

# City of WAHPETON IOWA



## 2014 ZONING REGULATIONS

Amended March 9, 2020



*Prepared with Planning Assistance from*  
**NorthWest Iowa Planning &**  
**Development Commission**  
*Spencer, Iowa*



# WAHPETON IOWA

# ZONING REGULATIONS

*Prepared with Planning & Technical Assistance By:*

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**CHAPTER 165**  
**WAHPETON, IOWA CODE OF ORDINANCES**

**ZONING ORDINANCE**  
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## **165.01 GENERAL PROVISIONS**

1. Short Title
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3. Repeal and Savings
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5. Jurisdiction
6. Comprehensive Plan Relationship
7. Grading and Filling
8. Keyholing
9. Prohibition on Multiple Dwellings
10. Approved Practices for Low Impact Development
11. Conformance Required

### **Section 1. SHORT TITLE.**

This Chapter shall be known and may be cited and referred to as the Wahpeton Zoning Ordinance to the same effect as if the full title were stated.

### **Section 2. INTERPRETATION OF STANDARDS.**

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements. Where this Chapter imposes greater restrictions than are imposed or required by other provisions of law, rules or regulations, or ordinances; the provisions of this Chapter shall control. This Chapter is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this Chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this Chapter shall govern.

### **Section 3. REPEAL AND SAVINGS.**

Any previous editions of Chapter 165 of the Wahpeton Code of Ordinances are hereby repealed. All existing zoning ordinances and parts of zoning regulations in conflict with this Chapter are hereby repealed. The repeal of said previous zoning regulations shall not have the effect to release or relinquish any penalty, forfeiture or liability incurred under said ordinance or any part thereof, and such ordinance and all parts thereof shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

### **Section 4. VALIDITY AND SEVERABILITY.**

If any court of competent jurisdiction shall declare any part of this Chapter of the Wahpeton Code of Ordinances to be invalid, such ruling shall not affect other provisions of this Chapter not specifically included in said ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this Chapter to a particular land, parcel, lot, district, use, or building, such ruling shall not affect the application of said provision not specifically included in said ruling.

### **Section 5. JURISDICTION.**

In accordance with the provisions of Chapter 414, Code of Iowa and amendatory acts thereto, this Chapter 165 of the Wahpeton Code of Ordinances is adopted by the City Council, governing the zoning of all lands within the incorporated City of Wahpeton, Iowa.

### **Section 6. COMPREHENSIVE PLAN RELATIONSHIP.**



These regulations are designed to implement various elements, goals and policies of the comprehensive land use plan as required by Iowa Code. Any amendment to the district regulations or map shall conform to the comprehensive plan adopted by the City Council.

**Section 7. GRADING AND FILLING.**

Property owners in all areas of the city are advised that those projects involving more than 100 cubic yards (approximately 10 dump truck loads) of fill material requires a Conditional Use Permit approved by the Board of Adjustment (See procedure for obtaining a Conditional Use Permit as specified in Section 165.18). Fill added to any portion of the lot, whether the fill is brought onto the property from offsite or taken from another part of the lot is all considered the same in determining total cubic yards.

**Section 8. KEYHOLING.**

With respect to any parcel of land contiguous to a body of water (whether riparian or not) and situated in a lakefront residential, residential or commercial zoning district, said parcel of land may be dedicated for the purpose of providing access to the body of water, whether by easement, license, dedication, share ownership or declaration to a horizontal property regime, when the access privilege which is to be reasonably enjoyed by owners or occupants of other lots, units or holders of share interests, only if at least twenty-five (25) lineal feet of water frontage shall be reserved therein for each lot, each unit or share interest so served; and provided the land so dedicated shall have at least one hundred (100) feet of water frontage.

**Section 9. PROHIBITION ON MULTIPLE DWELLINGS.**

In order to maintain the character of the community; to limit and control the demand on municipal utilities, infrastructure and services; and to preserve, to the extent possible, the natural attributes of the land and natural resources incorporated in the city no additional multiple dwelling buildings, including apartment buildings, housing cooperatives, or horizontal property regimes (condominiums) are permitted within the corporate limits of the city, as established on the effective date of Ordinance No. 107 (August 17, 2005). From and after the effective date of the ordinance codified by this section, no existing building within the corporate limits shall be converted to a multiple dwelling building.

**Section 10. APPROVED PRACTICES FOR LOW IMPACT DEVELOPMENT.**

Low impact development (LID) measures are not required until the impervious surface of the lot is increased by 500 square feet or more. When there is an increase in excess of 500 square feet in the impervious surface on any lot, storm water management features shall be incorporated in all construction or remodeling activities sufficient to manage and filter a water quantity volume of 1.25 inches of rainfall in a 24 hour period, from the new impervious surface.

