that required for the R-7, C or I District or that required for the adjoining A or R District, whichever is greater, and shall be provided along the adjoining A or R lot line.
 - B. In addition, unless separated by a street, public alley or by an intervening lot, no nonresidential structure within an R-7, or any C or I Zone District shall be located less than 100 feet from an A or R District unless said structure is effectively screened from the A or R District. Said screening shall consist of a wall, solid or opaque fence or appropriate plant materials that are between 5.5 and 6 feet in height, subject, however, to the regulations in Sections 165.21(8), 165.23(8) and 165.47(5)(B) herein. If plant materials are used for said screening they may exceed 6 feet in height at maturity, shall be a minimum of three feet in height immediately after planting and pruning, shall be composed of plants approved for such use by the City, and shall be installed in a manner to assure effective year-round visual screening. All walls, fences or plant material screens shall be maintained in such a manner to assure a continuing year-round effective visual screen and cause no adverse impact to adjoining properties due to lack of proper maintenance. Berming may be used in conjunction with fencing or plantings to provide the required screen, however, no side slope shall be steeper than 4 to 1, unless approved by the City Engineer. When the structure is effectively screened, the minimum yard separation requirements shall be specified in Subsection A above.
7. Front Yards For Double Frontage Lots. Double frontage lots shall provide front yards on both street frontages. Front yard requirements and restrictions included in the district regulations within which the lot is located shall apply on both frontages, with the exception that in the portion of the lot normally considered to be the rear yard the construction of a fence may be permitted in the same manner as would be allowed on any other similar standard lot. This exception shall, however, be subject to the requirements of Section 165.21(8) Corner Visual Clearance Required and also subject to Section 165.23(8) Fence or Wall.
8. Permitted Encroachments in Required Yards. Under the terms of this Code a required yard shall be open, unoccupied, and unobstructed from grade to sky except for permitted encroachments. The following identify such permitted encroachments and in which yards they are permitted along with limitations imposed thereon:

- A. In All Required Yards.
- (1) Open deck not over 8 feet in width or depth, but not including a permanently roofed-over deck.
 - (2) Steps or ramp which are necessary to provide access to the first floor of lawful building or for access to a lot from a street or alley.
 - (3) The following appurtenances shall encroach no more than two feet into the required yard, as measured from the building, except when the required yard is nine feet or more in depth they shall encroach no more than three feet.
 - a. Chimney or fireplace, when no more than six feet in width.
 - b. Air conditioner.
 - c. Architectural features such as sills, eaves, and cornices.
 - d. Gutters and down spouts.
 - e. Awnings and canopies except as provided for in Section 165.23(9)(D)(5).
 - f. Bay windows.
 - g. Unenclosed porches, stairs and fire escapes. For open decks, see subparagraph A(1) of this subsection.
 - h. Solar energy collectors and heat storage units of up to 200 square feet of collector surface area.
 - i. Any combination of the above listed appurtenances.
 - (4) Landscaping, vegetation, arbors, trellises, flagpoles and the like, shall be allowed in all yards subject, however, to the restrictions imposed in Section 165.21(8) of this Code, Corner Visual Clearance Area Required.
- B. In Rear Yards. Customary play equipment, clothes lines and poles, and underground shelters, outside elements of central air conditioners projecting no more than six feet into the required yard but in no case within less than eight feet of an adjacent lot line.
- C. Solar Energy Collectors. A solar energy collector and heat storage unit to supply the building to which it is appurtenant shall be considered an accessory building and be so regulated.
- D. Fences. A non-opaque fence as defined in Section 165.96, shall not exceed a height of 10 feet above ground level when erected in a required yard or along a lot line.

EXCEPTION: In or abutting A or R Districts the height of such fence erected in a required yard or along a property line:

- (1) Shall not exceed six feet when located in the rear or side yard.
- (2) Shall not exceed four feet when located in the front yard.

E. Vision Barriers. An opaque fence as defined in 165.96, wall, dense shrubs or combination thereof shall not exceed a height of 10 feet above ground level when erected in a required yard or along a lot line with the following exceptions:

- (1) A and R Districts: In or abutting A or R Districts the height of such vision barrier erected in a required yard or along a property line;
 - a. Shall not exceed six feet when located in the rear or side yard.
 - b. Shall not exceed two and one-half feet when in the front yard.
 - c. Shall not exceed two and one-half feet when located in a required corner side yard that is in the front yard or side yard.
- (2) All Districts: Such visual barrier shall not exceed two and one-half feet in height when placed in the following locations:
 - a. When located in a required front yard;
 - b. When located within twelve and one-half feet of the rear lot line on a double frontage lot if the abutting right-of-way is less than 100 feet and is across from the front yard of a residential property.
 - c. When such visual barrier is located within the rear 20 feet of a lot which abuts an adjacent lot and is within 20 feet of an existing or potential driveway in the adjacent lot, a Visual Clearance Area shall be provided. Such Visual Clearance Area shall be triangular in shape and described as follows: beginning at the point of intersection of the corner side lot line (property) with the rear lot line (property line) and extending 30 feet along each lot line. The end points shall be connected by a straight line. Within said triangular area nothing shall be erected, placed, planted or allowed to grow in such a manner as to significantly impede vision between a height of two and one-half and 10 feet above the adjacent center line street grade.
- (3) Any fence, wall, dense shrub, or combination thereof, legally established or constructed prior to the adoption of this section and not complying with all requirements of this section as amended, shall be classified as legally nonconforming.
- (4) Electric fences and barbed wire are restricted in accordance with Chapter 41 of the Hiawatha Code of Ordinances.

F. Additional Provisions. Additional provisions for permitted yard encroachments of accessory uses and structures are provided in Section 165.23(9) of this Code, Accessory Uses and Structures.

9. Accessory Uses and Structures. This section supplements the regulations contained in this Code as they apply to accessory uses and structures, except for accessory signs which are governed by the provisions of Section 165.15(2), Figure I and Chapter 166 of this Code.

A. Time of Construction. No accessory structure or use shall be constructed or established more than one hundred and twenty days (120) prior to the time of completion of the construction or establishment of the principal structure or use to which it is necessary.

B. Use as a Dwelling Restricted. No accessory structure shall be used for living, sleeping, or housekeeping purposes except by domestic employees employed on the premises and the immediate families of such employees and only when said structure has been constructed for residential purposes and meets all City Codes relating to residential construction and occupancy, and has been issued a certificate of occupancy. Additionally, no such occupancy shall be permitted prior to issuance of an occupancy permit for the principal structure.

C. Temporary Accessory Structures. Temporary accessory structures shall be permitted in all zones except residential zones in accordance with this section.

(1) Shall require a building permit. The fee shall be in accordance with Council resolution.

(2) Shall comply with all codes applicable to the specific use.

(3) Shall comply with the setback requirements of the principal structure for the zone in which it is located.

(4) Shall be of membrane or tent construction.

(5) Shall remain no longer than three continuous months.

D. Parking and Storage Restrictions.

(1) General Parking Regulations. All access ways and driveways to parking and storage areas, pads and parking areas shall be surfaced and maintained with asphaltic concrete, brick, asphaltic macadam or similar method to be approved by the City Engineer unless otherwise noted as specific exceptions. All accessory parking shall comply with Section 165.30 through 165.36. Additionally, no vehicle parked in any required yard shall obstruct a public sidewalk. If no public sidewalk exists, then no such vehicle shall be parked closer than five feet to the street right-of-way. No vehicle, machine or equipment shall be parked within the corner visual clearance area as described in Section 165.21(8). No such vehicles or equipment shall be used for living, sleeping, or housekeeping purposes while so parked or stored.

(2) Front Yards. Vehicular parking and vehicular storage shall not be permitted in any required front yard other than in C and I Districts, except that in the Agriculture and Single Family Residential Districts and on lots being used for a single-family or a two-family dwelling passenger motor vehicles may be parked upon a driveway located within a required front yard. In addition, no more than one recreational vehicle may be parked within a required front yard and only if in operable condition and if parked upon a hard surfaced driveway. The driveway shall be considered to be that designated area to provide access from the street to a parking area, an attached or basement garage, carport or detached garage. A driveway or hard surfaced pad may

extend no more than ten feet in width into that part of the required front yard which is located between and in a direct line from the street and the principal structure. For the purposes of this section the principal structure will exclude an attached or basement garage.

(3) Side Yards. Vehicular parking or vehicular storage may be permitted in a side yard in any district.

(4) Rear Yards. Vehicular parking or vehicular storage shall be permitted in a rear yard in any district. No more than a combination of two passenger motor vehicles, recreational vehicles or light duty machine or equipment, or similar vehicles and equipment shall be parked or stored in the rear yard in the Agriculture, R-1, R-3 and R-5 Residential Districts unless effectively screened on each side adjoining a street or property situated in a residence district by screening as required in Section 165.23(6)(B) and the parking surface defined in 165.23(9)(D)(1) shall not be required.

(5) Trucks, Commercial Vehicles, and Heavy Machines and Equipment. No trucks with a net legal carrying capacity exceeding one and one-half tons; commercial vehicles and heavy machines and equipment shall be parked or stored upon any lot or tract of land in an R District except if such vehicles, equipment, and machinery are in temporary usage to actively accomplish permitted temporary activities on the premises such as construction, repair, moving, and other similar activities. In such cases they shall, upon completion of said activity, be removed from the lot or tract of land. Commercial vehicles and heavy equipment and machines parking in I Zoning Districts shall be on rock, gravel, dust free surface approved by the City Engineer or on a hard surface as described in Section 165.23(9)(D)(1).

(6) Miscellaneous Parking and Storage. No person shall park, keep or store, or permit the parking or storage of an inoperable vehicle, vehicle component parts, or miscellaneous junk and debris on any public or private property, in any zoning district, unless it shall be in a completely enclosed building. This regulation shall not apply to legitimate businesses operating in a lawful place and manner, in accordance with the zoning regulations, provided, however, that any outside areas used for parking and storage shall be screened from public view in accordance with Section 165.23(6)(B) if required by the regulations of the zoning district within which they are located. The parking surface for this type of use shall be rock, gravel, a dust free surface approved by the City Engineer or a hard surface as described in Section 165.23(9)(D)(1).

(7) Outside Storage. Where outside storage is permitted in Section 165.16 it shall comply with this section. Outside storage shall not be permitted in any required yard. Outside storage shall not be permitted in any front yard in a Residential District. All outside storage shall be effectively screened with landscaping and building elements or opaque fences or walls as specified in 165.23(6)(B), from the right of way and from off-site views.

EXCEPTION: Screening is not required on property lines adjacent to lots zoned as 1-2.

Screening shall comply with specific requirements for the Zoning District in which the storage occurs. Access to outside storage shall be hard surfaced as described in Section 165.23(9)(D)(1) and screened if in view of the right of way. Outside storage surfaces shall be hard surfaces as described in Section 165.23(9)(D)(1) except storage areas in Industrial Zoning Districts shall be on rock, gravel, or a dust free surface approved by the City Engineer or on a hard surface as described in Section 165.23(9)(D)(1). Storage containers shall be considered as outside storage and shall comply with this section and the following.

- a. Commercial storage containers shall not be stacked.
- b. Commercial storage containers shall be allowed only in C-4, C-WH, I-1 and I-2 zones.

(8) Outdoor Displays Areas. The outdoor display of motor vehicles, machines, equipment and merchandise held for sale or rental is permitted only in Commercial and Industrial Districts where such display is incidental to a Permitted or Conditional Use legally existing thereon and is subject to the following:

- a. Outdoor display areas are in addition to and exclusive to required parking and driveway areas.
- b. Outdoor display areas shall not be located on a right-of-way.
- c. Outdoor display areas shall not be located in a detention basin or drainage area.
- d. Outdoor display areas shall be properly maintained to prevent any unsightly appearance, weeds and erosion.
- e. Outdoor displays located on a hard surface as described in Section 165.23(9)(D)(1) may remain in place during on and off business hours.
- f. Outdoor displays not located on a hard surface as described in Section 165.23(9)(D)(1) shall only be permitted during the business hours of the business to which the display is incidental.
- g. Outdoor displays shall cover no more than 10% of the landscape area of the yard in which the display area is located.
- h. Properties legally not in compliance with this Section 165.23(9)(D)(8) shall have three years from the date of enactment (May 16, 2015) in which to comply with the outdoor display area hard surface regulations.

E. Bulk Regulations For Accessory Structures and Buildings.

(1) Attached Buildings and Structures. Attached accessory buildings and structures shall meet all the requirements of this chapter which apply to the principal structure to which they are attached, except as modified in Section 165.23(8) of this Code, Permitted Encroachment in Required Yards.

(2) Detached Buildings and Residential or Commercial Satellite Antenna Dish. Detached accessory buildings or satellite antenna dishes including all directional movements from extremes, except for satellite dishes with less than seven square feet of area within the perimeter of the rim of the satellite dish, shall:

- a. Not be closer than 10 feet to a principal building on the same lot. Distances between such buildings shall be measured horizontally between the closest building walls.
- b. Not be closer than three feet to any lot line.
- c. Not exceed the height limit for the principal building to which it is accessory.
- d. Not be located in a required front yard.
- e. If located partially or completely in a required rear yard, not to exceed 15 feet in height nor occupy more than 40 percent of the required yard.
- f. Not to exceed 15 feet in height nor occupy more than 40 percent of the non-required side yard and shall meet the minimum side yard requirements established for the principal building to which it is accessory unless it is located totally outside of the area of a required side yard. In such case the accessory building may be located within three feet of the side lot line.
- g. Be set back from any adjacent street in accord with the minimum distance required for a principal building on the same lot.
- h. If accessory to a one or two family dwellings also be limited to a cumulative total area not to exceed: (i) 1,000 square feet for lots less than 10,000 square feet; (ii) 10 percent of the lot area for lots greater than 10,000 square feet; and (iii) 3,000 square feet for lots over 30,000 square feet.
- i. For temporary accessory structures, see Section 165.23(9)(C).

(3) On a Reversed Corner Lot. On a reversed corner lot in a residence district, and within 15 feet of any adjacent property to the rear in a residence district, no detached accessory building or portion thereof located in a required rear yard, shall be closer to the side lot line abutting the street than a distance equal to the least depth which would be required under this chapter for the front yard on such adjacent property to the rear. Further, in the above instance, all such accessory buildings shall meet the minimum side yard requirements of such adjacent property which coincides with the side lot line or portion thereof of property in any residence district.

(4) Dispensing Devices. Filling station fuel pumps, air, drink, ice, and food dispensing devices located in districts where allowed, and with a height not exceeding six feet, shall be exempt from the established front yard or corner side yard requirements, but on a corner lot, all such dispensing devices shall be subject to the restrictions provided in Section 165.21(8) of this Code, Corner Visual Clearance Area Required.

(5) Awnings and Canopies. Awnings and canopies that provide shelter for fuel pumps may encroach into required yards no closer than three feet from the lot line, but on a corner lot all such awnings and canopies shall be subject to the restrictions provided in Section 165.21(8) of this Code, Corner Visual Clearance Area Required.

F. Accessory Commercial Service Uses Permitted in R-7 District.

(1) Uses Permitted. A coffee shop, snack bar, gift shop, tea room, cafeteria, newsstand, barber shop, pharmacy or beauty shop may be established as an accessory use within a principal building in an R-7 District wherein the principal use is for multiple dwelling, dormitory, apartment, hotel, hospital or nursing home provided such building, or related complex of buildings for which it is a part, contains the following minimum units:

- a. Multiple dwelling or apartment hotel: 50 apartments.
- b. Dormitory: 50 rooms.
- c. Hospital or nursing home: 50 patient rooms.

(2) Limited to Convenience of Occupants. Such accessory uses shall be primarily for the convenience of and for service to the patients, residents, guests or employees occupying the building. No off premise advertising of any kind shall be allowed in connection with such an accessory use, except that the facility may be listed by name in the City telephone directory, if served by a separate telephone or telephones.

(3) Signs Limited. No exterior signs shall be placed on the premises indicating to the general public that a portion of the premises is being used for an accessory use. Interior directional signs may be permitted to designate the location of that portion of the premises at which such an accessory use is located.

G. Accessory Child Day Care Facilities. Child day care facilities, including nursery and preschool, shall be permitted as an accessory use in churches and public or private institutional buildings, subject to compliance with the City Building Codes and other applicable State, County, and City regulations.

165.24 ADULT ENTERTAINMENT ESTABLISHMENT REGULATIONS.

1. General Statement of Intent. Adult Entertainment Establishments, because of their special characteristics are recognized as having potential deleterious impacts on surrounding establishments and areas, thereby contributing to creation of blight and to the decline of neighborhoods. These negative impacts appear to increase significantly if several Adult Entertainment Establishments concentrate in any one area. Recognized also is the need to protect lawful rights of expression and use of property and to not unduly restrain general public access. Therefore, it is the intent of these regulations to prevent the concentrations of Adult Entertainment Establishments in all areas, to more severely limit their locations in areas where minors would be expected to live or congregate, and to otherwise regulate their locations in order to protect and preserve the welfare of the community. It is the intent also to provide for sufficient locations for such establishments to protect basic legal rights of expression and public access. These

regulations have been enacted with full consideration of the legal and constitutional issues heretofore adjudicated.

2. Definitions. The following terms as defined in Section 165.96 shall govern the interpretation of the regulations of Adult Entertainment Establishments:

- A. Adult artist-body painting studio
- B. Adult book store
- C. Adult cabaret
- D. Adult entertainment establishment
- E. Adult massage parlor
- F. Adult mini motion picture theater
- G. Adult modeling studio
- H. Adult motion picture theater
- I. Adult sexual encounter center
- J. Adult theater
- K. Specified anatomical areas
- L. Specified sexual activities

3. Regulations Governing the Location of Adult Entertainment Establishments.

A. Zoning Districts Where Allowed.

(1) All Adult Book Stores, Adult Motion Picture Theaters, Adult Mini Motion Picture Theaters, Adult Massage Parlors, Adult Theaters, Adult Artist-Body Painting Studios, Adult Modeling Studios, Adult Sexual Encounter Center, Adult Cabaret, and all other Adult Entertainment Establishments shall be allowed in the I-1 and I-2 Zoning Districts as a Principal Permitted Use.

(2) All such establishments described in subparagraph A(1) immediately above shall be allowed in C-4 and C-WH Zoning Districts as a Conditional Use.

B. Establishment of Adult Entertainment Establishment. The establishment of an adult entertainment business shall include the opening of such business as a new business, the relocation of such business, or conversion of an existing business location to any of the uses described as an Adult Entertainment Establishment in subparagraph (3)(A)(1) immediately above.

C. Minimum Separation Requirements:

(1) No such establishment described in subparagraph (3)(A)(1) immediately above shall be located within 1,000 feet of another adult entertainment business, or any school, place of worship, public park, public or private playground, public plaza, day nurseries, day care center, nursery school, regularly scheduled school bus stop or any dwelling (one-family, two-family or multiple-family dwelling), or any residential or agriculture zoning districts as defined in this chapter.

(2) To determine minimum separation distances, measurements shall be taken on the direct line from the closest point on the property line of such adult entertainment business to the closest point on the property line of such uses or Residential Zoning District referenced in (3)(C)(1) above.

(3) No person shall cause or permit the establishment of any adult entertainment business as described in subparagraph (3)(A)(1) above within two hundred (200) feet of the public right-of-way for any arterial street in Hiawatha.

(4) An adult entertainment establishment may not be operated in the same building, structure, or portion thereof, containing another adult entertainment establishment.

D. Exterior Portions of Adult Entertainment Establishments.

(1) It shall be unlawful for an owner or operator of an adult entertainment establishment to allow the merchandise or activities of the establishment to be visible from a point outside the establishment. All building openings, entries, windows, etc., shall be covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area. Displays or other promotional materials shall not be shown or exhibited so as to be visible to the public from the pedestrian sidewalks, walkways, or other public or semi-public areas. It shall be unlawful for an owner or operator of an adult entertainment establishment to allow the merchandise or activities of the establishment to be visible from a point outside said establishment.

(2) It shall be unlawful for the owner or operator of an adult entertainment establishment to allow the exterior portion of the adult entertainment establishment to have flashing lights or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provision of this chapter and Chapter 166.

(3) It shall be unlawful for the owner or operator of an adult entertainment establishment to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to an adult entertainment establishment if the following conditions are met:

a. The establishment is part of a commercial multi-unit center; and

b. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this chapter shall be construed to require the painting of an otherwise unpainted portion of an adult entertainment establishment.

E. Signage.

(1) Signs for adult entertainment establishments shall have no more than two (2) display surfaces. Each display surface shall:

- a. Not contain any flashing lights;
- b. Be a flat plane, rectangular in shape.

(2) Signs shall contain no photographs, silhouettes, drawings, or pictorial representations in any manner, and may contain only the name of the enterprise.

(3) Each letter forming a word on a sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(4) Any wall signs shall have only one display surface. Such display surface shall:

- a. Be a flat plane, rectangular in shape.
- b. Be affixed or attached to any wall or door of the enterprise.
- c. Not contain any flashing lights.
- d. The provisions of subsections 2 and 3 shall also apply to wall signs.

F. Other Provisions.

(1) No alcohol shall be permitted in any adult entertainment business, unless specifically authorized by Iowa Law. This prohibition applies equally to the proprietor and the patrons of the adult entertainment establishment.

(2) No minors, as defined by Chapter 728 of the *Code of Iowa* shall be permitted in any adult entertainment establishment.

165.24A PAWNBROKERS AND DELAYED DEPOSIT SERVICES.

1. General Statement of Intent. Pawnbrokers and delayed deposit service facilities have potential deleterious side effects on surrounding areas containing residential, public and family uses. These negative impacts are lessened when such facilities are located in areas with compatible uses. Therefore, it is the intent of these regulations to prevent the location of pawnbrokers and delayed deposit service facilities in areas with residential, public and family uses. Further, it is the intent of these regulations to provide for sufficient locations for the establishments in areas with compatible facilities and uses.

2. Definitions.

A. "Delayed deposit service" means a person or entity who, for a fee, does the following:

- (1) Accepts a check dated subsequent to the date it was written.
 - (2) Accepts a check dated on the date it was written and holds the check for a period of time prior to deposit or presentment pursuant to an agreement with, or any representation, express or implied, made to the maker of the check.
 - B. "Pawnbroker" means any person or entity whose business consists of buying personal property subject to the right of repurchase or redemption, or of receiving actual possession of personal property as security for loans with or without a mortgage or bill of sale. This definition does not include banks, trust companies, building and loan associates and similar businesses.
3. Location.
- A. Pawnbroker or delayed deposit services may be owned and operated in Restricted Industrial Districts (I-1) and General Industrial Districts (I-2). However, pawnbrokers and delayed deposit services may not be located or operated within 1,000 feet of:
 - (1) Any residentially zoned property.
 - (2) Childcare facilities, nursery schools, preschools, elementary schools, junior high schools, or high schools.
 - (3) A church, synagogue, mosque or other religious house of worship.
 - (4) Park or recreational facilities operated and improved by the City, Linn County, the Linn County Conservation Board or the State of Iowa.
 - (5) Adult oriented business, pawnbroker, or delay deposit service facility.
 - B. The distance between the properties and/or facilities identified in (3)(A)(1)-(4) and a pawnbroker or delayed deposit facility shall be measured in a straight line, without regard to intervening structures, from the closest property line of the pawnbroker or delayed deposit facility to the closest property line of the properties and facilities identified in (3)(A)(1)-(4).
 - C. The distance between any two pawnbrokers or delayed deposit facilities or between adult entertainment establishments and pawnbrokers or delayed deposit facilities shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall of each business.
4. Restrictions.
- A. A person shall not operate a delayed deposit service in the City of Hiawatha unless the person is licensed by the State of Iowa to conduct such a business, as required by the *Code of Iowa*, Chapter 533D.
 - B. Visibility into the store shall be maintained by utilizing clear, transparent glass on all windows and doors, and by keeping all windows free of obstructions for at least three (3) feet into the store. Product may be displayed for sale in the window provided that the display, including signage, does not occupy more than thirty percent (30%) of the window area. Interior

and exterior bars, grills, mesh or similar obstructions, whether permanently or temporarily affixed, shall not cover any exterior door or window.

165.25 RESIDENTIAL CHILD DAY CARE FACILITIES.

1. General Statement of Intent. The City Council finds that, there is a need for affordable, good-quality and licensed child day care within the City of Hiawatha which cannot be entirely fulfilled by commercial day care centers. Furthermore, the City Council recognizes that this type of care is critical to the well-being of parents and children in the community. Therefore, it is the purpose of this chapter to provide for the needed smaller residential care facilities while at the same time imposing standards to preserve the residential character of neighborhoods. The chapter will provide a means to establish and operate State registered child day care facilities in residential neighborhoods through a simplified review and approval process. This proposed review process does provide for public notice and discussion before the Board of Adjustment for residential facilities with over five children in Section 165.85. Standards are also provided in order to preserve the residential character of the neighborhoods and provide protection to adjacent residences from noise or other intrusion.

2. Group Child Day Care Home. A group child day care home (less than 12 children), may be allowed in all districts permitting a residential use or any district where a residential use is legally established, if a special permit is approved by the Board of Adjustment. Criteria which must be met to obtain a special use permit are as follows:

A. State registration requirements shall have been met and the applicant agrees to meet any requirements of the Building Code, fire safety regulations, health codes and any other applicable local codes and ordinances.

B. No structural or decorative alteration that will alter the residential character of an existing structure or be otherwise incompatible with surrounding residences shall be permitted.

C. The resident occupant shall be the principal care provider, shall be registered by the State, shall be present during operating hours. When there are five or fewer children being cared for, the resident occupant need not be present. However, an employee of the resident occupant must be present when there are five or fewer children being cared for and the resident occupant is not present. Both the resident occupant and the employee, must be present when there are more than five children being cared for. Only one employee, over the age of 14, shall be permitted. Family members are not considered employees.

D. Any required outside play area shall be effectively screened from adjacent residential uses.

E. If located on a major street, as herein, an off-street drop-off/pickup area must be provided.

F. One off-street parking space must be provided for a non-resident/non-family member employee when located in a single family residence district. A residential driveway is acceptable for this purpose.

G. One unlighted sign, under two square feet in area, and stating only the resident-occupants name and the wording "Group Day Care Home" shall be allowed.

H. Any child group day care home which has been established and has obtained a State of Iowa Certificate of Registration prior to the effective date of this chapter and in addition, meets all of the foregoing criteria, shall be considered as being a lawful use under the terms of these regulations and may so continue without approval of the Board of Adjustment.

165.26 HOME OCCUPATIONS.

1. Statement of Purpose. The regulations of this section dealing with Home Occupations are designed to protect and maintain the residential character of a neighborhood while permitting certain limited commercial activities which have traditionally been carried out in a home.

2. Limitations on Home Occupation Activities.

A. No more than one part-time person who is not a member of the immediate family and residing on the premises shall be employed in the activity on the premises.

B. The activity shall be conducted entirely within the principal dwelling unit or in a permitted accessory building.

C. The activity shall not involve any outside storage nor in any way create, outside the building, any external evidence of the operation.

D. No alteration of a building shall be made which changes the character and appearance thereof as a residential building.

E. No more than 25 percent nor, in any event, more than 350 square feet of floor area of the principal building, and no more than 250 square feet of floor area of an accessory building, shall be devoted to the activity.

F. Not more than one motor vehicle and trailer shall be permitted in conjunction with the activity.

G. No mechanical, electrical, or other equipment shall be used except of a type normally used on a residential premises.

H. No sign other than one unlighted sign not over 2 square feet in area and stating only the resident's name and occupation shall be allowed.

I. No activity shall be permitted which is noxious, offensive or hazardous by reason of pedestrian or vehicular traffic, or by creation of noise, odor, refuse, heat, vibration, smoke, radiation or any other objectionable emissions, or by interference with televisions or radio reception.

J. No commodities shall be sold on the premises.

3. Home Occupations Permitted; Representative Activities. Permitted home occupations include, but are not limited to, the following list of activities; provided, however, that each permitted home occupation shall be subject to the limitations in Section 165.26(2) above, and to all other regulations applicable to the district in which it is located.

- A. Facilities used by a physician, surgeon, dentist, lawyer, clergyman, or other professional person, for emergency consultation or treatment, but not for general practice of their profession.
 - B. Professional services such as accounting, computer, architectural and other services provided client contact consists of no more than an average of one client per day.
 - C. Providing instruction to no more than four students at a time.
 - D. Day care or baby-sitting of not more than five nonresident children.
 - E. Studio of an artist, photographer, craftsman, writer, or composer.
 - F. Renting of rooms by a resident owner to no more than two roomers.
 - G. Millinery, dressmaking, tailoring, canning, laundering, and similar domestic service activities.
4. Bed and Breakfast Homes, Subject to the Following:
- A. Only within a single family, owner-occupied dwelling unit.
 - B. If the dwelling unit has less than 1,000 square feet of floor area, then one guest room is permitted. If the dwelling unit has 1,000 square feet, but less than 2,000 square feet of floor area, then two guest rooms are permitted. If the dwelling unit has more than 2,000 square feet then 3 guest rooms are permitted, three guest rooms shall be the maximum ever permitted.
 - C. Off-street parking shall be provided at the rate of 1 space for each guest room plus the spaces required for the residents. Parking spaces may be in tandem – one space directly behind the other with no separation area – and more than one set of such tandem spaces are permitted, but each tandem set shall be for no more than two vehicles.
 - D. Short-term lodging only is permitted.
 - E. Meals prepared or presented for remuneration are only for the overnight guests and only as part of the lodging fee.
 - F. No meetings, receptions, parties, or like activities for remuneration are permitted.
 - G. No cooking facilities are permitted in guest rooms.
 - H. No bed and breakfast home shall be located closer than 1,200 feet to another unless one or both are located within an officially designated historic district.
 - I. Prior to operating a bed and breakfast home the owner shall obtain an appropriate certificate of occupancy from the City of Hiawatha Building Department. To apply for such certificate the owner shall file:
 - (1) A site plan of the property showing the location and dimensions of the residence, accessory buildings, parking areas, and proposed signs;
 - (2) A floor plan of the residence showing the location and dimensions of the guest rooms and also showing location of exits, fire

alarms, fire extinguishers and any other safety features required by State or local codes.

