

## ZONING ORDINANCE

### 165.01 PURPOSES.

The purposes of this Chapter are to regulate and restrict the location and use of buildings, structures and land for industry, commerce, residence, or other purposes; to regulate and restrict the height of buildings hereafter erected or altered; to regulate and determine the area of yards and other open spaces about buildings; to regulate and determine the density of use of land and lot areas and for said purposes to divide the city into districts; to provide for enforcement and a Board of Adjustment, and to prescribe penalties for the violation of its provisions, in accordance with Chapter 414, Code of Iowa, 1985, as amended.

### 165.02 SHORT TITLE.

This Chapter shall be known and may be cited as “The Zoning Code of the City of Kalona, Iowa.”

### 165.03 DEFINITIONS.

For the purposes of this Chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word “buildings” shall include the word “structure” and the word “shall” is mandatory and not directory.

1. Accessory Use or Structure -- A use or structure subordinate to the principal use of a building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land.
2. Agriculture -- Farms and general farming, including horticulture, floriculture, dairying, livestock and poultry raising, farm forestry and other similar enterprises or uses, but no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals, except such animals as have been raised on the premises or have been maintained on the premises for the use and consumption of persons residing on the premises.
3. Alley -- Any dedicated public way affording a secondary means of vehicular access to abutting property, and not intended for general traffic circulation.
4. Alterations, Structural -- Any change in the supporting members of a building such as bearing walls, columns, beams or girders.
5. Apartment -- A room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are a multiple of these units.
6. Apartment House -- A building arranged, intended, or designed to be occupied by three or more families living independently of each other.

7. Basement -- A story having part but not more than one-half its height below grade. A basement should not be counted as a story for the purposes of regulation.
8. Board -- Board of Adjustment.
9. Boarding House -- A building other than a hotel where, for compensation and by arrangement, meals or lodging and meals are provided for three (3) or more persons.
10. Building -- Any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.
11. Building, Height of -- The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height level between eaves and ridge for gable, hip and gambrel roofs.
12. Building Line -- A line formed by the face of the building, and for the purposes of this Chapter, a minimum building line is the same as a front setback line.
13. Building, Main or Principal -- A building in which is conducted the principal use of the lot in which it is situated.
14. Care Facility -- A state-licensed facility with specially qualified staff providing 24-hour room, board, and nursing services under the direction of a registered nurse or a licensed practical nurse.
15. Dwelling -- Any building or portion thereof which is designed for and used exclusively for residential purposes. Said building shall have an outside dimension of no less than twenty (20) feet by thirty (30) feet, excluding any attached garage, if any.
16. Dwelling, Single-Family -- A building designed for or occupied exclusively by one (1) family.
17. Dwelling, Two-Family -- A building designed for or occupied exclusively by two (2) families living independently of each other.
18. Dwelling, Multiple -- A building designed for or occupied exclusively by more than two (2) families living independently of each other.
19. Family -- One or two persons or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof) together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single house-keeping unit. Every additional group of two or fewer persons living in such housekeeping unit shall be considered a separate family for the purpose of this Chapter.
20. Family Home -- A residential facility having fifteen (15) beds or less providing 24-hour room, board, personal assistance, and a program of services designed to meet the special needs of mentally or physically disabled persons.

21. Frontage -- All the property on one side of street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
22. Garage, Private -- An accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the buildings to which it is accessory. Not more than one (1) of the vehicles may be a commercial vehicle of not more than two (2) ton capacity.
22. Garage, Public -- A building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.
23. Garage Storage -- A building or portion thereof designed or used exclusively for term storage by pre-arrangement of motor-driven vehicles, as distinguished from daily storage furnished transients and personal belongings, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired or sold.
25. Garden House -- An accessory structure of not more than 140 square feet in area and having a height of eight (8) feet or less constructed primarily for storage.
26. Grade -- The average level of the finished surface of the ground adjacent to the exterior walls of the building except when any wall approximately parallels and is not more than five (5) feet from a street line, then the elevation of the street shall be grade. The purpose is to regulate the number of stories and height of a structure.
27. Home Occupation -- An occupation or a profession which:
  - (a) is customarily carried on in a dwelling unit and building or other structure accessory to a dwelling unit, and
  - (b) is carried on by a member of the family residing in the dwelling unit and
  - (c) is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
  - (d) does not employ more than one person outside the immediate family, and
  - (e) has no exterior display, no exterior sign, no exterior storage of materials and no other exterior indication of the Home Occupation or variation from the residential character of the principal building, and
  - (f) produces no offensive noise, vibration, smoke, dust, odors, heat or glare, and
  - (g) utilizes no more than two on-street parking spaces at any one time.

28. Institution -- A building occupied by a non-profit corporation or a non-profit establishment for public use.
29. Junk Yard -- Any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, or handled, including the dismantling or “wrecking” of automobiles or other vehicles or machinery, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.
30. Loading Space -- An off-street space within the main building or on the same lot providing for the standing, loading, or unloading of commercial vehicles, having a minimum dimension of twelve (12) by thirty-five (35) feet and a vertical clearance of at least fourteen (14) feet.
30. Lot -- A parcel of land occupied or intended for occupancy by one main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.
32. Lot, Corner -- A lot abutting upon two (2) or more streets at their intersections.
33. Lot, Depth of -- The mean horizontal distance between the front and rear lot lines.
34. Lot, Double Frontage -- A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.
35. Lot, Interior -- A lot other than a corner lot.
36. Lot Lines -- The lines bounding a lot as defined herein:
- (a) Front Lot Line: In the case of an interior lot, that line separating said lot from the street. In the case of a corner lot, or double frontage lot, “front lot line” shall mean that line separating said lot from that street which is designated as the front street in the plat and in the application for a zoning compliance permit.
  - (b) Rear Lot Line: That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet long farthest from the lot line and wholly within the lot.
  - (c) Side Lot Line: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
37. Lot of Record -- A lot which is part of a subdivision, the plat of which has been recorded in the office of the county recorder of Washington County.
38. Lot Width -- The width of a lot measured at the building line and at right angles to its depth where the minimum building line or setback intersects the side lot lines.

39. Lot, Reserved Corner -- A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.
40. Main Building -- A building in which is conducted the principal use of the lot upon which it is situated.
41. Main Use -- The principal use to which the premises are devoted and the principal purpose for which the premises exist.
42. Mobile Home -- A vehicle used, or so originally constructed as to permit being used, as a conveyance upon the public streets or highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof for human habitation, dwellings, or sleeping quarters and which is capable of being moved, towed, or transported by another vehicle. This definition shall also include and apply to such vehicles or structures that are located on a permanent or temporary foundation.
43. Mobile Home Park -- Any site, lot, field or tract of land upon which two or more occupied mobile homes, are harbored either free of charge or for revenue purposes and intended for such use shall include any building, structure, tent, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.
44. Mobile Home Converted to Real Estate -- A mobile home which has been attached to a permanent foundation on real estate owned by the mobile home owner, rendering it totally immobile, and which has been inspected by the assessor, the mobile home vehicle title, registration, and license plates collected from the owner, and the property entered upon the tax rolls of Washington County.
45. Nonconforming Building -- A building or portion thereof that does not conform to the provisions of this Chapter relative to height, bulk, area or yards for the district in which it is located.
46. Nonconforming Use -- A use which lawfully occupied a building or land but does not conform to the use regulations of the district in which it is located.
47. Nursing Home -- See Care Facility.
48. Parking Space -- A surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than one hundred and eighty (180) square feet exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for vehicles.
49. Place -- An open unoccupied space or a public or private thoroughfare other than a street or alley permanently reserved as the principal means of access to abutting property.
50. Plan -- A Comprehensive Plan of the City of Kalona.

51. Setback -- The distance required to obtain the front, side or rear yard open space provisions of this Chapter.
52. Sign -- Any structure or part thereof or device attached thereto or painted, or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction, or advertisement. The word “sign” includes the word “billboard.”
53. Story -- That portion of a building, other than a basement not having over 50 percent of its height below grade, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.
54. Story, Half -- 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 three (3) feet above the floor of such story, except that any partial story used for residence purposes, other than for janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.
55. Street -- A public thoroughfare which affords the principal means of access to abutting property.
56. Structure -- Anything constructed or erected, the use of which requires more or less permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, pergolas, ground based satellite dishes, and solar collectors.
57. Swimming Pool -- A pool constructed for the primary purpose of the swimming which is constructed or erected either upon or in the ground, the use of which requires a more or less permanent location.
58. Travel Trailer or Motor Home -- A vehicle with or without motive power used or so manufactured or constructed to permit its being used as a conveyance upon the public streets and highways and so designed to permit the vehicle to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight (8) feet in width and any length provided its length does not exceed twenty-eight (28) feet. If such vehicle shall be customarily or ordinarily used as a place of human habitation for more than 90 days in any 18 month period, it shall be classified as a mobile home, regardless of the size and weight limitation provided herein.
59. Trailer Camp or Tourist Camp Ground -- An area providing spaces for two or more travel trailers, camping trailers, or tent sites for temporary occupancy, with necessary incidental services, sanitation, and recreation facilities to serve the traveling public.
60. Variance -- The term “Variance” shall mean a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the

variance is granted. The crucial points of variance are (a) undue hardship, (b) unique circumstances and (c) applying to property. A variance is not justified unless all three elements are present in the case.