This management will capture 90% of pollutants traveling with the water to the lake, wetland or stream. LID practices are ways to capture, infiltrate storm water and reduce a property's contribution to water quality degradation, erosion, and flooding. The LID practice selected needs to be designed by an Iowa certified registered civil engineer, an Iowa registered landscape architect, or by the Dickinson County Soil and Water Conservation District who will oversee and inspect the design being used. Landscapers need to provide for an inspection by a civil engineer or landscape architect. Civil engineers or landscape architects shall submit written approval of

construction. All LID features shall be designed and constructed in accordance with the requirements of the Iowa Storm Water Management Manual.

The key point is that streams, rivers, wetlands, and lakes were historically fed and maintained mostly by groundwater discharge and not by surface runoff. Historically, the hydrology system was infiltration-based and groundwater-driven, we have changed from that to a runoff-driven hydrologic system. Urban landscapes have impervious surfaces such as pavement or rooftops. We also have compacted greenspace, which often features turf on compacted soils, soils that have little or no pore space. If soil is compacted water can't move into and percolate through it. Reducing runoff is the key to restoring a more stable, functional hydrologic cycle and LID practices can play a key role in this goal.

Examples of LID practices: For more examples, see Iowa Storm Water Management Manual.

1. *Rain Gardens*: A rain garden must be located so that runoff moves to it. The area is a level landscaped depression that captures rain water runoff from roofs, driveways, streets or compacted yards made up with highly organic compost, sand and moisture absorbent native plantings.
2. *Bio-Retention Cells*: These are shallow, landscaped depressions with an engineered base to offset compacted soil conditions that can handle large volumes of water. The water is to flow on to the surface of the bio-retention cell and allow water to flow through the soil matrix. Bio-retention cells are well suited in areas that have soils with high clay content.
3. *Soil Quality Restoration*: Deep tillage of subsoil to 12" depth and add 1"-3" of highly organic grass leaf compost and till in again in the opposite direction to the 12" depth. Spread another 1" of compost over the surface and seed or sod the area. This will increase the percolation rate, the rate water moves through the soil profile.
4. *Pervious Pavers*: Pavers designed with a gap between them to allow water to infiltrate into layers of stone placed below the pavers and then into the soil and into the ground below.
5. *Rainwater Harvesting*: The simplest way to do this is to install a rain barrel that captures rooftop water from gutter and downspout method. This water can be used to water your lawns, gardens, and flowers. A 1,500 sq.ft. ranch house sheds about 1,000 gallons per inch of rain, or 60 sq.ft. rooftop = 50 gallons with a 1" rainfall.

#### **Section 11. CONFORMANCE REQUIRED.**

Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this Chapter for the district in which the building or land is located.

# 165.02 ZONING DEFINITIONS.

- 1. General Zoning Definitions
- 2. Specific Land Use Definitions

## Section 1. GENERAL ZONING DEFINITIONS.

For the purpose of interpreting this Chapter, certain words, terms or expressions are herein defined.

- The words “used” or “occupied” also includes intended, designed or arranged to be used;
- The word “lot” also includes the words “plot” or “parcel” and all other words or phrases used to denote an individual building site that complies with the minimum provisions of this Chapter.
- Words used in the present tense include the future;
- Singular number includes the plural and the plural includes the singular;
- The word “may” is discretionary and the word “shall” is always mandatory;
- The word “person” includes a firm, association, organization, partnership, company, trust or corporation as well as an individual;
- The word “includes” means including but is not limited to.

- 1. **ACCESSORY BUILDING.** Any building subordinate to the principal building on the lot, not attached thereto, and used for purposes customarily incidental to the main building. Detached garages are considered accessory buildings.
- 2. **ACCESSORY USE (OR STRUCTURE).** Any use or structure subordinate to the principal use of a building on the same zoning lot as the principal building or use and serving a purpose customarily incidental to the use of the principal building.
- 3. **ADDITION.** Any construction increasing the site coverage, height, length, width, or floor area of a structure.
- 4. **ALLEY.** A public way other than a street, twenty-six (26) feet or less in width, affording secondary means of access to abutting property. An alley shall not be considered a public thoroughfare.
- 5. **ALTERATION, STRUCTURAL.** Any replacement or change beyond ordinary repairs and maintenance in the shape or size or any portion of a building or of the supporting members of a building or structure such as walls, columns, beams, arches, girders, floor joists or roof trusses.
- 6. **APARTMENT.** A room or set of rooms occupied as a dwelling unit as part of a multiple family dwelling; containing cooking and housekeeping facilities for each dwelling unit.
- 7. **ATTACHED.** Having one or more solid continuous walls in common with a principal building, or joined to a principal building by a solid and continuous covered porch or passageway.
- 8. **BASEMENT.** That portion of a building that is either partly or completely below grade. *(Building Officials and Code Administrators (BOCA) Basic/National Building Code)*