J. The bed and breakfast home shall meet all applicable local and state inspection, licensing and permit requirements.

K. The bed and breakfast home shall adhere to the limitations on sign size contained in Chapter 166 except that a sign may be placed in a required front or side yard.

L. All other limitations on home occupation activities contained herein shall also apply.

5. Occupations Prohibited.

A. Barber and beauty shops.

B. Automobile repair shops.

C. Taxicab and limousine businesses.

165.27 COMMUNICATION TOWERS.

1. General Statement of Purpose. The purpose of this section is to set forth minimum requirements to regulate the location, use, and height of communication towers in order to protect the welfare of the community while also considering the need for effective electronic communications facilities, including particularly the accommodation of amateur radio operation. Communication towers shall also comply with the applicable regulations contained in Iowa Municipal Code entitled "Communications Towers."

2. District Regulations.

A. Agriculture District. Communication towers shall be permitted as an accessory use and shall be subject to the following regulations.

(1) Height. A communication tower no more than 70 feet in height and a tower with attached antenna(s) with a combined height of no more than 80 feet in height shall be permitted. Towers and towers with attached antenna(s) which exceed those height limits may be permitted as a conditional use, subject to the provisions of Section 165.83.

(2) Required Yards. A communication tower shall meet the minimum yards required for a principal building. Guy wires and anchors shall meet the minimum yards required for an accessory building. The Board of Adjustment shall establish minimum yard requirements when approving a conditional use permit for a communication tower.

B. Residence Districts. Communication towers are permitted only as an accessory use and are subject to the following regulations.

(1) Height. A communication tower no more than 70 feet in height, and a tower with attached antenna(s) with a combined height of no more than 80 feet in height shall be permitted. Towers and towers with attached antenna(s) which exceed those height limits may be permitted as a conditional use, subject to the provisions of Section

165.83. However, a conditional use shall not be approved for a tower nor for a combined tower and antenna(s) exceeding 125 feet in height.

(2) Required Yards. A communication tower shall meet the minimum yards required for a principal building for the district within which the tower is located. Guy wires and anchors shall meet the minimum yards required for an accessory building. The Board of Adjustment shall establish minimum yard requirements when approving a conditional use permit for a communication tower.

C. Commercial Districts. Communication towers need not be differentiated between principal or accessory uses since the regulations are the same for both.

(1) Height. A communication tower with or without attached antenna(s), shall not exceed a total height of 125 feet. Towers exceeding 125 feet in height may be permitted as a conditional use, subject to the provisions of Section 165.83.

(2) Required Yards. A communication tower and any associated guy lines, guy line anchors, or other supporting components shall meet the minimum yard requirements for the district within which the tower is located. However, in no instance shall any such setback be less than 25 feet from the nearest lot line.

(3) Drives and Parking. Parking spaces are not required for a communication tower itself. Any associated uses and buildings shall be provided parking spaces as required by Section 165.30-165.36. Any drives to the tower shall be constructed and maintained with a dust-free surface.

D. Industrial Districts. Communication towers need not be differentiated between principal or accessory uses since the regulations are the same for both.

(1) Height. There are no height limits imposed by this ordinance.

(2) Required Yards. A communication tower and any associated guy lines, guy line anchors or other supporting components shall meet minimum yard requirements for the district within which the tower is located. However, in no instance shall any such setback be less than 25 feet from the nearest lot line.

(3) Drives and Parking. Parking spaces are not required for a communication tower itself. Any associated uses and buildings shall be provided parking spaces as required by Section 165.30-165.36. Any drives to the tower shall be constructed and maintained with a dust-free surface.

165.28 Reserved.

165.29 PERFORMANCE STANDARDS. The operation of any use permitted in this chapter is subject to the standards of performance, as follows:

1. Vibration. Every use shall be so operated that the maximum ground vibration generated is not perceptible without instruments at any point on the lot line of the lot on which the use is located.
2. Odor. Every use shall be so operated that no offensive or objectionable odor is emitted.
3. Smoke and Air Pollution. Every use shall be so operated that no smoke from any source shall be emitted that exceeds the requirements set by the State Air Pollution Control Act, as amended June 1967, and as the same may hereafter from time to time be amended.
4. Toxic Matter. The release of airborne toxic matter from any operation or activity shall not exceed the fractional quantities permitted below; the Threshold Limit Values adopted by the American Conference of Governmental Industrial Hygienists. If a toxic substance is not listed, verification that the proposed level of toxic matter will be safe and not detrimental to the public health or injurious to plant and animal life will be required. The measurement of toxic matter shall be on the average of any 24-hour sampling period.
 - A. In all C Zone Districts, the release beyond lot lines of airborne toxic matter shall not exceed one-eighth of the Threshold Limit Values.
 - B. In all I Zone Districts, the release of airborne toxic matter shall not exceed one-eighth of the Threshold Limit Values beyond zone boundary lines.
5. Radiation. Every use shall be so operated that there is no dangerous amount of radioactive emissions in accordance with the standards of the Federal Radiation Council.
6. All lighting shall be of a type, design, and placement, and also be directed away from and shielded in a manner to minimize impact on residential districts or uses and shall comply with Hiawatha Code Chapter 168.
7. Any external sound system shall be designed, located and operated to minimize impact on residential districts or uses and all sounds generated on the premises shall, in any event, not exceed the maximum permissible sound levels established in the City's Noise Ordinance, Chapter 53 of the Municipal Code.

(Ord. 887 – Dec. 17 Supp.)

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165.30 PARKING AND LOADING REGULATIONS.**165.31 SCOPE AND APPLICATION.**

1. Scope of Regulations. The off-street parking and loading provisions of this section shall apply as follows:

A. For all buildings and structures erected and all uses of land established after the effective date of this Code, accessory parking and loading facilities shall be provided in accordance with the provisions of this section subject to any restrictions contained elsewhere in this Code. Building permits issued prior to the effective date of this Code, may provide parking and loading facilities in the amounts required for the issuance of said building permit in lieu of any different amounts required by this Code, provided construction is begun within six (6) months of the date of issuance and diligently prosecuted to completion.

B. When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity, or other units of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of use.

C. Whenever the existing use of a building or structure shall hereafter be converted to a new use, parking or loading facilities shall be provided as required for such new use.

2. Existing Parking and Loading Facilities. Off-street parking and loading facilities in existence on the effective date of this Code, and located on the same lot as the building or use served, shall not hereafter be reduced below the requirements of this Code. If such existing facilities are already below the required amount, they shall not be further reduced.

3. Permissive Parking and Loading Facilities. Nothing in this Code shall be deemed to disallow the voluntary establishment of off-street parking or loading facilities exceeding minimum requirements to serve any existing use of land or buildings, provided that all regulations herein governing the location, design, and operation of such facilities are satisfied.

4. Damage or Destruction. For any conforming or legally nonconforming building or use which is in existence on the effective date of this Code, which subsequently thereto is damaged or destroyed by fire, collapse, explosion, or other cause, and which is reconstructed, reestablished or repaired, off-street parking or loading facilities shall be provided as required by this section.

5. Submission of Site Plan. Any application for a Building Permit, or for a Certificate of Occupancy where no Building Permit is required, shall include therewith a Site Plan, drawn to scale and fully dimensioned, showing any off-street parking or loading facilities and points of access to be provided.

165.32 OFF-STREET PARKING GENERAL REQUIREMENTS.

1. Location. All parking spaces required to serve buildings or uses erected or established after the effective date of this Code shall be located on the same lot as the building or use served, except that parking spaces to serve buildings or uses in the I-1

and I-2 Districts may be located within 500 feet of the buildings or use served. In the C-2, C-3 and C-4 Districts parking may be located within 300 feet of such building or use served, but only if said spaces are located in a district wherein such parking use is permitted and when such parking is developed in accordance with all the applicable district regulations.

2. Existing Buildings and Uses. Buildings or uses existing on the effective date of this Code which are subsequently altered or enlarged so as to require the provision of additional parking facilities located on land other than the lot on which the building or use served is located, must provide such facilities within 500 feet walking distance of a main entrance to the use served in I-1 and I-2 Districts and within 300 feet in C-2, C-3 and C-4 Districts. Owners of property, nonconforming as to parking requirements, who elect to provide additional parking may locate such parking on land other than the lot on which the building or use is located subject to the provisions listed immediately above. In addition thereto, the owner of an existing multiple-family dwelling, which is nonconforming as to parking, and who elects to provide additional parking, may locate such parking on land other than the lot on which the building is located. However, such location shall be within 300 feet of such building and within a district wherein such parking is permitted, and such parking shall be developed in accordance with all the applicable district regulations.

3. Off-Street Spaces. Off-street spaces, including the adjacent area used for turning movements necessary to enter or leave the parking spaces, when open to the sky, may be located in any yard except the required front yards in the Agriculture and Residential Districts, and unless otherwise specifically restricted by this Code. Enclosed buildings and carports containing off-street parking shall be subject to the applicable district yard requirements.

4. Control of Off-Site Parking Facilities. In cases where parking facilities are permitted on land other than the lot on which the building or use served is located, such facilities shall be in the same possession as the lot occupied by the building or use to which the parking facilities are accessory. Such possession may be either by deed or long-term lease, the term of such lease to be determined by the City Council; and such deed or lease shall be filed with the Recorder of Deeds of Linn County. The deed or lease shall require such owner or his or her heirs and assigns to maintain the required number of parking facilities for the duration of the use served or of the deed or lease, whichever shall terminate sooner.

5. Size and Vertical Clearance. All minimum requirements as to size, shape, and design of spaces, aisles and drives shall meet standard Traffic Engineering Department specifications. Such space shall have a vertical clearance of at least seven and one half-feet.

6. Access. Except on lots accommodating single-family dwellings, each off-street parking space shall open directly upon an aisle or driveway of a width and design meeting Standard Traffic Engineering Department specifications. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement; and all such points of access must be approved by the City's Traffic Engineer.

7. Access to Parking Areas in the C-2 District. With the exception of shopping centers in this district, access should be provided from an alley or other secondary access facility, such as frontage roads, where feasible. Access to such parking areas by curb cuts or driveways across the front lot line should be avoided whenever possible.

8. Computation. When determination of the number of off-street parking spaces required by this Code results in a requirement of a fractional space, any fraction shall be counted as one parking space. Required parking spaces based on the number of employees shall be based on the maximum number of employees on duty and/or residing on the premises at any one time.

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

165.33 SHARED OFF-STREET PARKING PROVISIONS.

1. Private Facilities. Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is at least equal to the sum of the separate requirements governing the number of accessory parking spaces for each use served. Further, no parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Board of Adjustment.

2. Public Facilities. Shared public parking can be located where the City has constructed, or proposes to construct, public off-street parking facilities, shared parking district within the boundaries of an area set forth by resolution of the City Council. The special conditions warranting such action may relate to preservation of sites or structures of unique historical or architectural value to the community, a hardship created by public action, or other unusual circumstances. When such a shared parking district has been established, all or a part of the private off-street parking spaces required within the parking district may be provided by the public off-street parking facility located within said district.

3. Approved Parking and Side Development Plan for Shared Public Parking. Prior to property owners within the established parking district being able to so reduce the number of private off-street parking spaces, such owners shall submit, and the City Council must approve, a Parking and Site Development Plan for the affected properties within the parking district. Such plan shall show proposed development of the area and how the total number of required off-street parking spaces will be provided by the use of public and private facilities. In addition to an Approved Parking and Site Development Plan, the City Council may, as it deems necessary and appropriate, require formal agreements with the property owners concerning land dedications and easements, participation in construction and maintenance costs of the public parking facilities and other related matters. Subsequent to formal execution of agreements, and the availability of the public parking facilities, property owners may reduce the number of private off-street spaces required in accordance with the Approved Parking and Site Development Plan.

4. Number of Shared Public Parking Spaces. The total number of off-street parking spaces provided by the combined public and private facilities within the shared parking district shall not be less than the number required by this Code unless the City Council specifically approves such a reduction in its approval of the Parking and Site Development Plan.

165.34 DESIGN AND MAINTENANCE OF OFF-STREET PARKING AREAS.

1. Plan. Except for single-family and two-family residential uses, the design of parking lots or areas shall meet City Standards.
2. Character. Accessory parking spaces may be open to the sky or enclosed in a building.
3. Surfacing. All open, off-street parking areas, including all drives and aisles and all turnarounds and loading areas shall be hard surfaced and maintained so as to provide a durable and dust free surface. Surfacing methods shall include concrete, asphaltic concrete, brick or asphaltic macadam surfacing, meeting the construction specifications and City Standards or such other method approved by the City Engineer as providing an equally durable and dust-free surface.
4. Drainage. All open off-street parking areas shall be graded and drained to dispose of surface water accumulation in accordance with City Standards.
5. Screening and Landscaping. All open vehicle parking areas containing more than four parking spaces shall be effectively screened on each side adjoining property situated in a Residential District or any institutional premises, by a wall, an opaque fence, or by the use of appropriate plant materials and shall comply with UDC Section 165.23(6)(B). Driveways to and from such parking areas, shall also be so screened on any side which adjoins property in a Residential District or any institutional premises. The Board of Adjustment may waive these screening requirements.
6. Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as to not create a nuisance in accordance with Hiawatha Code Chapter 168.
7. Wheel Guards. All perimeter parking spaces, except for single- and two-family use, shall be provided with wheel guards or bumper guards so located that no part of parked vehicles will extend beyond the property line.
8. Signs. Accessory signs shall be permitted on parking areas in accordance with the provisions specified in Chapter 166 of this Code.
9. Vehicle Repair and Service Restrictions. Regulations for all zoning districts are set forth in Section 165.21(17).

165.35 OFF-STREET PARKING SPACES.

1. Specific Requirements.
 - A. Design Standards. All off-street parking spaces required by this chapter, except those required for single- and two-family dwellings, shall be designed in accordance with City Standards.
 - B. Off-Street Parking Table – Parking Classes. Off-street parking spaces shall be provided in accordance with the specific Parking Classes as hereinafter set forth in the Off-Street Parking Table – Parking Classes.
 - C. Parking Spaces for Accessory Uses. Parking spaces for major accessory uses which are specifically enumerated within a Parking Class shall be provided in addition to those required by the principal use. Parking spaces for accessory uses not specifically enumerated within a parking class shall be assumed to be included in the principal use requirement.
 - D. Determination of Number of Spaces. If, for any reason, the classification of any use for the purpose of determining the amount of off-street parking, or the number of spaces to be provided by such use is not readily determinable hereunder, the parking class for such use or the number of spaces to be provided shall be determined by the Zoning Administrator, after recommendation by appropriate City departments.

- 2. Off-Street Parking Table.†
- 3.

USE DEFINITIONS	NUMBER OF PARKING SPACES
ANIMALS AND AGRICULTURAL USES	
Agricultural: Uses as defined in Section 165.96.	Spaces as required by the Board of Adjustment after recommendation by the Planning and Zoning Commission.
Agricultural limited: Limited to production of crops and pasturing/shelter of grazing livestock on lots of three acres and larger.	Spaces as required by the Board of Adjustment after recommendation by the Planning and Zoning Commission.
Vegetation Production Limited: Includes nurseries, green houses, truck gardens and similar uses. Product sales shall be limited to produce grown on site.	Retail uses: 1 per 1,000 square feet of gross floor area, plus 2 for each employee, based on the largest number of employees on the premises at any one time.
Game and forest reserves	Spaces as required by the Board of Adjustment after recommendation by the City Planning Commission.
Riding/boarding stables.	Spaces as required by the Board of Adjustment after recommendation by the City Planning Commission.
Animal services limited: Uses limited to animal clinics/hospitals and pet grooming all contained within structures. Incidental accessory boarding is allowed.	Office and work areas: 3 per 1,000 square feet of gross floor area, plus: Kennel areas: 1 for each employee, based on the greatest number of employees on the premises at any one time.
Animal indoor boarding: Uses include indoor boarding kennels and the allowance for outdoor animal exercise areas.	
Kennels as defined in Section 165.96	
RESIDENTIAL DWELLING USES	
Detached single family dwellings	2 per dwelling unit.
Mobile home as defined in 165.96	
Two-family dwellings as defined in 165.96	
Two-family zero lot line dwellings attached	
Attached dwelling units as defined in 165.96	
Multi-family dwellings as defined in 165.96	

† CPR-1 Zoning District: Spaces as required by the City Council after recommendation by the Planning and Zoning Commission and not to exceed four per 1,000 square feet of gross floor area.

Lodging houses as defined in 165.96	1 per dwelling unit (habitable living unit)
Family homes, group homes and emergency shelters as defined in Section 165.96	1 per each employee of the shift having the greatest number of employees, plus 1 per 1,000 square feet of gross floor area
Health care facilities as defined in 165.96	1 per each employee of the shift having the greatest number of employees, plus 1 per 1,000 square feet of gross floor area
Mixed use dwelling structure or development as defined in 165.96	1 per dwelling unit (habitable living unit), plus the applicable parking for the additional uses.
Watchman's quarters	1 per dwelling unit (habitable living unit)
Cemeteries	Spaces as required by the Board of Adjustment after recommendation by the Planning and Zoning Commission
RESIDENTIAL TRANSIENT USES	
Hospitals	2 for each 1,000 square feet of gross floor area
Hotels and motels as defined in Section 165.96	1 per dwelling unit (habitable living unit)
Rehabilitation houses and crisis counseling centers as defined in 165.96	1 per dwelling unit (habitable living unit)
Bed and Breakfast [see also 165.26(4)]	1 per dwelling unit (habitable living unit)
Residential Child Day Care Facilities	See Sections 165.25, 165.26, 165.85 and 165.96 for limits and registrations
Home Occupations	See Section 165.26
EDUCATION AND RELIGIOUS OCCUPANCIES	
Religious facilities as defined in 165.96	1 for each four seats provided in the main seating area.
Schools: junior high and elementary	1 for each employee, based on the greatest number of employees on the premises at any one time.
Schools: senior high schools	1 for each employee, plus 1 for every six students, based on design capacity.
Schools up to and through grade 12 for specialized training: dance schools, music schools	3 per 1,000 square feet of gross floor area
Colleges, junior colleges and universities	1 for each four students, based on design capacity.
Vocational, technology and trade schools	1 for each student based on design capacity.

MOTOR VEHICLE RELATED USES [see also 165.21(17)]	
Motor vehicle services limited: uses limited to car washes and interior detailing.	1 for each two employees, plus reserve spaces equal to 5 times maximum capacity of auto washing unit.
Motor vehicle services limited: uses limited to convenience store with fuel stations.	4 per 1,000 square feet of gross floor area, plus additional reservoir space to accommodate five automobiles in each service lane.
Motor vehicle services general: uses include all services related to the repair and maintenance of motor vehicles including but not limited to mechanic shops, repair shops and body shops.	3 per 1,000 square feet of gross floor area
Truck stop	4 per 1,000 square feet of gross floor area, plus additional reservoir space to accommodate five automobiles in each service lane.
ENTERTAINMENT AND RECREATION	
Clubs and lodges as defined in 165.96	6 per 1,000 square feet of gross floor area
Restaurants and bars: includes outdoor seating	10 per 1,000 square feet of gross floor area, plus Drive up service: reservoir spaces to accommodate five automobiles in each service lane.
Entertainment and sports, indoor: Characterized by artistic productions in theater settings and uses involving physical participation indoors with limited spectators. Including but not limited to indoor theaters with and without stages, dance halls, bowling alleys, indoor archery and shooting ranges, indoor tennis courts, handball, indoor swimming pools, arcades and casinos.	6 for every 1,000 square feet of gross floor area for areas not specified herein. 5 per alley; 1.5 per driving tee; 4 per court for handball, racquetball, squash or tennis. 1 for each two seats provided (theater) 1 for every 75 square feet of water when public swimming pool is an isolated use. 10 per 1,000 square feet of gross floor area; skating rinks
Outdoor recreational, non-spectator limited: Characterized by non-spectator activities including but not limited to mini-golf, driving ranges, paintball, tennis courts and swimming pools, excluding open space parks, golf courses and firing ranges.	6 per 1,000 square feet of gross floor area, plus 6 per 1,000 square feet of gross land area directly utilized for outdoor recreational areas unless specified herein. 5 per alley; 1.5 per driving tee; 4 per court for handball, racquetball, squash or tennis.
Outdoor recreational, spectator: Characterized by large groups of spectators or participants in diverse outdoor activities including but not limited to arenas, stadiums and amusement parks.	1 per 75 square feet of water when public swimming pool is an isolated use 1 for each four seats provided in the main seating area. Zoo: 1 for every 2,000 square feet of gross land area.
Golf courses	5 per hole, plus Parking for other uses as required by this table

Firing ranges outdoor; includes gun and archery ranges	1 for every 5,000 square feet of gross land area
Race tracks	1 for each four seats provided in the main seating area.
Campground and RV park	1 per 5,000 square feet of gross land area, or 1 per 75 square feet of water when public swimming pool is an isolated use.
Parks: open space	
BUSINESS SERVICES	
Personal professional services: uses characterized by frequent on-site client services including but not limited to medical clinics, financial institutions, salons, automatic laundromats, photo and art studios, massage and tattoo parlors (excluding adult massage parlors as defined in 165.96)	3 per 1,000 square feet of gross floor area for all areas not specified herein. 5 per 1,000 square feet of gross floor area for salons and barbershops 7 per 1,000 square feet of gross floor area for medical clinics. plus drive-up windows or stations: an additional reservoir space to accommodate five automobiles for each lane of service
Day care centers: Items A and B as defined in 165.96	2 per 1,000 square feet of gross floor area
Personal service and repair: limited to personal services including but not limited to dressmaking, tailoring, laundries, interior decorating, domestic appliance and furniture repair. Incidental sales shall be related to the service and shall be contained in less than 20 percent of the floor area.	3 per 1,000 square feet of gross floor area
Business professional uses: characterized by offices and laboratories with limited on site client services including but not limited to business and professional offices, attorney offices, realtors, job services, radio/TV stations, medical offices, research and testing laboratories, and software developers and support.	3 per 1,000 square feet of gross floor area
Business professional services with public gathering: uses characterized with a mix of on-site client services with public gathering occupancy and increased traffic including but not limited to conference centers without hotel accommodations, art galleries, health clubs, gymnasiums, funeral homes, libraries and museums	3 per 1,000 square feet of gross floor area for all areas not specified herein 10 per 1,000 square feet of gross floor area for flexible open gathering places (convention hall) 1 for each four seats provided in a main seating area.

Business services contractor limited:	2 for each employee based on the largest number of employees on the premises at any one time.
Business services contractor industrial:	
Adult entertainment establishments	3 per 1,000 square feet of gross floor area
Pawn brokers and delayed deposit services	3 per 1,000 square feet of gross floor area
RETAIL AND REPAIR	
Retail convenience limited: retail related to neighborhood convenience limited to pharmacies and food stores for pre-packaged foods such as grocery stores and prepared on-site foods including but not limited to meat markets, delis, bakeries, and ice cream parlors.	4 per 1,000 square feet of gross floor area for all areas not specified herein Drive-up service: reservoir space to accommodate five automobiles in each service lane. 10 per 1,000 square feet of gross floor area for accessory seating areas
Retail general: retail uses characterized by shops and stores where all commodities and transactions are inside buildings. Includes rentals but no additional services such as repairs or installations. Including but not limited to department stores, clothing stores, malls and specialty stores.	
Retail and repair: uses include medium to small commodity sales with associated repair and rental services including but not limited to computer sales, appliance sales and residential outdoor equipment.	
Retail large commodity: includes retail and rental uses which may rely on outside storage and display such as cars, boats, building materials, mobile home sales, grave monuments and nurseries.	
Retail industrial commodity: characterized by sales and repair of industrial equipment and products. Including but not limited to industrial equipment, construction machines, farm implement, seed and feed stores.	
STORAGE AND WAREHOUSE AND DISTRIBUTION	
Storage Limited	1 for each two employees based on the largest number of employees on the premises at any one time.
Warehouse and distribution limited	
Warehouse and distribution general	

Refuse hauling	2 for each employee based on the largest number of employees on the premises at any one time.
PRODUCTION AND MANUFACTURING	
Production and processing limited	Assembly line employees: 1 for each two employees based on the largest number of employees on the premises at any one time.
Production and processing general	
Manufacturing limited	Office areas: 3 per 1,000 square feet of gross floor area All others: 1 for each employee based on the greatest number of employees on the premises at any one time.
Manufacturing industrial: characterized by the use of heavy equipment and some exterior processes. Including but not limited to asphalt product manufacturing, stone and masonry manufacturing, concrete mixing plant	1 for each employee based on the greatest number of employees on the premises at any one time.
Heavy industrial activities: characterized by the use of heavy equipment in production and processes necessarily outside. Including but not limited to salvage yards.	2 for each employee based on the largest number of employees on the premises at any one time.
Quarries and other extraction uses	1 for each employee based on the greatest number of employees on the premises at any one time.
Sanitary land fills	2 for each employee based on the largest number of employees on the premises at any one time.
Wind generators, commercial	1 for each employee based on the greatest number of employees on the premises at any one time.
TRANSPORTATION AND UTILITIES	
Bus terminals	Spaces as required by the Board of Adjustment after recommendation by the Planning and Zoning Commission.
Airports	
Heliports	
Railroad facilities	Passenger station: 10 per 1,000 square feet of gross floor area
	Freight station: 1 for each two employees based on the largest number of employees on the premises at any one time.