61. Yard -- An open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building line shall be used.
62. Yard, Front -- A yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where owner shall elect to front his building on a street parallel to the lot line having the greater dimension.
63. Yard, Rear -- A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building line or any projections thereof other than the projections of uncovered steps. On all lots the rear yard shall be in the rear of the front yard.
64. Yard, Side -- A yard between the main building line and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building line or any projections of uncovered steps.
65. Bed and Breakfast Homestay -- Owner occupied/principal residence single family or duplex dwelling unit with no more than three (3) bedrooms provided to guests who stay or periods not to exceed fourteen (14) consecutive days. The bed & breakfast home can serve food only to guests residing in the home. A minimum of 140 square feet floor area shall be provided for each sleeping room and operable smoke detectors to be installed in each guest room. Guests shall register upon arrival providing their names, current residence address and vehicle license plate number. The registration form shall be dated and kept by the owner for a period of three years and shall be made available for examination by a representative of the city upon one days notice.
66. Bed and Breakfast Inns -- Owner occupied/principal residence single family or duplex dwelling unit with four (4) or five (5) bedrooms provided to guests who stay for periods not to exceed fourteen (14) consecutive days. The bed & breakfast home can serve food only to guests residing in the home. A minimum of 140 square feet floor area shall be provided for each sleeping room and operable smoke detectors to be installed in each guest room. Guests shall register upon arrival providing their names, current residence addresses and vehicle license plate number. The registration for shall be dated and kept by the owner for a period of three years and shall be made available for examination by a representative of the city upon one days notice.

## 165.04 ESTABLISHMENT OF DISTRICTS AND OFFICAL ZONING MAP.

### 1. Official Zoning Map:

- (a) The town is hereby divided into districts which shall be designated as follows:

A-1 -- Agricultural  
R-1 -- Single Family Residential  
R-2 -- Two Family Residential  
R-3 -- Multi-family Residential  
R-4 -- Mobile Home  
C-1 -- Highway Professional  
C-2 -- Highway Commercial  
C-3 -- Central Business District  
M-1 -- Light Industrial  
M-2 -- Heavy Industrial  
PAD -- Planned Area Development

- (b) The locations and boundaries of these districts are shown on the official zoning map which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.
- (c) The official zoning map shall be identified by the signature of the mayor, attested by the town clerk, under the following statement:

This is to certify that this is the official Zoning Map referred in Ordinance No. 127 of the City of Kalona, Iowa, passed July 6, 1987.

- (d) The official zoning map, or a true copy of the same, shall be on file in the office of the city clerk and shall be final authority as to the correct zoning status of the land, water areas, buildings, and other structures in the city.

### 2. Changes in Official Zoning Map:

- (a) No changes in the official zoning map shall be made except as may be required by amendments to this Chapter under section 31.18 herein. If required, such changes shall be promptly made and the ordinance number, nature of change, and date of change shall be noted on the map, together with the signature of the mayor approving such change in the Official Zoning Map.
- (b) Any unauthorized change, of any kind whatsoever, in the Official Zoning Map by any person or persons, shall constitute a violation of this Chapter and be punishable as provided in section 31.12.

3. Interpretation of District Boundaries -- Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:



- (a) Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow such center lines;
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (c) Boundaries indicated as approximately following city limits shall be construed as following city limits;
- (d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- (e) Boundaries are indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- (f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- (g) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (a) through (f) above, the Board of Adjustment shall interpret the district boundaries.

## **121.05 SCHEDULES OF DISTRICT REGULATIONS**

The following schedule of District Regulations are hereby adopted by reference and declared to be a part of this Chapter:

- A-1 -- Agricultural
- R-1 -- Single Family Residential
- R-2 -- Two Family Residential
- R-3 -- Multi-family Residential
- R-4 -- Mobile Home Residential
- C-1 -- Highway Professional
- C-2 -- Highway Commercial
- C-3 -- Central Business District
- M-1 -- Light Industrial
- M-2 -- Heavy Industrial
- PAD -- Planned Area Development

1. A-1 AGRICULTURAL:

Intent. To establish and preserve areas for agriculture, forestry, conservation, and such low intensity outdoor recreation uses as do not significantly change the natural character of the land or attract large numbers of people.

(a) Permitted Principal Uses and Structures

- (I) Agriculture, horticulture, dairy farming, poultry farming, livestock farming, general farming, truck gardening, and other agricultural activities.
- (II) Single family dwellings.
- (III) Cemetery or mausoleum.
- (IV) Churches and temples.
- (V) Public schools, elementary, junior high, and high schools.
- (VI) Parochial or private schools having similar curricula as public schools and having no rooms used regularly for housing or sleeping purposes.
- (VII) Public buildings, public and semi-public parks, playgrounds, or community buildings such as libraries, museums, and community centers.
- (VIII) Golf courses and country clubs, except miniature courses or driving ranges operated for a profit.

(b) Permitted Accessory Uses and Structures

- (I) Private garages.
- (II) Farm Buildings incidental to agricultural uses.
- (III) Private greenhouses or plant nurseries not operated for commercial purposes.
- (IV) Private swimming pools.
- (V) Accessory uses or structures clearly incidental to the permitted uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership.

- (VI) Bed and Breakfast Homestay and Bed and Breakfast Inns provided the following criteria are met. One guest sleeping room for each 750 square feet of finished floor area in the principal residence.

(c) Special Exceptions

- (I) Public utilities.
- (II) Recreational development for seasonal or temporary use.
- (III) Roadside stand for sale of produce raised on the premises.
- (IV) Dog kennels.
- (V) Railroads.
- (VI) Riding stables.
- (VII) Greenhouses and Plant Nurseries operated for commercial purposes.

- (d) Minimum Lot Areas and Width -- Single family residential -- Area, 20,000 sq. ft.; Width, 100 feet.

(e) Minimum Yard Requirements

- (I) Single family dwelling -- Front, 25 feet; Rear, 30 feet; Side, 10 feet each side plus 2 feet for each story above one; Street Side, corner lot, 15 feet.
- (II) Other permissible uses under this section -- Front 40 feet; Rear, 40 feet; Side, 20 feet; Street Side, corner lot, 25 feet.

- (f) Maximum Height -- 2 ½ stories or 35 feet.

(g) Minimum Off-street Parking and Loading Space

- (I) Dwellings -- Two (2) spaces for each dwelling unit.
- (II) Church or Temple -- One (1) space for each six (6) seats of average seating in the main auditorium.
- (III) Country Club or Golf Club -- Six spaces for each hole.
- (IV) Community Center, Library or Museum -- Ten (10) spaces plus one (1) additional space for each 300 sq. ft. of floor area in excess of 2,000 sq. ft.

- (V) Schools and Public Buildings -- One (1) space for each classroom or office room plus 1 one (1) space for each ten (10) seats of average seating in the main auditorium, stadium, or place of public assembly.
  - (VI) Dwelling with Bed and Breakfast Homestay and Inns -- In addition to the parking spaces required for the dwelling, a minimum of two (2) off street parking spaces shall be provided for Homestay units and three (3) for Inns unit. The parking spaces may be located one behind the other.
- (h) Special Regulations -- Provision must be made for disposal of manure and other organic wastes in such manner as to avoid pollution of ground water or any lake or stream.

## 2. R-1 SINGLE FAMILY RESIDENTIAL

Intent. To establish and preserve quiet single family home neighborhoods as desired by large numbers of people, free from other uses except those which are both compatible with and convenient to the residents of such a district.

### (a) Permitted Principal Uses and Structures

- (I) Single family dwellings.
- (II) Churches and temples.
- (III) Public schools, elementary, junior high and high schools.
- (IV) Parochial or private schools having no rooms used regularly for housing or sleeping purposes.
- (V) Public buildings, public and semi-public parks, playgrounds, community centers, libraries, and museums.
- (VI) Family home.
- (VII) Care facilities.

### (b) Permitted Accessory Uses and Structures

- (I) Private garages.
- (II) Private swimming pools.
- (III) Private greenhouses not operated for commercial purposes.
- (IV) Garden houses.

- (V) Accessory uses or structures clearly incidental to the permitted uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership.
- (VI) Temporary buildings used in conjunction with construction work, provided that such buildings are removed upon completion of the construction work.

(c) Special Exceptions

- (I) Cemetery or mausoleum.
- (II) Railroads.
- (III) Public utilities.
- (IV) Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
- (V) Mortuary or funeral home.

(d) Minimum Lot Areas and Width

- (I) Single family dwelling -- Area, 8,400 sq. ft.; Width, 70 feet.
- (II) Where a lot is not served by a public water and/or sewer system, the minimum lot area shall be not less than 20,000 sq. ft.

(e) Minimum Yard Requirements

- (I) Dwellings -- Front, 25 feet; Rear, 30 feet; Side, one story 5 feet, two or more stories 10 feet; Street side, corner lot, 15 feet.
- (II) All other uses permitted under this section – Front, 40 feet; Rear, 40 feet; Side, 20 feet; Street side, corner lot 25 feet.

(f) Maximum Height -- 2 ½ stories or 35 feet.