9. **BLOCK.** Any property abutting on one side of a street and property lying between the two (2) nearest intersecting or intercepting streets, railroad right-of-way, waterway, golf course, campus, park or other defined boundary.
10. **BUILDING.** Any roofed structure supported by posts, walls, columns, supports or other structures intended for enclosure, shelter, or housing of persons, animals or possessions. When separated by division walls from the ground up without openings, each portion of such structure is deemed a separate building.
11. **BUILDING HEIGHT.** The vertical distance as determined from the lowest ground grade at the building foot print to the highest point of the roofline, excluding chimneys. (**Ord. 165 Updated 165.02(11)**)
12. **BUILDING LINE.** The building footprint established by the setback distance from the front property line, rear lot line and side lot lines as provided in this Chapter.
13. **BUILDING, PRINCIPAL.** The building in which the primary use of the lot or parcel is conducted.
14. **BUILDING WALL.** The wall of the principal building forming a part of the main structure. The foundation walls of porches, decks, steps, retaining walls or similar structures are not considered building walls under the provisions of this Chapter.
15. **CARPORT.** Space for the parking, housing or storage of vehicles which is enclosed on not more than two sides by walls.
16. **COMMERCIAL USE.** Any use or activity operated for profit or compensation.
17. **COMMISSION (OR PLANNING COMMISSION).** The Wahpeton Planning and Zoning Commission.
18. **COMMUNICATIONS TOWER.** An independent structure of a height of more than fifty feet (50) above ground level used for transmitting or receiving wireless communications.
19. **CONDITIONAL USE PERMIT.** A permit issued in view of specified conditions, limitations or restrictions, and which is subject to review or cancellation by the Board of Adjustment.
20. **COURT (OR COURTYARD).** An open, unoccupied, unobstructed space, except for trees, shrubs, statuary or other articles normally considered accessory to landscaping, which is bounded on two (2) or more sides by a building on the same lot.
21. **CURB LEVEL.** The established curb grade adjacent to a lot.
22. **DECK.** A non-roofed structure open on two (2) or more sides projecting from the front, side or rear wall of a building. Decks shall be subject to the required yard setbacks for the district in which the structure is built. Decks are any hard surface on or above the average grade of the ground. Raised patios above the average grade of the adjoining ground shall be defined as a deck.
23. **DETACHED.** Fully separated, above or below ground, from any other structure. Not attached.

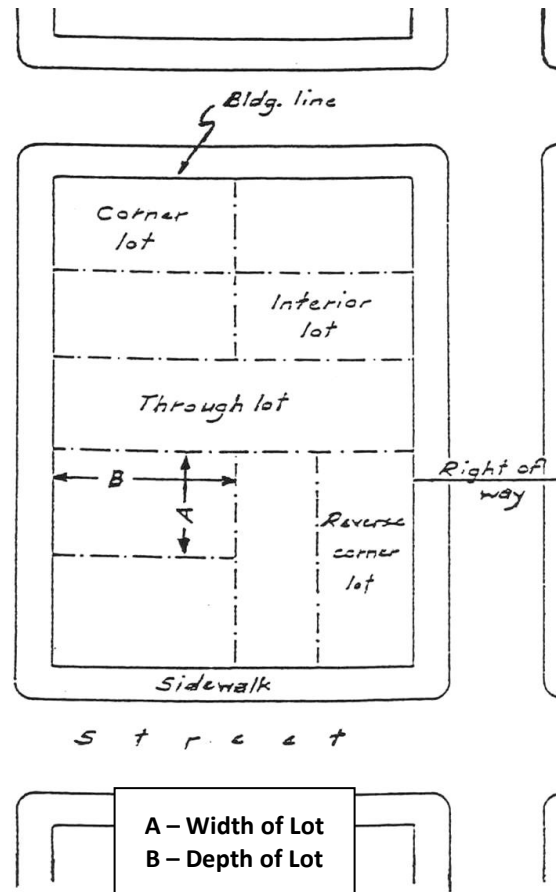
24. DISTRICT. A section or sections of land area depicted on the official zoning map, within which zoning regulations and standards are uniform.
25. DRIVEWAY. A surfaced area providing vehicular access between a street and an off-street parking area or parking structure (i.e. building, garage or carport).
26. DWELLING. A building containing one (1) or more dwelling units designed or used exclusively for residential purposes but not including a tent, cabin, trailer or travel trailer.
27. DWELLING UNIT. One (1) or more rooms in a building used for occupancy by one (1) family as a home or residence for living or sleeping purposes and in which the cooking and sanitary facilities are designed for the use of one family only.
28. DWELLING, SINGLE FAMILY. A detached building that is arranged, designed for, or used exclusively for residential purposes by one (1) single family and containing one (1) dwelling unit. Single Family dwellings have no party walls in common with adjacent buildings.
29. DWELLING, TWO FAMILY. A detached building that is arranged, designed for, or used exclusively as the residence of two (2) families or housekeeping units living independently of each other.
30. DWELLING, MULTIPLE FAMILY. A building or dwelling used by, designed for, or used exclusively for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units.
31. EASEMENT. A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.
32. ENCROACHMENT. Any obstruction of, or an illegal or unauthorized intrusion in a delineated floodway, right-of-way or adjacent lands.
33. ESSENTIAL SERVICES. The erection, construction, alteration or maintenance by public utilities or governmental agencies of underground communication systems and underground or overhead gas, electrical or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in conjunction with and necessary for the furnishing of adequate services by such public utilities, governmental agencies and/or for the public health, safety or general welfare, but not including buildings or certain conditional uses as established by this Chapter.
34. ESTABLISHMENT. A use, building, structure or premises used for business, office or commercial purposes.
35. FAÇADE. The exterior walls of a building exposed to public view or that wall viewed by persons not within the building.
36. FAMILY. An individual or group of individuals related by blood, marriage, guardianship, adoption or foster arrangement living together as a single housekeeping unit in a dwelling unit; and also includes a group of not more than five (5) unrelated persons living together by joint agreement and occupying a dwelling unit on a nonprofit cost sharing basis.