Essential services	Spaces as required by the Board of Adjustment after recommendation by the City Planning Commission unless use matches a designation in this table.
Communication towers	1 for each employee based on the greatest number of employees on the premises at any one time (radar and towers)

165.36 OFF-STREET LOADING.

1. General Requirements.
 - A. Location. All required loading berths shall be located on the same lot as the use served. All motor vehicle loading berths which are within or abut a Residential District or intervening alley shall be completely screened therefrom by building walls or by a uniformly painted solid fence, wall, or door, or any combination thereof, not less than 8 feet in height. No permitted or required loading berth shall be located within 30 feet of the nearest point of intersection of any two streets. No loading berth shall be located in a required front or side yard.
 - B. Size. Unless otherwise specified, a required off-street loading berth shall be at least 12 feet in width by at least 35 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 15 feet.
 - C. Access. Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement, and shall meet standard City Engineering specifications. All driveways servicing off-street loading berths shall be in accordance with applicable City driveway standards.
 - D. Utilization. Space allocated to any off-street loading use shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
 - E. Central Loading. Central loading facilities may be substituted for loading berths on individual lots, provided the following conditions are fulfilled:
 - (1) Each lot served shall have direct access to the central loading area without crossing streets or alleys at grade.
 - (2) Total off-street loading berths provided shall meet the minimum requirements herein specified based on the sum of the several types of uses served.
 - F. Minimum Facilities. Uses for which off-street loading facilities are required herein, but which are located in buildings of less floor area than the minimum prescribed for such required facilities, shall be provided with adequate receiving facilities accessible to motor vehicle off any adjacent alley, service drive, parking lot, or open space located on the same lot.
2. Specific Requirements. The minimum amount of off-street loading or unloading space to be provided is shown on the following pages:

A. Residence Districts		Gross Floor Area	Minimum Number of Berths Required	Minimum Size of Berths
(1)	Multi-family dwellings, rooming houses	20,000 sq. ft. to 200,000 sq. ft.	1	12' x 35'
		Each additional 200,000 sq. ft. or fraction	1	12' x 35'
(2)	Health, medical, institutional uses	10,000 sq. ft. to 100,000 sq. ft.	1	12' x 35'
		Next additional 100,000 sq. ft. or fraction	1	12' x 35'
(3)	Educational, cultural, religious institutions	10,000 sq. ft. to 200,000 sq. ft.	1	12' x 35'
		Each additional 200,000 sq. ft. or fraction up to 500,000 sq. ft.	1	12' x 35'
(4)	Recreational and social	10,000 sq. ft. to 100 sq. ft.	1	12' x 35'
		Each additional 100,000 sq. ft. or fraction up to 500,000 sq. ft.	1	12' x 35'
		Each additional 500,000 sq. ft. or fraction	1	12' x 55'
(5)	Planned Unit Development	As required by individual uses	1	12' x 35'
(6)	All other non-residential uses	10,000 sq. ft. to 100,000 sq. ft.	1	12' x 35'
		Each additional 100,000 sq. ft. or fraction	1	12' x 35'

B. Commercial Districts		Gross Floor Area	Minimum Number of Berths Required	Minimum Size of Berths
(1)	Any use listed in a Residence District permitted in a Commercial District shall provide loading spaces as required in Section 165.36(2)(A) above.			
(2)	Cartage and express facilities, mail order houses, printing & publishing, restricted production & repair, warehousing, storage & wholesale establishments	Up to 400,000 sq. ft.	1	12' x 35'
		40,001 sq. ft. to 100,000 sq. ft.	2 Total	12' x 35'
		Each additional 100,000 sq. ft. or fraction	1	12' x 55'
(3)	Banks, financial institutions; medical, dental clinics; business and professional offices; non-recreation building and community centers	Up to 100,000 sq. ft.	1	12' x 35'
		Each additional 100,000 sq. ft. or fraction up to 500,000 sq. ft.	1	12' x 35'
		Each additional 500,000 sq. ft. or fraction	1	12' x 35'

B. Commercial Districts (cont.)		Gross Floor Area	Minimum Number of Berths Required	Minimum Size of Berths
(4)	Nonprofit clubs and non-profit lodges, hotels, and motels containing retail shops, convention halls, auditoriums, exhibition halls, or business or professional offices; convention halls; exhibition halls; radio & television stations & studios; recording studios	Up to 20,000 sq. ft.	1	12' x 35'
		20,001 sq. ft. up to 150,000 sq. ft.	2 Total	12' x 55'
		Each additional 150,000 sq. ft. or fraction	1	12' x 55'
(5)	Nonprofit clubs, non-profit lodges, hotels and motels containing no retail shops, convention halls, auditoriums, exhibition halls, or business or professional offices; meeting halls; music, dance, business or trade schools; indoor theaters	Up to 200,000 sq. ft.	1	12' x 35'
		Each additional 200,000 sq. ft. or fraction	1	12' x 35'
(6)	Amusement establishments, bowling alleys, swimming pools, skating rinks	Up to 100,000 sq. ft.	1	12' x 35'
		Each additional 100,000 sq. ft. or fraction	1	12' x 35'
(7)	Stadiums, auditoriums and arenas	Up to 20,000 sq. ft.	1	12' x 35'
		20,001 sq. ft. up to 100,000 sq. ft.	2 Total	12' x 55'
		Each additional 100,000 sq. ft. or fraction	1	12' x 55'
(8)	Undertaking establishments and funeral parlors	Up to 100,000 sq. ft.	1	12' x 35'
		Each additional 100,000 sq. ft. or fraction	1	12' x 35'
(9)	Planned Unit Developments	As required by individual uses		
(10)	Parking lots and garages	None required		
(11)	All other uses permitted in Commercial Districts	Up to 200,000 sq. ft.	1	12' x 35'
		20,001 sq. ft. to 35,000 sq. ft.	1 Additional	12' x 35'
		35,001 sq. ft. to 60,000 sq. ft.	2 Total	12' x 55'
		60,001 sq. ft. to 100,000 sq. ft.	1 Additional	12' x 55'
		Each additional 200,000 sq. ft. or fraction thereof over 100,000 sq. ft. gross floor area	1 Additional	12' x 55'

C. Industrial Districts		Gross Floor Area	Minimum Number of Berths Required	Minimum Size of Berths
(1)	Any facility for production, processing, cleaning servicing, testing, repair or storage of materials, goods, or products	Up to 10,000 sq. ft.	1	12' x 35'
		10,001 sq. ft. to 40,000 sq. ft.	1 Total	12' x 60'
		40,001 sq. ft. to 100,000 sq. ft.	2 Total	12' x 60'
		Each additional 100,000 sq. ft. or fraction	1 Additional	12' x 60'
(2)	Medical and dental clinics, offices of labor organizations; recreation buildings or community centers	Up to 100,000 sq. ft.	1	12' x 35'
		Each additional 100,000 sq. ft. or fraction up to 500,000 sq. ft.	1	12' x 35'
		Each additional 500,000 sq. ft. or fraction	1	12' x 35'
(3)	Airports & commercial heliports; air and railroad terminals, railroad switching and classification yards, repair shops and roundhouses; radio and television stations and studios; sewage treatment plants – municipal; stadiums, auditoriums & arenas	Up to 20,000 sq. ft.	1	12' x 35'
		20,001 sq. ft. to 100,000 sq. ft.	1 Total	12' x 60'
		Each additional 100,000 sq. ft. or fraction	1	12' x 60'
(4)	Lodges or labor organizations; trade schools	Up to 200,000 sq. ft.	1	12' x 35'
		Each additional 200,000 sq. ft. or fraction	1	12' x 35'
(5)	Motor freight terminals	Up to 10,000 sq. ft.	1	12' x 35'
		10,001 sq. ft. up to 40,000 sq. ft.	1 Total	12' x 60'
		40,001 sq. ft. up to 100,000 sq. ft.	2 Total	12' x 60'
		Each additional 100,000 sq. ft. or fraction	1 Additional	12' x 60'
(6)	Parking lots, weighing stations	None required		
(7)	All other permitted uses	Up to 10,000 sq. ft.	1	12' x 35'
		10,001 sq. ft. to 24,000 sq. ft.	2 total	12' x 35'
		24,001 sq. ft. to 40,000 sq. ft.	2 Total	12' x 60'
		40,001 sq. ft. to 100,000 sq. ft. or fraction	3 total	12' x 60'
		Each additional 200,000 sq. ft. or fraction	1 Additional	12' x 60'

165.37 through **165.46** – Reserved

[The next page is 261]

165.47 LANDSCAPING AND SHADING REGULATIONS. The purpose of this section is to promote and protect the safety and welfare of the public through requirements for landscaping and shading which prevent soil erosion, improve air and water quality and enhance and preserve the beauty and appearance of the environment.

1. **Applicability.** The provisions of this section shall apply to all new landscaping and trees planted or installed within the City in conjunction with new construction, reconstruction or structural alteration projects of a building, parking area, or subdivision after the effective date of this section.
2. **Conformance Required.** It is unlawful, after the effective date of this section, within all projects or developments in R-7, Commercial and Industrial Districts requiring a building permit, site plan approval, or subdivision approval by the City, to install, construct, or plant any landscaping except in conformance with the provisions hereof.
3. **Goals and Objectives.** The Planning and Zoning Commission shall take into consideration the following goals and objectives, as well as the specific criteria enumerated. When reviewing a landscape plan, the Commission shall approve the plan if it finds and determines that:
 - A. The plan provides visual, noise and access screening between conflicting land uses.
 - B. The plan takes into account and does not inhibit the exercise of solar access rights of neighboring properties.
 - C. The plan tends to decrease soil erosion.
 - D. The plan does not interfere with any line of sight for vehicular drivers entering or leaving the site.
 - E. The plan enhances the architecture of the property, e.g., the landscaping tends to break up large expanses of wall and other structure(s).
 - F. The plan facilitates the movement of pedestrians and vehicles on the site and integrates with and helps to conceal parking facilities on the site.
 - G. The plan utilizes and preserves existing and native vegetation to the greatest degree possible.
 - H. The plan does not place an unreasonable burden on the City water system and supply.
 - I. The plan retains all existing trees 18 inches in diameter or more unless the retention of such trees would unreasonably burden the development.
4. **Landscaping and Shading Requirements.** All landscape plans submitted shall meet the following requirements prior to approval:
 - A. All disturbed areas on the site shall be re-vegetated or landscaped in a manner as approved by the Planning and Zoning Commission.
 - B. All on-site areas prone to soil erosion shall be defined on the landscape plan and shall be controlled through landscaping.

- C. If requested by the City, details must be submitted which show that no proposed landscaping plan shall cause interference with adjacent property owners' solar access rights.
- D. The landscape plan shall only propose plantings or construction which do not interfere with the sight line of drivers entering or leaving the site.
- E. Where deemed necessary by the Planning and Zoning Commission, the plan must provide for visual and noise screening between lots or parcels and abutting streets or thoroughfares. In making their decision, the Planning and Zoning Commission will take into consideration the types of land uses on the abutting lots or parcels.
- F. The plan must provide for transitional yards where required. See Section 165.23(6).
- G. Trees shall be placed to avoid interference with the construction, maintenance and operation of public and private utilities and services above or below ground as determined by the utility companies and the City Engineer.
- H. It shall be the responsibility of the owner of a lot to maintain and replace, if necessary, trees required by these provisions after their planting. Any trees on private property which overhang the public right-of-way shall be maintained in accordance with City provisions. Maintenance of trees within street rights-of-way shall be the responsibility of the property owner.
- I. Each tree planted shall be deemed to cover two hundred (200) square feet for purposes of this chapter. Each tree shall be at least eight (8) feet tall and have a diameter at breast height of at least two (2) inches.
- J. Where fractional numbers of trees result, the number of trees required shall be rounded up to the closest whole number.
- K. Evergreen trees, required for screening purposes in accordance with the provisions of 165.23(6), Transitional Yards, and 165.30 to 165.36, Off-Street Parking Requirements, may be used to satisfy the requirements of the tree regulations provided they are of a variety suitable for screening purposes, as listed in Appendix A, and are allowed to grow to their mature height.
- L. References to "large" or "small" trees in subsequent paragraphs refer to the mature height as suggested in the "Suggested Tree Planting List" in Appendix A.
- M. Existing on-site trees may be used to comply with the requirements of the tree regulations.
5. Subdivision Landscape and Shade Requirements.
- A. Landscaping. In R-1, R-3, and R-5 Zone Districts there are no landscape or shade requirements. Landscaping shall be done on a lot by lot basis in accordance with site plan requirements in R-7, C-ORS, C-2, C-3, C-4, C-R, C-WH, I-1 and I-2 Zone Districts. In the R-MH Zone District, refer to Section 147.09, Soil and Ground Cover Requirements.
- B. Screening. When undeveloped land is subdivided and undeveloped lots only are sold, the subdivider shall not be required to install any screening.

Screening shall be required, if at all, only when the lots are developed, and shall be the responsibility of the developer of the lot.

C. Shading.

(1) Along both sides of all newly created streets in all R-7, C-ORS, C-2 and C-R Zone Districts that are constructed in accordance with the public street standards set forth in Section 165.58(1) and the Cedar Rapids Metropolitan Area Engineering Design Standards there shall either be planted or retained sufficient trees so that between the paved portion of the street and a line running parallel to and 50 feet from the centerline of the street, there is for every 40 feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted pursuant to this section, the developer shall choose trees that meet the standards set forth in Appendix A.

(2) At street intersections, trees shall not be located within 70 feet of the intersection of curb lines along arterial streets, within 50 feet along collector streets, or within 30 feet of the intersection of curb lines along local streets. In cases where two different types of streets intersect, the location of the tree shall be determined by the type of street adjacent to the proposed tree.

6. Site Plan Landscape and Shade Requirements.

A. Landscaping.

(1) In R-1, R-3 and R-5 Zone Districts there are no landscape or site plan requirements.

(2) The following minimum percentages of lot or site area shall be placed in approved landscaping:

a. In R-7 or PUD Zone Districts with a multiple-family dwelling of three or more units, a minimum of fifteen percent (15%) of the area of the lot shall be provided as open space. Such open space shall be provided on the ground and shall not include any of the required yard areas, nor any area provided for off-street parking or loading, nor any area in streets or drives. One-third (1/3) of the total landscaped area shall be planted with trees.

b. In C-ORS, C-2, C-3, C-4, C-R, C-WH, I-1 and I-2 Districts: ten percent (10%). One-third (1/3) of the total landscaped area shall be planted with trees. The landscaped area shall be any area that is not covered by buildings, parking areas or driveways.

B. Screening.

(1) Transitional yards when required shall be provided in accordance with Section 165.23(6).

(2) Any plan containing an outdoor storage area will provide visual and noise screening between adjacent lots or parcels and streets or thoroughfares.

C. Shading.

(1) Trees are required to be planted along the streets in all R-7, C-ORS, C-2 and C-R Zone Districts in accordance with the provisions of Section 165.47(5)(C) and above.

(2) Trees are required to be planted in all parking facilities with a capacity larger than forty (40) vehicles with more than two (2) aisles. The landscape plan must provide for interior plantings in order to provide shade and break up the expanse of hard-surfaced area. Interior landscaping shall be a minimum of five percent (5%) of the total parking area. This subsection does not abrogate the parking requirements as stated in any other part of this Code.

165.48 and **165.49** – Reserved

[The next page is 275]

165.50 PROCEDURES FOR SUBDIVISION.

1. General. Regulations and standards for zoning, subdivision and site planning address the following items:
 - A. Availability of access and services.
 - B. Construction design standards.
 - C. Environmental impact.
2. Purpose and Intent. The purpose of this section is to establish procedures for the following policies which must be met as development occurs:
 - A. Impacts on services and infrastructure are mitigated.
 - B. Development is at an appropriate scale for the project site and its surroundings.
 - C. Public health, safety and welfare are protected.
3. Services Matrix. The Services Matrix in Figure II lists the types of information required at each stage in the development process on availability of access, fire protection and emergency medical services, the need for public use areas, and availability of water, sewage disposal and utilities. It is important to note that the information in the matrix is not all inclusive. It must be used in conjunction with the text in this Code to identify the requirements applicable to a development.[†]

165.51 SUBDIVISION REGULATIONS. The purpose of this section is provide minimum standards for the design, development, and improvement of all new subdivisions and resubdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and in a manner that promotes the public health, safety and general welfare of the citizens of the City.

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

1. Subdivision Required for Building Permit. No building permit shall be issued for construction on any lot, parcel, or tract where a subdivision is required by this chapter unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter, and until the improvements required by this chapter have been accepted by the City.
2. Improvements Required. The subdivider shall, at the subdivider's expense, install and construct all improvements required by this section. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City and as shown on the approved

[†] **Editor's Note.** Figure II – Services Matrix is found at the end of this chapter.

preliminary plat. The preliminary plat shall be approved by both the Planning and Zoning Commission and the City Council.

3. Plat of Survey. A plat of survey may be used for the subdivision of land with the approval of the City Engineer for one of the following purposes:

- A. To convey property ownership prior to any building development.
- B. For the purpose of vacating public right-of-way.
- C. To allow for property line adjustments.
- D. Other situations as determined appropriate by the City Engineer.

165.53 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety, and welfare. Design of the improvements shall be in accordance with the Cedar Rapids Metropolitan Area Engineering Design Standards adopted by resolution by the Hiawatha City Council.

1. Streets. The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley, or public place and provide appropriate paving, including curb and gutter on all streets. All streets or alleys shall be of such width and shall be so constructed as to meet City Standards. Under some circumstances, the City may require, as a condition for approval of the plat, dedication and improvement of a street having a width greater than necessary to meet the needs of the platted area but necessary to complete the City street system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of improving the wider street and the street width reasonable to meet foreseeable needs of the subdivision taken alone. The streets shall, upon final approval and acceptance by the City, become the property of the City.

2. Sanitary Sewer System. The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due needs. There shall be constructed, at the subdivider's expense, a sanitary sewer system, including all necessary pumping stations, pumping equipment, manholes, and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City's sanitary sewers. The sanitary sewer system shall be constructed in accordance with City Standards and at the sewer grades as established by the City. Under some circumstances, the City may require, as a condition for approval of the plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the City sanitary sewer as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area. The above mentioned facilities for the collection and disposal of sanitary sewage from the platted area shall, upon final approval and acceptance from the City, become the property of the City.

3. Storm Sewer System. The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas. The storm sewer design shall comply with the provisions of a storm water management plan which has been adopted by the City in Chapter 162 of the Hiawatha Code of Ordinances. The storm sewer system shall be constructed in accordance with the City Standards. Such sewers shall, upon inspection, approval and acceptance by the City, become the property of the City.

4. **EXCEPTION:** Detention basins and associated inlets and outlets as part of the runoff control required by Chapter 162 shall not become the property of the City unless the Council accepts these portions of the system by resolution.
5. **Water Main System.** The subdivider of land being platted shall install and construct a water main system to adequately serve all lots or parcels of land within the platted area, with due regard to the present and reasonable foreseeable needs of the entire area, and shall connect the same to the City's existing water mains. The water main system shall be constructed in accordance with City Standards. Under some circumstances, the City may require, as a condition for approval of the plat, installation of a water main that is larger than necessary to meet the needs of the platted area, but necessary to complete the City water distribution system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger water main and the diameter of water main reasonable to meet the foreseeable needs of the area. The water mains shall, upon inspection, approval, and acceptance by the City, become the property of the City.
6. **Other Improvements.** The owner and subdivider of the land being platted shall be responsible for the installation of sidewalks within the street area, as defined in Section 165.58(3), the installation of walkways as necessary; grading, seeding or sodding of all lots; the planting of any required trees in the parking as defined in Section 165.47; the installation of street signs and the provision of street lighting. All such improvements shall be under the direction of the City Engineer or director of the electric utility, as appropriate.

165.54 EASEMENTS.

1. **Utility Easements.** Utility easements shall be placed where required by the utilities. The location of these easements shall be shown on the approved final plat. No building or structures, except as necessary for utilities, shall be permitted on such easements.
2. **Drainage Easements.** Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at the subdivider's own expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement along said stream or watercourse as necessary for the proper maintenance of the watercourse, and as approved by the City.

165.55 MAINTENANCE BOND REQUIRED. The owner and subdivider of the land being platted shall be required to provide to the City proper maintenance bonds or cashier's check satisfactory to the City, so as to ensure that improvements will be maintained in good repair for a period of four (4) years after the date of acceptance of any such improvements.

165.56 ALTERNATIVE SYSTEMS FOR SEWER AND WATER. Where connection to the City sewer or water system cannot reasonably be made, the City may approve alternate facilities for the distribution of water or the collection and disposal of sanitary wastes. Such alternate systems shall be designed to fully protect the public health, safety and welfare, and shall meet all requirements of State, County or other applicable health regulations. Prior to granting approval of such alternate systems, the City shall require that the owner and subdivider provide to the City a Waiver of Assessment Protest or such other legally binding documents necessary to protect the City from the expense of the subsequent installation of sewer or water facilities.

165.57 STANDARDS PRESCRIBED. The standards set forth in this section shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Land Suitability. No land shall be subdivided which is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City. If land is found to be unsuitable for subdivision for any of the reasons cited in this section, the Council shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Council may reaffirm, modify or withdraw its determination regarding such unsuitability.

2. Lands Subject to Flooding. No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City without the approval of the Department of Natural Resources. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the floodway or flood hazard area, suitable for development as allowed by the zoning ordinance for the zone in which the lot is located. Land located within a flood hazard area or a floodway may be included with a plat as follows, subject to the approval of the City:

A. In Lot. Included within individual lots in the subdivision, subject to the limitations of this section.

B. Open Space. Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners.

C. Public Space. If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.

3. Plat to Conform to Comprehensive Plan. The arrangement, character, extent, width, grade and location of all streets and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan of the City, provided such plan has been adopted by the City; and shall conform to such other plans, including but not limited to a major street plan, a sanitary sewer system plan, or a parks and open space plan, provided such plan(s) has been approved by the City.

165.58 CONSTRUCTION STANDARDS FOR IMPROVEMENTS. In addition to the standards set forth in this chapter, the City Engineer shall from time to time prepare, and the Council shall from time to time adopt by resolution, technical standards for public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of public improvements. Such technical standards may vary for classes of improvements, and the extent and character of the area served by the improvements. Upon adoption by the Council by resolution, such technical standards for the public improvements shall have such force and effect as if they were fully set forth herein.

1. Street Standards. The following standards shall apply to all streets to be located within the subdivision:

A. Conform with Street Plan. Streets shall provide for the continuation of major streets from adjoining platted areas, and the extension of major streets from adjoining platted areas, and the extension of major streets into adjoining

unplatted areas. Where a plat encompasses the location for a major street proposed in the Comprehensive Plan or major street plan, the plat shall provide for such major street.

B. Grade. Street grades shall align to existing streets, and all grades for streets shall be as approved by the City.

C. Arterial Streets. Arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.

D. Width. Street right-of-way widths and pavement widths shall be as specified in the City Standards, the Comprehensive Plan, major streets plan, or other technical standards for public improvements.

E. Half-Streets. Half-streets are prohibited except where an existing platted half-street abuts the subdivision, then a platted half-street to complete the street shall be required.

F. Minor Streets. Minor Streets should be designed to discourage through traffic while safely connecting the major collector or arterial streets.

G. Intersections. Streets shall intersect as nearly at right angles as possible, and no street shall intersect any other street at less than seventy-five degrees (75°).

H. Radius of Intersection. At intersections of major streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

I. Dead End. Dead-end streets are prohibited except where a street is planned to continue past the subdivider's property, a temporary dead end may be allowed.

J. Cul-de-Sacs. Streets which connect with other streets, or loop streets, are preferable for maintenance, fire protection, and circulation, but cul-de-sacs may be permitted. Cul-de-sacs shall not exceed six hundred (600) feet in length and shall be provided with a turn-around with a minimum right-of-way diameter of one hundred (100) feet.

K. Alleys. In general, alleys shall be prohibited in residential areas and required in commercial areas with normal street frontage. Dead-end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of one hundred (100) feet.

L. Future Streets. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Council, be made a requirement of the plat.

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

- N. Private Streets. Private streets not dedicated to the City shall be avoided. The Council may approve a private street where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.
2. Block and Lot Standards. The following standards apply to the layout of blocks and lots in all subdivisions and, to the extent possible, in all resubdivisions:
- A. Length and Width. No residential block shall be longer than 1,320 feet or shorter than 300 feet, measured from street right-of-way line to street right-of-way line. The width of blocks should be arranged so as to allow two tiers of lots, with utility easements.
- B. Pedestrian Way – Long Blocks. In blocks over 750 feet in length, the Council may require a public way or an easement at least ten feet in width, at or near the center of the block, for use by pedestrians.
- C. Size and Shape. The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading and other requirements for such uses contained in Section 165.30 to 165.36, Parking and Loading Regulations.
- D. Arrangement. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.
- E. Zoning Compliance. The size and shape of all lots shall comply with all requirements of Section 165.16, Land Uses and Regulations by District and 165.20 to 165.29 Supplementary Regulations.
- F. Frontage – Access. All lots shall abut a public street, or upon an approved private street, with a minimum frontage as specified in Section 165.16, Land Uses and Regulations by District, measured as a straight line between the two front lot corners, except cul-de-sac's minimum width shall be 50 feet or 60 feet at the building line.
- G. Access Limited. Unless unavoidable, lots shall not front, or have direct access to, arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.
- H. Lot Lines. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the Council, a variation to this provision will provide a better street and lot layout.
- I. Corner Lots. Corner lots shall have sufficient extra width to permit the required front yard setback as specified in the zoning ordinance, oriented to either street.
- J. Reverse Double Frontage. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.
- K. Sanitary Sewage. Any lot not to be served by a sanitary sewage system shall have sufficient area to allow for a satisfactory drain field. No subdivision to be served by septic systems shall be approved by the Council until

percolation tests have been performed and the results of said tests have been provided to and reported on by the City Engineer.

3. Sidewalks. Sidewalks shall be installed whenever development of undeveloped or redeveloped land occurs, particularly when: (i) platted under the current subdivision chapter; or (ii) rezoned under the current zoning chapter; or (iii) granted a conditional use under the current chapter. The Council shall not waive the requirement for sidewalks but may consider granting a delay in their installation under the following conditions:

A. When sidewalks are to be located along streets developed as a rural cross-section, which are those streets that have gravel shoulders, open ditches which parallel the driving surface, and right-of-way grades which do not allow for construction of sidewalks without extensive grading.

B. When they are to be located along streets lacking curb and gutter which would require substantial grade changes from the existing road surface if curb and gutter were to be installed, thus requiring the removal and reinstallation of any sidewalks constructed prior to such grading.

C. Other limited situations when it can be clearly demonstrated that no pedestrian, health, safety, or other related problems will occur for those living, working or traveling in the immediate area. The Council may agree to such a delay only through acceptance of an "agreement to install" sidewalks at a later date when so mandated by the Council. Said agreement shall be recorded in the records of the Linn County Recorder and shall become part of the Abstract of Title. The petitioners for deferment consent and agree to be bound by the terms and conditions of any assessment, whether special or otherwise, relating to the construction or modification of sidewalks and petitioners waive any right to object or protest the petition of said assessment. The City's costs and expenses associated with the consultation, preparation and negotiations of petition for sidewalk deferment, including, but not limited to, attorneys' fees and the costs of recording, shall be paid by the petitioner.

4. Erosion Control. The owner shall control erosion occurring in the subdivision by such methods as seeding, sodding, earth dikes, sediment basins to trap runoff water, or by other methods as approved by the City Engineer and as required by the State.

5. Maintenance. The abutting property owner shall be required to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, including the maintenance of an island within a cul-de-sac. Maintenance shall include, but not necessarily be limited to, snow removal and repair of the parking spaces, pruning, maintenance and replacement of the landscape plants and mowing and maintenance of any grass. Maintenance shall not include the removal of diseased trees or dead wood on publicly owned property or right-of-way. Abutting property owners to any cul-de-sac with an island shall equally share in the maintenance of the island, unless the sharing of the maintenance is divided differently in a written agreement entered into by the abutting property owners or their successor(s) in interest.

6. Collection of Costs. If the abutting property owner does not maintain such property, the Council may serve notice on such owner by certified mail, requiring him to maintain such property within the reasonable period of time and if such action is not completed within the reasonable period of time designated by the City, the City may perform appropriate maintenance and either directly collect the costs from the abutting

property owner or assess the costs against the abutting property for collection in the same manner as a property tax.

165.59 through **165.64** – Reserved

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165.65 SITE PLAN REQUIREMENTS. Every application for a building permit, or a certificate of occupancy, shall be accompanied by a site plan which shall show compliance to all applicable City Codes.

1. Site Plan Review of One- and Two-Family Dwelling Units. The Zoning Administrator shall have the site plan reviewed for compliance to all applicable City Codes prior to issuance of a building permit.
2. Site Plans for Uses Other Than One- and Two-Family Units. The Zoning Administrator shall submit to the City Engineer, Fire Department and Water Department a copy of the site plan for every application for a building permit or a certificate of occupancy which involves:
 - A. Erection of a new structure.
 - B. Expansion of an existing structure.
 - C. Change in use of an existing structure.
 - D. Construction of a new parking area, including construction of new access and drive(s).
3. Departmental Review. Departments shall review site plans and return them to the Zoning Administrator along with written findings and recommendations.
4. Action by the City of Hiawatha. The City shall notify the applicant within thirty-five (35) days from the date of receipt of the application with an approval or denial notification. The denial shall include the reasons for noncompliance. The applicant shall have 60 days to resubmit a corrected site plan or the request will be considered withdrawn and shall be considered denied.
 - A. The applicant may request that the site plan proposal be held from further action for an unstated length of time. However, if the time exceeds ninety (90) days the City shall notify the applicant that the site plan application shall be considered withdrawn and that it shall be reconsidered only upon the filing of a new request for a site plan.
5. Issuance of a Building Permit. No building permits shall be issued unless the site plan, included as part of the building plans, is in accordance with the approved site development plan approved by the City of Hiawatha or subsequently approved as a revised site development plan by the City of Hiawatha.

165.66 PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT REQUIREMENTS. Each petitioner requesting approval of PUD shall submit the required material:

1. Planned Unit Development (PUD) Overlay District. Constitutes an amendment to a zone district classification and as such follows the procedures for amendments in Section 165.91.
2. Pre-Application Conference. Whenever a PUD located within the planning jurisdiction of the City is proposed, the applicant shall schedule a pre-application conference with the City to obtain pertinent information, and determine the general feasibility of the proposed development. The applicant and his representative shall confer with City representatives as determined by the Zoning Administrator in connection with the preparation of the PUD application. The purpose of such

conference shall be to acquaint the City with the proposed PUD and to acquaint the applicant with the requirements, procedures, and any special problems relating to the proposed PUD.

3. Sketch Plan Required. For the pre-application conference, the applicant shall provide a map or sketch showing the location of the PUD, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

4. Presentation to Commission and Council. The applicant may present the sketch plan to the Commission and Council for review prior to incurring significant costs preparing the preliminary or final PUD.

5. Preliminary Development Plan Requirements. A preliminary development plan shall be submitted with each application requesting approval to the PUD classification. All preliminary development plans shall include the following:

A. Written documents:

(1) A legal description of the total site proposed for development, including a statement of present and proposed ownership and present and proposed zoning.

(2) A statement of objectives to be achieved by the PUD through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.

(3) A development schedule indicating the approximate date when construction of the PUD, or stages of the PUD, can be expected to begin and be completed.

(4) A statement indicating the applicant's intentions with regard to the future subdivision of all or portions of the PUD.

(5) Quantitative data as applicable for the following: Total number and type of dwelling units, parcel size, proposed lot coverage of buildings and structures, approximate gross and net residential densities, total amount of open space, and total amount of nonresidential construction or other permitted facilities.

(6) A description of method developer proposes to use to insure retention and maintenance of common areas such as open space, private streets, buildings, etc.

(7) Other information deemed necessary by the Planning and Zoning Commission or City Council.

B. Site Development Plan and Supporting Documents. A site development plan and any maps, photographs, and supporting documents necessary to show major details and the location of the proposed PUD shall be provided, which shall contain the following minimum informational items at a scale of 1 inch equals 100 feet:

(1) The existing site conditions, including contours at a minimum of five (5) foot intervals; water course(s); flood plains; unique natural

features; and all trees five (5) inches or more in diameter measured four (4) feet above natural ground line or wooded areas.