(g) Minimum Off-street Parking and Loading Space

- (I) Dwellings -- Two (2) spaces for each dwelling unit.
- (II) Church or Temple -- One (1) space for each six (6) seats of average eating in the main auditorium.
- (III) Country Club or Golf Club -- Six (6) spaces for each hole.

- (IV) Community Center, Library or Museum -- Ten (10) spaces plus one (1) additional space for each 300 sq. ft. of floor area in excess of 2,000 sq. ft.
- (V) Schools and Public Buildings -- One (1) space for each classroom or office room plus one (1) space for each ten (10) seats of average seating in the main auditorium, stadium, or place of public assembly.

(h) Not Permitted Accessory Use

(I) Bed and Breakfast Home Stay.

(II) Bed and Breakfast Inns.

3. R-2 -- TWO-FAMILY RESIDENTIAL

Intent. To establish and preserve quiet single family and two-family home neighborhoods as desired by large numbers of people, free from other uses except those which are both compatible with and convenient to the residents of such a district.

(a) Permitted Principal Uses and Structures

(I) Single family dwellings.

(II) Two-family dwellings.

(III) Single family dwellings housed in a two-family unit with separate ownership.

(IV) All other uses permitted under R-1.

(b) Permitted Accessory Uses and Structures

(I) All uses and structures permitted under R-1.

(II) Bed and Breakfast Homestay provided the following criteria are met. One guest sleeping room for each 750 square feet of finished floor area in the principal residence.

(c) Special Exceptions

(I) Same as in R-1.

(d) Minimum Lot Areas and Width

(I) Single family dwelling -- Area, 8,400 sq. ft.; Width, 70 feet.

(II) Two-family dwelling -- 10,000 sq. ft.; Width 70 ft.

- (III) Where a lot is not served by a public water and/or sewer system, the minimum lot area shall be not less than 20,000 sq. ft.

(e) Minimum Yard Requirements

- (I) Dwellings -- Front, 25 feet; Rear, 25 feet; Side, one story, 5 feet, two stories, 10 feet; Street side, corner lot, 15 feet.
- (II) All other uses permitted under this section.

(f) Maximum Height -- 2 ½ stories or 35 feet.

(g) Minimum Off-street Parking and Loading Space

- (I) Dwellings -- Two (2) spaces for each dwelling unit.
- (II) Public Buildings -- One (1) space for each classroom or office room plus one (1) space for each ten (10) seats in the main auditorium, stadium, or place of public assembly.
- (III) Dwelling with Bed and Breakfast Homestay -- in addition to the parking spaces required for the dwelling, a minimum of two (2) off street parking spaces shall be provided. The parking spaces may be located one behind the other.

4. R-3 MULTI-FAMILY RESIDENTIAL

Intent. To establish and preserve medium density residential districts, excluding uses which are not compatible with residential use but permitting certain nonresidential uses which are of particular convenience to the residents of the district.

(a) Permitted Principal Uses and Structures

- (I) Single-family dwellings.
- (II) Two-family dwellings.
- (III) Multi-family dwellings.
- (IV) All uses and structures permitted under R-1.
- (V) Mortuary or funeral homes.
- (VI) Religious, educational, non-profit charitable institutions.
- (II) Private kindergartens and day nurseries.

(b) Permitted Accessory Uses and Structures

- (I) All uses and structures permitted under R-1.
- (II) Bed and Breakfast Homestay and Bed and Breakfast Inns provided the following criteria are met. One guest sleeping room for each 750 square feet of finished floor area in the principal residence.

(c) Special Exceptions

- (I) All other exceptions permitted under R-1.
- (II) Mobile homes converted to real estate, meeting same yard and area requirements as single family dwellings under this section.
- (III) Separate or divided ownership of each single-family unit of a two-family dwelling unit, provided the following requirements are met:
  - (A) The lot or parcel of real estate being divided into two parcels allowing separate ownership thereof must originally meet all of the requirements for uses permitted in an R-2 District.
  - (B) A two-family dwelling unit must be in existence or will be constructed thereon, consisting of two laterally-attached dwelling units with each unit having a separate access and separate utilities services including gas, water, sewer and electricity.
  - (C) The division of the lot or parcel into two parcels shall be in such a manner as to result in one single-family dwelling unit being located on either side of a common boundary line with the common wall between the two laterally joined single-family dwelling units being on said common boundary line.
  - (D) Prior to division of the lot or parcel into two parcels, there shall be submitted to the Zoning Administrator of the City of Kalona, two copies of proposed Restrictive and Protective Covenants providing that the owners of each parcel upon division are jointly and severally liable and responsible for the maintenance and repair of the common wall as well as of all other common aspects including, but not limited to, utilities, water, sanitary sewer, storm sewer, easements and drive-ways, all to the point of division. The Zoning Administrator shall, within 15 days, determine whether the proposed Covenants meet the requirements of this paragraph and shall thereupon return one copy of the Covenants to the owners, at which time the owners shall have said Covenants recorded at the Office of the Washington County Recorder. If the Zoning Administrator determines that the Proposed Covenants are not satisfactory, he shall so notify the owner and



request the submission of a further set of proposed Covenants which shall embody any corrections or clarifications deemed necessary by the Zoning Administrator.

- (E) The two-family dwelling unit shall, in all other respects, other than the divided ownership thereof, be considered as any other two-family dwelling and shall meet all requirements pertaining thereto.

(d) Minimum Lot Areas and Width

- (I) Single family dwelling -- Area, 7,000 sq. ft.; Width, 60 feet.
- (II) Two-family dwelling -- 8,400 sq. ft.; Width 60 feet.
- (III) Multi-family dwelling -- Area, 6,000 sq. ft. plus 1,500 sq. ft. per dwelling unit over one; Width, 80 feet.

(e) Minimum Yard Requirements

- (I) Dwellings -- Front, 25 feet; Rear, 30 feet; Side, one story, 8 feet, two stories, 10 feet; three stories, 12 feet; Street side, corner lot, 15 feet.
- (II) All other uses permitted in this section -- Front 40 feet; rear, 40 feet; side 20 feet; side street, corner lots, 25 feet.

(f) Maximum Height -- 3 stories or 45 feet.

(g) Minimum Off-street Parking and Loading Space

- (I) Dwellings -- Two (2) spaces for each dwelling unit plus one (1) space for every two (2) roomers.
- (II) Other uses permitted -- Same as R-1.
- (III) Dwellings with Bed and Breakfast Homestay and Inns -- In addition to the parking spaces required for the dwelling, a minimum of two (2) off street parking spaces shall be provided for Homestay units and three (3) for Inns unit. The parking spaces may be located one behind the other.

5. R-4 MOBILE HOME PARK

Intent. To make provision of mobile homes in mobile home parks not subdivided into individual lots, in an appropriate, safe, sanitary and attractive environment.

(a) Permitted Principal Uses and Structures

- (I) Mobile homes in mobile home parks.

- (II) Public buildings, public and semi-public parks, playgrounds, or community buildings.

(b) Permitted Accessory Uses and Structures

- (I) All uses and structures permitted under R-1.

(c) Special Exceptions

- (I) Public utilities.

(d) District Regulations

- (I) Density is limited to ten (10) mobile homes per acre.
- (II) Mobile Homes shall be located on the lot space with the following minimum separation distances: At least a 30 ft. clearance between mobile homes shall be provided, except with respect to units parked end to end. End to end clearance shall not be less than 15 feet. Mobile home set back shall be 25 ft. from the front of the street, 5 ft. from the parking pad, and 5 ft. from any utility shed.
- (III) Each mobile home site shall be provided with the following:
  - (a) Support pads placed beneath the mobile home.
    1. 16 inch by 16 inch by 4 inch thick concrete pad.
    2. Pads placed 8 ft. to 9 ft. on center.
    3. Placed in two rows spaced 10 ft. on center or as needed to be centered under the main frame longitudinal beam.
    4. The height may be raised for a particular installation by placing 8 inch by 8 inch by 16 inch concrete block forming piers above the pad with solid 4 inch by 8 inch by 16 inch block at the top.
  - (b) A graded area under the mobile home crowned in the center to drain to the outside edges.
  - (c) Washed or clean rock under the entire mobile home with a rock depth of 4 inches at the center and 2 inches at the perimeter.
  - (d) A concrete patio of at least 180 square feet located at the main entrance of the mobile home.
  - (e) A minimum of 400 square feet of 5 inches thick reinforced concrete for a parking space for each mobile home.

- (IV) All utility wires, pipes and tanks shall be underground.
- (V) Each mobile home park shall have a cable television system or a master television antenna system with distribution available to all lots. No exterior television antenna or satellite dishes shall be permitted by individual mobile homes.
- (VI) A greenbelt, at least 15 feet in width, shall be located along all boundaries of each mobile home park, except where it is crossed by driveways.
- (VII) Each mobile home shall be located on a lot having an area of at least 4,200 square feet.
- (VIII) Each mobile home park shall be graded and drained so that rain water will not stand in pools or puddles in lot areas for a period not to exceed 48 hours after each rainfall.
- (IX) Each street parking area in any mobile home park shall be bounded by a sidewalk at least 3 feet wide. A minimum of one sidewalk should be placed along all streets.
- (X) If the parking of motor vehicles, boats, camping trailers, or recreational vehicles other than passenger automobiles and motorcycles is allowed, it shall be restricted to areas surrounded, except at points of entry and exit, with a wood or masonry wall or fence hedge at least 8 feet height.
- (XI) All minimum street widths in mobile home parks shall be as follows:
 

(a) No parking on street	1 way	14 feet
	2 way	20 feet
(b) Parallel parking on one side	1 way	20 feet
	2 way	30 feet
(c) Parallel parking on two side	1 way	26 feet
	2 way	36 feet

Signs for street identification, traffic flow directions, and parking areas are the responsibility of the mobile home park owner.