37. FENCE. Any artificially constructed barrier of approved fencing material or combination of materials erected to enclose or screen areas of land. All living fences, hedges, plants, shrubs, bushes or trees are not normally considered “fences” when planted individually. (See also LIVING FENCE definition)
38. GARAGE (PRIVATE). An accessory building or an accessory portion of the main building designed and/or used for the shelter or storage of vehicles owned or operated by the occupants of the main building, or the leasing of space as provided herein. No business or industry connected with the stored motor vehicles shall be carried on within the garage, other than leasing of space.
39. GARAGE (PUBLIC). Means a structure other than a private garage used for the shelter or storage of motor powered vehicles and in which the care, minor servicing, washing, etc. of vehicles is an accessory use.
40. GRADE. The lowest horizontal elevation of a finished surface of the ground, paving, or sidewalk at a point where the height is to be measured.
41. HEIGHT OF BUILDING. See “BUILDING HEIGHT”.
42. HOME OCCUPATION. An accessory business or occupation conducted entirely within a dwelling unit or associated accessory buildings by the inhabitants thereof; and such use is incidental and secondary to the residential use and complies with the provisions of Section 165.11.4. of this Chapter.
43. HOUSE TRAILER. See “MOBILE HOME”.
44. HOUSEHOLD. A family living together in a dwelling with common access to all living and eating areas and all facilities within the dwelling.
45. HOUSING UNIT. See “DWELLING UNIT”.
46. IOWA REGISTERED SURVEY: A plan, map, or other exhibit showing boundary lines and existing structures, and bearing a written statement of accuracy or conformity to specific standards that is signed and sealed by a an Iowa Registered Surveyor. (**Ord. 165 Updated 165.02(16)**)
47. IMPERVIOUS SURFACE: Impervious surfaces are mainly constructed surfaces (including but not limited to) roof tops, sidewalks, driveways, roads, and parking lots covered by impenetrable materials such as asphalt, concrete, brick, stone and gravel. These materials seal surfaces, repel water, and prevent precipitation and melt water from infiltrating soils. (**Ord. 165 Updated 165.02(47)**)
48. INCIDENTAL. Subordinate and minor in significance and bearing a reasonable relationship with the primary or principal use.
49. INSTITUTION. A building or premises occupied by a non-profit corporation or establishment for public use.
50. JUNK (OR SALVAGE). Dilapidated automobiles, trucks, tractors and other such vehicles and parts thereof; wagons and other kinds of vehicles and parts thereof; scrap; used building materials; old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded

rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled machinery and appliances or parts of such machinery or appliances; iron, steel, or other old scrap ferrous materials; scrap contractor's equipment; tanks; casks; cans; barrels; boxes; drums; piping; bottles; glass; old iron; machinery; rags; paper; excelsior; hair; mattresses, beds, or bedding or any other kind of scrap or waste material which is stored, kept, handled or displayed for barter, resale, reuse, salvage, stripping or trade. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