- (2) Proposed lot lines.
 - (3) The location and floor area size of all existing and proposed buildings, structures, and other improvements.
 - (4) Maximum building heights, types and density of dwelling units, type of nonresidential structures, preliminary elevations, architectural renderings of typical structures and improvements in sufficient detail to relay the basic architectural intent of the proposed development.
 - (5) Identification, location and size in acres or square feet of all areas to be conveyed, dedicated or reserved as common open space, public parks, recreational areas, school sites, and similar public and semi-public uses.
 - (6) Existing and proposed circulation system of arterial, collector, and local streets, including off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way including major points of ingress and egress to the development. Notations of proposed ownership, public or private, shall be included where appropriate.
 - (7) Existing and proposed pedestrian circulation system including its inter-relationships with the vehicular circulation system. Proposed treatments of any points of conflict shall be indicated.
 - (8) Existing and proposed utility systems including sanitary sewers, storm sewers, and water, electric, gas, and telephone lines.
 - (9) Schematic landscape plan indicating the general type and treatment of materials used for private and common open spaces.
 - (10) Information on land areas adjacent to the proposed PUD to indicate the relationships between the proposed development and existing and proposed adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities, and unique topographic and landscape features.
 - (11) Proposed treatment of the perimeter of the PUD, indicating materials and techniques used in screens, fences, and walls.
 - (12) Aerial photograph at a scale of 1 inch equals 300 feet (1" = 300') or larger, with the proposed development drawn thereon to include buildings and roadways.
 - (13) Any additional information deemed necessary by the Planning and Zoning Commission or City Council to evaluate the character and impact of the proposed PUD.
6. Official Action on Preliminary PUD. See Section 165.92.
- A. Action by Planning and Zoning Commission. The Planning and Zoning Commission shall review each PUD proposal within sixty days of receipt of any proper application and report its recommendations within thirty

days from the date of the Commission meeting to the City Council for final action. Prior to making its recommendation the Planning and Zoning Commission shall consider the following:

- (1) Relationship to the Land Use Policy Portion and other elements of the Comprehensive Plan.
- (2) Characteristics of the general area including any changing conditions.
- (3) Effect on, and compatibility with, the neighborhood.
- (4) Suitability of the property for all uses proposed in the PUD.
- (5) Adequacy of street facilities in relation to the proposed development.
- (6) Adequacy of utilities and other facilities in the area.

B. Action by the City Council. The City Council shall not act upon a proposed PUD until it has received a recommendation from the Planning and Zoning Commission on the proposed amendment to the zone classification district, unless such recommendation is not received within ninety (90) days from the filing date.

(1) The City Council may approve, approve with modifications, or deny any application for a PUD, provided however, that any protest to the proposed amendment of the regulations or districts, signed and acknowledged by the owners of twenty percent (20%) or more of the lots or parcels to be included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed 200 feet therefrom, or of those directly opposite thereto extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots or parcels, such amendment shall not become effective except by the favorable vote of at least three-fourths of all the members of the City Council.

(2) If an application for a proposed amendment is not acted upon finally by the City Council within one hundred eighty (180) days of the date the Council receives the Planning and Zoning Commission recommendations, and such time is not extended by mutual consent of Council and petitioner, it shall be deemed to have been denied. The applicant may request that the amendment be held from further action for an unstated length of time. However, if the time exceeds 180 days the City Clerk shall notify the applicant that the amendment shall be considered withdrawn and that it shall be reconsidered only upon the filing of a new request for a PUD zone district amendment.

7. Final Development Plan. Within twelve (12) months following the approval of the Preliminary PUD Development Plan by City Council, the applicant shall file a Final PUD Development Plan containing, in a final detailed form, the information required in Section 165.66(5). At its discretion, and upon recommendation from the Planning and Zoning Commission, the City Council may extend for twelve months the period for filing of the final development plan.

8. Official Action of PUD Final Development Plan.

A. Planning and Zoning Commission. The Planning and Zoning Commission shall review the Final PUD Development Plan within sixty (60) days of receipt of any proper plan and report its recommendations within thirty (30) days from the date of the Commission meeting to the City Council for final action. The Planning and Zoning Commission shall consider the following in making its recommendations.

- (1) Whether or not the final plan is substantially in accordance with the purpose and intent of the approved preliminary plan.
- (2) Whether or not all requirements placed on the preliminary plan at the time of approval have been met.

B. Action by the City Council. The City Council shall not act upon the Final PUD Plan until it has received a recommendation from the Planning and Zoning Commission unless such recommendation is not received within ninety (90) days from the filing date. The City Council may approve, approve with modification, or deny the Final PUD Plan.

- (1) If the Final PUD Plan is not acted upon finally by the City Council within one hundred eighty (180) days of the date the Council receives the Planning and Zoning Commission recommendations, and such time is not extended by mutual consent of Council and petitioner, it shall be deemed to have been denied. The applicant may request that the final plan be held from further action for an unstated length of time; however if such length of time exceeds one hundred eighty (180) days, the City Clerk shall notify the applicant that the final plan shall be considered withdrawn and that it shall be reconsidered only upon the filing of a new Final PUD Plan meeting all requirements of this chapter.

9. Issuance of a Building Permit. No building permits shall be issued for the area included in the PUD application until the Final PUD Development Plan has received the approval of the City Council.

10. Failure to Begin Development. Development pursuant to the adopted plan shall begin within twelve (12) months after the date of the approval of the Final PUD Plan. The City Council may, from time to time, grant twelve month time extensions when sufficient cause is shown by the developer for such extensions. Failure to begin within the allotted time period shall render the approved plan null and void. In the event development does not occur within the approved time period, the plan becomes void and the property reverts to the underlying zone district unless the City Council initiates proceedings to reclassify the property to another district compatible with the Land Use portion of the Comprehensive Plan for the City of Hiawatha. Once the plan has become null and void, new approval of a plan shall only be obtained by the refiling of a Preliminary PUD Plan and following the procedure required for PUD plan approval as set forth in Section 165.66.

11. Revisions to an Approved PUD Site Development Plan. If, at any time, the owner of land included in an approved PUD Site Development Plan desires to amend said approved plan he or she shall submit a petition requesting such amendment. A revised site development plan shall accompany said petition and said plan shall show the proposed revisions to an Approved PUD Site Development Plan and shall also contain all information required on the originally approved plan. The petition and plan shall be submitted to the Planning and Zoning Commission. After review of the

proposed revisions a determination shall be made within said Commission as to whether the proposed revisions constitute a major or minor plan revision. The City Council shall be so informed. After due consideration, the City Council shall make the final determination.

A. Minor Revisions. Minor revisions shall be those that do not increase the size of any building or structure by more than ten percent (10%) nor change the location of any building or structure by more than 10 feet in any direction. Revised site development plans containing only minor revisions may be approved, approved with modifications, or disapproved by official resolution of the City Council after report by the Planning and Zoning Commission.

(1) Changes adjacent to the transitional zone, which is defined as “that area between a site improvement,” such as structures, parking areas and driveways, and an adjacent property zoned A, R-1, or R-3, shall be limited to the following:

- a. Reduction in length of parking areas, drives, or other similar facilities;
- b. An increase in setbacks of site improvements such as structures, parking areas and driveways;
- c. A decrease in the height, length, or width of structures;
- d. An increase in the height, length, or width of structures, parking areas, or other facilities of generally no more than twenty percent (20%) of that portion facing the adjacent property;
- e. A decrease in setbacks of structures, parking, or other facilities of generally no more than twenty percent (20%) of the approved setbacks;
- f. A shift parallel to the transition zone in the location of a structure, parking area, or similar facility of generally no more than twenty percent (20%) of the length or width of the structure, parking areas, or other facility;
- g. All changes to Site Development Plans that are determined by the twenty percent (20%) standard are to be referenced to the last PUD Site Development Plan approved by the Planning and Zoning Commission and the City Council.

(2) Changes which are not adjacent to the transition zone and/or are located within the interior of R-7, Commercial, or Industrial Districts that are minor, relative to the total land area and the scale of the development for the subject property, and include changes which will have no significant negative impacts on adjacent property.

B. Major Revisions. Any proposed revisions not classified as minor shall be considered major revisions. A petitioner requesting approval of a revised PUD site development plan, determined to contain revisions that are major in nature but still substantially in accordance with the design, intent and purpose of the approved preliminary plan, shall be required to only submit a revised final development plan. In the event that the revised plan is determined not to

be in accordance with the approved preliminary plan then a new revised Preliminary PUD Plan shall be submitted to the Planning and Zoning Commission and forwarded with recommendations to the City Council for approval prior to the approval of a revised Final PUD Development Plan.

C. City Council Action. The City Council may approve, approve with modifications, or deny approval of a revised site development plan by resolution after recommendation from the Planning and Zoning Commission.

D. Approved Plans Superseded by Approved Revised Plans. All approved Plans superseded by an Approved Revised Plan shall be considered to be null and void at the time of the approval of the revised plan.

12. Delay of Action of a PUD Amendment Request. An application for an amendment may be held from further action for up to one hundred eighty (180) days for either of the following reasons:

A. The delay in action is requested by the petitioner.

B. The applicant is requested to furnish additional information by either the Planning and Zoning Commission or City Council. If such delay exceeds the one hundred eighty (180) day time limit then the petition shall be considered withdrawn and will be reconsidered only after the filing of a new request for an amendment.

165.67 SUBDIVISION REQUIREMENTS. Whenever land within the platting jurisdiction of the City of Hiawatha is proposed for division into two or more lots, the subdivider shall follow the subdivision requirements for the City of Hiawatha.

1. Pre-Application Conference. The owner and subdivider shall schedule a pre-application conference with the City. The conference should be attended by the City and utility representatives, the subdivision owner and the engineer and/or planner representing the owner, as deemed desirable. The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

2. Sketch Plan Required. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

3. Presentation to Commission and Council. The subdivider may present the sketch plan to the Commission and Council for review prior to incurring significant costs preparing the preliminary or final plat.

4. Subdivision Classified. Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision.

A. Minor Subdivisions. Any subdivision which contains not more than four (4) lots fronting on an existing street and which does not require construction of any public improvements, and which does not adversely affect the remainder of the parcel shall be classified as a minor plat.

B. Major Subdivision. Any subdivision which, in the opinion of the Council, does not for any reason meet the definition of a minor plat shall be classified as a major subdivision.

5. Plats Required. In order to secure approval of any proposed subdivision, the owner and subdivider shall submit to the City plats and other information as required by this chapter. The owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision may elect to omit the submission of a preliminary plat.

6. Requirements of the Preliminary Plat. The subdivider shall prepare and file with the Clerk, twenty-five (25) copies of the preliminary plat, drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall not exceed twenty-four inches by thirty-six inches (24" x 36"). Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin. The preliminary plat shall be clearly marked "Preliminary Plat" and shall show or have attached thereto the following:

A. Title. Title, scale, north point and date.

B. Name. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.

C. Identification of Subdivider. The name and address of the owner, and the name, address and profession of the person preparing the plat.

D. Key Map. A key map showing the general location of the proposed subdivision in relation to surrounding development.

E. Adjacent Property. The names and locations of adjacent subdivisions and the names of owners or record and location of adjoining parcels of unplatted land. A list of all owners of record of property, whether platted or unplatted, located within two hundred (200) feet of the subdivision boundary shall be attached. Within 3 days of filing a preliminary plat with the Clerk, the subdivider shall provide to each of the owners described in the prior sentence written notice indicating that a preliminary plat has been filed and that a copy of the preliminary plat is available for inspection at City Hall. The notice must be sent by certified mail to the owners at addresses shown on the records of the Linn County Auditor, and a copy of each Certified Mail Receipt and one copy of said notice shall be filed with the Clerk within ten (10) days of filing preliminary plat. Each amendment to the preliminary plat that is filed with the Clerk requires a new notice to be provided to the owners in the manner set forth in this subsection, except that the notice shall indicate that an amendment to the preliminary plat has been filed and that a copy of the amended preliminary plat is available for inspection at City Hall. Each preliminary plat and amendment shall contain the subdivider's verification that these notice requirements have been satisfied.

F. Existing Features. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.

G. Zoning. Existing and proposed zoning of the proposed subdivision and adjoining property.

- H. Contours. Contours at vertical intervals of not more than five (5) feet unless there exists unusual circumstances, where contours at vertical intervals of two (2) feet may be required.
 - I. Legal Description. The legal description of the area being platted.
 - J. Boundary Lines. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.
 - K. Lots. The layout, numbers and approximate dimensions of proposed lots.
 - L. Streets. The location, width, dimensions and preliminary alignment and grades of all streets and alleys proposed to be dedicated for public use.
 - M. Street Names. The proposed names for all streets in the area being platted.
 - N. Utilities. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities and other facilities.
 - O. Easements. Proposed easements, showing locations, widths, purposes and limitations, as well as letters from the appropriate utilities approving the easements as shown.
 - P. Public Uses. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the Comprehensive Plan or other adopted plans.
 - Q. Protective Covenants. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
 - R. Other. Any other pertinent information, as necessary.
 - S. Fee. The fee, as required by this chapter.
7. Procedures for Review of Preliminary Plats. The following procedure shall be used in review of a preliminary plat:
- A. Copies Filed. The Clerk upon receipt of twenty-five (25) copies of the preliminary plat, shall file one copy in the records of the City, shall retain one copy for public inspection, and shall forward the remaining copies of the plat to the Plats Officer.
 - B. Review Copies Provided. The Plats Officer shall provide copies of the plat to the Planning and Zoning Commission, City Engineer, the City Council, the Mayor, and such other persons as necessary to review the plat and shall schedule the plat for consideration by the Commission.
 - C. Planning and Zoning Commission. The Commission shall examine the plat and the report of the City Engineer and such other information as it deems necessary or desirable to ascertain whether the plat conforms to the ordinances of the City and conforms to the Comprehensive Plan, City Standards and other duly adopted plans of the City. The Commission shall, within sixty (60) days of the filing of the plat with the Clerk, forward a written report and

recommendation regarding the plat to the Council. If such recommendation is to disapprove or modify the plat, the reasons therefore shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the applicant.

D. Council. The Council shall examine the plat, the report of the City Engineer, the report of the Commission and such other information as it deems necessary or desirable. Upon such examination, the Council shall ascertain whether the plat conforms to the ordinances and City Standards, conforms to the Comprehensive Plan and other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City, in order to protect the public health, safety and welfare. Following such examination, the Council may approve, approve subject to conditions, or disapprove the plat. If the decision of the Council is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefor shall be set forth in writing in the official records of the Council, and such decisions shall be provided to the applicant. Action on the preliminary plat by the Council shall be taken within ninety (90) days of the filing of the plat with the Clerk, unless such time period is extended by agreement between the subdivider and the City.

8. Duration of Approval of Preliminary Plat. An approved preliminary plat shall be valid for not longer than two calendar years after the date of Council approval. All approved preliminary plats, or portions thereof, shall be filed with the Linn County Recorder within one calendar year after the date of Council approval. If at least some portion of such approved preliminary plat is not approved in final form within two calendar years after the date of Council approval, the preliminary plat shall be null and void, and the subdivider or developer shall be required to resubmit a new plat for preliminary approval subject to all new zoning and subdivision regulations, except upon application an extension of such period of validity by the Subdivider, and approved of same by the Council. If some portion of an approved preliminary plat is approved in final form within two years after the approved preliminary plat is approved by the Council, the approved preliminary plat shall continue to be valid for five (5) years from the date of such portion of the approved preliminary plat that receives final approval. Revisions, modifications, or amendments to a preliminary plat that revise, modify or amend the preliminary plat shall be valid for five years from the date of such approval by the Council. The provisions of this section are applicable to existing preliminary plats which have been approved by the Council and to preliminary plats that have been filed with the City at the time of the enactment of this amendment (July 18, 2012).

9. Authorization to Install Improvements. No improvement shall be constructed or installed until and unless the plans, profiles, cross-sections and specifications for the construction of such improvements have been submitted to and approved by the Council. The approval of the preliminary plat by the Commission and the Council and the Council's approval of the plans, profiles, cross-sections and specifications for the construction of such improvements shall constitute authorization by the Council for the installation of such improvements.

10. Completion and Acceptance of the Improvements. Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution and acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, (as well as) the agreements between the subdivider and the City.

11. Performance Security. In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond, certified check, cashier's check or letter of credit with the City, guaranteeing that improvements not completed shall be completed within a period of two (2) years from the date of approval of such final plat, but such approval of the plat shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed.
12. Alternate Assessment Waiver Agreement. As an alternative, at the sole discretion of the Council, the owner shall enter into an agreement with the City, which agreement shall be binding upon the owner and all subsequent purchasers of any portion of the subdivision and shall run with the land, to accept an assessment equal to the actual cost of constructing said improvement and furthermore, will waive the limitation provided in Section 384.62 of the *Code of Iowa* that an assessment may not exceed twenty-five percent (25%) of the value of the lot, as said waiver is provided for in Section 384.38 of the *Code of Iowa*, which agreement shall be duly acknowledged by the owner and filed of record with the County Recorder as part of the platting proceeding.
13. Final Plat Filed. The subdivider shall, within two (2) years from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the Clerk twenty-five (25) copies of the final plat and required attachments as set forth in Section 165.67(14)-(16). Except for a final plat for a minor subdivision as set forth herein, no final plat shall be considered by the Council until and unless a preliminary plat for the area including in the proposed final plat has been approved and has not expired as become void as set forth above.
14. Size and Scale. The final plat shall be drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall be no greater than eighteen inches by twenty-four inches (18" x 24") or smaller than eight and one-half inches by eleven inches (8½" x 11") and shall be of a size acceptable to the Linn County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheets, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin.
15. Final Plat Content. The final plat shall be clearly marked "Final Plat" and shall show the following:
 - A. Name. The name of the subdivision.
 - B. Owner. Name and address of the owner and subdivider.
 - C. Scale. Scale and a graphic bar scale, north arrow and date on each sheet.
 - D. Monuments. All monuments to be of record, as required by Chapter 354 of the *Code of Iowa*.
 - E. Boundaries. Sufficient survey data to describe positively the bounds of every lot, block, street, easement, or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.
 - F. Survey Data. All distance, bearing, curve, and other survey data as required by Chapter 354 of the *Code of Iowa*.

- G. Adjoining Properties – Resubdivision. All adjoining properties shall be identified and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part of the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivision shall be labeled as such in a subtitle following the name of the subdivision where the name appears on the plat.
- H. Streets and Alleys. Street names and clear designation of public alleys.
- I. Blocks and Lots. Block and lot numbers.
- J. Public Areas. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
- K. Easements. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer, easements for ingress and egress, and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
- L. Excepted Parcels. All interior excepted parcels clearly indicated and labeled “Not a part of this plat.”
- M. Reserved Land. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.
- N. Accuracy. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
- O. Registered Surveyor. A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor’s direct personal supervision, signed and dated by the surveyor, and bearing the surveyor’s Iowa registration number or seal, and a sealed certificate of the accuracy of the plat by the registered land surveyor who drew the plat.
16. Attachments to the Final Plat. The following shall be attached to and accompany any final plat:
- A. Owner’s Certificate. A certificate by the owner and spouse, if any, that the subdivision is with their free consent and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgment of deeds.
- B. Title Opinion. An attorney’s opinion showing that the fee title to the subdivision land is in the owner’s name and that the land platted is free from encumbrances, other than those secured by an encumbrance bond; and, upon request of the Council, a complete abstract of title.
- C. Treasurer’s Certificate. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the

land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

D. Bond. The encumbrance bond, performance bond, or maintenance bond, or any other bond that is required to be filed, if any.

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

F. City Engineer's Certificate. A certificate by the City Engineer that all required improvements have been satisfactorily completed in substantial accordance with the construction plans as approved and in substantial compliance with the approved preliminary plat. Prior to such certification, construction record drawings for all improvements shall have been provided to the City Engineer. In lieu thereof, the Clerk may certify that a performance bond, certified check or bank letter of credit guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider of future property owners in the subdivision.

G. Improvements. Where the improvements have been installed, a resolution accepting and approving such improvements, along with the maintenance bond or other security acceptable to the City as required by this chapter.

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

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

J. Fee. The applicable fee, if any.

17. Procedures for the Review of Final Plats. The following procedure shall be used in the review of a final plat:

A. Copies Filed. The Clerk, upon receipt of twenty-five (25) copies of the final plat, shall file one copy in the records of the City, shall retain one copy for the public inspection, and shall forward the remaining copies to the Plats Officer.

B. Review Copies Provided. The Plats Officer shall provide copies of the plat to the Commission, City Engineer, the Council, the Mayor, and such other persons as are necessary to review the plat, and shall schedule the plat for review by the Council.

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

D. Planning Commission. The Commission shall review the final plat and shall forward a written recommendation thereon to the Council within sixty (60) days of the filing of the plat with the Clerk. If the recommendation is to disapprove the plat, or to require modification of the plat, the reasons therefore shall be set forth in writing, and a copy of the recommendation shall be provided to the subdivider.

E. Council Review. Upon receipt of the plat and written reports thereon, the Council shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the City and the Comprehensive Plan and other duly adopted plans, all as of the date of approval of the preliminary plat, the Council shall approve the plat and shall cause its approval to be entered on the plat as required by law.

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

G. Filing Deadlines. All plats to be submitted hereunder shall be filed with the Clerk no later than twelve o'clock noon on the fourth Monday preceding the Commission meeting at which the owner desires said plat to be considered. Thereafter, the City Engineer or an alternate as designated by Council shall examine the plat as to its compliance with this chapter and amendments hereto, the major street plan, the existing street system, the good engineering practice, and shall either: (i) submit a report to the Commission, the Mayor, and the members of the Council, and such other persons as necessary to review the plat, as required above; or (ii) if major deficiencies exist in the plat, return the plat to the owner to correct such deficiencies. If the City Engineer or alternate returns the plat to the owner for the correction of such deficiencies, the owner may resubmit an amended final plat not less than seven (7) days prior to the Commission meeting. The resubmitted plat shall be subject to the same examination by the City Engineer, who shall submit a report to the Commission, Mayor, and Council, not less than five (5) days prior to the Commission meeting, without further rights to cure deficiencies by the owner. Failure to resubmit an amended final plat within seven (7) days prior to the Commission meeting shall constitute a retraction of the submitted plat.

18. Recording Final Plats. All approved final plats shall be recorded with the Linn County Recorder within one year after the date of Council approval.

165.68 through **165.69** - Reserved

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165.70 NONCONFORMING BUILDINGS, STRUCTURES AND USES. Within the districts established by this Code, or by subsequent amendments thereto, there exist buildings, structures and uses which were lawful before this Code was passed or amended, but which would be prohibited or restricted under the terms of this Code or future amendments thereto.

1. Purpose. The purpose of this section is to provide for the regulation of nonconforming buildings, structures and uses and to specify those circumstances and conditions under which such nonconformities shall be permitted to continue. The intent of the regulation is not to force all nonconforming situations to be immediately brought into conformance. Instead the intent is to guide future uses and development in a direction consistent with city policy, and over time to bring the development into compliance with the city's regulations and Comprehensive Plan.

2. Authority for Continuance of Nonconformities and Regulation Thereof. Any nonconforming building, structure, or use which existed lawfully at the time of adoption of this Code and which remains nonconforming by the terms thereof, and any such lawful building, structure or use which shall become nonconforming upon the adoption of this Code, or any subsequent amendment thereto, may be continued subject to the regulations following in this section.

3. Nonconformity.

A. Nonconforming Use of Land. Where at the time of adoption of this Code, or subsequent amendments thereto, lawful use of land exists which would not be permitted by the regulations imposed by this Code, and where such use does not involve a building or structure, or in connection with which any building or structure, thereon is incidental or accessory to the principal use of the land, such use may be continued, provided:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land.

(2) No such nonconforming use shall be moved in whole or in part to any adjoining property nor to any other portion of the lot or tract other than that occupied by such use at the time of adoption of this Code, or of a subsequent amendment thereto which rendered the use nonconforming.

(3) No additional structure not conforming to the terms of this Code shall be erected or placed on the lot and no existing nonconforming structure shall be enlarged or expanded.

(4) If no expansion or enlargement is made, the nonconforming use may be changed to another nonconforming use of the same classification or to a less nonconforming use. Whenever a nonconforming use has been changed to a conforming use or to a less nonconforming use, such use shall not be thereafter changed to a more nonconforming use.

(5) Where the nonconforming use status applies to a structure or building and the removal or destruction of such structure or building, or change of such structure or building to a conforming use shall eliminate the nonconforming status of the land, thereafter the land shall be used only for a conforming use.

B. Nonconforming Structures and Buildings Related to Bulk. Where at the time of adoption of this Code, or of subsequent amendments thereto, lawful use of a structure or building exists or may exist which could not be erected under the regulations imposed by this Code by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure or building, such structure or building may be continued, provided no such nonconforming structure or building shall be altered in any way which would increase its degree of nonconformity but may be altered if such alteration does not increase its degree of nonconformity.

C. Nonconforming Structures and Buildings Related to Use. Where at the time of adoption of this Code, or of subsequent amendments thereto, lawful use of a structure or building exists which would not be permitted by the regulations in this Code, such use may be continued, provided:

(1) Enlargement or expansion of a nonconforming structure may be allowed under the following conditions:

a. Nonconforming single family structures located in the commercial and industrial districts as described in Section 165.16 may be allowed to expand. Also permitted is the establishment of additional accessory structures. All yard requirements of the district in which the nonconforming structure is located shall be adhered to with the exception that vertical expansions may be allowed provided the exterior walls of the addition extend no further than the exterior walls of the ground floor of the structure.

b. Nonconforming multi-family structures may be allowed to expand provided that the number of dwelling units are not increased. Also permitted is the establishment of additional accessory structures or the expansion of existing accessory structures. All yard requirements of the district in which the nonconforming structure is located shall be adhered to with the exception that vertical expansions may be allowed provided the exterior walls of the addition extend no further than the exterior walls of the ground floor of the structure.

c. Nonconforming commercial and industrial uses may expand under those conditions set forth in Section 165.84 "Conditional Expansions."

(2) Any nonconforming use may be extended throughout any existing parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Code, but no such use shall be extended to occupy any land outside the building.

(3) If no expansion or enlargement is made, the nonconforming use may be changed to another nonconforming use of the same classification or to a less nonconforming use. Whenever a nonconforming use has been changed to a conforming use or to a less nonconforming use, such use shall not be thereafter changed to a more nonconforming use.

(4) Where nonconforming use status applies to a structure or building and land on the same lot or tract, then the removal or destruction of such structure or building, or change of such structure or building to a conforming use eliminates the nonconforming use and the nonconforming status of the land, thereafter the land shall be used only for a conforming use.

(5) Any nonconforming structure or building allowed under this chapter may not be connected in any way to any other nonconforming or conforming structure or building. Any non-forming or conforming structure or building allowed under this chapter must have separate utility connections. All utility connections must originate from the street and may not be connected to any existing utilities serving any nonconforming or conforming structure or building.

D. Nonconforming Signs. Nonconforming signs shall be regulated by the provisions contained in Chapter 166 of this Code.

4. Repairs and Maintenance. Ordinary repairs and maintenance may be carried out on land, structures or buildings nonconforming as to use or bulk, provided that no alterations shall be made which would add to the size, area, or degree of nonconformity.

5. Restoration of a Nonconforming Structure or Building.

A. Structure or Building Damaged or Destroyed. A nonconforming building or structure which is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration to the condition in which it was before the occurrence shall exceed sixty-five percent (65%) of the fair market value of the building before damage, based upon insurance value, shall not be restored except in conformity with all of the regulations of the district in which it is located.

(1) If a nonconforming building or structure is damaged less than sixty-five percent (65%), it may be repaired, restored, or reconstructed and used as before the time of damage provided that such repair, restoration or reconstruction is started within twelve (12) months of such damage and diligently prosecuted to completion.

B. Correcting an Unsafe Condition. Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition any structure, building, or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

6. Nonconforming Accessory Uses, Structures and Buildings. Nonconforming accessory uses, structures and buildings shall be subject to the provisions of this section. In addition, a nonconforming use of land, structure, or building which is accessory to a principal nonconforming use shall be discontinued if such principal use or structure is discontinued, unless such accessory use of land or structure shall therefore conform to all regulations of the district in which it is located.

7. Discontinuance of a Nonconforming Use. If the nonconforming use of a building, structure, or premise is discontinued or vacated for a continuous period of 12 months, it shall not be renewed, and any subsequent use of the building, structure, or premises shall conform to the use regulations of the district in which such building, structure, or premises is located. However, where it can be established that a delay in

reoccupying a property has been caused by governmental and/or court action, or other extenuating circumstances, which are clearly beyond control of the property owner, the time period to retain nonconforming status may, if approved by the Board of Adjustment, be extended to 24 months. Application for extension must be received before the expiration of the 12-month discontinuance or vacation.

8. Termination of Certain Nonconforming Uses and Structures. Certain uses involving a high degree of incompatibility and a relatively low amount of investment shall be terminated, or altered, as herein prescribed, following adoption of this Code.

A. Sight Distances. Fences, walls and foliage which impair sight distances at an intersection and thereby constitute a hazard to pedestrian or vehicular traffic shall be altered to comply with the provisions of this Section 165.21(8) herein, with one calendar year from the date of official notice from the Zoning Administrator.

B. Nonconforming Uses in C-ORS, C and I Districts. All uses in C-ORS, C and I Districts not now in compliance with the provisions of this Code setting for specifications for fencing or screening shall be altered so as to comply within two years from the date of official notice from the Zoning Administrator.

C. Nonconforming Open Storage Activities. Such uses as automobile wrecking and salvage, material storage and similar uses wherein no buildings or structures are used on connection with said use, or when the only buildings or structures or other physical improvements are accessory or incidental to such use, shall be terminated or made conforming within five calendar years from the date of official notice from the Zoning Administrator.