- (XII) Each mobile home shall have an enclosed storage shed or partitioned space in such a shed, either of which shall have at least 360 cubic feet and shall be located within 150 feet of said mobile home. No outside storage shall be permitted by any mobile home park or committed by any occupant, including the storage of anything underneath any mobile home.
- (XIII) No mobile home shall be occupied unless it is supported as detailed in Section (III), connected to utilities, and provided with skirting, from the bottom of the walls to the ground, made of aluminum or other durable material. Tie downs are required.

(XIV) Lot numbers and/or streets shall be clearly labeled to provide identification and location for fire and emergency services.

(XV) New mobile homes moved into the park to replace an existing unit on a lot shall comply with the current stated regulations. Any requests for variances shall be brought to the Board of Adjustment.

(e) Not Permitted Accessory Uses and Structures

(I) Bed and Breakfast Home Stay.

(II) Bed and Breakfast Inns.

6. C-1 – HIGHWAY PROFESSIONAL

Intent. To establish and preserve areas primarily consisting of professional, business, and general office uses that are generally operated during daytime hours only.

(a) Permitted Principal Uses and Structures

(I) Office buildings in which no activity is carried on relating to retail trade with the general public, and no stock of goods is maintained for sale to customers, except as otherwise provided. Office uses permitted shall include the following:

(A) Professional services including but not limited to barber shops, beauty parlors, and photography studios.

(B) Finance, insurance and real estate services.

(C) Central or administrative offices.

(D) Business and management consulting services.

(E) Employment services.

(F) Welfare and charitable services.

(II) Hospitals, medical and dental clinics.

(III) All uses permitted in R-3.

(b) Permitted Accessory Uses and Structures

(I) Accessory uses and structures clearly incidental to the permitted uses, or structures of the district, except no exterior services or displays on premises.

(II) All permitted accessory uses in R-3.

(c) Special Exceptions:

(I) Veterinary clinics and associated kennels.

(d) Minimum Lot Area and Width

(I) Single family dwelling -- Area, 7,200 sq. ft.; Width, 60 feet.

(II) Two family dwelling -- Area, 8,400 sq. ft.; Width, 60 feet.

(III) Multi-family dwelling -- Area 6,000 sq. ft. plus 1,500 sq. ft. per dwelling unit over one; Width, 80 feet.

(IV) Other permitted uses -- None.

(e) Minimum Yard Requirements

(I) Dwellings -- Front, 25 feet; Rear, 30 feet; Side, one story, 8 feet; two stories, 10 feet; three stories, 12 feet; Street side, corner lot, 15 feet.

(II) Other permitted uses in this section -- Front, 15 feet; Side, 8 feet; Rear 20 feet; Street side, corner lot, 15 feet.

(f) Maximum Height

(I) Dwelling -- stories or 35 feet.

(II) Other permitted uses --25 feet.

(g) Minimum Off-Street Parking and Loading Space

(I) Dwelling -- two (2) spaces for each dwelling unit plus one (1) space for every two (2) roomers.

(II) Barber Shops and Beauty Shops -- two (2) spaces for each chair, not including those spaces made available for the proprietor and employees.

(III) Other permitted office uses -- one (1) space for each 200 square feet of floor area, not including those spaces made available for the proprietor and employees.

(IV) Public buildings -- one (1) space for each office room or classroom plus one (1) space for each ten (10) seats in any main auditorium, stadium or place of public assembly, not including those spaces made available for the proprietor and employees.

(V) Hospitals -- one (1) space for every four (4) beds and staff parking.

- (VI) Dwellings with Bed and Breakfast Homestay and Inns -- In addition to the parking spaces required for the dwelling, a minimum of two (2) off street parking spaces shall be provided for Homestay units and three (3) for Inns unit. The parking spaces may be located one behind the other.

7. C-2 – HIGHWAY COMMERCIAL

Intent. To establish and preserve general commercial areas consisting of shopping centers and commercial strips where customers reach individual business establishments primarily by automobile.

(a) Permitted Principal Uses and Structures

- (I) Motor vehicle sales, service and repair, service stations, and car washes.
- (II) Motels and hotels.
- (III) Restaurants, cafes, night clubs and taverns.
- (IV) Drive-in restaurants.
- (V) Farm implement displays and sales, service and repair.
- (VI) Mobile home sales.
- (VII) Bowling alleys, skating rinks, dance halls, theaters, places of amusement, golf driving ranges and miniature golf.
- (VIII) Supermarkets and retail business.
- (IX) Business offices.
- (X) Banks and financial institutions.
- (XI) Private clubs or lodges.
- (XII) Bus terminal.
- (XIII) Building materials dealers.
- (XIV) Fruit, vegetable and produce stands.
- (XV) Shopping centers or malls.
- (XVI) Convenience stores.
- (XVII) All uses permitted in C-1 district.

(b) Permitted Accessory Uses and Structures

- (I) Uses and structures clearly incidental to be permitted uses.
- (II) Storage warehouses in conjunction with permitted principal uses.
- (III) Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
- (IV) Bed and Breakfast Homestay and Bed and Breakfast Inns provided the following criteria are met. One guest sleeping room for each the following criteria are met. One guest sleeping room for each 750 square feet of finished floor area in the principal residence.

(c) Special Exceptions

- (I) Public utilities, veterinary clinics, animal hospitals, and kennels.
- (II) Feed mills and grain elevators.
- (III) Carnivals, circuses, fairs, road shows.
- (IV) Amusement parks.

(d) Minimum Lot Areas and Width -- None

(e) Minimum Yard Requirements -- Front, 15 feet; Side, none except where abutting on agricultural or residential district, a side yard of not less than 8 feet shall be provided; Rear, none except where abutting on agricultural or residential district, a rear yard of not less than 30 feet shall be provided.

(f) Maximum Height -- 2 ½ stories or 35 feet.

(h) Minimum Off-street Parking and Loading

- (I) Vehicle and Farm Implement Sales, Service and Repair Establishments -- one (1) space for each two (2) employees.
- (II) Bowling Alley -- five (5) spaces for each lane or alley.
- (III) Dance Halls, Theaters, Places of Amusement, and Skating Rinks -- one (1) space for each 100 sq. ft. of floor area.
- (IV) Motels and Hotels -- one (1) space for each unit or suite plus one (1) space for each 200 sq. ft. of commercial floor area.
- (IV) Barber Shop -- two (2) spaces for each chair.

- (VI) Professional and Business Offices Not Listed Elsewhere -- one (1) space for each 200 sq. ft. of floor area.
- (VII) Restaurants, Private Clubs, Night Clubs, Cafes, and Taverns -- one (1) space for each 100 sq. ft. of floor area.
- (VIII) Supermarkets, Shopping Centers, Retail Stores, and Service Establishments -- one (1) space for each 150 sq. ft. of floor area and outdoor sales space.
- (IX) Furniture, Appliance, Hardware, Building Supplies -- one (1) space for each 800 sq. ft. of floor area.
- (X) Banks and Financial Institutions -- one (1) space for each 150 sq. ft. of floor area.
- (XI) Dwellings with Bed and Breakfast Homestay and Inns -- In addition to the parking spaces required for the dwelling, a minimum of two (2) off street parking spaces shall be provided for Homestay units and three (3) for Inns unit. The parking spaces may be located one behind the other.

#### 8. C-3 CENTRAL BUSINESS DISTRICT

Intent. To establish and preserve a central business district convenient and attractive for a wide range of retail uses and business, government and professional offices and places of amusement in a setting conducive to the safe for a high volume of pedestrian traffic.

##### (a) Permitted Principal Uses and Structures

- (I) Apartments above a store or shop.
- (II) Commercial amusements.
- (III) Business, professional offices, studios.
- (IV) Personal service and repair shops.
- (V) Financial institutions.
- (VI) Retail businesses.
- (VII) Automotive sales, service, repair.
- (VIII) Restaurants, taverns.
- (IX) Motels, hotels.
- (X) Wholesale display and sales rooms and offices.



- (XI) Public garages, storage garages.
- (XII) Commercial parking lots, garages.
- (XIII) Private clubs and lodges.
- (XIV) Business and vocational schools.
- (XV) Public utilities.
- (XVI) Railroads and bus terminals.
- (XVII) Medical and dental clinics.
- (XVIII) Printing, publishing and engraving.
- (XIX) Bakery and catering service.
- (XX) Laundries and dry cleaning establishments.
- (XXI) Frozen food storage.
- (XXII) Welding and blacksmith shop.
- (XXIII) All uses permitted under C-2.

(b) Permitted Accessory Uses and Structures

- (I) Uses and structures clearly incidental to the permitted uses including dwellings for the owner or employees thereof, located on the premises.
- (II) Storage warehouses in conjunction with permitted principal uses.
- (III) Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
- (IV) Bed and Breakfast Homestay and Bed and Breakfast Inns provided the following criteria are met. One guest sleeping room for 750 square feet of finished floor area in the principal residence.