51. **JUNKYARD (or SALVAGE YARD).** The use of a lot or portion thereof for the dismantling or wrecking of motor vehicles or trailers, or the storage, keeping or abandonment of junk, dismantled automobiles or other vehicles, or machinery or parts thereof, including scrap metals, rags or other scrap materials. The presence on any lot, parcel or tract of land, of five (5) or more vehicles which for a period exceeding thirty (30) days have not been capable of operating under their own power, and from which parts have been removed or are to be removed for reuse, salvage or sale, shall constitute prima facie evidence of a junkyard. Junkyards include but not limited to wrecking yards, used lumber yards, auto salvage yards and places utilized or intended for the storage of salvaged and structural steel materials and equipment; but not including those areas where such uses occur entirely within a completely enclosed building. A solid waste transfer station, recycling center or sanitary landfill is not considered a junk yard or salvage yard for purposes of this Chapter.
52. **KITCHEN.** Any room or portion of a building used, intended or designed to be used for cooking and other preparation of food, including any room having a sink and provisions for either a gas or electric stove.
53. **LAND USE.** A description of how land is occupied or utilized.
54. **LANDSCAPED.** An area devoted to or developed predominantly with plant materials or natural features including lawn, gardens, trees, shrubs, and other plant materials; and also including accessory outdoor landscape elements such as pools, fountains, water features, paved or decorated surfaces of rock, stone, brick, block or similar material (excluding driveways, parking, or storage areas).
55. **LIVING FENCE.** The use of any natural plantings, hedges, shrubs, trees or any other living materials used for the intended purpose of screening, blocking or obstructing the views of other properties. When natural plants or living materials are planted to intentionally create a barrier to enclose or screen areas of land, such use of plants or any living materials shall be considered a "fence" and subject to the same regulations as manufactured fences in Section 165.10.7.
56. **LOADING SPACE.** Any off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking (less than twenty-four hours) of a commercial vehicle while loading or unloading merchandise or materials.
57. **LOT.** A parcel of land or two (2) or more contiguous parcels to be used as a unit under the provisions of this Chapter, and having its principal frontage on a dedicated street and may consist of any one of the following:
  - a) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of records.

- b) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this Chapter.
- c) A single lot of record.
58. **LOT AREA.** The net horizontal area bounding by front, side and rear lot lines, providing access to a street and excluding any public or private easement or right-of-way providing access to another lot.
59. **LOT (or BUILDING) COVERAGE.** The area of a lot covered by roofed areas of buildings or ground level paving, but excluding incidental projecting gutters.
60. **LOT, CORNER.** A lot fronting on the intersection of two (2) or more streets and having the street right-of-way about the front and one (1) or more side lines of the lot.
61. **LOT, INTERIOR.** A lot other than a corner or through lot, with only one (1) frontage on a street.
62. **LOT, THROUGH (OR DOUBLE FRONTAGE LOT).** A lot other than a corner lot with frontage on more than one street other than an alley. Lots with frontage on two (2) nonintersecting streets may be referred to as “through” lots.
63. **LOT OF RECORD.** A lot of which is part of a legal subdivision of the City of Wahpeton, the plat of which has been recorded in the office of the County Recorder; or a lot or parcel of land, the deed or valid contract of sale of which was recorded in the office of the County Recorder of Dickinson County, Iowa prior to the effective date of this Chapter.
64. **LOT DEPTH.** The mean horizontal distance between the front and rear lot lines.
65. **LOT WIDTH.** The horizontal distance between the side lot lines. In the case of a lot of irregular shape, the mean width shall be the lot width.
66. **LOT LINES.** The property lines bounding a lot.
67. **LOT LINE, FRONT CORNER.** The front line shall be that property line adjacent to the street upon which the lot has its least dimension.
68. **LOT LINE, FRONT INTERIOR.** The front property line of an interior lot shall be the line bounding the street frontage.
69. **LOT LINE, FRONT LAKESHORE.** In the case of an interior lot abutting only one street, the “front lot line” is the street frontage line of such lot; except on lakefront lots, where the front





lot line is considered to be the line directly adjacent to the lakeshore [above the ordinary high-water mark] for the purposes of this Chapter.

70. **LOT LINE, REAR.** The lot line opposite the front property line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a line not less than ten (10) feet long lying within the lot, and parallel to the front property line. If the front property line is a curved line, then the rear property line shall be assumed to be a line not less than ten (10) feet long lying within the lot and parallel to a line tangent to the front property line at its midpoint.