D. Adult Entertainment. Any Adult Book Store, Adult Motion Picture Theater, Adult Mini Motion Picture Theater, Adult Massage Parlor, Adult Theater, Adult Artist-Body Painting Studio, Adult Modeling Studio, Adult Sexual Encounter Center, Adult Cabaret, or any other Adult Entertainment Establishment which at the time of the adoption of this Code becomes nonconforming because it does not meet the minimum separation requirements between it and any other such establishment, or between it and any school, church, or residential zoning district; or because it is located in a zoning district wherein such establishment is not a permitted use, shall terminate all uses defined herein no later than three years after the date of the adoption of the Adult Entertainment Establishment Regulations Ordinance adding this section of Adult Entertainment to the 1995 Hiawatha Zoning Ordinance. However, if, in the opinion of the owner of the business involving such use, the termination creates an undue hardship, the owner may appeal to the Board of Adjustment for extension of time for the termination. It shall be the responsibility of the owner to show just cause for a time extension based upon evidence submitted by the owner which demonstrates by the greater weight of evidence that three years was not an adequate length of time to amortize the owner's investment in such establishment. The Board shall determine whether such a time extension shall be granted, and, if so, how long such extension shall be, based upon the evidence presented. However, no establishment shall be granted more than a one-time extension and no such extension shall be for longer than the minimum time determined necessary by the Board for the owner to amortize the investment which existed on the date of the Ordinance adding this section to the laws of Hiawatha was adopted. Any investments in said nonconforming

establishment(s) subsequent to the adoption of the Code shall not be included for such amortization value purposes. Such nonconforming establishments shall not increase, enlarge, expand, extend or alter such land area, building or structure involved in such establishment except by change the use to another use which is permitted in that zoning district by the terms of the Unified Development Code.

E. Outside Vehicular Storage. When a combination of more than two vehicles, recreational vehicles, boats, campers, trailers or similar vehicles and equipment shall be parked or stored in the rear yard in the Agriculture and Single Family Residential Districts and on lots being used for a single-family or two-family dwelling the property shall be effectively screened on each side adjoining a street or property situated in a residence district by a wall, fence, or densely planted compact hedge not less than five and one-half feet in height. The fencing or screening shall be established within 60 days from the date of official notice from the Zoning Administrator. The Zoning Administrator may grant an extension until such time as the ground is frost free.

165.71 through 165.74 - Reserved

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165.75 ADMINISTRATION AND ENFORCEMENT. The Zoning Administrator and such deputies or assistants, that have been or shall be duly appointed, shall have the principal responsibility of enforcing this Code. For the purpose of this Code, the Zoning Administrator shall be the Building Official. In furtherance of such authority the Zoning Administrator shall do, or cause to be done, the following:

1. Issue all building permits and certificates of occupancy and make and maintain records thereof.
2. Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this Code.
3. Maintain permanent and current records of this Code, including but not limited to all conditional uses, variances, appeals, and applications therefore.
4. Provide and maintain a public information service relative to all matters arising under his jurisdiction.
5. Forward to the Planning Commission copies of all applications for subdivision, site plans, amendments and conditional uses to this Code that are initially filed with the office of the Zoning Administrator.
6. Forward to the Board of Adjustment applications for appeals, variances, conditional uses, and other matters on which the Board is required to pass under this Code; and keep all records of the Board.
7. Such other reasonable and appropriate actions necessary to effectively administer and enforce this chapter when not prohibited nor assigned to other agents by the terms of this Code.
8. Charge and receive such reasonable fees, as set by the City Council from time to time, to help defray administrative costs related to applications for building permits and certificates of occupancy.

165.76 INSPECTION AND ENFORCEMENT. In furtherance of the enforcement of this Code the Zoning Administrator shall undertake such regular and continuing programs of inspection of work approved and under way and of existing structures and uses as may be feasible and proper within the limits of staff and funds; shall undertake such inspections as may be necessary to the performance of his or her duties hereunder; and shall receive from any person complaints alleging, with particularity, a violation of this Code and, when appropriate, shall cause such investigations and inspections as may be warranted by such complaints to be made.

1. The Zoning Administrator shall, upon determination of any violation of this Code, notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it; and specifically shall order the discontinuance of any illegal use of land, buildings or structure, order removal of illegal buildings, structures, additional, or alterations; order discontinuance of illegal work being done; or take any other action authorized by this Code to ensure compliance with or to prevent violation of its provisions, and in particular shall, where necessary or appropriate, recommend to the City Attorney the institution of legal or equitable actions that may be required for the enforcement of this Code.
2. Nothing in this section shall be interpreted to prevent any person entitled to relief in law or equity by reason of a violation of the provisions of this Code from bringing an appropriate action to secure such relief.

165.77 CERTIFICATES OF OCCUPANCY. No building, or addition thereto, constructed after the effective date of this Code and no addition to a previously existing building shall be occupied as of the effective date of this Code until a certificate of occupancy has been issued by the Zoning Administrator. No change in a use shall be made until a certificate of occupancy has been issued by the Zoning Administrator. Every certificate of occupancy shall state that the use or occupancy complies with the provisions of this Code.

1. Application for Certificate of Occupancy. Every application for a building permit shall be deemed to be an application for a certificate of occupancy. Every application for a certificate of occupancy for a new use of land, where no building permit is required, shall be made directly to the Zoning Administrator.

2. Issuance of Certificate of Occupancy. No certificate of occupancy for a building, or portion thereof, constructed or improved after the effective date of this Code, shall be issued until construction has been completed and the premises inspected and certified by the Zoning Administrator to be in conformity with the plans and specifications upon which the building permit was based. No certificate of occupancy for a building, or addition thereto, constructed after the effective date of this Code, shall be issued and no addition to a previously existing building shall be occupied until the premises have been inspected and certified by the Zoning Administrator to be in compliance with all applicable standards. The certificate of occupancy shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued not later than fourteen (14) days after the Zoning Administrator is notified, in writing, that the building or premises is ready for occupancy.

3. Issuance of Temporary Certificate of Occupancy. If the Zoning Administrator finds that no substantial hazard will result from occupancy of any building, or premises, or portion thereof before the same is completed, the Zoning Administrator may issue a temporary certificate of occupancy for the use of a portion or portions of a building, structure, or premises prior to the completion of the entire building, structure, or site improvements. Pending the issuance of a certificate of occupancy, a temporary certificate may be issued to be valid for a period not to exceed six (6) months from its date of issuance and to permit partial occupancy of the premises during completion of the construction. Prior to the issuance of the temporary certificate of occupancy, the Zoning Administrator shall require that an escrow account, bond or letter of credit be established in accordance with the policies and procedures established by the City Council for those incomplete portions of the construction and site improvements that prevented the certification of the premises by the Zoning Administrator.

165.78 APPEALS OF DECISIONS. Any person affected by a decision of the Zoning Administrator in his or her enforcement of this Code may appeal said decision to the Board of Adjustment according to the procedures contained in Section 165.81 herein.

165.79 Reserved

165.80 BOARD OF ADJUSTMENT.

1. Creation, Membership, Appointment, Terms. There is hereby created a Board of Adjustment, consisting of five (5) members. The word "Board" when used in this Code shall mean the Board of Adjustment. Members of the Board shall be appointed by the Mayor and confirmed by the City Council to serve respectively for the following terms: One for one year, one for two (2) years, one for three (3) years, one for four (4) years, and one for five (5) years; the successor to each member so appointed to serve a

term of five years. Vacancies shall be filled by the Mayor, subject to confirmation by City Council, for any unexpired term. Members may be removed by the Mayor, with consent of City Council, for cause after written charges have been filed and after a public hearing has been held.

2. Meetings, Rules, Records, Procedures. Meetings of the Board shall be held on the second Monday of the month, and at such other times as the Board may determine. Meetings shall be held if so requested by three members of the Board. All meetings and hearings conducted by the Board shall be open to the public. Any person may appear and testify at a hearing either in person or by duly authorized agent or attorney. The chairperson or, in their absence, the acting chairperson may administer oaths and compel attendance of witnesses. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings, examinations, and other official actions. Every decision of the Board shall be by written record which shall include findings that set forth the specific relief or use granted or relief denied, and shall expressly set forth any limitations or conditions imposed on any relief granted, or work or use authorized. A copy of every rule or regulation order, requirement, decision, or determination of the Board shall be filed immediately in the office of the Zoning Administrator and shall be a public record. The Board shall adopt its own rules and procedures not in conflict with this Code or with the *Code of Iowa*.

3. Finality of Decision and Necessary Vote. All decisions and finds of the Board on any appeal or upon any application for a variance or conditional use, after a public hearing, shall, in all instances, be the final administrative decision and shall be subject to judicial review as provided by law. The concurring vote of three members of the Board shall be necessary to reverse an 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 Code, or to effect any variance in such ordinance.

4. Petition for Certiorari. Any person or persons, jointly or severally, aggrieved by any decision of the Board under the provisions of this Code, or any taxpayer, or any officer, department board, or bureau of the municipality, 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 Zoning Administrator.

5. Fee. A nonrefundable fee shall be paid by the applicant to the Zoning Administrator at the time an application for an appeal, variance, conditional use, or revised site plan is filed, which the Zoning Administrator shall forthwith pay over to the City Clerk to the credit of the general revenue fund of the City. The fee shall help defray necessary costs and shall be in an amount established by resolution, from time to time, by the City Council.

165.81 JURISDICTION.

1. Appeals.

A. Scope of Appeals and Procedure for Filing. An appeal may be taken to the Board by any person, firm or corporation, or by any office, department, board or bureau affected by any decision of the Zoning Administrator, and where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this

Code. Such an appeal shall be submitted within 30 days of the decision of the Zoning Administrator, by filing a notice of appeal specifying the grounds thereof. The appeal shall be in the number of copies and contain such information as the Board, by rule, may require. The Zoning Administrator shall forthwith transmit to the Board all of the papers constituting a record upon which the action appealed from was taken.

B. Effect of Appeal. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the notice of the appeal has been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life and property, in which case the proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, or on notice of the Zoning Administrator and due cause is shown.

C. Hearing, Decision, and Records. The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties by one publication of a notice in a publication of general circulation within the City of Hiawatha, said publication to be made not less than four (4) days nor more than 20 days before the date of hearing. The Board shall reach its decision within forty-five (45) days of the date of the public hearing unless such time is extended by mutual consent of the petitioner and the Board. The Board may, in conformity with the provisions of this Code, affirm or reverse, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The Zoning Administrator shall maintain records of all actions of the Board relative to appeals.

165.82 VARIANCES.

1. Purpose. The Board, upon appeal in specific cases and after a public hearing, may vary the regulations of this Code in harmony with their general purpose and intent where the Board makes findings of fact in accordance with the standards hereinafter prescribed, and further, finds that there are practical difficulties or unnecessary hardships in the way of carrying out the liberal provisions of this Code.

2. Application For Variance and Notice of Hearing. An application for a variance shall be filed, in writing, with the Zoning Administrator. The application shall be in the number of copies and contain such information as the Board may, by rule, require. The Board shall reach its decision within 45 days from the date of the hearing unless such time is extended by mutual consent of the petitioner and the Board.

3. Public Hearing Notice. The Board shall set a public hearing for the application and shall publish notice of time and place of the hearing, in a publication of general circulation within the City of Hiawatha, not less than four days nor more than 20 days before the date of such hearing.

4. Notification Signs. The Zoning Administrator shall provide each applicant for a variance with at least two notification signs which shall be clearly posted by the applicant on the subject property. On a larger property additional such signs may be required. At least one sign shall be placed so that it is clearly visible from an abutting street, and if the subject property has frontage on more than one street, a sign shall be

posted on each such frontage. When a property has little or no direct street frontage, additional signs may be required to be posted adjacent to and facing the surrounding properties. For each sign provided, the applicant shall pay a fee in an amount established from time to time by the City Council by resolution.

A. Sign Content. The notification signs shall indicate the zoning district classification and the nature of the requested variance, and the date, time and meeting place of the Board of Adjustment.

B. Time of Sign Posting. The notification signs shall be posted at least seven days prior to the meeting of the Board of Adjustment and shall be maintained continuously on the property until after the public hearing of the Board.

C. Failure to Post Sign. Failure to post and maintain such notices as prescribed above may be considered by the Board as sufficient cause to defer the hearing on the application.

D. Sign Removal. Such signs shall be removed by the applicant within five days after the public hearing. No person other than the applicant or his agent shall erect, remove or alter such signs. No one shall deface nor in any way affect the visibility or interfere with such signs.

5. Notification Letters. A list of all owners of property located within 200 feet of the lot on which a variance is being requested shall be furnished in writing to the Zoning Administrator at the time of application for a variance. The names and addresses of each property owner shall be as shown by the records of the County Auditor. However, if the property is shown to be in the name of more than one owner, a single notice shall be mailed to all owners at the address of record. Notice shall be sent by certified mail by the City Clerk's office so that the notice will be received not less than four (4) nor more than 20 days prior to the scheduled Board of Adjustment hearing on the variance requested. Failure to receive a mailed notice shall not invalidate the proceedings nor constitute a defense to a proposed variance.

6. Standards for Variances. The Board shall not grant a variance unless it shall make findings based upon the evidence submitted in each specific case that a special condition or conditions exist to the degree that a literal enforcement of the provisions of the Code will result in an unnecessary hardship, and that granting such variance will not be contrary to the public interest nor to the spirit and intent of this Code. At a minimum, all the following findings shall be made in order to justify granting of a variance.

A. Unique Circumstances. The subject property is unique or exceptional as compared to other properties subject to the same provisions by reason of irregularity, narrowness, shallowness, or substandard or marginal size; exceptional topographical features; or other extraordinary conditions peculiar to and inherent in the property in question and which relate to or arise out of the property rather than the personal situation of the current owner of the property; and which amount to more than a mere inconvenience to the owner.

B. Not Exclusively For Financial Gain. The purpose of the variance is not based exclusively upon a desire to increase financial gain from the property. Proof that the property cannot be used for its highest or best use under the regulations, shall not in itself justify granting a variance.

- C. **Hardship Not Self-Created.** The aforesaid unique or special condition existed at the time of the enactment of the provisions of this Code which affect it or was the result of government action, other than adoption of this Code, for which no compensation was paid, and has not been created by any persons presently having an interest in the property.
- D. **Substantial Rights Denied.** The carrying out of the strict letter of the provisions would deprive the property owners of substantial rights commonly enjoyed by other property owners subject to the same provisions.
- E. **Not Special Privilege.** The hardship is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other property subject to the same provisions.
- F. **Not Detrimental.** Granting the variance will not be detrimental to the public welfare or materially injurious to the enjoyment, use or development of property in the vicinity, and would not materially impair an adequate supply of light and air to adjacent properties; would not substantially increase congestion in the public streets, nor increase the danger of flood or fire, or endanger the public safety, nor substantially diminish or impair property values in the vicinity.
- G. **No Other Remedy.** There is no means other than the requested variance by which the hardship can be avoided or remedied to a degree sufficient to permit a reasonable use of the property.
7. **Authorized Variances.** Variances from the regulations of this Code shall be granted by the Board only in accordance with the standards established in Section 165.82(5) immediately above, and may be granted only in the following circumstances:
- A. To allow any yard setback less than required.
- B. To allow any yard encroachments greater than permitted.
- C. To allow the use of a lot for a use otherwise permitted when such use is prohibited solely because of the lot's area, width or depth does not meet minimum requirements.
- D. To allow building heights greater than the maximum height allowed with the Board of Adjustment using the knowledge of the surrounding area, total size of the structure compared to the requested height and location of the structure on the lot and in consideration of the surrounding neighborhood.
- E. To allow the same off-street parking facility to qualify as required facilities for two or more uses, provided that substantial use of such facilities by each user does not take place at approximately the same times.
- F. To reduce required off-street parking or loading facilities by not more than one space or by 25 percent of the required facilities, whichever is greater.
- G. To increase but not more than 25 percent the maximum distance that required off-street parking facilities are permitted to be located from the use served.

H. To permit the reconstruction of a nonconforming structure which has been damaged to more than 65 percent of its fair market value, when the Board finds compelling necessity requiring continuation of such use.

I. To waive any transitional yard screening requirements in a C or I district if the structure, use or building is already effectively screened by topography or existing screening comparable to the types required.

J. To waive the screening and landscaping requirements for parking areas containing more than four parking spaces and adjoining or fronting on property situated in a residential district or any institutional premises if the closest point of such parking area is at least 100 feet from the nearest residential or institutional property line.

K. To grant an extension of time for the termination of any nonconforming Adult Motion Picture Theaters, Adult Mini Motion Picture Theaters, Adult Massage Parlors, Adult Theaters, Adult Artist-Body Painting Studios, Adult Modeling Studios, Adult Sexual Encounter Center, Adult Cabaret or any other Adult Entertainment Establishment based upon evidence that three years is not a sufficient amount of time to amortize the owner's investment in such establishment.

L. To allow lots of record developed with more than one single family structure to be subdivided into individual lots for each structure, when one or more of the resulting lots do not meet lot area requirements or other bulk requirements. However, such variance shall not result in the creation of any lot which contains less than 80 percent of the minimum lot area required by the Unified Development Code regulations for the district within which the lots are located. Further, such action does not relieve the owner of compliance with applicable platting regulations.

M. In the event that a residential structure, located on a lot created under this provision is subsequently removed, demolished, or is destroyed or damaged to the extent that the cost of restoration exceeds 65 percent of the fair market value prior to the occurrence, said structure shall not be restored nor shall a building permit be issued for a new structure unless specifically authorized by the Board as provided for under Section 165.82(6)(N) below of these regulations.

N. To permit the restoration of a structure which has been damaged to more than 65 percent of its fair market value or construction of a new residential structure on lots created under Section 165.82(6)(L) above of these regulations.

O. To extend to 24 months the time a legal nonconforming use may be vacant or discontinued without requiring any subsequent use to conform to the use regulations of the district where it can be established that a delay in reoccupying a property has been caused by government and/or court action which is clearly beyond control of the property owner.

P. To allow a variance to the subdivision requirements where it can be shown that strict compliance with the requirements of this Code would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Board may vary, modify or waive the requirements so that substantial justice may be done and the public interest is secured provided, however, that such variance, modification or waiver will not have the effect of

nullifying the intent and purpose of this Code. In granting a variance, the Board may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified or waived.

8. Specified Variances Prohibited. No variance shall be granted which would:
 - A. Permit a use which is not allowed as a permitted use by the provisions of this Code in the district in which a property is located, nor any use expressly or by implication prohibited therefrom.
 - B. Permit the creation of a lot or parcel that cannot be developed in compliance with the zoning, subdivision, and other regulations applicable thereto.
 - C. Be greater than the minimum variance necessary to relieve the practical difficulty or unnecessary hardship demonstrated by the applicant.
9. Relief Less Than Requested. A variance less or different than the one requested may be granted when the records support the applicant's right to some relief but not the relief requested.
10. Conditions on Variances. The Board may impose such conditions, including restrictions and safeguards, upon the property benefited and the variance granted as considered necessary to prevent or minimize adverse effects upon other property in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the grant of variance. Violation of such conditions shall be a violation of this Code.
11. Permits and Approvals Still Necessary. A grant of a variance shall not necessarily authorize immediate action. As appropriate and as required by the codes and ordinances of the City, other permits and approvals shall be obtained. These may include building permits, certificates of occupancy, subdivision approval, and the like. The relief accorded by the grant of variance and any conditions imposed thereon shall be taken in appropriate account in issuance of any said subsequent permits and approval(s).
12. Subdivision Related Variances. Paragraphs 2 through 6 of this Section 165.82 shall not apply to variances of the requirements of Sections 165.47 through 165.67 of this Unified Development Code. An application for a variance from those requirements shall be filed, in writing, with the Zoning Administrator. The application shall be in the number of copies and contain such information as the City Council may, by resolution, require. Where it can be shown by the applicant that the requirements of Sections 165.47 through 165.67 of this Unified Development Code will result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the City Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest is secured provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purposes of this Code. By way of example, the City Council has the authority to issue a variance of the subdivision regulations by permitting a conveyance of real estate using a plat of survey prior to approval of the final plat.

165.83 CONDITIONAL USES.

1. Purpose. Conditional uses are those uses having some special impact or unique characteristic which requires a careful review of their location, design, configuration, and special impact to determine the desirability of permitting their establishment on any given site. They are uses which may or may not be appropriate in a particular location depending upon consideration in each case of the public need and benefit and the local impact, and shall be considered within the context of the intent and purpose of this Code.

2. Conditional Uses Permitted; Limitation. Each schedule of district regulations, as contained within Sections 165.15 and 165.16 of this Code, identifies those uses which may be permitted as conditional uses in each specific district. No conditional uses except those listed may be permitted in the district.

3. Eligible Applicant. A property owner may file an application to use property for one or more of the conditional uses provided in this Code in the zoning district within which the property is located.

4. Application. An application for a conditional use shall be filed with the Zoning Administrator and be in the number of copies, and shall contain such information and documentation as the Board may by resolution adopt, but shall in all instances contain at least the following documents and information:

A. Petition. A written petition containing the following information:

(1) Applicant's name and address and his or her legal interest in the subject property.

(2) The title holder's name and address, if different than the applicant and evidence of title holder's consent to the filing of the application.

(3) Street address or common description and the complete legal description of the property.

(4) The zoning district classification and present use of the property.

(5) A general description of the proposed conditional use.

(6) Statements addressing each one of the standards set forth in Section 165.83(7) below, and stating how the proposed conditional use relates to and meets each such standard.

B. Location Map. A clear and legible map, drawn to a scale of one inch equals 300 feet (1" = 300') or larger, containing the following:

(1) Existing lot lines and streets within 600 feet of the subject property.

(2) Existing zoning districts within 600 feet of the subject property.

(3) Identification of the subject property and its dimensions.

(4) A north arrow.

(5) A legend box which shall include the applicant's name and phone number, date prepared, conditional use requested, address, and legal description of the subject property and map scale.

C. Site Development Plan. The site development plan shall be prepared by an engineer, architect, landscape architect, or similar professional, and shall be at a scale of one inch equals 20 feet or larger, and shall contain the following:

(1) Existing physical site conditions including contours at intervals of five feet or less, water courses, flood plains, unique natural features, and location of all trees five inches or more in diameter at a height of four feet above the ground line or general wooded areas; and proposed finished topographic contours.

(2) Existing and proposed lot lines and property dimensions.

(3) The location and dimensions of all existing and proposed principal and accessory buildings and any other significant structures on the subject property also showing separation between buildings and location and dimensions of yards.

(4) Identify building types by usage of floor area and number of units, offices, or the like.

(5) Location and dimensions of vehicular and pedestrian circulation elements including streets; driveways and entrances and exits thereto; off-street parking spaces, loading spaces and access aisles; and sidewalks, walkways and pathways.

(6) Existing and proposed utility systems including sanitary and storm sewers and water, electric, gas and telephone lines; surface drainage and any impoundment areas.

(7) General location and height of proposed fence and planting and the type of materials to be used.

(8) Elevations and architectural renderings of structures and improvements sufficient to relay the basic architectural intent of the proposed improvements.

5. Notification Signs. The Zoning Administrator shall provide each applicant for a conditional use with at least two notification signs which shall be clearly posted by the applicant on the subject property. On a larger property additional such signs may be required. At least one sign shall be placed so that it is clearly visible from an abutting street and if the subject property has frontage on more than one street a sign shall be posted on each such frontage. When a property has little or no direct street frontage, additional signs may be required to be posted adjacent to and facing the surrounding properties. For each sign provided, the applicant shall pay a fee in an amount established from time to time by the City Council by resolution.

A. Sign Content. The notification signs shall indicate the zoning district classification, the proposed conditional use, and the date, time and place of the following meetings at which the conditional use will be reviewed.

(1) Planning and Zoning Commission.

- (2) Board of Adjustment Public Hearing. The sign shall also contain any additional information as the Board shall, by rule, require.
 - B. Time of Sign Posting. The notification signs shall be posted at least seven (7) days prior to the meeting of the Planning and Zoning Commission and shall be maintained continuously on the property until after the public hearings of the Board.
 - C. Failure to Post Signs. Failure to post signs and maintain such notices as prescribed above may be considered by the Board as sufficient cause to defer the hearing on the application.
 - D. Sign Removal. Such signs shall be removed by the applicant within five (5) days after the public hearing. No person other than the applicant or his agent shall erect, remove or alter such signs. No one shall deface nor in any way affect the visibility or interfere with such signs.
6. Conditional Use Application Review Procedure. The Zoning Administrator shall forward copies of the conditional use application to the Board and to the Planning and Zoning Commission in the number of copies they shall each require.
- A. Planning and Zoning Commission. The Planning and Zoning Commission shall review such application and return a written report of their findings and recommendations to the Board prior to the Board's scheduled public hearing on the application. In their review said Commission shall consider each of the standards established in Section 165.83(7) below. In a separate paragraph in such report said Commission shall list any recommended conditions and/or restriction to be attached to an approval of the subject application.
 - B. Board of Adjustment.
 - (1) Public Hearing Notice. The Board shall set a public hearing for the application and shall publish notice of time and place of the hearing, in a publication of general circulation within the City of Hiawatha, not less than four (4) days nor more than 20 days before the date of such hearing. In setting the public hearing, the Board shall allow time required by the Planning and Zoning Commission to review the application and return its report to the Board.
 - (2) Action by the Board. The Board shall, after receiving the report from the Planning and Zoning Commission and conducting the public hearing on the application, reach its decision within forty-five (45) days of the date of the public hearing, unless such time is extended by mutual consent of the applicant and the Board. In their review, the Board shall consider each of the standards established in Section 165.83(7) below. The Board shall either grant the application for conditional use, grant it subject to conditions, or deny the application.
 - (3) Conditions. The Board may impose such conditions, including restrictions and safeguards, upon the property benefited by the conditional use as considered necessary to prevent or minimize adverse effects upon other property in the vicinity or upon public facilities and services. Such conditions shall include a requirement that development be in accordance with a site development plan approved by the Board.

Such conditions shall be expressly set forth in the approval of the conditional use. Violations of such conditions shall be a violation of this Code.

7. Standards for Conditional Uses. Approval for any conditional use shall be granted only if evidence is presented which establishes:
 - A. That the conditional use applied for is permitted in the district within which the property is located.
 - B. That the proposed use and development will be in accordance with the intent and purpose of this Code and with the goals and objectives of the Land Use portion of the Comprehensive Site Plan.
 - C. That the proposed use and development will not have a substantial adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility and service facilities, and other factors affecting the public health, safety, and welfare.
 - D. That the proposed development or use will be located, designed, constructed and operated in such a manner that it will be compatible with the immediate neighborhood and will not interfere with the orderly use, development and improvement of surrounding property.
 - E. That adequate measures have been or will be taken to assure adequate access designed to minimize traffic congestion and to assure adequate service by essential public services and facilities including utilities, storm water drainage, and similar facilities.
 - F. That the proposed building, development, or use will comply with any additional standards imposed on it by provisions of this Code for the district in which the property is located.
 - G. Whether, and to what extent, all reasonable steps possible have been, or will be taken, to minimize any potential adverse effects on the surrounding property through building design, site design, landscaping, and screening.
8. Permits and Approvals Still Necessary. As appropriate, and as required by the codes and ordinances of the City, other permits and approvals shall be obtained. These may include building permits, certificates of occupancy, subdivision approval, and any similar permits or approvals. The approval of a conditional use and any conditions imposed thereon, including the approved site development plan, shall be taken into appropriate account in issuance of any said subsequent permits and approvals.
9. Amendments to an Approved Conditional Use. Following completion of the development, or establishment of the use authorized by an approval for a conditional use, such use may be amended, varied, or altered in the same manner and subject to the same limitations as any other regulation established by this chapter.
10. Revisions to an Approved Site Development Plan for a Conditional Use. If, at any time, the owner of land included in an approved site development plan for a conditional use desires to revise said approved plan, he or she shall submit a written petition requesting such revision. A revised site development plan shall accompany the petition, and said plan shall show the proposed revisions to the approved site development plan. The petition and the revised plan shall be submitted to the Zoning Administrator who shall forward a copy thereof to the Planning and Zoning

Commission for review and report. After review of said report, a determination shall be made by the Zoning Administrator as to whether the proposed revisions constitute a major or minor plan revision to the approved plan. If an issue arises concerning whether a proposed revision constitutes a major or minor plan revision, the Board and the Planning Commission shall be so informed. The Planning and Zoning Commission shall recommend whether it be considered a minor or major revision to the Board and then the Board shall make the final determination without the necessity of a public hearing thereon.

A. Minor Revisions. Minor revisions shall be those that do not increase the size of any building or structure by more than 10 feet in any direction. Revised site development plans containing only minor revisions may be approved or denied by the Board without the necessity of holding a public hearing thereon after report by the Zoning Administrator and the Planning and Zoning Commission. If approved, the revised site development plan shall then supersede the previously approved plan and subsequent development on the property shall be in accord with such approved revised plan.

(1) Changes adjacent to the transitional zone, which is defined as “that area between a site improvement, such as structures, parking areas and driveways, and an adjacent property in an A, R-1, R-3 or R-5 District,” shall be limited to the following:

- a. Reduction in length of parking areas, drives, or other similar facilities;
- b. An increase in setbacks of site improvements such as structures, parking areas and driveways;
- c. A decrease in the height, length, or width of structures;
- d. An increase in the height, length, or width of structures, parking areas, or other facilities generally to no more than twenty percent (20%) of that portion facing the adjacent property;
- e. A decrease in setbacks of structures, parking, or other facilities generally to no more than twenty percent (20%) of the approved setbacks;
- f. A shift parallel to the transitional zone in the location of a structure, parking area, or similar facility generally to no more than twenty percent (20%) of the length or width of the structure, parking area, or other facility;
- g. All changes to Site Development Plans that are determined to meet the twenty percent (20%) standard when referenced to the last Site Development Plan approved by the Planning and Zoning Commission and the City Council.