(c) Special Exceptions

- (I) Carnivals, circuses, fairs, or road shows.
- (II) Radio or television broadcasting tower or station.

(d) Minimum Lot Areas and Width

- (I) Multi-family dwellings -- Area, 6,000 sq. ft.; plus 1,500 sq. ft. per each dwelling unit over one; Width, 80 feet.
- (II) Commercial uses -- no minimum.

(e) Minimum Yard Requirements

- (I) Dwellings -- Front, 25 feet; Rear, 30 feet; Side, 10 feet; Street side, corner lot, 15 feet.
- (II) No minimum for other uses permitted under this section.

(f) Maximum Height -- 4 stories or 55 feet.

(g) Minimum Off-street Parking and Loading Space

(I) Parking

- (A) Dwellings -- one (1) space for each dwelling unit.
- (B) Churches, Temples, and Public Buildings -- one (1) space for each six (6) seats in main auditorium.
- (C) Dwellings with Bed and Breakfast Homestay and Inns -- In addition to the parking spaces required for the dwelling, a minimum of two (2) off street parking spaces shall be provided for Homestay units and three (3) for Inns unit. The parking spaces may be located one behind the other.

- (II) Loading -- Off-street Loading -- one (1) space for each 10,000 square feet of floor area or fraction thereof.

9. M-1 -- LIGHT INDUSTRIAL

INTENT. To establish and preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and to make provision for certain kinds of commercial uses which are necessary to service the immediate needs of people in these areas.

(a) Permitted Principal Uses and Structures

- (I) Animal pound or kennel.
- (II) Contractor's shop and storage yard.
- (III) Bottling works.

- (IV) Dairy processing facility.
- (V) Truck or bus garage and repair shop.
- (VI) Farm implement sales, service, repair and assembly.
- (VII) Grain elevator and feed mill.
- (VIII) Building material sales and storage.
- (IX) Railroads and public utilities.
- (X) Wholesaling and warehousing but not including the bulk storage of liquid fertilizers or flammable liquids.
- (XI) Freight terminal.
- (XII) Automobile body repair and paint shop.
- (XIII) Sheet metal products manufacture.
- (XIV) Frozen food lockers.
- (XV) Welding and blacksmith shop.
- (XVI) Personnel storage lockers and warehouses.
- (XVII) High technology wholesaling and manufacturing to include electronics, medical and biogenetics, computers and software research, and related activities.
- (XVIII) Automotive sales, service and repair.

(b) Permitted Accessory Uses and Structures

- (I) Any use or structure incidental to the permitted uses on this district.
- (II) Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the constructions work.

(c) Special Exceptions

- (I) Radio or television broadcasting tower or station.
- (II) Carnivals, circuses, fairs, road shows.
- (III) Stock yards and/or sales barns and yards.

(d) Minimum Lot Area -- 10,000 sq. ft.

(e) Minimum Yard Requirements -- Front, 25 feet; Side, 20 feet; Rear, 30 feet.

(f) Minimum Off-street Parking and Loading Space

(I) Parking -- Warehousing, Storage and Manufacturing: one (1) space for each employee on duty at any one time, plus one (1) for each vehicle used by the industry.

(II) Loading -- Off-street Loading: one (1) space, 50 feet by 12 feet, for each 20,000 square feet of floor area or fraction thereof.

(g) Maximum Height -- 4 stories or 55 feet.

10. M-2 -- HEAVY INDUSTRIAL

Intent. To establish and preserve areas for necessary industrial and related uses of such a nature that they require isolation from many other kinds of land uses, and to make provision for commercial uses which are necessary to service the immediate needs of people in their areas.

(a) Permitted Principal Uses and Structures

(I) Sheet metal products manufacture.

(II) Bulk storage of petroleum products and liquid fertilizers.

(III) Asbestos, brick and clay products manufacture.

(IV) Concrete products and central mixing and proportioning plant.

(V) Flour, feed and grain milling storage.

(VI) Tool, die, gauge and machine shops.

(VII) Structural iron and steel fabrication.

(VIII) Machinery manufacture.

(IX) Paint and varnish manufacture.

(X) All other uses permitted under M-1.

(b) Permitted Accessory Uses and Structures

(I) Any use or structure incidental to the permitted uses on this district.

- (II) Temporary buildings used in conjunction with construction work, provide such buildings are removed promptly upon completion of the construction work.

(c) Special Exceptions

- (I) Carnivals, circuses, fairs, road shows.
- (II) Radio-television broadcasting and microwave towers or stations.
- (III) Fertilizer manufacture.
- (IV) Stock yards, slaughter houses, poultry processing and packaging, and/or sale barns and yards.
- (V) Acid manufacture.

(d) Minimum Lot areas and Width -- None.

(e) Minimum Yard Requirements -- Front, 25 feet; Side 20 feet; Rear, 30 feet.

(f) Maximum Height -- 4 stories or 55 feet.

(g) Minimum Off-street Parking and Loading Space

- (I) Parking -- Warehousing, Storage and Manufacturing: One (1) space for each employee on duty at any one time, plus one (1) for each vehicle used by the industry.
- (II) Loading -- Off-street Loading: one (1) space, 50 feet by 12 feet, for each 20,000 square feet of floor area or fraction thereof.

11. PAD -- PLANNED AREA DEVELOPMENT

Intent: To permit a developer of land an opportunity to creatively, economically, and aesthetically develop property, based upon a comprehensive plan for its developments where such development may not be possible under the conventional single-lot method provided by the conventional zoning districts established in this Zoning Code. It is further intended to promote efficient use of land while providing a harmonious relationship of streets and utilities, recreation and open space, and building coverage.

(a) Permitted Principal Uses and Structures

- (I) Determined by reference to the zoning of the district within which the PAD is to be developed.
- (II) Uses permitted in other zoning districts which are also permitted in the zone in which the development is located, as follows:

Zone in Which  
Development is

Located:

A-1:

R-1:

R-2:

R-3:

R-4:

C-1:

C-2:

C-3:

M-1:

M-2:

Permitted Uses:

Uses permitted in A-1, R-1, R-2, or R-3

Uses permitted in R-1, R-2, or R-3

Uses permitted in R-1, R-2, or R-3

Uses permitted in R-1, R-2, or R-3

Uses permitted in R-4

Uses permitted in C-1

Uses permitted in C-2

Uses permitted in C-3

None

None

- (IV) Where the development area contains two (2) or more different zoning districts, the permitted uses shall be determined by the most restrictive classification.

(b) Permitted Accessory Uses and Structures

- (I) All uses and structures permitted under (a-II) and (a-III) of this section.

(c) Special Exceptions

- (I) All other exceptions permitted pursuant to (a-II) and (a-III) of this section.

(d) Minimum Tract Size

- (I) The project site is to be no less than three (3) acres.

(e) Minimum Density

- (I) The average land area for each unit contained in the site shall not be less than the minimum lot area per unit required for the least restrictive use allowed in the zone in which the development is located under Section (a-II) above. The average land area for each unit shall be determined by dividing the net development area by the minimum lot area per unit required as stated above. Net development area shall be determined by subtracting the area set aside for private streets or public right-of-way from the total development area. The area of land set aside for common land, open space, or recreation shall be included in net development area for this purpose.

If the development area contains two (2) or more different Zoning Classifications, the density permitted shall be determined in direct proportion to the area of each Zoning Classification contained in the entire tract, except that single- or two-family dwellings may in no event have an average lot area of less than 7,200 square feet.

(f) Minimum Open Space Requirements

- (I) A minimum of twenty-five percent (25%) of the total development area shall be devoted to open space and landscaping. Such open space shall be maintained as grassed and landscaped area for the purpose of recreation as well as visual and acoustical privacy for any dwelling units included in the development area. Fences, walkways, barriers, and landscaping shall be used, as appropriate, for the protection aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise.
- (II) Parking areas, vehicle access facilities, structures, and buildings may not be considered in calculating open space.

(g) Minimum Yard Requirements

- (I) Yard requirements as set forth for the least restrictive use allowed in the zone in which the development is located shall be generally applied to the development as though it were to be developed by the customary single-lot subdivision method.

(h) Maximum Height

- (I) Maximum height requirements as set forth for the least restrictive use allowed in the zone in which the development is located shall be generally applied to the development as though it were to be developed by the customary single-lot subdivision method.

(i) Minimum Setback

- (I) Minimum setback requirements as set forth for the least restrictive use allowed in the zone in which the development is located shall be generally applied to the development as though it were to be developed by the customary single-lot subdivision method.
- (II) A minimum perimeter setback of 45 feet shall be required between any building within the development and any adjoining property line, with an additional setback of one foot required for every foot of building height beyond 15 feet.

(j) Minimum Off-street Parking Requirements

- (I) Minimum parking spaces shall be provided as required for the least restrictive use allowed in the zone in which the development is located.

(k) Additional Requirements

- (I) The Planning and Zoning Commission may determine that certain additional

yard, setback or height requirements shall be met within all or a portion of a site depending upon building height, topography, location in relation to other structures, and presence of natural or other physical barriers.