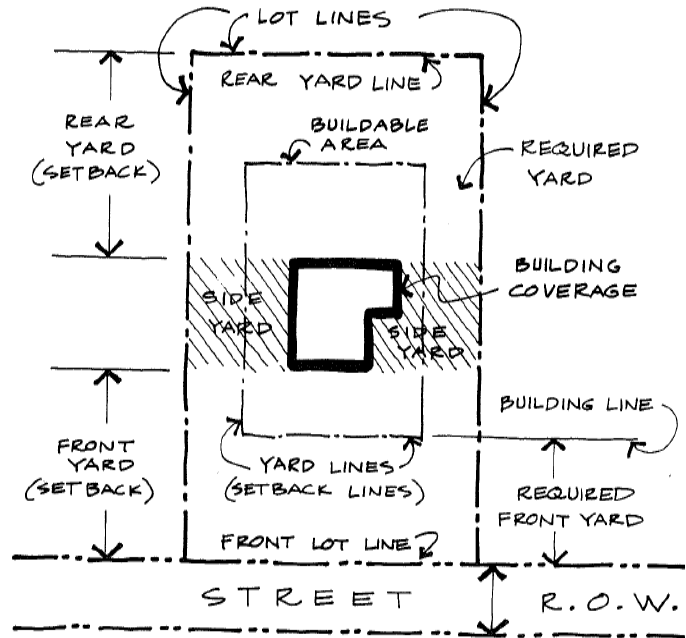


Image Source: *The New Illustrated Book of Development Definitions,*

71. **LOT LINE, SIDE.** Those lot lines connecting the front and rear property lines of a lot.
72. **LOW IMPACT DEVELOPMENT.** The integration of site ecological and environmental standards and requirements into all phases of planning and development from the individual residential lot to the entire watershed. *(Definition derived from the Low Impact Development Center)*
73. **MANUFACTURED HOUSING.** A factory-built structure which is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development certifying that it is in compliance with the Federal Manufactured Housing Construction Act of 1974. *(Code of Iowa, Sec. 435.1)*
74. **MANUFACTURED HOUSING COMMUNITY.** Means the same as land-leased community defined in Sections 335.30A and 414.28A *Code of Iowa*. Any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community. *(Code of Iowa, Sec. 435.1)*

A manufactured home community or mobile home park shall not be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or a mobile home park must be classified as to whether it is a “residential” or “recreational” manufactured home community or mobile home park or both. The manufactured home community or mobile home parks residential landlord and tenant Act, Chapter 562B, *Code of*

*Iowa*, only applies to “residential” manufactured home community or mobile home park. (*Code of Iowa, Sec. 435.1*)

75. **MOBILE HOME.** Any vehicle without motive power used or so manufactured or constructed as to permit it being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals. (*Code of Iowa, Sec. 435.1*) All mobile homes shall be located within a mobile home park. See also Chapter 146 of the Wahpeton Code of Ordinances.
76. **MOBILE HOME PARK.** Any site, lot, field or tract of land upon which two (2) or more occupied mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer, or septic, and electrical services available. (*Code of Iowa, Sec. 435.1*) See also Chapter 146 of the Wahpeton Code of Ordinances.
77. **MOBILE HOME/MANUFACTURED HOUSING CONVERTED TO REAL PROPERTY.** A mobile home or manufactured housing which is located outside a manufactured housing community or a mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases: (*Code of Iowa, Sec. 435.26 & 435.35*)
  - a. **Retailer’s Stock:** Mobile homes or manufactured housing on private property as part of a retailer or manufacturer’s stock not used as a place of human habitation.
  - b. **Existing Homes:** A taxable mobile home or manufactured housing that is located outside of a manufactured housing community or mobile home prior to adoption of the Wahpeton Zoning Ordinance shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement until the home is relocated.
78. **MODULAR HOME.** A Factory-built structure which is manufactured or constructed to be used as a place of human habitation, and is constructed to comply with the Iowa State Building Code for modular factory-built structures, as adopted pursuant to Section 103A.7 *Code of Iowa*, and must display the seal issued by the state building code commissioner. If a modular home is placed in a manufactured housing community or mobile home park, the home is subject to the annual tax as required by Section 435.22 *Code of Iowa*. If a modular home is placed outside a manufactured housing community or mobile home park, the home shall be considered real property and assessed and taxed as real estate. (*Code of Iowa, Sec. 435.1*)
79. **NONCONFORMING USE.** A lawful use of any land, building, or structure, other than a sign, that does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.
80. **NONCONFORMING STRUCTURE (OR BUILDING).** A structure or building in size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the zoning regulations codified in this Chapter, but which fails to conform to present requirements of the zoning district.