(2) Changes which are not adjacent to a transition zone and/or are located within the interior of Residential, Commercial, or Industrial Districts that are minor, relative to the total land area and scale of the development for the subject property that are found to have no significant negative impacts on adjacent property.

B. Major Revisions. Any proposed revisions not classified as minor shall be considered major revisions.

(1) Procedure. An applicant requesting approval of major revisions in a site development plan previously approved for a conditional use shall submit a written petition, location map, and a site development plan which contains the requested revisions. Such material shall be submitted to the Zoning Administrator who shall forward copies to the Board and to the Planning and Zoning Commission. Notification signs shall be furnished to the applicant and all requirements of Section 165.83(5) shall apply, except that the content of the signs shall be modified to indicate that a revised site development plan is being requested.

(2) The Planning and Zoning Commission shall review such application and return a written report of their findings and recommendations to the Board prior to the Board's scheduled public hearing on the application.

(3) The Board of Adjustment shall set a public hearing for the application and shall publish notice of time and place of the hearing, in a publication of general circulation within the City of Hiawatha, not less than ten (10) days before the date of such hearing. In setting the public hearing the Board shall allow the time required by the Planning and Zoning Commission to review the application and return its report to the Board. The Board shall, after receiving such report from the Planning and Zoning Commission and conducting the public hearing on the application, reach its decision within forty-five (45) days of the date of the public hearing, unless such time is extended by mutual consent of the applicant and the Board. The Board may approve, approve with modifications, or deny such site development plan. If approved the revised site development plan shall then supersede the previously approved plan, and subsequent development on the property shall be in accord with such approved revised plan.

11. Amendment to Conditional Use. Amendment to conditional use of animal boarding shall have the additional requirements of:

A. Such establishments shall also satisfy all applicable State and local agency provisions.

B. Outdoor exercise area shall be sectioned off to make different sizes of outdoor play areas with no one area exceeding fifty percent (50%) of the total exercise area.

C. Dogs shall be supervised at all times in outdoor area to control barking.

D. Outdoor exercise or play areas shall be approximately 1/3 of indoor gross building square footage.

E. Conditional use shall be inspected yearly to insure cleanliness and noise compliance.

F. Waste disposal shall be scheduled twice per week and more frequently if odor becomes a problem.

165.84 CONDITIONAL EXPANSIONS.

1. Purpose. Conditional expansion of nonconforming uses may be granted by the Board of Adjustment for legal nonconforming commercial uses in Commercial and Industrial Districts, and for legal nonconforming uses in the Commercial-Warehouse District and Industrial Districts. Upon review of each request for a conditional expansion, the nature of the use, the nature of the surrounding properties, and any other considerations pertinent to an individual request which may have relevance to whether or not that legal nonconforming use should be expanded shall be considered.
2. Conditional Expansions Permitted.
 - A. Nonconforming Commercial Uses. Expansion of legal nonconforming commercial uses may be granted in those Commercial and Industrial Districts described in Sections 165.15 and 165.16. All yard requirements of the district in which the structure is located shall be adhered to.
 - B. Nonconforming Industrial Uses. Expansion of legal nonconforming industrial uses may be granted in the Commercial-Warehouse District and those Industrial Districts described in Sections 165.15 and 165.16. All yard requirements of the district in which the structure is located shall be adhered to.
3. Expansion of Uses. Expansion of commercial or industrial uses are expressly prohibited in Residential Districts as well as the expansion of nonconforming industrial uses in all Commercial Districts with the exception of the C-WH District.
4. Application. An application for a conditional expansion shall be filed with the Zoning Administrator and be in the number of copies and shall contain such information and documentation as the Board may, by rule, require but shall in all instances contain at least the following documents and information:
 - A. Petition. A written petition containing the following information:
 - (1) Applicant's name and address and his legal interest in the subject property.
 - (2) The title holder's name and address, if different from the applicant, and evidence of title holder's consent to the filing of the application.
 - (3) Street address or common description and the complete legal description of the property.
 - (4) The zoning district classification and present use of the property.
 - (5) A general description of the proposed conditional expansion.
 - (6) Statements addressing each of the standards set forth in Section 165.84(7) below, and stating how the proposed conditional expansion relates to and meets each such standard.
 - B. Location Map. A clear and legible map, drawn to a scale of one inch equals 300 feet (1" = 300') or larger, containing the following:
 - (1) Existing lot lines and streets within 600 feet of the subject property.

- (2) Existing zoning districts within 600 feet of the subject property.
- (3) Identification of the subject property and its dimensions.
- (4) A north arrow.
- (5) A legend box which includes the applicant's name and phone number, date prepared, address, and legal description of the subject property and map scale.

C. Site Development Plan. The site development plan shall be prepared by an engineer, architect, landscape architect, or similar professional, and shall be at a scale of one inch equals 20 feet (1" = 20') or larger, and shall contain the following:

- (1) Existing physical site conditions including contours at intervals of five feet or less, water courses, flood plains, unique natural features, and location of all trees five inches or more in diameter at a height of four feet above the ground line or general wooded areas; and proposed finished topographic contours.
- (2) Existing and proposed lot lines and property dimensions.
- (3) The location and dimensions of all existing and proposed principal and accessory buildings and any other significant structures on the subject property also showing separation between buildings and location and dimensions of yards.
- (4) Identity of building types by usage, floor area and dwelling units, offices, or the like.
- (5) Floor area of the existing buildings and the floor area and percentage increase of the proposed expansion.
- (6) Location and dimensions of vehicular and pedestrian circulation elements including streets; driveways and entrances and exits thereto; off-street parking spaces, loading spaces and access aisles; and sidewalks, walkways and pathways.
- (7) Existing and proposed utility systems including sanitary and storm sewers and water, electric, gas and telephone lines; surface drainage and any impoundment areas.
- (8) General location and height of proposed fences and plantings and the type of materials to be used.
- (9) Elevations and architectural renderings of structures and improvements sufficient to lay the basic architectural intent of the proposed improvements shall also be submitted.

5. Notification Signs. The Zoning Administrator shall provide each applicant for a conditional expansion with at least two notification signs which shall be clearly posted by the applicant on the subject property. On a larger property additional signs may be required as needed. At least one sign shall be placed so that it is clearly visible from an abutting street and if the subject property has frontage on more than one street a sign shall be posted on each such frontage. When a property has little or no direct street frontage, additional signs may be required to be posted adjacent to and facing the

surrounding properties. For each sign provided, the applicant shall pay a fee of an amount established from time to time by the City Council by resolution.

A. Sign Content. The notification signs shall indicate the zoning district classification, the floor area of the existing building, and the floor area of the proposed expansion; and the date, time and place of the following meetings at which the special exception will be reviewed:

(1) Planning and Zoning Commission.

(2) Board of Adjustment Public Hearing. The sign shall also contain any additional information as the Board shall, by rule, require.

B. Time of Sign Posting. The notification signs shall be posted at least seven (7) days prior to the meeting of the Planning and Zoning Commission and shall be maintained continuously on the property until after the public hearing of the Board.

C. Failure to Post Signs. Failure to post and maintain such notices as prescribed above may be considered by the Board as sufficient cause to defer the hearing on the applications.

D. Sign Removal. Such signs shall be removed by the applicant within five (5) days after the public hearing. No person other than the applicant or his agent shall erect, remove or alter such signs. No one shall deface nor in any way affect the visibility or interfere with such signs.

6. Conditional Expansion Application Review Procedure. The Zoning Administrator shall forward copies of the Conditional Expansion application to the Board and to the Planning and Zoning Commission in the number of copies they shall each require.

A. Planning and Zoning Commission. The Planning and Zoning Commission shall review such application and return a written report of their findings and recommendations to the Board prior to the Board's scheduled public hearing on the application. In their review, said Commission shall consider each of the standards established in Section 165.84(7) below. In a separate paragraph in such report, said Commission shall list any recommended conditions and/or restrictions to be attached to an approval of the subject application.

B. Board of Adjustment Public Hearing Notice. The Board shall set a Public Hearing for the application and shall publish notice of time and place of the hearing, in a publication of general circulation within the City of Hiawatha, not less than four (4) days nor more than 20 days before the date of such hearing. In setting the public hearing, the Board shall allow time required by the Planning and Zoning Commission to review the application and return its report to the Board.

C. Action by the Board. The Board shall, after receiving report from the Planning and Zoning Commission and conducting the public hearing on the application, reach its decision within forty-five (45) days of the date of the public hearing, unless such time is extended by mutual consent of the applicant and the Board. In their review, the Board shall consider each of the standards established in Section 165.84(7) below. The Board shall either grant the

application for conditional expansion, grant it subject to conditions, or deny the application.

D. Conditions. The Board may impose such conditions, including restrictions and safeguards, upon the property benefited by the conditional expansion as considered necessary to prevent or minimize adverse effects upon other property in the vicinity or upon public facilities and services. Such conditions shall include a requirement that development be in accordance with a site development plan approved by the Board. Such conditions shall be expressly set forth in the approval of the conditional expansion. Violations of such conditions shall be a violation of this Code.

7. Standards for Conditional Expansion. Approval for any conditional expansion shall be granted only if evidence is presented which establishes:

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

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

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

D. That the proposed building, development, or use will comply with any additional standards imposed on it by provisions of this Code for the district in which the property is located.

E. Whether, and to what extent, all reasonable steps possible have been or will be taken to minimize any potential adverse effects on the surrounding property through building design, site design, landscaping, and screening.

8. Permits and Approvals Still Necessary. As appropriate, and as required by the codes and ordinances of the City, other permits and approvals shall be obtained. These may include building permits, certificates of occupancy, subdivision approval, and any similar permits or approvals. The approval of a conditional expansion and any conditions imposed thereon, including the approved site development plan, shall be taken into appropriate account in issuance of any said subsequent permits and approvals.

9. Revisions to an Approved Site Development Plan for a Conditional Expansion. If, at any time, the owner of land included in an approved site development plan for a conditional expansion desires to revise said approved plan, the applicant shall submit a written petition requesting such revision. A revised site development plan shall accompany the petition, and said plan shall show the proposed revisions to the approved site development plan. The petition and revised plan shall be submitted to the Zoning Administrator who shall forward a copy thereof to the Planning and Zoning Commission for review and report. After review of the report, a determination shall be made by the Zoning Administrator as to whether the proposed revisions constitute a

major or minor revision to the approved plan. If an issue arises concerning whether a proposed revision constitutes a major or minor plan revision, the Board and the Planning and Zoning Commission shall be so informed. The Planning and Zoning Commission shall recommend whether it be considered a minor or major revision to the Board and then the Board shall make the final determination without the necessity of a public hearing thereon.

A. **Minor Revisions.** Minor revisions shall include those changes as established from time to time by resolution of the Board of Adjustment. Revised site development plans containing only minor revisions may be approved, approved with modifications, or denied by the Board without necessity of holding a public hearing thereon after report by the Zoning Administrator and the Planning and Zoning Commission. If approved, the revised site development plan shall then supersede the previous approved plan, and subsequent development on the property shall be in accordance with such approved revised plan.

B. **Major Revisions.** Any proposed revisions not classified as minor shall be considered major revisions.

(1) **Procedure.** An applicant requesting approval of major revisions in a site development plan previously approved for a conditional expansion shall submit a written petition, location map, and a site development plan which contains the requested revisions. Such material shall be submitted to the Zoning Administrator who shall forward copies to the Board and to the Planning and Zoning Commission. Notification signs shall be furnished to the applicant and all requirements of Section 165.84(5) shall apply, except that the content of the signs shall be modified to indicate that a revised site development plan is being requested.

a. The Planning and Zoning Commission shall review such application and return a written report of their findings and recommendations to the Board prior to the Board's scheduled public hearing on the application.

b. The Board of Adjustment shall set a public hearing for the application and shall publish notice of time and place of the hearing in a publication of general circulation within the City of Hiawatha not less than ten (10) days before the date of such hearing. In setting the public hearing the Board shall allow the time required by the Planning and Zoning Commission to review the application and return its report to the Board. The Board shall, after receiving a report from the Planning and Zoning Commission and conducting the public hearing on the application, reach its decision within forty-five (45) days of the date of the public hearing unless such time is extended by mutual consent of the applicant and the Board. The Board may approve, approve with modifications, or deny such revised site development plan. If approved the revised site development plan shall then supersede the previously approved plan, and subsequent development on the property shall be in accordance with such approved revised plan.

165.85 SPECIAL USE PERMIT; GROUP CHILD DAY CARE HOME.

1. Purpose. To allow group child day care homes within all districts permitting residential use or in any district where a residential use is legally established, subject to Section 165.25(1), Residential Child Day Care Facilities, Statement of Intent.
2. Eligible Applicant. A residential property owner, or the occupant, with permission of the owner (title holder), may file an application to use their residence as a group child day care home, as provided for in this Code, in the zoning district within which the residential property is located.
3. Application. An application shall be filed with the Zoning Administrator which shall be on a form and be in the number of copies, and shall contain such information and documentation as the Board, by resolution, may require.
4. Notification Signs. The Zoning Administrator shall provide such applicant with at least two notification signs which shall be clearly posted by the applicant on the subject property. At least one sign shall be placed so that it is clearly visible from an abutting street and if the subject property has frontage on more than one street a sign shall be posted on each such frontage. When a property has little or no direct street frontage, additional signs may be required to be posted adjacent to, and facing the surrounding properties. For each sign provided, the applicant shall pay a fee in an amount as established from time to time by resolution of the City Council.
 - A. Sign Content. The sign shall indicate that this is a request for a special use permit for a Group Child Day Care Home and specify the date, time, and place of the Board of Adjustment Public Hearing. The sign shall also contain any additional information as the Board shall, by rule, require.
 - B. Time of Sign Posting. The notification signs shall be posted at least seven (7) days prior to the meeting of the Board of Adjustment and shall be maintained continuously on the property until after the public hearing of the Board.
 - C. Failure to Post Signs. Failure to post and maintain such notices as prescribed above may be considered by the Board as sufficient cause to defer the hearing on the application.
 - D. Sign Removal. Such signs shall be removed by the applicant within five (5) days after the public hearing. No person other than the applicant or his agent shall erect, remove or alter such signs. No one shall deface nor in any way affect the visibility or otherwise interfere with such signs.
5. Special Use Permit Review Procedures. The Zoning Administrator shall forward copies of the special use permit application to the Board of Adjustment, who shall take the following actions:
 - A. Public Hearing Notice. The Board shall set a public hearing for the application and shall publish notice of the date, time, and place of the hearing in a publication of general circulation within the City of Hiawatha not less than four (4) days nor more than 20 days before the date of such hearing.
 - B. Action by the Board. The Board shall, after conducting the public hearing on the application, reach its decision within forty-five (45) days of the date of the public hearing, unless such time is extended by mutual consent of

the applicant and the Board. The Board shall either grant the application for a special use permit, grant it subject to conditions, or deny the application.

C. Conditions. The Board may impose such conditions, including restrictions and safeguards, upon the property benefited by the special use permit as considered necessary to prevent or minimize adverse effects upon other property in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the approval of the special use permit. Violations of such conditions shall be a violation of this Code.

6. Standards for a Special Use Permit. Authorization for a special use permit request shall be based on how the request satisfies the following standards:

- A. The site is suitable for the proposed use.
- B. The use will be generally compatible with the development on adjacent properties and the character of the general area.
- C. The petitioner can meet the criteria set forth under Section 165.25(2).

165.86 LIMITATION ON SUCCESSIVE APPLICATIONS. Whenever any application has been denied by the Board of Adjustment or has been withdrawn after Planning and Zoning Commission recommendation but prior to action by the Board, an application requesting the same approval shall not be accepted during the succeeding twelve (12) months unless the Board determines that sufficient new information, as specified in paragraph 1, New Information, below, has been provided to justify acceptance of another such request:

1. New Information. New information sufficient to justify acceptance of a successive application within the above described twelve (12) month period shall include one or both of the following:

- A. A substantial change in the proposed use and/or development of the subject property.
- B. A substantial change in any conditions important to the previous denial.

2. Procedure.

A. Petition for Successive Application. The owner shall submit to the Zoning Administrator a petition addressed to the Board. Such petition shall be clearly labeled as a "Petition for a Successive Application." The petition shall identify the subject property, the substance of the previous denial, and include a listing and description of the new information relating to Section 165.86(1), New Information, above to justify submission of another application petition to the Board. Other documents, exhibits, material, and information in support of the petition may be included in the submission. The applicant shall submit such petition and supporting material in the number of copies, and pay a fee to the Zoning Administrator in an amount as established from time to time by the City Council by resolution.

B. Review of Request. The Zoning Administrator shall forward such petition for successive application to the Board and to the Planning and Zoning Commission in the number of copies they shall each require. The Planning and Zoning Commission shall review such petition within sixty (60) days of receipt of the petition and report its findings and recommendation to the Board within thirty (30) days from the date of said Commission's review meeting. The Board

shall not act on such petition until it has received a recommendation thereon from said Commission, unless such recommendation is not received within ninety (90) days of the submission.

C. Action by Board. The Board shall determine whether the information submitted in the petition for successive application justifies acceptance of a successive application. If the Board determines that a successive application is justified the owner may then submit an application according to the procedures governing the submittal.

165.87 through 165.89 - Reserved

165.90 INITIATION OF AMENDMENTS TO THE ZONING DISTRICT MAP.

1. Authority. The City Council may, from time to time, in the manner hereinafter set forth, amend the Zoning District Map.

2. Purpose. The amendment process herein established is intended to provide a means for changing the zoning classification of specific parcels of property.

3. Initiation of Amendment. An amendment to the Zoning District Map may be initiated by a motion of the City Council or the Planning and Zoning Commission, or by the filing of an application by the owners of the property which is the subject of the proposal. Such motion or application shall be directed to the City Clerk, and contain the materials specified by Section 165.91.

4. Amendment Initiated by the City Council or Planning and Zoning Commission. When an amendment to the Zoning District Map is initiated by a motion of the City Council or the Planning and Zoning Commission, certain of the requirements contained in this section and Section 165.91 may be waived, including but not limited to: written petition, location map, site development plan, posting of notification signs, and payment of application fee. The initiating body shall, however, utilize alternative means which are determined to provide sufficient information and notice to the public. The procedure provided for in Section 165.90(5) shall in all instances be followed.

5. Public Hearing Notice and Adjacent Property Owner Notification.

A. Public Hearing Notice. The Council shall set a public hearing for the application and shall publish notice of time and place of the hearing, in a publication of general circulation within the City of Hiawatha, not less than four days nor more than 20 days before the date of such hearing. In setting the public hearing, the Council shall allow time required by the Planning and Zoning Commission to review the application and return its report to the Council.

B. Not less than four nor more than 20 days before the date of the public hearing to be held by the City Council to consider the amendment, notice of the time and place of such hearing shall be sent to the owners of any real property which is located within the City of Hiawatha and is either a part of the area which would be directly affected by the proposed amendment or located within 500 feet of any part of the area which would be directly affected by the proposed amendment. Owners of property which is a part of the area which would be directly affected by the proposed amendment or located within 200 feet of any part of the area which would be directly affected by the proposed amendment shall be notified by certified mail, and owners of other property located within

500 feet of any part of the area which would be directly affected by the proposed amendment shall be by regular mail.

C. If the amendment is initiated by a property owner, it shall be the responsibility of the property owner to obtain a listing of the parties to whom notice must be provided by regular or certified mail from the Linn County Auditor, and to reimburse the City for the costs of mailing the required notices. Such notices shall be mailed to the address shown by the records of the County Auditor provided, however, that if the property is shown to be in the name of more than one owner, a single notice shall be mailed to all owners at the address of record.

D. Failure of actual notice to any party, whether sent by regular or certified mail, shall not invalidate the proceedings or require the denial of the proposed amendment.

E. Notwithstanding the above, if the proposed amendment would directly affect a more than 10 parcels of property, only published notice shall be required.

6. Notification Signs. The Zoning Administrator shall provide each applicant for an amendment to the Zoning District Map with at least two notification signs which shall be clearly posted by the applicant on the subject property. On a larger property additional such signs may be required. At least one sign shall be placed so that it is clearly visible from an abutting street and if the subject property has frontage on more than one street a sign shall be posted on each such frontage. When a property has little or no direct street frontage, additional signs may be required to be posted adjacent to and facing the surrounding properties. For each sign provided, the applicant shall pay a fee in an amount established from time to time by the City Council by resolution.

A. Sign Content. The notification signs shall indicate the request to amend the Zoning District Map, the existing and proposed zoning designation, and the date, time and place of the following meetings at which the proposed amendment will be reviewed. The sign shall also contain any additional information as the Council shall, by rule, require.

- (1) Planning and Zoning Commission.
- (2) City Council public hearing.

B. Time of Sign Posting. The notification signs shall be posted at least seven days prior to the meeting of the Planning and Zoning Commission and shall be maintained continuously on the property until after the public hearings of the City Council.

C. Failure to Post Signs. Failure to post signs and maintain such notices as prescribed above may be considered by the Council as sufficient cause to defer the hearing on the application.

D. Sign Removal. Such signs shall be removed by the applicant within five days after the public hearing. No person other than the applicant or his agent shall erect, remove or alter such signs. No one shall deface nor in any way affect the visibility or interfere with such signs.

165.91. CONTENTS OF APPLICATION FOR AMENDMENT TO THE ZONING DISTRICT MAP. An application for an amendment to the Zoning District Map shall be in the form of a petition. Except for applications to reclassify property as A, R-1 or R-3, the petition shall contain each of the following items, unless waived by the City Clerk based on the nature of the request.

1. Written Material.
 - A. Zoning classification requested and existing zoning.
 - B. Complete legal description of property.
 - C. Street address if applicable.
 - D. Statement describing the relationship of the request to the Land Use Plan and other elements of the Comprehensive Plan.
 - E. Compatibility of the requested district to the adjoining neighborhood.
 - F. Suitability of the property to uses permitted in the district requested.
 - G. Adequacy of street facilities, utilities, and other facilities in the area and the effect proposed development will have on them.
 - H. Property owner's signature.
 - I. Other information deemed necessary by the City.
2. Location Map. The location map shall be at a scale of one inch equals three hundred feet (1" = 300') or larger, have a north arrow, and shall include the following information:
 - A. Existing platted lot lines and streets.
 - B. Existing zoning of all property within 600 feet of the boundaries of the property submitted for reclassification.
 - C. Identification of the area to be reclassified.
 - D. The names and contact information for the property owner, petitioner and the petitioner's agent.
 - E. Reclassification request.
 - F. General geographic location of the request.
 - G. Legal description of the property.
 - H. Other information deemed necessary by the City.
3. Site Development Plan.
 - A. Scale of 1 inch equals 20 feet (1" = 20') or larger.
 - B. Prepared by an engineer, landscape architect, urban planner, architect, or similar professional.
 - C. Existing site contours at maximum five-foot intervals.
 - D. Water courses and flood plains.
 - E. Unique natural features.

- F. All trees five inches or more in diameter measured four feet above natural ground line and/or general wooded areas.
- G. Required minimum linear yard dimensions of the requested district.
- H. Provide linear yard dimensions, if different from required ones.
- I. Parking spaces, drives, radius or curvature of ingress and egress drives, circulation patterns of traffic, access to public or private streets.
- J. Location of all structures.
- K. Physical characteristics pertinent to the development.
- L. Soil erosion control plan.
- M. Total lot area to be reclassified and exterior lot dimensions.
- N. Square footage and percentage of the lot covered by existing and proposed structure(s) and hard surfacing.
- O. Area of required yards and open space.
- P. Number of parking spaces required and number provided.
- Q. Owner's name requesting reclassification, location of the property, petitioner's name, address and phone number.
- R. All dimensions necessary to assure that the proposed development is in accord with the requirements of this Code.
- S. Other information as deemed necessary by the City.

165.92 POLICIES RELATING TO THE RECLASSIFICATION OF PROPERTY. The City of Hiawatha has established policies which apply whenever an applicant proposes to reclassify property, and the reclassification would result in a significant change in use or a higher intensity of use from the current zoning. Figure III lists the type of rezoning requests to which these policies apply.[†] The reclassification policies are intended to obtain development which, in addition to being in conformance with the Comprehensive Plan is compatible with existing development in the vicinity and the natural features of the site. (Where these policies conflict with the policies contained in the Comprehensive Plan, the policies contained in the Comprehensive Plan shall be given precedence.) These reclassification policies shall be applied by the City Council, Planning and Zoning Commission and the City in reviewing and acting upon rezoning applications.

1. **Zoning Density.** In determining densities for a particular property, the City Council will take into account both the property's physical characteristics and the location of the property relative to available services and facilities such as roads, water, sewer, utility services, fire protection, the degree and intensity of development in the vicinity, the surrounding neighborhood character, and Comprehensive Plan policies regarding land use applicable to the property.
2. **Consideration of Development Constraints.** It is the City Council's intent to obtain the best possible harmony between the physical characteristics of a site and the type and intensity of development proposed for the site. Land having development constraints shall be avoided or used for lower intensity development unless constraints

[†] **Editor's Note.** Figure III – Application of Rezoning Policies – is found at the end of this chapter.

are mitigated to the satisfaction of the City Council. Suggested and required mitigation measures are listed in Figure IV.[†]

- A. Identification of Development Constraints. An applicant requesting a rezoning shall provide maps depicting any of the following areas applicable to the property contained in the rezoning application. The applicant shall provide an estimate of acreage contained in each of these areas, and outside of the areas below listed. Areas having these characteristics shall be considered subject to development constraints. Figure IV contains explanation of the City's concerns about these areas.
- (1) Slopes of greater than 25%.
 - (2) Areas subject to geologic hazards including unstable slopes or soils, and ground subsidence.
 - (3) Any regulatory floodway or flood fringe areas as depicted on the City's flood plain overlay district maps.
 - (4) Wetlands as defined in Section 165.96(187) of these regulations.
 - (5) Adjacent less intense land uses.
- B. Treatment of Development Constraints.
- (1) Applicants proposing a rezoning which is subject to this section shall show the type of terrain and development constraints on the property have been considered in requesting a particular density.
 - (2) The applicant may propose mitigation measures in areas subject to development constraints which would reduce hazards or make development more compatible with physical conditions on the property and adjacent development. Figure IV contains a list of suggested mitigation measures for the different types of development constraints. This list is not all-inclusive. An applicant may propose other methods of mitigation. Proposed mitigation measures shall be included in the applicant's rezoning submittal.
3. Preservation of Natural Features. To the maximum extent possible, the arrangement of land uses shall preserve or complement the natural features of the site. Whenever feasible, development shall be arranged to obtain this result.
 4. Site Considerations. A rezoning proposal shall allow for the required parking, landscaping, open space, and other accessory uses necessary for the proper functioning of the development to be accommodated on the property for which rezoning is requested.
 5. Reasonable Restrictions on Rezoning. Reasonable restrictions may be placed on the property to be rezoned at the time of rezoning to protect or relieve adjacent property from any additional requirements that might apply as a result of the rezoning. Reasonable restrictions include requiring the owner of any property that is rezoned to be responsible for the establishment and installation of transition yards and/or buffer areas that are required by the zoning regulations as a result of the requested rezoning.

[†] **Editor's Note.** Figure IV – Development Constraints – is found at the end of this chapter.

165.93 Reserved

165.94 LIMITATION ON SUCCESSIVE APPLICATIONS. Whenever any application requesting a change in a district classification has been denied by the City Council, or has been withdrawn after City Planning Commission recommendation and prior to City Council action, application seeking essentially the same amendment shall not be accepted during the succeeding twelve months unless the City Council determines that sufficient new information as specified in paragraph 165.94(1), New Information, below has been provided to justify acceptance of another amendment request.

1. New Information. New information sufficient to justify acceptance of a successive application within the above described twelve month period shall include one, or both, of the following:

A. A substantial change in the proposed use and/or development of the subject property.

B. A substantial change in any conditions important to the previous denial.

2. Procedure.

A. Petition for Successive Application. The owner shall submit to the City Clerk a petition addressed to the City Council. Such petition shall be clearly labeled as a "Petition for a Successive Application." The petition shall identify the subject property, the substance of the previous denial of such amendment, and include a listing and description of the new information – relating to paragraph 165.94(1) above – to justify submission of another amendment request. Other documents, exhibits, material, and information in support of the petition may be included in the submission. The application shall submit such petition and supporting material in the number of copies, and pay a fee to the City Clerk in an amount as established from time to time by the City Council by resolution.

B. Review of Request. The City Council shall refer such petition for successive application to the Planning and Zoning Commission for review and recommendation prior to action by the City Council. Said Commission shall review such petition within sixty (60) days of receipt of proper submittal and report its recommendations to the City Council within thirty (30) days from the date of said Commission's review meeting. The City Council shall not act on such petition until it has received a recommendation thereon from said Commission, unless such recommendation is not received within ninety (90) days of the submission.

C. Action by City Council. The City Council shall determine whether the information required in the petition for successive application justifies acceptance of a successive application. If the City Council determines that a successive application is justified, the owner may then submit an amendment request according to the procedures set forth in this section.

165.95 VIOLATION AND PENALTY.

1. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Code shall, upon conviction, be fined not more than thirty (30) days, for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

2. In case any building, structure, or improvements are erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Code, the City Council, in addition to other remedies, may institute any proper action or proceeding, including an action to adjoin such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, in the name of the City of Hiawatha, to restrain, correct or abate such violations, to prevent occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

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165.96 DEFINITIONS. The following definitions shall govern the interpretation of the regulations of the City of Hiawatha Unified Development Code.