(l) Modification of Requirements

- (I) General requirements pertaining to density, open space, yard, height, and parking may be modified in any PAD, 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 Planning and Zoning Commission. In the event any density, open space, yard, setback, height or parking requirements are modified, the Planning and Zoning Commission shall prepare a written report to the City Council to substantiate its findings that such modifications are in the public interest, in harmony with the purposes of this Chapter and other building regulations of the City, and will not adversely affect nearby properties.

**165.06 SIGN REGULATIONS**

Intent. Regulation of the size, location, and certain features of signs is necessary to enable the public to locate goods, services, and facilities without disruption to surrounding areas; to prevent wasteful use of natural resources; to prevent hazards to life and property; and to assure the continued attractiveness of the community.

- (a) Nameplates -- Signs bearing only property numbers, postal box numbers, names of occupants of premises, private parking, or other identification of premises not having commercial connotations.

(I) Nameplates are not to exceed one (1) square foot in area in the following district: R-4.

(II) Nameplates are not to exceed two (2) square feet in area in the following districts: A-1, R-1, R-2.

(III) Nameplates are not to exceed five (5) square feet in area in the following districts: R-3, C-1.

(IV) Nameplates of unrestricted size are permitted in the following districts: C-2, C-3, M-1, M-2.

- (b) Church or Public Bulletin Boards

(I) Permitted in all districts.

- (c) Temporary Signs Advertising the Lease or Sale of the Premises or Items on the Premises



(I) Not to exceed twelve (12) square feet in area in the following districts:  
A-1, R-1, R-2, R-3, R-4, C-1.

(II) No restrictions on size in the following districts: C-2, C-3, M-1, M-2.

(III) Not to be placed in street right-of-way in any district.

(d) Billboards or Advertising Signs

(I) Unrestricted size permitted in A-1 district, provided:

(A) They are not within one hundred (100) feet of any R district.

(B) They are not within three hundred (300) feet of an intersection, highway structure, or residence, or another billboard.

(C) They are not within one hundred (100) feet of a park, school, cemetery, public, or semi-public building.

(D) They are not within seventy-five (75) feet of the centerline of a city or country road, or one hundred (100) feet of state or federal highway.

(II) Permitted in C-1 district, provided:

(A) That they are not to exceed twenty-five (25) square feet in area and are attached to the structure in which the establishment is located and shall not be within twenty (20) feet of any residential district or use.

(III) Unrestricted size permitted in C-2, C-3, M-1, and M-2 districts, provided:

(A) That they shall not be within twenty (20) feet of any residential district or use.

(e) Illumination of Signs and Nameplates

(I) Shall not exceed 60 watts total and shall be lighted only with non-intermittent lighting in the following districts: R-1, R-2, R-3, R-4 and dwellings in C-1.

(II) Shall not exceed 300 watts per sign or total watts of 500 for the premises and shall be lighted only with non-intermittent lighting in a C-1 district to not include dwellings.

(III) No restrictions apply to other districts or uses.

(f) All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be removed promptly and the surrounding area restored to a condition free from refuse and rubbish.

## 165.07 SOLAR ACCESS REGULATIONS

Intent. It is the policy of the City of Kalona to promote the use of solar energy, through both passive and active collection systems, to heat water and for space heating and cooling needs. In order to protect each building's solar rights, to the extent possible, it is hereby determined that auxiliary regulations on the placement of buildings and foliage are required.

(a) Definitions -- as used in this Section:

- (I) "Solar Collector" Means any device or combination of devices or other elements which relies upon sunshine as an energy source for use in:
- (A) The heating or cooling, or both, of a building or other structure;
  - (B) The heating of water;
  - (C) Use in industrial, commercial or agricultural processes; or
  - (D) The generation of electricity.

In addition to such uses, the use of the solar collector may include other uses, such as, but not limited to, serving as part of a roof of a building or other structure; or serving as a window or wall; or otherwise serving as a structural member of a building or other structure.

- (II) "Central Standard Time" means time at the eighty fifth (85<sup>th</sup>) meridian west of Greenwich, England, and in the sixth (6<sup>th</sup>) time zone based upon it in North America, even though the municipality may be using Central Daylight Savings time or any other method to determine the time of day.
- (III) "Owner of real property" is a person who holds a fee simple interest in real property.
- (IV) "Possessor of real property" is a person holding an interest in real property less than a fee simple and who is entitled to take immediate possession or has possession of the property.
- (V) "Buildable area" is the entire area on a lot that falls within all minimum setback and side yard requirements.

- (b) Shading of Buildable Area Prohibited -- It shall be illegal for any owner or possessor of real property to construct a building or to allow foliage to grow to a height that would shade the buildable area of any abutting property between the hours of 9 a.m. and 3 p.m. on December 21, regardless of the zone. The shadow is to be calculated by multiplying the height times 2.1 to find the due north shadow. The 9 a.m. and 3 p.m. shadow will be 4.7 times the height and will be 42 degrees either way of due north. The guidelines will look as follows:

(c) Prior Nonconforming Uses

(I) Owners or possessors of real property on which a building or other structure existed at the time this Ordinance became effective (or on which trees, shrubs or other flora were growing at the time this Ordinance became effective) and which did cast a shadow during the designated hours greater than that allowed by Section B, at the time of the installation of a solar collector, shall not be subject to the provisions of Section B except for meeting the limitations on prior nonconforming uses as specified in Subsection 2 of Section C.

(II) A prior nonconforming use (for a building or other structure) shall not be excepted from the provisions of this Ordinance after it is destroyed to the extent that its Fair Market Value is reduced by at least fifty percent (50%). This Subsection shall not be construed to limit other means of terminating the exemption for nonconforming uses that have been or may be developed through case law.

(d) Variances -- Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree or other flora, or otherwise use his property, not in accordance with this Ordinance, may apply for a variance. A variance shall be allowed in all cases where literal application or enforcement of this Ordinance would result in unnecessary hardship.

(e) Exceptions -- The Zoning Board shall, from time to time, specify which areas of the municipality, if any, are to be excepted from the operation of this Ordinance. Exception shall be based on the existence of high-rise commercial buildings in a concentrated area such that it appears to the Zoning Board, pursuant to expert advice, that solar collectors are unfeasible or impractical in the excepted area for the near future. After such specification is made, it shall be presented to the governing body for ratification or further instructions.

**165.08 FENCE, AND HEDGE REGULATIONS**

(a) Fences and hedges when located within a front, side or rear yard, or within five (5) feet of a lot line shall be subject to the following location and height restrictions:

(I) No portion of a fence more than ten percent (10%) solid shall exceed six (6) feet in height.

(II) Fences and hedges shall be located so no part thereof is within three (3) feet of any alley or five (5) feet of a street right-of-way.

(III) In residential districts, fences within the front yard shall not exceed four (4) feet in height.

(b) Fenced enclosures shall be provided for outdoor swimming pools with a depth of eighteen (18) inches or more, and shall be subject to the following requirements:

- (I) Fences must be at least five (5) feet in height from ground level but not to exceed six (6) feet from the top rim of the pool, and have no spaces that would allow a four (4) inch sphere to pass through.
  - (II) Fences must have a self-closing and self-latching device on the gate.
  - (III) Fences must be located so no part thereof is within three (3) feet of an alley.
- (c) Barbed wire and electric fences shall be subject to the following requirements:
- (I) Barbed wire fences shall not be allowed in residential areas.
  - (II) Barbed wire and electric fences shall be prohibited within five (5) feet of a public sidewalk or within four (4) feet of a street right-of-way where a public sidewalk does not exist.
  - (III) Except for the enclosure of livestock operations, electric fences shall not be permitted in any district.
  - (IV) No electric fence shall carry a charge greater than twenty-five (25) milliamperes nor a pulsating current longer than one-tenth (1/10) per second in a one-second cycle. All electric fence chargers shall carry the seal of an approved testing laboratory.

#### **165.09 SUPPLEMENTARY DISTRICT REGULATIONS**

1. Visibility at Intersection -- On a corner lot in any agricultural or residential district, no fence, wall, hedge or other planting, signs or structure that will obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed, the right-of-way lines as such corner and a straight line joining said right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.
2. Accessory Building and Structures -- No accessory building or structure shall be erected in any yard other than a rear yard and it shall occupy less than thirty percent (30%) of the required rear yard. Accessory buildings and structures shall be limited to fifteen (15) feet in height, and shall be in distance at least five (5) feet from any main buildings or property line.
3. More Than One Principal Structure on a Lot -- In any district, more than one (1) principal structure housing a permitted principal use may be erected on a single lot provided that the area, yard and other requirements of this Code shall be met for each structure as though it were on an individual lot.
4. Height Regulation Exception -- The height limitations contained in the Schedules of District Regulations do not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing, or other structures placed above the roof level and not intended for human use or occupancy.