81. OCCUPANCY (or OCCUPIED). The residing of an individual or individuals overnight in a dwelling unit or the storage or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.
82. OPEN SPACE. Any parcel or area of land essentially unimproved and set aside, designated or reserved for the use or enjoyment of the owners, occupants, neighbors or the general public. Such open space is not occupied by structures or impervious surfaces.
83. ORDINARY HIGH WATER MARK (OHWM). See Part 12.1(l) of Section 165.10 Supplemental District Regulations of this Chapter for the definition of Ordinary High Water Mark on West Lake Okoboji.
84. PARKING AREA (PUBLIC). An open area together with driveways, aisles, turning and maneuvering areas, clearances, and similar features used for the temporary parking of more than four (4) automobiles and is available for public use whether free or for compensation.
85. PARKING SPACE. An area other than a street or alley reserved for the parking of an automobile. Such space having a dimension not less than ten feet (10') by twenty feet (20') (200 sq. ft.), plus such additional area as is necessary to afford adequate ingress-egress. Where four (4) or more automobile parking spaces are to be grouped as a common facility meeting a requirement of this Chapter, the individual car spaces, plus the area necessary for driveways, shall total not less than three hundred fifteen (315) square feet per car space.
86. PATIO. A patio is any hard surface area at the average grade of the ground projecting from the front, side or rear wall of a building. Existing patios shall not be used in determining the line of sight.
87. PERMANENT FOUNDATION. A manufactured home located outside of a manufactured housing community shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundations systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code. (*Code of Iowa, Sec. 103A.10 & 414.28*)
88. PLANNED UNIT DEVELOPMENT (PUD): An area of minimum contiguous size, specified in this Chapter, developed according to plan as a single entity and containing one or more structures or land uses with appurtenant or adjacent common areas.
89. PORCH, OPEN: A roofed structure, open on two (2) or more sides, projecting from the front, side or rear wall of the building.
90. PREMISES. A lot or tract of land and any structure located thereon.
91. PROHIBITED USE. Any use that is not permitted in a zoning district.
92. PROPERTY. A lot, parcel, or tract of land together with the buildings and structures located thereon. See also "PREMISES".

93. PUBLIC NOTICE. The publication of the time and place of any public hearing not less than seven (7) days or not more than twenty (20) days prior to the date of said hearing in one newspaper of general circulation in the city.
94. PUBLIC THOROUGHFARE. See “STREET”.
95. RECREATIONAL VEHICLE. A vehicle or structure towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. Recreational vehicles shall be customarily or ordinarily used for, but is not limited to vacationing, recreational purposes, travel trailers, pickup campers, camping trailers, motor coach homes, converted trucks and buses, boats and boat trailers, and snowmobiles. Recreational vehicles are not intended as a place of permanent human habitation.
96. RECREATIONAL VEHICLE PARK. Any lot, tract or parcel of land licensed and used or offered for use in whole or in part, with or without charge, for the parking of occupied travel trailers, pickup campers, converted buses, tent trailers, tents or similar devices used for temporary portable housing and used solely for living and/or sleeping purposes.
97. RESIDENTIAL CONVENIENCE SERVICE: A use or activity of a commercial nature conducted as an accessory use to multiple-family residential or mobile home park residential use, and intended solely for the convenience of residents thereof.
98. RESIDENTIAL PURPOSES. The intent to use and/or the use of a room or group of rooms for the living, sleeping and housekeeping activities for persons on a permanent or semi-permanent basis of an intended tenure of one (1) month or more. It is the intent of this definition to restrict rental of residential property. Guest houses shall not be rented independent of the principal dwelling.
99. SALVAGE YARD: See “JUNKYARD”.
100. SETBACK. The building restriction lines nearest the front, side and rear of a lot establishing the minimum distances to be provided between the buildings or structures located on said lot and the nearest property line.
101. SITE. See “LOT”.
102. SITE DEVELOPMENT REGULATIONS. The combinations of controls that establish the maximum size of a building and its location on the lot. Components of bulk regulations include: size and height of building; location of exterior walls at all levels with respect to lot lines, streets, or other buildings; building coverage; gross floor area of building in relation to the lot area; open space; and amount of lot area provided per dwelling unit.
103. SITE PLAN. A plan, prepared to scale, showing accurately and with complete dimensions, all of the buildings, structures and uses, and principal site development features including parking, access, and landscaping and screening proposed for a specific parcel of land.
104. SOLAR ENERGY EQUIPMENT. Any equipment, including the use of elevated, plate or canopy solar panels or a combination thereof that captures and converts solar radiation into power. Solar energy equipment shall include, but not limited to, flat plate solar collector, focusing solar collectors, photovoltaic solar cells, and any lines, pumps, batteries, mounting

brackets, framing and other ancillary equipment needed for the use and operation of solar energy collection.