1. “Accessory building, structure, or use” means a building, structure or use which:
 - A. Is subordinate to and serves a principal building, structure, or use.
 - B. Is located on the same zoning lot as the principal building, structure, or use served, except as otherwise expressly authorized by the provisions of this Code.
 - C. Contributes to the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of or to the principal building, structure, or use served.
 - D. Includes, but is not limited to, satellite antenna dishes, solar panels, and wind generators.
2. “Adult artist-body painting studio” means an establishment or business which provides the services of applying paint or other substance whether transparent or nontransparent to or on the human body distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas (as defined herein).
3. “Adult book store” means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas (as defined herein) or an establishment or section devoted to the sales or display of such material.
4. “Adult cabaret” means any place holding a liquor license or beer permit, or combination for consumption of beer or liquor, or both, on the premises wherein entertainment is characterized by emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined herein).
5. “Adult entertainment establishment” means any other establishment not otherwise defined herein, but of the same general classification as the other establishments herein defined, having as a substantial or significant portion of its business the offering of entertainment, stocks in trade of materials, scenes or other presentations characterized by emphasis on depiction or description of specified sexual activities or specified anatomical areas (as herein defined).
6. “Adult massage parlor” means any place of business wherein any method of pressure on or friction against, or rubbing, stroking, kneading, tapping, pounding or vibrating the external parts of the body with the hand or any body parts, or by a mechanical or electrical instrument, under such circumstances that it is reasonably expected that the individual to whom the treatment is provided or some third person on his or her behalf will pay money or give other consideration or gratuity therefore, wherein the massage is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas (as defined herein).
7. “Adult mini motion picture theater” means an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined herein), for observation by patrons therein.

8. “Adult modeling studio” means an establishment or business which provides the services of modeling for the purposes of reproducing the human body by means of photography, painting, sketching, drawing or otherwise wherein the activity is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas (as defined herein).
9. “Adult motion picture theater” means an enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined here) for observation by patrons therein.
10. “Adult sexual encounter center” means any business, agency, or persons who, for any form of consideration or gratuity, provide a place where three or more persons, not all members of the same family, may congregate, assemble, or associate for the purposes of performing activities distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas (as defined herein).
11. “Adult theater” means a motion picture theater or stage show theater or combination thereof used for presenting materials distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas (as defined herein) for observation by patrons therein.
12. “Agriculture” means the raising of food and feed crops and products, and including tree and vine products, animal husbandry including bee-keeping, dairying, poultry, and pasturage and the like, but excluding commercial feed lots, fur farms, kennels, and boarding kennels, and boarding and riding stables. It includes the ordinary accessory uses and structures for preparing, treating, and storing products, equipment and machinery, provided, however, that the operation of any such accessory uses shall be secondary to that of ordinary agricultural activities.
13. “Airport” means an area of land or water which is used or intended for use for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces.
14. “Alley” means a public or private right-of-way generally designed to provide a secondary means of vehicular access to abutting property and not intended for general traffic circulation.
15. “Apartment” means a room or suite of rooms designed and arranged for use as a residence by a single family.
16. “Apartment house” – see definition of “dwelling, multiple-family.”
17. “Appeal” – see Section 165.81 of this Code.
18. “Automobile” means a four-wheeled, motor driven vehicle designed and intended primarily to carry not more than six passengers but not including a bus, van, or motor home.
19. “Automobile service station” means an establishment for the retail sale of fuel, lubricants, tires, and other similar products and supplies for vehicles, including minor accessory parts. It may also include minor parts installation, towing, servicing, and minor repairs of vehicles; and vehicle washing facilities and trailer rental when

secondary to the above activities. Major repairs and sale of vehicles are expressly excluded.

20. “Automobile salvage and wrecking” – see definition of “salvage yard.”

21. “Basement” means that portion of a building between floor and ceiling which is partly below grade but having more than one-half its height above the average grade of the adjoining ground. For the purpose of this Code a basement shall not be considered a story unless designed or used for habitable space or business purposes.

22. “Bed and breakfast home” means a dwelling unit within which a portion thereof is used to provide short-term lodging and meals for compensation for a limited number of overnight guests.

23. “Beer garden” means any establishment—which includes any area out-of-doors or not completely contained within a building in which alcoholic beverages are served and/or consumed—and may include the serving or consumption of food and is associated with a special event or other outdoor activities. The facility shall be duly approved and licensed as required by applicable State and local regulations. “Beer garden” does not include outdoor seating areas of a restaurant or bar regularly open during their business hours.

24. “Billboard” – see definition of “sign, advertising.”

25. “Block” means a tract or area of land within a subdivision that is entirely bounded by streets, or by a combination of streets, public parks, cemeteries, railroad rights-of-way, shorelines of waterways, municipal boundary lines, township lines, county lines, or the boundary of the subdivision.

26. “Board” means the Board of Adjustment of the City of Hiawatha, Iowa.

27. “Boarding house” – see definition of “lodging house.”

28. “Buildable area” means the area of a lot remaining after the minimum open space and/or yard requirements of this Code have been complied with.

29. “Building” means any structure built, used, designed, or intended for the support, shelter, protection, or enclosure of persons, animals, chattels, or property of any kind.

30. “Building, attached” means a building which is joined to another building at one or more sides by a common wall, except that an accessory building, including a garage, shall be considered as attached to the principal building if connected by a roof.

31. “Building, detached” means a building entirely surrounded by open space.

32. “Building height” means the vertical distance from the sidewalk level, or its equivalent established grade opposite the center of the front of a building to the highest point of the underside of the ceiling beams, in the case of a flat roof; to the desk line of a mansard roof; and to the mean level of the underside of the rafters between the eaves and the ridge of a gable, hip, or gambrel room. Where no sidewalk level has been established, the height of a building may be measured from the mean elevation of the finished lot grade at the front of the building.

33. “Bulk” is the term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another and includes:

A. Height and area of buildings.

- B. Location of exterior walls in relation to lot lines, streets, or other buildings.
 - C. Gross floor area of buildings in relation to lot area.
 - D. All open spaces allocated to buildings.
 - E. Amount of lot area required for each dwelling unit.
34. “Car-wash” means a building, or portion thereof, containing facilities for the primary purpose of washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device, and 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 customer.
35. “Cellar” means that portion of a building between floor and ceiling which is partly or entirely underground but having more than one-half its height below the average grade of the adjoining grade. For the purpose of this Code it shall not be considered a story.
36. “Church” means a building, structure or group of buildings or structures which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith and having been granted an exemption from federal tax as a nonprofit religious organization.
37. “City” means:
- A. The City of Hiawatha, Iowa.
 - B. Persons authorized to perform specified functions on behalf of the City of Hiawatha, Iowa.
38. “City Engineer” means the professional engineer registered in the State of Iowa designated as City Engineer by the Council or other hiring authority.
39. “City Standards” means the design of improvements shall be in accordance with the Cedar Rapids Metropolitan Area Engineering Design Standards adopted by Resolution of the Hiawatha City Council.
40. “Club” means building and facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose but not primarily for profit nor to render a service which is customarily carried on as a business.
41. “Commission” means the Planning and Zoning Commission of the City.
42. “Communication tower” means a structure in a fixed location used as an antenna or to support antennas for the primary purpose of transmitting and/or receiving electronic signals.
43. “Community center” means a building used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or non-profit group or agency.
44. “Comprehensive Plan” means the general plan for the development of the community, which may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the Council. Such Comprehensive Plan shall include any part of such plan separately adopted and any amendment to such plan or parts thereof.
45. “Convalescent home” – see definition of “health care facility.”

46. “Convenience store” means an establishment for retail sale of petroleum products and other supplies for motor vehicles, as well as for the retail sale of a variety of other items typically sold in grocery stores.
47. “Court” means an unoccupied open space, other than a yard, on the same lot with a building which is bordered on two or more sides by the building.
48. “Coverage” means that part of a lot or tract covered by a building or buildings.
49. “Crisis counseling center” means a primarily non-residential facility which provides counseling, referral, emergency mediation, and other similar human service functions, and may include temporary emergency lodging for families and individuals in immediate need.
50. “Cul-de-sac” means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.
51. “Day care center” means:
- A. A facility in which are received more than 11 children for part or all of a day for care and/or instruction. The facility shall be approved and licensed by the State. The term day care center includes but is not limited to the following: nursery schools, child care centers, day nurseries, kindergartens, preschools and play groups, but does not include bona fide kindergartens or nursery schools operated by public or private elementary or secondary school systems. Day care center does not include a group day care home or a family day care home.
 - B. A facility which provides supervised activities as a principal use, on a daily basis, for adults who do not require specialized care and do not remain on the premises overnight.
 - C. A “group child day care home” is a facility providing nonresident child day care for less than 12 children. No more than six children, at one time, shall be less than six years of age, and there shall never be more than four children under two years of age, present at any one time. All children including the provider’s not regularly in school full days, shall be included in the total.
 - D. A “family day care home” is a facility operated by a resident occupant which provides nonresident child care to less than seven children.
52. “Degree of nonconformity” means the degree of deviation of a particular nonconformity from uses or structures permitted within a district. The same uses classifications shall be interpreted to have the same degree of non-conformity for purposes of this Code. A determination of whether a decrease or an increase in the degree of non-conformity has occurred shall be based on the following listing of districts. Districts listed adjacent to each other on the list have the least degree of nonconformity. A, R-1, R-3, R-5, R-7, R-MH, C-ORS, C-2, C-3, C-4, C-R, C-WH, I-1, I-2.
- CPR Zoning District Nonconformity: To be less nonconforming for CPR districts, the use must be permitted to the CPR use matrix.
53. “Density” means a ratio of dwelling units or persons to land area.
54. “Disabled” means, in reference to an individual, a physical or mental impairment that substantially limits one or more of the major life activities – caring for

one's self, performing manual tasks, walking, seeing, hearing, breathing, learning and working – and has continued over time and can be expected to continue indefinitely.

55. "District" means any section or area of the City for which the regulations governing the use of buildings and premises, building bulk, and related matters are uniform.

56. "Drive-in establishment" means an establishment which, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product which may be used or consumed in an automobile on the premises or to be entertained while remaining in an automobile. This term does not include sidewalk or patio cafes where service is provided to tables only.

57. "Dwelling" means a building, or portion thereof, not a mobile home, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multiple family dwellings, but not including hotels or motels, or other transient accommodations, nor institutional care facilities such as hospitals, nursing homes or orphanages.

58. "Dwelling, attached" means a dwelling which is joined to another dwelling at one or more sides by a common wall or walls, and where dwellings do not share entry or any interior common space, including duplexes, townhomes, row houses, and zero lot line dwellings.

EXCEPTION: Dwellings in a duplex may share an entrance and entry space.

59. "Dwelling, detached" means a dwelling containing a single dwelling unit which is entirely surrounded by open spaces on the same lot.

60. "Dwelling, multiple-family" means a building, or portion thereof, containing three or more dwelling units.

61. "Dwelling, mixed use" means a building or development or portion thereof containing one or more dwelling units and additional occupancies or uses. Nonresidential uses must be allowable or conditional uses within the zoning district. All dwelling units must be located above the first floor unless approved as part of a Planned Unit Development or designated watchman's quarters.

62. "Dwelling, single-family" means a building containing one dwelling unit only.

63. "Dwelling, two-family" means a building containing two dwelling units – also a duplex.

64. "Dwelling unit" means a room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used, or intended to be used for living, sleeping, cooking, eating and sanitation.

65. "Easement" means authorization by a property owner, for the specified use by another, of any designated part of his or her property.

66. "Efficiency unit" means a dwelling unit consisting of one principal room exclusive of bathroom, kitchen, hallway, closets, or dining alcove; directly off the principal room.

67. "Emergency residential shelter" means a residential facility providing temporary lodging for families or individuals in immediate need. The facility may also provide limited temporary counseling, referral, mediation, and similar human service functions.

68. “Emergency service and repairs” means those actions necessary for starting and/or moving a disabled vehicle; includes only repair or replacement of fuses, battery, tires, belts, hoses, headlights, lock and key service, glass replacement, jump starts, towing, and adding fuel.
69. “Establishment, business” means a place of business carrying on operations, the ownership or management of which are separate and distinct from those of any other place of business located on the same zoning lot.
70. “Extended care facilities” – see definition of “health care facility.”
71. “Factory-built housing” means a factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of three types: modular homes, mobile homes, and manufactured homes.
72. “Factory-built structure” means any structure which is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site.
73. “Family” means one or more persons each related to the other by blood, marriage, adoption, legal guardianship or as foster parent-children who live together in a single dwelling and maintaining a common household. No more than five persons not so related and living together on the premises as a common household may constitute a family. Domestic servants residing with said family are considered unrelated persons.
74. “Family home” means a residential home which is licensed as a residential care facility under Chapter 135C of the *Code of Iowa*, or as a child foster care facility under Chapter 237 of the *Code of Iowa*, to provide room and board, personal care, rehabilitation services and supervision in a family environment exclusively for not more than eight developmentally disabled persons, and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under Chapter 237 of the *Code of Iowa*.
75. “Flood hazard area” means any area subject to flooding by a one percent probability flood, otherwise referred to as a 100-year flood, as designated by the Department of Natural Resources or the Federal Insurance Administration.
76. “Flood plain” means that area of land adjoining a watercourse or other body of water which has been determined to be subject to periodic coverage by flood water.
77. “Floodway” means:
- A. The channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterways surface elevation more than one foot.
 - B. It is the channel of a watercourse or body of water and those portions of the adjoining flood plains designating as necessary to carry and discharge the floodwater flow of such watercourse or body of water.
78. “Floor area” means the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the center line of common walls separating two attached buildings. For determining off street parking and loading requirements for any specific use the floor area shall be the total amount of floor area, as described above, which is devoted to such specific use,

including accessory storage areas such as counters, racks, or closets when located within selling or working areas; and any floor area devoted to selling activities, to the production, processing, or servicing of goods, or to offices. However, for such purpose floor area shall not include area devoted primarily to off-street parking or loading facilities.

79. “Floor area ratio” means the quotient obtained by dividing the floor area of a building or buildings on a lot by the area of the lot.

80. “Frontage” means the length of all the property fronting on one side of a street between the two nearest intersecting streets, measured along the line of the street, or if dead ended then all of the property abutting on one side between an intersecting street and the dead end of the street.

81. “Frontage, zoning lot” means the length of all the property of such zoning lot fronting on a street measured between side lot lines.

82. “Garage, private” means an accessory building or portion of a building designed or used for the storage of vehicles owned and used by the occupants of the building to which it is accessory or attached.

83. “Garage, public” means a building or portion thereof designed or used for equipping, servicing, repairing, renting, selling or storing motor vehicles.

84. “Grade” means the average elevation of the surface of the ground.

85. “Group home” means a facility for the residence of six (6) or more individuals including resident persons providing care and supervision in a family setting. A group home shall be duly approved and licensed as required by applicable State and local regulations. A group home does not include facilities such as a family home, rehabilitation house, lodging house, fraternities, sororities, health care facility or similar institutions.

86. “Halfway house” – see definition of “rehabilitation house.”

87. “Health care facility” means an establishment for provision of care to persons who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves and may or may not require continuous nursing care services and related medical service, but do not require hospital care. The facility shall be approved and licensed by the State.

88. “Health club” means a nonmedical service establishment intended to maintain or improve the physical condition of persons. Contains exercise and game equipment and facilities, steam baths, and saunas, or similar equipment and facilities.

89. “Height” – see definition of “building height.”

90. “Home occupation” means an activity conducted for gain entirely within a residential building, or an accessory building thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building.

91. “Hospital” means an establishment providing health services and medical or surgical care, primarily for temporary inpatients, to persons suffering from mental or physical illness, disease, injury, or disability, and including any related facilities such as laboratories, outpatient care, obstetrical, central service, staff offices, or training

facilities. "Hospital" does not include establishments which are intended primarily for permanent or long-term care or custodial care.

92. "Hotel/motel" means an establishment in which lodging is provided to the public for compensation and which is open to transient guests, in contradistinction to a boarding room or lodging house. A hotel, includes a motor hotel, tourist court, executive inn, or similar use, but does not include mobile home parks or similar use. Services such as maid service, linen laundering and front desk service are customarily provided.

93. "Improvement" means changes to land necessary to prepare it for building sites, including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and apparatus.

94. "Inoperable vehicles" means any motor vehicle, recreational vehicle, boat, trailer or semi-trailer which lacks a current registration, valid for that vehicle, and/or a component part which renders the vehicle unfit for legal use.

95. "Institution" means an establishment occupied or operated by a private or public nonprofit corporation, association, organization, or group for use or benefit of the general public.

96. "Junk" means all old or scrap copper, brass, lead, or any other nonferrous metal, old rope, rags, batteries, paper, trash, rubber, debris, waste, used lumber or salvaged wood, dismantled or inoperable vehicles, machinery and appliances or parts of such vehicles, machinery or appliances, iron, steel, or other old scrap ferrous material, old discarded glass, tinware, plastic, or old discarded household goods or hardware, or similar items or material.

97. "Junkyard" – see definition of "salvage yard."

98. "Kennel" means a building, structure, or use for the keeping, sheltering, breeding, training, or selling of dogs or domesticated animals.

99. "Loading space, off-street" means an unobstructed area no part of which is located in any public right-of-way and the principal use of which is for the standing, loading, or unloading of trucks and trailers.

100. "Lodge" – see definition of "club."

101. "Lodging house" means a residential building, or portion thereof, containing rooms for accommodating, for compensation, three or more persons who are not transients. Lodging may or may not include the serving of meals to the lodgers. Facilities for lodgers may include sleeping or living quarters or rooms with or without individual bathrooms, but shall not include individual cooking facilities. Includes rooming houses, boarding houses, and building of dormitory use as defined in the International Building Code.

102. "Lot" means a designated parcel, tract, or area of land established by plan, subdivision, or as otherwise permitted by law, to be separately owned, used, developed or built upon.

103. "Lot area" means the total horizontal area included within the lot lines.

104. "Lot area per dwelling unit" means the amount of lot area required, by the applicable provisions of this Code, for each dwelling unit located on a lot.

105. “Lot, corner” means a lot abutting upon two or more streets at their intersection or junction or a lot bounded on two sides by a curving street where the angle of intersection of such street right-of-way lines, or in the case of curved right-of-way lines, the extension of tangents drawn from each of the points of intersection of the side lot lines and the street right-of-way line, intersect with each other to form an interior angle of less than 135 degrees.
106. “Lot coverage” – see definition of “coverage.”
107. “Lot depth” means the mean horizontal distance between the front lot line and rear lot line of a lot measured within the lot boundaries.
108. “Lot, double frontage” means any lot which is not a corner lot which abuts two streets.
109. “Lot, interior” means a lot other than a corner or reversed corner lot.
110. “Lot line” means a boundary of a lot.
111. “Lot line, front” means the boundary between the lot and street on which it fronts.
112. “Lot line, rear” means the lot boundary opposite and most distant from the front lot line.
113. “Lot line, side” means any lot line other than a front or rear lot line.
114. “Lot of record” means a lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Linn County; or a parcel of land, the deed to which was recorded in the office of said Recorder prior to the adoption of this Code.
115. “Lot, reversed corner” means a corner lot the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
116. “Lot, through” means a lot having a pair of opposite lot lines along two more or less parallel public streets, and which is not a corner lot. On a “through lot” both street lines shall be deemed front lot lines.
117. “Lot width” means the distance between side lot lines measured at the rear of the required front yard on a line parallel to the front lot line.
118. “Lot, zoning” means a single tract of contiguous land which, at the time of filing for a building permit or a certificate of occupancy, is designated by the owner or developer as a tract to be used, developed, or built upon as a unit under single or unified ownership or control and assigned to the particular use, building or structure for which the building permit or certificate of occupancy is issued and having frontage upon an approved street or place, and including such areas of land as may be required by the provisions of this Code for the building structure or use.
119. “Machines and equipment, heavy and commercial” shall include trucks, vehicles, machines and equipment not classified as Passenger vehicles, recreational vehicles or light duty machines and equipment or similar machines and equipment.
120. “Machines and equipment, light duty” shall include snowmobiles, boats, trailers with maximum carrying capacity of 5 tons, and trucks, tractors, machinery and equipment not over 2,000 lb GVW and similar machines and equipment.
121. “Manufactured home” means a factory-built, single-family structure which is manufactured or constructed under the authority of 43 U.S.C. Section 5403, the

National Manufactured Home Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent chassis, and is to be used as a place for human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame. For the purposes of this Code, a manufactured home shall be considered as a single-family detached dwelling. A manufactured home is the same as a mobile home except a manufactured home must meet the above cited U.S. Code requirements. It also must meet the State of Iowa requirements including the nonpermanent hitch, wheels and axle as stated herein, and is also subject to additional local requirements which are also generally more stringent than requirements for mobile homes.

122. “Mini-warehouse facilities” means a building or group of buildings which are rented and designed, through individual compartments or controlled stalls for self-service storage purposes.

123. “Mobile home” means a factory-built structure which is transportable in one or more sections, is built on a permanent chassis, and is so designed and constructed to permit lawful occupancy as a dwelling whether attached or unattached to a permanent foundation. A mobile home may have wheels, axles, hitch and other appurtenances of mobility removed, but shall remain a mobile home; provided, however, that a mobile home may be classified as a “manufactured home” and be so regulated if it meets all the standards and qualifications contained within this Code’s definition of “manufactured home.”

124. “Mobile home park” means a parcel or tract of land with facilities designed for occupancy by mobile homes. Mobile home parks shall be designed in accordance with all applicable State regulations and Chapter 146 of the Hiawatha Code of Ordinances. It shall not include any area in which any vehicles or unoccupied mobile homes are parked or stored for the purpose of inspection or sale.

125. “Modular home” means factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.

126. “Motel” – see definition of “hotel/motel.”

127. “Motor vehicle” means any vehicle designed and intended to be either propelled by a motor contained by the vehicle or drawn by another motor vehicle.

128. “Motor vehicle, passenger” includes autos, motorcycles, vans, pickup trucks, trucks not exceeding 1.5 ton capacity, passenger vehicles not exceeding 15 passenger capacity and similar vehicles.

129. “Motor vehicles, recreational” includes bus campers, camper trailers, pickup campers, travel trailers, motor homes, and similar vehicles.

130. “Multiple-family dwelling” – see definition of “dwelling, multiple-family.”

131. “Nonconforming, legal” (lawful) means a building, structure, or use lawfully erected and/or used prior to the adoption of this Code, or amendments thereto, and which does not conform to the provisions of this Code, or amendment thereto, or the district within which such building, structure or use is located.

132. “Nonconformity, degree of” – see definition of “degree of nonconformity.”

133. “Nursery” means an establishment for the planting, raising, care, and/or sale of plants.
134. “Nursing home” – see definition of “health care facility.”
135. “Opaque” is defined as a structure which blocks or otherwise prevents the passage of light through 50 percent or more of its surface area.
136. “Outdoor eating establishment” means picnic tables, benches, counters and any similar facilities, or area, provided in conjunction with a restaurant for the serving and/or consumption of food out-of-doors, not serving alcoholic beverages and not contained within a building.
137. “Owner/Property” means the legal entity holding all titles to a property or such representative or agent empowered to act on the owner’s behalf. Includes the holder of legal title, any person having a freehold interest, or one having a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest.
138. “Parking space” means a surfaced area enclosed in the main building or in an accessory building, or unenclosed exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.
139. “Planned Unit Development” – see Section 165.66 of this Code.
140. “Plat” means a map, drawing or chart on which a subdivider’s plan for the subdivision of land is presented, which the subdivider submits for approval and intends, in the final form, to record.
141. “Plat survey” means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor. The plat of survey is limited under these regulations to use for conveyance of single parcels of land, unless the requirements to file a subdivision plat are waived by the Council.
142. “Plats Officer” means the individual assigned the duty to administer this chapter by the Council or other appointing authority.
143. “Private,” in reference to a building, structure, utility, facility, or use, means owned and/or operated by someone other than a unit of government, or an agency of a government, unless the context clearly indicates that “private” is being used in the broader sense of something not open or available to the general populace.
144. “Property owner” – see definition of “owner/property.”
145. “Public,” in reference to a building, structure, utility, facility, or use, means owned and/or operated by a unit of government or an agency thereof, unless the context clearly indicates that “public” is being used in the broader sense of something available to the general populace.

146. "Public way" means any sidewalk, street, alley, highway, or other thoroughfare established for travel by vehicles or persons and open or available for use by the general public; and may be in either public or private ownership.
147. "Rehabilitation (halfway) house" means a facility that provides shelter, supervision and short-term rehabilitative services for six (6) or more persons who have had physical or social disabilities which make operation in society difficult and require the protection of a group setting to facilitate the transition to a functional member of society. Facilities participating in a work release, or similar programs from a State institution, and under the supervision of a Court, State or local agency shall be included within this definition.
148. "Refuse hauling facilities" means to include office buildings, employee parking and structures for the storage of garbage/hauling equipment (only when enclosed), which are utilized for collection and disposal of garbage, trash, junk, waste and rubbish materials, and providing that no open storage or disposal shall be allowed on-site.
149. "Religious facility" means a church, synagogue, temple, chapel, or similar place of religious worship or instruction.
150. "Residential zoning district" means any district identified as a residential district in Section 165.14.
151. "Resubdivision" means any subdivision of land which has previously been included in a recorded plat. In appropriate context, it may be a verb referring to the act of preparing a plat of previously subdivided land.
152. "Roadside stand" means a temporary structure and/or use, unenclosed and so designed and constructed that it can be easily moved.
153. "Rooming house" – see definition of "lodging house."
154. "Salvage yard" means a lot or portion thereof where waste, discarded or salvaged materials are bought, sold, exchanged, baled, stored, packed, disassembled, or handled, including auto wrecking activities, building wrecking activities, used lumber places and places for storage of salvaged building materials and equipment; but not including places where such uses are conducted entirely within a completely enclosed building.
155. "Satellite antenna dish, commercial" – primarily under all public uses.
156. "Satellite antenna dish, residential" – primarily R District – under accessory building.
157. "School" means any building or part thereof which is designed, constructed or used for presenting formalized courses or curriculum for educational purposes.
158. "Setback" means the minimum horizontal distance between a lot line and a building or structure located upon such lot required by the provisions of this Code.
159. "Shopping center" means a group of commercial establishments generally planned, constructed and managed as a unit on a single site with common parking facilities.
160. "Sign" means any medium, including its component parts, which is used or intended to be used to direct attention to a business, product, service, subject, idea, premises, person, or thing.

161. “Sign, accessory” means a sign which directs attention to an establishment, business, profession, commodity, service, premises, person or thing which is located, produced, conducted, sold, or offered on the same lot upon which the sign is located.
162. “Sign, advertising” means a sign which directs attention to an establishment, business, profession, commodity, service, premises, person or thing which may be located, produced, conducted, sold, or offered elsewhere than on the lot upon which the sign is located.
163. “Sign, identification” means any sign designed to identify a specific person, firm, corporation, or primary trade name of permanent character identifiable with said person, firm, corporation, or primary trade name, and located on the building or immediate premises of said person, firm or corporation.
164. “Sign, information” means a sign displayed strictly for the direction, safety, or convenience of the public and which sets forth no advertisement. Information signs would include signs which identify parking areas and drives, restrooms, addresses, telephones, exits and entrances, no trespassing area, danger areas, and similar information.
165. “Sign, pole” means a sign with an elevated surface supported by one or more vertical poles or columns placed in the ground.
166. “Sign, roof” means a sign situated upon the roof of any building.
167. “Solar access” means a property owner’s right to have the sunlight shine on the owner’s land, enforced through the zoning height and setback requirements.
168. “Special use permit” - see Sections 165.25 and 165.85.
169. “Specified anatomical areas” shall include the following:
- A. Less than completely and opaquely covered:
 - (1) Human genitals, pubic region;
 - (2) Buttock; and
 - (3) Female breast below a point immediately above the top of the aureole; and
 - B. Human male genitals, in a discernibly turgid state, even if completely and opaquely covered.
170. “Specified sexual activities” shall include the following:
- A. Human genitals in a state of sexual stimulation or arousal.
 - B. Acts of human masturbation, sexual intercourse or sodomy.
 - C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
171. “Storage” (self-service facility) means real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing personal property.
172. Storage container means a commercial storage container is a modular metal box constructed to carry freight by being loaded and stacked for transport.

173. “Story” means that portion of a building, excluding a cellar, included between the surface of any floor and the surface of the floor next above, or if there is no floor above it, then the space between the floor and the ceiling next above it. If the basement area is used for housekeeping, business, or manufacturing use – as opposed to being used for utilities, recreation, or similar accessory uses – such basement shall be considered a story. Any portion of a story exceeding 12 feet in height shall be considered as an additional story for each additional 12 feet or fraction thereof.
174. “Story, half” means a partial story, under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his or her family or by a family occupying the floor immediately below it, shall be deemed a full story, as shall any partial story being used for general business or manufacturing purposes.
175. “Street, arterial” means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.
176. “Street line” means a dividing line between a lot, parcel, or tract of land and an abutting street.
177. “Street, major” means an arterial street or other street which has or is planned to have continuity to carry traffic from one section of the City to another.
178. “Street, private” means an approved public or private thoroughfare which provides a principal means of vehicular access to abutting property and/or for vehicular passage.
179. “Street, public” means public property, not an alley, intended for vehicular circulation. In appropriate context, the term “street” may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
180. “Street, right-of-way” means the land, property, or interest therein, formally established and intended for a street.
181. “Structure” means anything constructed, erected, or placed with a more or less fixed location on the ground or attached or resting on something having a fixed location on the ground.
182. “Subdivider” means the owner of the property being subdivided or such other person or entity empowered to act on the owner’s behalf.
183. “Subdivision” means the division of land into two or more parts for the purpose, whether immediate or future, of transfer of ownership and building development. The term, when appropriate to the context, may refer to the process of subdividing or to land subdivided. However, the sale or exchange of small parcels of land to or between the owners of adjacent platted lots where such sale or exchange does not create any additional lots and where the land sold or exchanged constitutes less than fifty percent (50%) of the area of the enlarged lot after such transfer, is not considered a subdivision.
184. “Taxicab” and/or “limousine business” means a firm which provides taxicab and/or limousine services within the corporate limits of the City of Hiawatha. The business shall not be established in a residential district, but must be operated from a property zoned to conduct such a business, as set forth in the zoning ordinance. Activities to be conducted include, but are not limited to: receiving calls and dispatching

taxicabs, transferring driver's and/or vehicles, parking and storage of vehicles, storage of lost or misplaced baggage, maintenance and storage of business records, conducting employee meetings and related personnel matters.