5. Use of Public Right of Way -- No portion of the public street or alley right of way shall be used, or occupied by an abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this ordinance, or for any other purpose that would obstruct the use or maintenance or the public right of way.
6. Mobile Homes or Trailers -- Mobile homes or trailers occupied as a permanent or temporary place of residence shall be located only in an approved mobile home park. Mobile homes existing on separate parcels at the time of passage of this Chapter shall be either relocated to an approved mobile home park or converted to real estate.
7. Proposed Use Not Covered in this Code -- Any proposed use not covered in this code as a permitted use or special exception shall be referred to the Planning and Zoning Commission for a recommendation as to the proper district in which such use should be permitted and the code amended by the council as provided in Section 31.14 before a permit is issued for such proposed use.
9. Building to Have Access -- Every building hereafter erected or structurally altered shall be on a lot having frontage on a public street.
10. Keeping of Livestock -- The keeping of livestock within 350 feet of a residence, located in an R-1, R-2, R-3, R-4, C-1, C-2 or C-3 district shall be permitted only if said area is kept in a clean and sanitary condition satisfactory to the town health officer.
11. Handicapped and Compact Car Parking -- Where handicapped parking spaces are required by state law, a minimum of two (2) percent of the vehicle capacity of the off-street parking area shall be so designated by the proper signs and insignia. In parking lots with greater than ten stalls, and allowance for compact cars is permitted, for 25% of the stalls the stall width may be reduced by as much as 20%. These stalls must then be designated for compact cars.

#### **165.10 APPLICATION OF DISTRICT REGULATIONS**

1. Regulations to be Uniformly Applied -- The regulations set by this Chapter shall apply uniformly within each district to each class or kind of structure or land, except as hereinafter provided.
2. All Uses and Structures to Conform -- No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
3. Height, Density, or Yards Shall Not be Violated -- No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards, or other open spaced than herein required or in any other manner contrary to the provisions of this code.

4. Separate Yards, Open Space, and Off-street Parking Required -- No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purposes of complying with this code, shall be included as part of a yard, open space, or off-street parking, or loading space similarly required for any other building.
5. Minimum Yards and Lot Areas Shall Not be Reduced -- No yard or lot existing at the time of passage of this code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this code shall meet at least the minimum requirements established by this code.
6. Newly Annexed Area -- All territory which may hereafter be annexed to the town shall be classified in the A-1 Agricultural District until otherwise classified, provided, however, that the Planning and Zoning Commission may recommend the appropriate district classification prior to annexation and the territory upon annexation may be immediately so classified.

#### **165.11 NON-CONFORMING USES**

1. Intent --
  - (a) If within the districts established by this Chapter or amendments that may later be adopted there exist lots, structures, and use of land and structures which were lawful before this code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this code or future amendments, it is the intent of this code to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this code to be incompatible with permitted uses in the districts involved.
  - (b) It is further the intent of the code that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures, signs or uses prohibited elsewhere in the same district.
  - (c) To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this code and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that the demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.
2. Non-conforming Lots of Record --
  - (a) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this code, a single-family dwelling and

customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lots fail to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.

(b) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this code, and if all or part of the lots do not meet the requirements for lot width and area as established by this code, the land involved shall be considered to be an individual parcel for the purposes of this code, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this code nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this code.

3. Non-conforming Uses of Land -- Where, at the effective date of adoption or amendment of this code, lawful use of land exists that is made no longer permissible under the terms of this code as enacted and amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(a) No such non-conforming use shall be enlarged or increased nor extended to occupy a greater use of land than occupied at the effective date of adoption or amendment of this code.

(b) No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this code.

(c) If any such non-conforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this code for the district in which such land is located.

4. Non-conforming Structures -- Where a lawful structure exists at the effective date of adoption or amendment of this code that could not be built under the terms of this code by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be so continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No such structure may be enlarged or altered in a way which increases its non-conformity.

(b) Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this code.

5. Non-conforming Uses of Structures -- If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this code, that would not be allowed in the district under the terms of this code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (a) No existing structure devoted to a use not permitted by this code in the district in which it is located shall be enlarged, extended, constructed, reconstructed or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
  - (b) Any non-conforming use may be extended throughout any 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 such building;
  - (c) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this code;
  - (d) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed;
  - (e) When a non-conforming use of a structure, land or structure and land in combination, is discontinued or abandoned for eighteen (18) consecutive months, the structure thereafter shall not be used except in conformance with regulations of the district in which it is located;
  - (f) Where non-conforming use status applied to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.
6. Repairs or Maintenance --
- (a) On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement value of the building provided that the cubic content of the building as it existed at the time of passage or amendment of this code shall not be increased.



(b) Nothing in this code shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

7. Uses Under Exception Provisions not Non-conforming Uses -- Any use for which a special exception is permitted as provided in this Chapter shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

## **165.12 ADMINISTRATION AND ENFORCEMENT**

1. Administration and Enforcement --

(a) An administrative officer designated by the City Council shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the City Council may direct.

(b) If the administrative officer shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Code to insure compliance with or to prevent violation of its provisions.

2. Appeals from Decision of Administrative Officer -- Appeals from any decision of the administrative officer may be taken to the Board of Adjustment as provided in Section 31.16.

## **165.13 PERMITS AND FEES**

1. Construction Permit -- No buildings shall hereafter be erected, reconstructed or structurally altered nor shall any work be started upon same until a construction permit for same has been issued by the Administrative Officer, which permit shall state that the proposed building complies with all provisions of this Code. This permit is valid for one (1) year following issuance for one- and two- family dwellings and eighteen (18) months for multi-family, commercial and industrial structures.

2. Fees --

(a) The Administrative Officer is directed to issue permits, under the Zoning Ordinance, for the construction, reconstruction or alteration of residential, commercial or industrial buildings, and to charge fees therefore in such amounts as may be established from time to time by resolution of the City Council. Such fees as are required shall be credited to the General Fund of the City of Kalona, Iowa. Building permits shall be issued without charge, however, to:

- (1) The United States Government or any political subdivision thereof, and

- (II) The State of Iowa or any political subdivision thereof, and
- (III) To any religious group for the construction of a church or parochial school.

**165.14 CHANGE OF ZONING DISTRICT TO PLANNED AREA DEVELOPMENT (PAD)**

1. Filing Procedures -- The procedure for obtaining a change of zoning district to PAD shall be as follows:
  - (a) The owner or owners of the tract of land comprising the area may petition the City Council for a change to the PAD Classification. The petition shall be accompanied by written statements providing evidence that the proposed development is compatible with the surrounding area, evidence showing how the owner or owners propose to maintain any common ground included within the development, evidence of the feasibility of providing adequate storm and surface water drainage, water mains and sanitary sewers for the proposed development, and evidence that the developer is capable of successfully completing the proposed development. Six (6) copies of a preliminary plan of the proposed development, shall be submitted with the application, showing the proposed overall population density of the development, and showing in detail the location of all proposed:
    - (I) Buildings and uses, the height and exterior design of typical building units and the number of dwelling units in each;
    - (II) Parking areas;
    - (III) Access drives;
    - (IV) Streets abutting or within the proposed development;
    - (V) Site topographic features;
    - (VI) Landscaping and planting areas;
    - (VII) Required perimeter yards;
    - (VIII) Proposed open-space areas (either to be held in common or publicly, whether to be used for active recreation purposes or only as an environmental amenity);
    - (IX) Existing utility or other easements and proposed utility locations (including gas lines, water lines, and storm sewer and sanitary sewer lines); and
    - (X) Development stages and projected timings for development.

The Petition shall be accompanied by such filing fees as may be established from time to time by Resolution of the City Council. Upon filing, the petition and all attachments shall be referred to the Planning and Zoning Commission for study and report. The Commission shall review the conformity of the proposed development with the Comprehensive Plan for the City and with recognized principles of land use planning. After public hearing, to be held upon fifteen (15) days notice published in a newspaper of general circulation within the City, the Commission may approve or disapprove the preliminary plan and request for rezoning as submitted, or require that the petitioner amend the plan to preserve the intent and purpose of this ordinance to promote public health, safety, and welfare.

- (b) After receiving the Planning and Zoning Commission's recommendations, the City Council shall hold a public hearing, to be held upon fifteen (15) days notice published in a newspaper of general circulation within the City. Subsequent to said hearing, the City Council shall approve or disapprove the application and preliminary development plan. In the event the Planning and Zoning Commission disapproves the plan or, in the case of a protest filed with the City Council against such application and preliminary plan signed by owners of twenty (20) percent or more of those lots within four hundred (400) feet of the proposed development, the application and preliminary plan shall not be approved by the City Council except by favorable vote of three-fourths (3/4) of all members of the City Council. Upon approval of the application and preliminary plan, the City Council shall adopt an ordinance rezoning the area and amending the zoning map to show the PAD District.
- (c) If the City Council approves the application for rezoning and preliminary plan, the applicant shall submit within six (6) months, or such longer period as may be approved by the City Council, six (6) copies of a final development plan covering not less than one stage of the proposed development, which shall show in detail the information required to be shown on the preliminary plan. In addition, the final development plan shall include the following information:
  - (I) If the proposed development includes common land which will not be dedicated to the City, and the proposed development will not be held in single ownership, proposed by-laws of a homeowners' association fully defining the functions, responsibilities, and operating procedures of the association.
  - (II) Dedication of streets and other improvements, including sewers and water mains located therein, which are to become public property of the City of Kalona. Such dedication shall generally be required where the development property is not to remain in single ownership.
  - (III) Performance bond or bonds in an amount not less than the estimated costs of construction and installation of the bonded improvements, which bond or bonds shall insure to the City that the dedicated public streets and utilities, including sewers and water mains located therein and other common development facilities, shall be completed by the developer within the time specified on the final development plan.