185. "Use" means the purpose or purposes for which land or a structure is designed, arranged, or intended, or to which purpose land or a structure is occupied, maintained, leased, or operated.

186. "Use, accessory" – see definition of "accessory use."

187. "Use Classification" means the classification of a use is the sum total of the permitted, conditional use and nonpermitted zoning districts for that use.

188. "Use classification, same" means uses that are allowed in the exact same zoning districts in accordance with the Land Use Matrix Figure I and the CPR Matrix.

189. "Use, principal" means the main or primary purpose for which land or a structure is designed, arranged, or intended, or to which purpose land or a structure is occupied, maintained, leased, or operated.

190. "Utilities" means systems for the distribution or collection of water, gas, electricity, wastewater, storm water, communications systems, etc.

191. "Variance" – see Section 165.82 of this Code.

192. "Wetlands" means areas that are inundated or saturated on the surface by ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

193. "Yard" means a required open space on a lot between a lot line and a building or structure located on the lot, unoccupied and unobstructed from ground to sky, 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 line and the main building shall be used.

194. "Yard, front" means a yard extending across the full width of the lot, between the front lot line and the main building structure.

195. "Yard, rear" means a yard extending across the full width of the lot between the rear lot line and the main building or structure.

196. "Yard, required" means a yard defined by a required setback and extending the full length of the lot along the designated line.

197. "Yard, side" means a yard between the side lot line and a principal building on a lot and extending from the front most line of a principal building to the rear most line of the building.

198. "Yard, transitional" means a yard which is required for a non-R District lot when said lot is adjacent to an R District lot.

199. "Zone" – see definition of "district."

[The next page is 401]

APPENDIX A

PLANTING GUIDELINES AND SUGGESTED TREE PLANTING LIST

I. Planting Guidelines.

1. Large trees shall be placed no closer than 30 feet apart or located closer than 14 feet to a building. Small trees shall be located no closer than 16 feet apart but may be located to within eight (8) feet of a building.
2. Trees shall be placed to avoid interference with the construction, maintenance and operation of public and private utilities and services above or below ground as determined by the utility companies and the City.
3. Any tree planted within the street right-of-way shall have a single trunk, with a minimum of four (4) feet from grade to the first branch at the time of planting.
4. Trees shall not be located within four (4) feet of a public sidewalk or the anticipated location of a future public sidewalk where one does not exist. Trees shall not be located within five (5) feet of the curb. No trees shall be planted in the area between a curb and a sidewalk where the width of the area is less than nine (9) feet.

II. Protection of Existing Trees 18 inches in Diameter or Greater.

1. No excavation or other subsurface disturbance may be undertaken within the drip line of any tree 18 inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within 14 feet of any tree 18 inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

III. Suggested Tree Planting List.

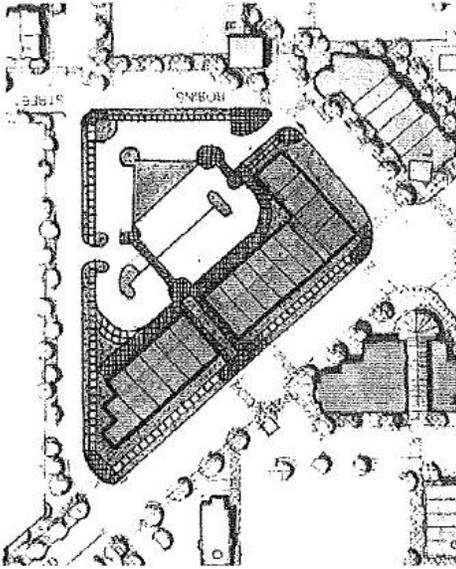
DECIDUOUS VARIETIES (large)	Street	Parking Areas	Other Uses	Withstands City Conditions	Approximate Height	REMARKS
BEECH American Blue		X	X		90 feet	Some problems with City conditions
BIRCHES European and varieties		X	X		60 feet	Pest problems – not recommended for streets
ELM American (D.E.D. resistant) varieties			X	X	120 feet	
GINGKO and varieties	X	X	X	X	100 feet	Slow growing, few pest problems, fruit can be a problem
HACKBERRY	X	X	X	X	75 feet	Susceptible to Witches Broom, pest problems
HICKORY						
Shagbark		X	X		120 feet	Nuts can be a problem, picturesque bark
Pignut		X	X		120 feet	Nuts
Mockernut		X	X		90 feet	Nuts
HOP HORNBEAM	X	X	X		60 feet	Fairly free of disease and insect pests
HORNBEAM European and varieties		X	X		60 feet	Hardiness may be a factor
HYBRID LOCUST and varieties Shademaster Sunburst Skyline		X	X	X	70 feet	Pest problems, requires extra maintenance
KATSURA		X	X		80 feet	Generally pest free, has clumping tendency
KENTUCKY COFFEE TREE		X	X		90 feet	Pods
LINDEN						
American Linden	X	X	X		80 feet	Large leaves
Redmond					70 feet	
Little leaf and varieties	X	X	X		50 feet	Slower growing
Greenspire					60 feet	
Big leaf and varieties		X	X		90 feet	Not a good street tree
LONDON PLANE		X	X	X	90 feet	Requires extra maintenance
MAPLE						
Norway and varieties	X	X	X	X	90 feet	Dense shade, generally good for most uses
Red		X	X		90 feet	Adapts to wet soils
Sugar and varieties		X	X			Girdling roots, have problems with City conditions

DECIDUOUS VARIETIES (large)	Streets	Parking Areas	Other Uses	Withstands City Conditions	Approximate Height	REMARKS
OAK						
White	X	X	X		100 feet	Slow growing, very large at maturity
Swamp White			X		60 feet	Adapts to wet soils
Shingle	X	X	X		75 feet	Ornamental bark
Pin Oak		X	X		75 feet	Requires extra maintenance
English and varieties	X	X	X		80 feet	Little fall color, hardiness may be a factor
Red	X		X	X	80 feet	Bright red fall color
Shumard			X	X	80 feet	Good substitute for Scarlet Oak
OHIO BUCKEYE		X	X	X	70 feet	Good fall color
PEAR Bradford Callery Pear	X	X	X	X	45 feet	Rarely bears fruit, somewhat resistant to Fire Blight
POPLARS Quaking Aspen			X		90 feet	Ornamental, short lived
PRUNUS						
Black Cherry and varieties			X		75 feet	Ornamental, drooping branches
Shubert Choke Cherry	X	X	X		40 feet	Attractive, hardy cultivar
SWEET GUM	X	X	X		90 feet	Hardiness may be a factor
SYCAMORE		X	X	X	80 feet	Requires extra maintenance
TULIP TREE (Liriodendron)			X		90 feet	Reasonably free of disease and insect pests
WALNUT						
Butternut			X		80 feet	Nuts can be a problem
Eastern Black			X		90 feet	Nuts can be a problem
UPRIGHT EVERGREEN VARIETIES (large and medium)						
AMERICAN ARBOR VITAE		X			60 feet	Adapts to wet soil, bronze winter color
Pyramidal Arbor Vitae		X	X		30 feet	Makes excellent screening
FIRS White (concolor)		X	X	X	100 feet	Bluish-green color
HEMLOCK						
Canada and varieties	X	X	X	X	85 feet	Excellent specimen tree
Carolina		X	X		75 feet	Excellent specimen tree
JUNIPERS – upright Eastern Red Cedar and varieties		X	X		75 feet	Hardy, prefer alkaline soil, makes excellent screening
PINE						
Austrian and varieties		X	X		90 feet	Rapid growth rate, pyramidal
Red			X		75 feet	Pests controlled by spraying, reddish bark
Eastern White and varieties			X		95 feet	Good ornamental, transplants easily
Scotts and varieties			X		75 feet	Unique form, not a good shade tree

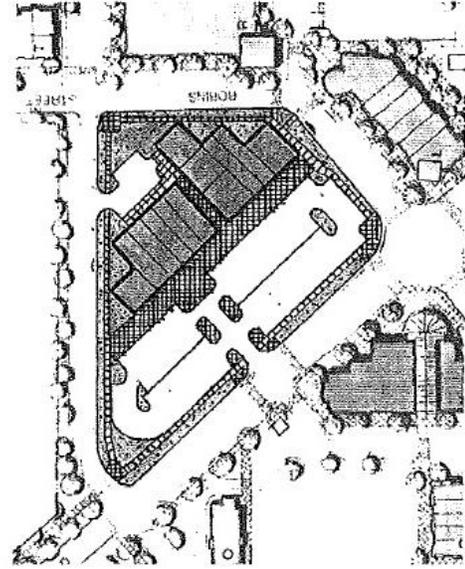
UPRIGHT EVERGREEN VARIETIES (large and medium)	Streets	Parking Areas	Other Uses	Withstands City Conditions	Approximate Height	REMARKS
SPRUCE						
Norway and varieties			X		100 feet	Mature trees thin out at top, dark green
White and varieties		X	X		90 feet	Hardy, endures heat and drought
Colorado and varieties		X	X	X	100 feet	Insect pest, does not grow old gracefully
DECIDUOUS VARIETIES (medium and small)						
DOGWOOD						
Flowering and varieties		X	X		35 feet	Does not always bloom in this tree zone
HORNBEAM American and varieties	X	X	X		36 feet	Slow growing
MALUS (Crabapple)						Adapts well to City conditions, resistance to disease and insect pests, varies from area to area
Adams	X	X	X		24 feet	Red buds open to pink, annual bearing
Arnolds Crab	X	X	X	X	20 feet	Red buds open to pink-white, pest problems
Centurion	X	X	X	X	20 feet	Red buds open into rose-red blossoms
Radiant	X	X	X		25 feet	Hardy, red buds to pink flowers
Red Splendor	X	X	X		20 feet	Red buds open to showy deep pink flowers
Sargent		X	X	X	10 feet	White flowers, shrub form, some pest problems
Snowdrift	X	X	X	X	20 feet	Fast growing with upright branching habit
Van Eseltine			X		20 feet	Buds flower peek, pest problems
Zumi			X		20 feet	Deep red buds opening into white flowers
MAPLE						
Amur and varieties Norway varieties (small)	X	X	X		20 feet	Good specimen, fragrant flowers
Columnar	X	X	X	X	25 feet	Pyramidal
Crimson King			X	X	40 feet	Hardiness sometimes a problem, good color
RED BUD Eastern and varieties	X	X	X		35 feet	New rosy reds are interesting, susceptible to weed spray

APPENDIX B

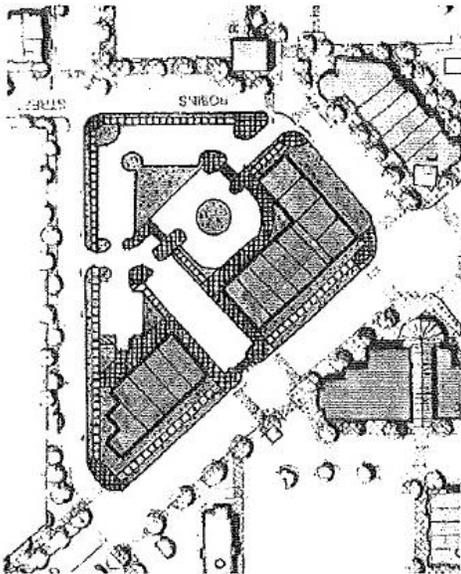
BUILDING LAYOUT IN DISTRICT CPR-1



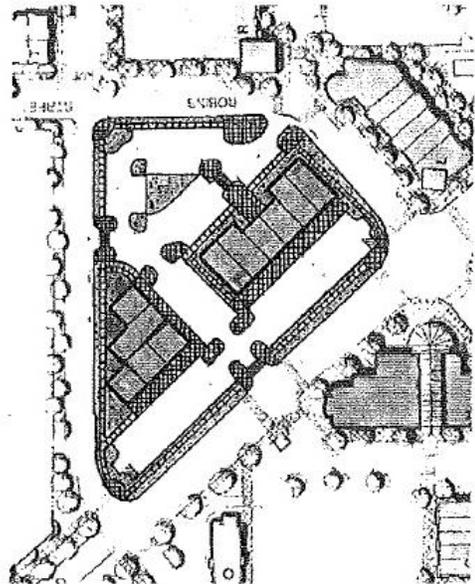
Layout 1



Layout 4



Layout 2



Layout 3

RESIDENTIAL TRANSIENT USES	A	R-1	R-3	R-5	R-7	R-MH	C-ORS	C-2	C-3	C-4	C-R	C-WH	I-1	I-2	1	2	3
Hospitals					C		C	C	C	C							
Hotels and motels as defined in Section 165.96							C		P	P					P	P	P
⁶ Rehabilitation houses and crisis counseling centers as defined in 165.96		C	C	C	C		C	C	P	P							
Bed and Breakfast (see also 165.26 #4)	P	P	P	P	P	P											
Residential Child Day Care Facilities	See sections 165.25, 165.26, 165.85 and 165.96 for limits and registrations																
Home Occupations	See Section 165.26																
EDUCATION AND RELIGIOUS OCCUPANCIES	A	R-1	R-3	R-5	R-7	R-MH	C-ORS	C-2	C-3	C-4	C-R	C-WH	I-1	I-2	1	2	3
Religious Facilities as defined in 165.96	P	P	P	P	P	P	P	P	P	P							
Schools up to and through grade 12 without boarding	P	P	P	P	P	P	P										
Schools up to and through grade 12 with boarding	C	C	C	C	P	P	P										
Schools up to and through grade 12 for specialized training: dance schools, music schools			C	C	C	P	P		P	P							
Colleges with boarding	C	C	C	C	P	P	P										
Colleges, vocational and trade schools without boarding	⁹ C			⁹ C	⁹ C	⁹ P	⁹ P		¹⁰ P	¹⁰ P		P	P	C			
MOTOR VEHICLE RELATED USES [see also 165.21(17)]	A	R-1	R-3	R-5	R-7	R-MH	C-ORS	C-2	C-3	C-4	C-R	C-WH	I-1	I-2	1	2	3
Motor Vehicle Services Limited: uses limited to car washes, interior detailing and convenience store/fuel stations								C	P	P			C				P
Motor Vehicle Services General: uses include all services related to the repair and maintenance of motor vehicles including but not limited to mechanic shops, repair shops and body shops.									P	P		¹¹ P	P	P			
Truck Stop													P	P			
¹² ENTERTAINMENT AND RECREATION	A	R-1	R-3	R-5	R-7	R-MH	C-ORS	C-2	C-3	C-4	C-R	C-WH	I-1	I-2	1	2	3
Clubs and Lodges as defined in 165.96					C		P	P	P	P							
Restaurants and Bars: includes outdoor seating								¹³ P	¹⁴ P	¹⁴ P	P				P	P	P
Entertainment and Sports Indoor: Characterized by artistic productions in theater settings and uses involving physical participation indoors with limited spectators. Including but not limited to indoor theaters with and without stages, dance halls, bowling alleys, indoor archery and shooting ranges, indoor tennis courts, handball, indoor swimming pools, arcades and casinos.									P	P	P				P	P	P
Outdoor Recreational Non-spectator Limited: Characterized by non-spectator activities including but not limited to mini-golf, driving ranges, paintball, tennis courts and swimming pools. EXCLUDE open space parks, golf courses and firing ranges.									P	P	P						
Outdoor Recreational Spectator: Characterized by large groups of spectators or participants in diverse outdoor activities including but not limited to arenas, stadiums and amusement parks.									C	P	P						

¹² ENTERTAINMENT AND RECREATION	A	R-1	R-3	R-5	R-7	R-MH	C-ORS	C-2	C-3	C-4	C-R	C-WH	I-1	I-2	1	2	3
Golf Courses	P	P	P	P	P	P			P	P	P						
Firing Ranges Outdoor; Includes gun and archery ranges											P						
Race tracks											C						
Campground and RV Park											C						
Parks: open space	¹⁵ p	¹⁵ p	¹⁵ p	¹⁵ p	P	P	P	P	P	P	P	P					
BUSINESS SERVICES	A	R-1	R-3	R-5	R-7	R-MH	C-ORS	C-2	C-3	C-4	C-R	C-WH	I-1	I-2	1	2	3
Personal Professional Services: uses characterized by frequent on-site client services including but not limited to medical clinics, financial institutions, salons, automatic laundromats, photo and art studios, massage and tattoo parlors (Excluding adult massage parlors as defined in 165.96)							P	P	P	P					P	P	P
Day Care Centers: Items A and B as defined in 165.96		C	C	C	P	C	P	P	P	P			C				
Personal Service and Repair: Limited to personal services including but not limited to dressmaking, tailoring, laundries, interior decorating, domestic appliance and furniture repair. Incidental sales shall be related to the service and shall be contained in less than 20% of the floor area.							P		P	P			C				
Business Professional Uses: characterized by offices and laboratories with limited on site client services including but not limited to business and professional offices, attorney offices, realtors, job services, radio/TV stations, medical offices, research and testing laboratories, and software developers and support.							P	P	P	P		P	C	C	P	P	P
Business Professional Services with Public Gathering: uses characterized with a mix of on-site client services with public gathering occupancy and increased traffic including but not limited to conference centers without hotel accommodations, art galleries, health clubs, gymnasiums, funeral homes, libraries and museums					C		P	C	P	P	P				P	P	P
¹⁶ Business Services Contractor Limited: Uses include services usually delivered off site and includes incidental uses contained within buildings such as showrooms, storage of materials, storage of vehicle and equipment. These uses have limited customer traffic on site. Including but not limited to telecommunications companies, building contractors, engineering firms, mechanical / electrical/plumbing contractors, caterers, lawn care and landscapers.										C	P	P	P	P			
Business Services Contractor Industrial: Uses include services usually delivered off site and includes incidental uses not contained within buildings such as showrooms, materials storage, vehicle and equipment storage. These uses have limited customer traffic on site. Including but not limited to industrial contractors, equipment rentals and contractors using vehicles and equipment larger than three tons.												P	P	P			
Adult Entertainment Establishments	See Section 165.24																
Pawn Brokers and Delayed Deposit Services	See Section 165.24A																

PRODUCTION AND MANUFACTURING	A	R-1	R-3	R-5	R-7	R-MH	C-ORS	C-2	C-3	C-4	C-R	C-WH	I-1	I-2	1	2	3
Production and Processing Limited: uses include assemblies and production contained completely inside buildings with limited combustibles which do not include noise, odor, hazardous chemicals or large commodities. Includes incidental truck traffic, associated assembly, distribution and storage. Including but not limited to garment printing and embroidery, laundries and dry cleaning, sporting goods assembly, printing, audio and visual production, photo processing, picture framing and taxidermy.									P	P		P	P	P			P
Production and Processing General: uses include assemblies and production contained completely inside buildings with limited combustibles which may include noise, odor, hazardous chemicals or large commodities. Includes incidental truck traffic, associated assembly, wholesale, distribution and storage. Including but not limited to bakeries, tooling and light metal fabrication, dairy product processing, food packaging, concrete fabrication,									C	P		P	P	P			
Manufacturing Limited: uses include assemblies and production contained completely inside buildings which may include combustible products, noise, odor, hazardous chemicals or large commodities. Includes incidental truck traffic, associated assembly, wholesale, distribution and storage. Including but not limited to clothing manufacturing, carpet manufacturing, and finished wood products.												P	P	P			
Manufacturing Industrial: Characterized by the use of heavy equipment and some exterior processes. Including but not limited to asphalt product manufacturing, stone and masonry manufacturing, concrete mixing plant												C		P			
Heavy Industrial Activities: Characterized by the use of heavy equipment in production and processes necessarily outside. Including but not limited to salvage yards.														C			
Quarries and other extraction uses	C													¹⁸ C			
Sanitary Land Fills	C													C			
Wind Generators, Commercial	P											C	C	C			
TRANSPORTATION AND UTILITIES	A	R-1	R-3	R-5	R-7	R-MH	C-ORS	C-2	C-3	C-4	C-R	C-WH	I-1	I-2	1	2	3
Bus Terminals									P	P			C				
Airports	C												C	C			
Heliports	C						C				C		C	C			
Railroad Facilities							C					P	P	P			
Essential Services	165.21 (1)																
Communication Towers	165.27 (Conditional use required unless accessory to Residential Occupancy)																

1. Legal nonconforming uses are exempt from this table. See Section 165.70.
3. Exercise areas are to be screened by fences and year round vegetative barrier. See Section 165.83 for additional conditions.
4. Requires 4 or more units with a homeowners association with individual unit ownership. Minimum square footage of primary floor dwelling unit – 800 square feet.
5. No more than four guest rooms allowed.
6. There shall be a minimum separation of one-quarter mile between any family home, group home, emergency residential shelter or rehabilitation house. The distance separation shall be measured from lot line to lot line.
7. These uses also require a Planned Unit Overlay as specified by Section 165.66. PUD Overlay District Requirements of Section 165.47(6)(A)(2), the 15% green space requirement may not apply. No more than 4 units for rental allowed in any building. Dwelling units are not permitted below the second floor in CPR-1.
8. No more than 4 units for rental allowed in any building.
9. Excluded are trade and vocational schools having a customer trade or utilizing, servicing or repairing vehicular or heavy equipment and machinery as a principal activity. When not involved with any danger of fire or explosion nor offensive noise, vibration, smoke, dust, odor, glare, heat or other objectionable influences.
10. When not involved with any danger of fire or explosion nor offensive noise, vibration, smoke, dust, odor, glare, heat or other objectionable influences.
11. Garages for storage, repair and servicing of motor vehicles with any motor vehicle sales being secondary to the principal use and outdoor storage and display of motor vehicles limited to an area no greater than the gross square footage of the principal structure.
12. Excludes Adult Entertainment. See Section 165.24.
13. No beer gardens as defined in Section 165.96 permitted.
14. Beer gardens as defined in Section 165.96, and not associated with a special event permit, require a conditional use.
15. Operated by a public agency. See essential services 165.21(1).
16. Service vehicles less than three ton may be stored outside if screened as for outside storage in Section 165.23.
17. Mini storage buildings shall be located behind a principal permitted use building for the specified zone.
18. Limited to rock, sand, gravel production and preparation.

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FIGURE II – SERVICES MATRIX

SERVICE	ZONING	SUBDIVISION	SITE PLAN
ACCESS	<p><u>Preliminary Zoning:</u> Identify how access is to be provided; if problems are anticipated with acquiring access, applicant shall submit evidence that necessary easements or rights-of-way have been acquired or options executed.</p> <p><u>Final Zoning:</u> Provide evidence access has been acquired to existing City street system.</p>	<p><u>Preliminary Plat:</u> Provide preliminary road layout and identify approximate grades. Acquire means of access to existing City street system; extent of easements or rights-of-way sufficient to build access road meeting the standards of the City.</p> <p><u>Final Plat:</u> Same as preliminary plat; must obtain approval for street improvement plans from City Engineer.</p>	<p><u>Site Plan:</u> Evidence access has been acquired to existing City street system.</p>
FIRE/ EMERGENCY MEDICAL	<p><u>Final Zoning:</u> Sign-off from Fire Department.</p>		<p><u>Site Plan:</u> Sign-off from Fire Department.</p>
PUBLIC USE AREAS	<p><u>Preliminary Plat:</u> Go to Park Board.</p>	<p><u>Final Plat:</u> Subdivider to pay public use fees or dedicate land prior to recordation as required by Section 165.59(7). \$4,000/acre or 5% total acreage.</p>	<p><u>Site Plan:</u> Not applicable.</p>
SEWAGE DISPOSAL		<p><u>Preliminary Plat:</u> Evidence of adequate method of sewage disposal for each lot to be developed.</p> <p><u>Final Plat:</u> Connection to City sewer system or signed Waiver of Assessment provided to City.</p>	
UTILITIES		<p><u>Preliminary Plat:</u> Identify source of utilities; location of nearest lines.</p> <p><u>Final Plat:</u> Sign-off from utilities.</p>	
WATER		<p><u>Preliminary Plat:</u> Evidence of adequate supply of water in terms of quantity and quality. Sign-off from purveyor of system.</p> <p><u>Final Plat:</u> Sign-off from City that hook-up to system is approved.</p>	<p><u>Site Plan:</u> Sign-off from purveyor of central system.</p>

Figure II provides a summary of requirements for the availability of access and services at each stage in the development process. Section 165.51 provides further explanation of these requirements. It is important to note the information in this figure is not all-inclusive, and must be used in conjunction with the text of the regulations to identify the requirements applicable to a development.

More specific information on requirements for subdivision is provided in Sections 165.52-165.59.

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FIGURE III – APPLICATION OF REZONING POLICIES

Y = Policies Apply
N = Policies Not Applicable

TO: THIS ZONING DESIGNATION

FROM: THIS ZONING DESIGNATION	TO: THIS ZONING DESIGNATION																		PUD	
	A	R-1	R-3	R-5	R-7	R-MH	C-ORS	C-2	C-3	C-4	C-R	C-WH	I-1	I-2	CPR-1	CPR-2	CPR-3	FP	PUD TO ALLOW HIGHER INTENSITY [†]	PUD TO ADD PRIMARY USES
A	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
R-1	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
R-3	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
R-5	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
R-7	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
R-MH	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
C-ORS	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
C-2	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
C-3	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
C-4	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
C-R	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
C-WH	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y
I-1	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
I-2	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
CPR-1	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
CPR-2	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y
CPR-3	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
FP	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
PUD	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Section 165.91(3) of this Code establishes rezoning policies. This Figure III identifies the types of zone changes to which these policies apply.

[†]For purposes of Figure III, a change in intensity is defined as a 10% or more increase in the number of units or square footage allowed.

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FIGURE IV – DEVELOPMENT CONSTRAINTS

CITY CONCERNS AND SUGGESTED/REQUIRED MITIGATION MEASURES

TYPE OF CONSTRAINT	CITY CONCERNS	SUGGESTED/REQUIRED MITIGATION MEASURES [†]
FLOODFRINGE	Flood hazards to structures Public health, safety, welfare	a. Compliance with City flood plain regulations (See Chapter 161)
FLOODWAY	Flood hazards to structures Public health, safety, welfare	a. Compliance with City flood plain regulations (See Chapter 161)
GEOLOGIC HAZARD AREAS	Unstable slopes or soils	a. Avoiding placing any structures on areas subject to geologic hazards b. Submitting geotechnical report identifying hazards and recommending methods of construction to alleviate hazards; designing structures in accordance with recommendations contained in geotechnical report [see 165.57(1)] c. Providing grading and foundation plans prepared by registered professional engineer [see 165.67(6)(H)] d. Modifying land uses so structures are minimized or eliminated e. Clustering development to avoid hazard areas
SLOPES EXCEEDING 25%	Amount of site disturbance Visual scarring Slope stability Soil erosion	a. Avoiding placement of such items as parking lots which require large, flat-surfaced areas on steep slopes b. Modifying land uses so site disturbance is minimized c. Proposing smaller scale rather than larger scale development in order to minimize the amount of site disturbance d. Designing structures so they are stepped or otherwise fit with the terrain e. Minimizing the extent of roads f. Clustering development to avoid steep slopes g. Providing grading and foundation plans prepared by registered professional engineer [see 165.67(6)(H)] h. Providing erosion control, re-vegetation, and urban runoff control plans (see Cedar Rapids Metropolitan Area Engineering Design Standards adopted by Resolution by the Hiawatha City Council)
WETLANDS	Degradation of natural environment Loss of wildlife habitat Loss of cleansing action of wetlands Disruption of natural corridors Loss of amenity in projects	a. Complying with 404 permit procedures where required b. Replacing wetlands on an acre-for-acre basis within same ecosystem c. Replacing wetlands on a 2 for 1 basis d. Proposing land uses which are not disruptive to wetlands e. Clustering development to avoid wetland areas
ADJACENT LAND USES	Assured compatibility of adjacent, existing Less intense land uses	a. Site rear and front yards to buffer less intense land uses b. Berms to buffer less intense land use c. Landscaping to buffer less intense land uses d. Fencing to protect less intense land uses

Section 165.91 of this Code specifies policies which apply to certain rezoning proposals. These policies specify that land having development constraints shall be avoided or used for lower intensity development unless constraints are mitigated to the satisfaction of the City. This figure contains suggested and required mitigation measures. (Mitigation measures required by this Code need not be listed in Figure IV.) Mitigation measures suggested are not all-inclusive. An applicant may propose other methods of mitigation.

[†]For purposes of this Code, mitigation is defined in the Cedar Rapids Metropolitan Area Engineering Standards adopted by Resolution by the Hiawatha City Council.