- (IV) Covenant to run with the land, in favor of the City of Kalona, that the owner of the land or his successors in interest will maintain all interior streets, parking areas, sidewalks, common land, sewers and water mains, parks and plantings which have not been dedicated to the City of Kalona in compliance with the ordinances of the City of Kalona.
- (V) Any additional easements or agreements required by the City Council at the time of preliminary plan approval.
- (VI) Three (3) copies of a proposed resolution to be adopted by the City Council accepting lands dedicated for public use.
- (VII) A final plat showing building lines, lots or blocks, common land, streets, easements, and other applicable items required by the subdivision ordinance. Following approval of the final plat by the City Council, it shall be recorded with the Washington County Recorder.

The final development plan and required documents shall be referred to the Planning and Zoning commission for review for compliance with the standards of this ordinance and substantial compliance with the preliminary plan. The Commission's recommendations and report on the final development plan shall be referred to the City Council within 30 days. The Council shall review the final development plan and approve it if it complies with the standards of this ordinance and is in substantial compliance with the preliminary development plan. No building permits shall be issued until the final development plan has been approved by Resolution of the City Council.

- (d) A combined preliminary and final development plan may be submitted with an application for rezoning to PAD.
- (e) Upon approval of the final development plan by the City Council it shall be filed with the Zoning Administrator and all building construction permits shall be issued on the basis of conformance with said plan, as well as all applicable state and local codes, regulations, and ordinances. No changes may be made in the approved final development plan during construction of the planned development without consideration and approval by the Planning and Zoning Commission and City Council, and only upon a showing that the changes are required by change in conditions since approval of the final development plan or by changes in the development policy of the City.
- (f) If no construction has begun or no use established in a planned development within one (1) year from the date of approval of the final development plan, the final development plan shall lapse and be of no further effect. In its discretion and for good cause shown, the Planning and Zoning Commission may extend for six (6) additional months the period for the beginning of construction or the establishment of a use. If a final development plan lapses under the provisions of this section, the Zoning Administrator shall remove the planned development from the Zoning Map

and shall record a notice of revocation of the recorded final development plan. The Zoning regulations applicable before the final development plan was approved shall then be reinstated and in effect.

## **165.15 BOARD OF ADJUSTMENT**

1. Creation and Membership -- A Board of Adjustment is hereby established. The Board shall consist of five (5) members to be appointed by the city council to be appointed for a term of five (5) years excepting that when the Board shall first be created one member shall be appointed for a term of three (3) years, one for a term of two (2) years, and one for a term of one (1) year. Members of the Board of Adjustment may be removed from office by the city council for cause upon written charges and after public hearing. Vacancies shall be filled by the city council for the unexpired term of the member affected.
2. Proceedings of the Board of Adjustment -- The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this code. meetings shall be held at the call of the chairman, or in his absence the acting chairman, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

### (3) Hearings, Appeals, Notice --

- (a) Appeals to the Board of Adjustment concerning interpretation or administration of this Chapter may be taken by any person aggrieved or by any officer, department, board or bureau of the governing body of the town affected by any decision of the Administrative Officer. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days by filing with the Administrative Officer and with the Secretary of the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all paper constituting the record upon which the action appealed from was taken.
- (b) The Board of Adjustment shall fix a reasonable time not exceeding 30 days from the date of appeal for the hearing, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time, not exceeding 15 days from the date of the hearing. At the hearing any party may appear in person or by agent or attorney.
- (c) A fee, in such amount as may be established from time to time by resolution of the City Council, shall be paid to the Administrative Officer at the time the appeal is filed. The Administrative Officer shall forthwith pay over such fees to the credit of the General Fund of the City of Kalona, Iowa

- (4) Stay of Proceedings -- An appeal stays all proceedings in furtherance of the action Appealed from, unless the Administrative Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrative Officer from whom the appeal is taken and on due cause.
- (5) The Board of Adjustment: Powers and Duties -- The Board of Adjustment shall have the following powers and duties:
- (a) Administrative Review -- To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this code.
- (b) Special Exceptions: Conditions Governing Applications; Procedures -- To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this code, or to deny special exceptions when not in harmony with the purpose and intent of this code. A special exception shall not be granted by the Board of Adjustment unless and until:
- (I) A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.
- (II) Notice shall be given at least fifteen (15) days in advance of the public hearing by publication in a newspaper of general circulation in the Town of Kalona and shall be mailed to all property owners within a distance of two hundred feet (200') of the affected property.
- (III) The public hearing shall be held. Any party may appear in person, or by agent or attorney.

In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made apart of the terms under which the special exception is granted, shall be deemed a violation of this Chapter and punishable under Section 31.12 of this code. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

- (c) Variances: Conditions Governing Application; Procedures -- To authorize upon appeal in specific cases such variance from the terms of this code as will not be

contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this code would result in unnecessary hardship. A variance from the terms of this code shall not be granted by the Board of Adjustment unless and until:

- (I) A written application for a variance is submitted demonstrating:
  - (A) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  - (B) That literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter:
  - (C) That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other lands, structures, or buildings in the same district. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance; and
  - (D) That the special conditions and circumstances do not result from the actions of the applicant.
- (II) Notice of public hearing shall be given as in section (5) (b) (II) above, and in accordance with the Open Meetings Law.
- (III) The public hearing shall be held. Any party may appear in person, or by agent or by attorney.
- (IV) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- (V) The Board of Adjustment shall make findings that the requirements of Section (5)(c)(I) have been met by the applicant for a variance.
- (VI) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this code, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate Conditions and safeguards in conformity with this Chapter. Violations of such

Conditions and safeguards, when made a part of the terms under which the variance is granted shall be deemed a violation of this code and punishable under Section 31.12 of this code.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this code in the district involved, or any use expressly or by implication prohibited by the terms of this Chapter in said district.

6. Decisions of the Board of Adjustment -- In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have powers of the Administrative Officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant or any matter upon which it is required to pass under this Chapter, or to effect any variation in application of this Chapter.
7. Appeals from the Board of Adjustment -- Any person or persons, or any board, taxpayer, department, board or bureau of the town aggrieved by any decision of the Board of Adjustment may seek review by a court of record within 30 days of such decision, in the manner provided by the laws of the State and particularly by Chapter 414, Code of Iowa.

#### **165.16 INTERPRETATION OF PROVISIONS**

In their interpretation and application, the Provisions of this Chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing higher standards, shall govern.

#### **165.17 VIOLATIONS AND PENALTIES**

1. Any person, firm, or corporation who shall violate, or fail to comply with the provisions of this code shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100.00) or imprisoned not more than thirty (30) days and may be required to pay all costs and expenses involved in the prosecution of the violation. Each day such violation continues shall constitute a separate offense.
2. The owners, or tenant of any building, structure, land or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may each be charged with a separate offense and upon conviction suffer penalties herein provided.
3. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of the



Chapter, the City of Kalona may, in addition to other remedies, institute injunction, mandamus, or other appropriate lawful action necessary to prevent, correct or abate with violation.

## **165.18 CHANGES AND AMENDMENTS**

1. Procedure -- The regulations imposed and the districts created by this Chapter may be amended from time to time by the City Council, but no such amendments shall be made without public hearing before the City Council and after a report upon the amendment from the Planning and Zoning Commission. If the Planning and Zoning Commission makes no report within thirty (30) days from the date of passage of the Councils motion referring the matter to the Planning and Zoning Commission, the City Council may proceed with a public hearing without such report or recommendation. At least seven (7) days notice of the time and place of such hearing shall be published in a newspaper having general circulation in the City of Kalona. In the event the Planning and Zoning Commission recommends disapproval of the change or, in the event of a protest against such change filed with the City Council and signed by the owners of twenty (20) percent or more either of the area of the lots included in proposed change or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto, extending the depth on one lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendment shall not be passed except by the favorable vote of at least three-fourths of all the members of the City Council.
2. Form of Application – An application for rezoning shall contain the following items:
  - (a) The legal description and local address of the property.
  - (b) The present zoning classification and the zoning classification requested for the Property.
  - (c) The existing use and proposed use of the property.
  - (d) The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.
  - (e) A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
  - (f) A plat showing the locations, dimensions, and use of the applicant’s property and all property within two hundred (200) feet thereof, including streets, alleys, railroads, and other physical features.
3. Application Fee – Before any action is taken upon an application as provided in this Article, the applicant shall pay to the Administrative Officer a fee in such amount as may be established by resolution of the City Council. The Administrative Officer shall forthwith pay over such fees to the credit of the General Fund of the City of Kalona, Iowa. The failure to approve an application for rezoning shall not be construed as any reason for refunding the fee to the applicant.

### **165.19 SEVERABILITY**

This Ordinance and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. If any part, sentence, paragraph, sub-section, section or clause is adjudged unconstitutional or invalid as applied to a particular property, building or other structure, it is hereby provided that the application of such portion of the Ordinance to other property, building or structures shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing any conditional use permit, variance, grading permit, zoning compliance permit, certificate of occupancy, site plan approval or designation of nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision hereof, and to protect the public health, safety and welfare, and that the officer or Board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

### **165.20 REPEAL**

The existing zoning regulations of the City of Kalona, being Chapter 121 of the Kalona City Code, as amended, are hereby repealed. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any existing violation of said Chapter 121, as amended, if the violation is also a violation of the provisions of this Ordinance.

(Updated: 2-20-07)