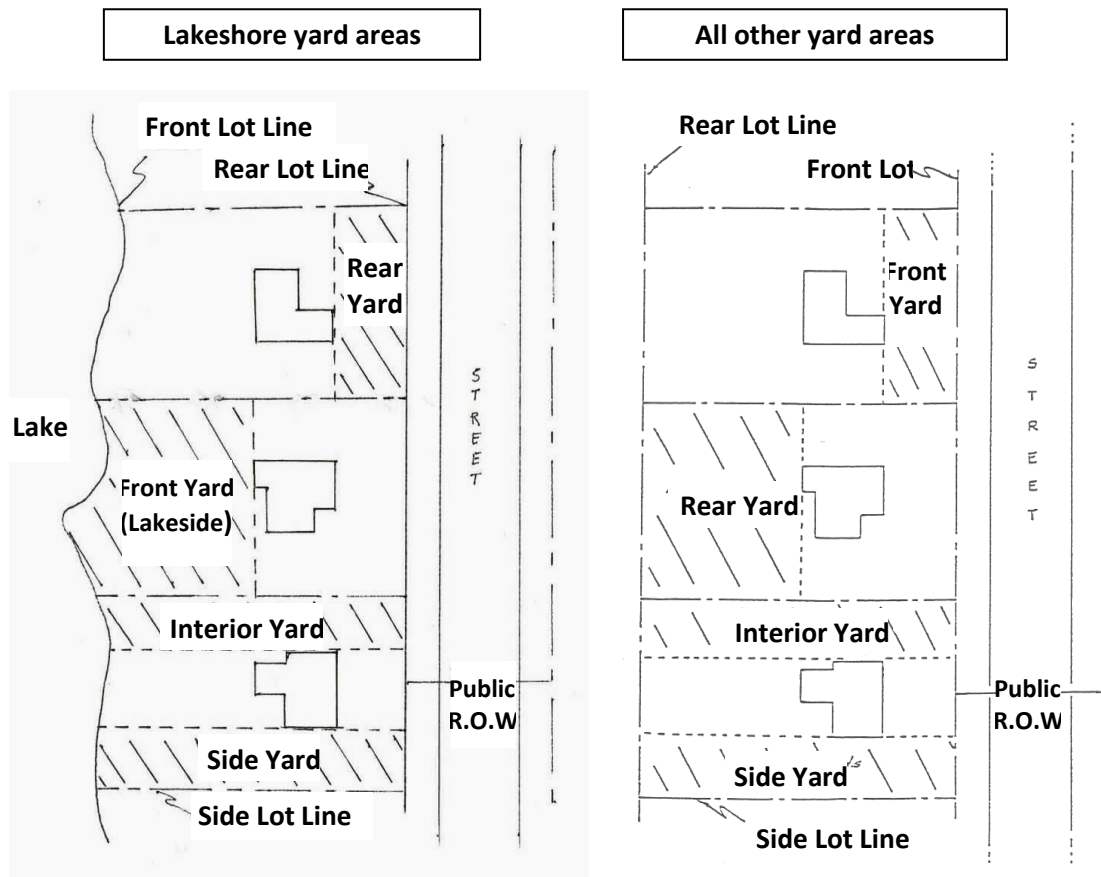
105. SPOT ZONING. Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the city's comprehensive plan.
106. STORY. That portion of a building between the surface of any floor and the surface of the floor next above. If there is no floor above it, then the space between such floor and the ceiling above it shall be considered a story.
107. STREET. A public or private thoroughfare that affords the principal means of access to abutting property.
108. STREET LINE. A dividing line between any lot, tract or parcel of land and a contiguous street. See also "LOT LINE, FRONT".
109. STRUCTURAL ALTERATIONS. See "ALTERATIONS, STRUCTURAL".
110. STRUCTURE. Anything built, constructed, moved, erected or located on or within a fixed location on the ground or attached to something having a permanent location on the ground. Structures include buildings, walls, fences, signs, towers, tanks and billboards. Structures shall not include a sidewalk, utility poles, street signs, street light fixtures, other public items or tombstones.
111. SUBDIVISION. A division of a lot, tract or parcel of land into three (3) or more lots, plats, or sites for the purpose, whether immediate or future, of sale, lease, conveyance or transfer with the appurtenant streets, alleys and easements, dedicated or intended to be dedicated to public use or for the use of purchasers or owners within the tract subdivided. If a new street is involved, any division of a parcel of land or the division into two (2) or more parts of any residential lot shall be deemed a subdivision.
112. SUBSTANDARD LOT (or NONCONFORMING LOT). A lot of record that does not comply with currently applicable minimum area, width, or depth requirements for the district in which it is located, but which complied with applicable requirements when it was placed on record prior to the enactment of this Chapter. (See also Definitions 79 and 80)
113. TEMPORARY STRUCTURE. A structure without any foundation or footings and is removed when the designated time period, activity or use has ceased.
114. TENT. Any structure or enclosure, the roof or one-half or more of the sides of which are of silk, cotton, canvas, or any light material, either attached to a building or structure or unattached.
115. TRAVEL TRAILER. See "RECREATIONAL VEHICLE".
116. TRAVEL TRAILER PARK. See "RECREATIONAL VEHICLE PARK".
117. USE. The conduct of an activity or the performance of a function or operation, on a site or in a building or facility.
  - a. PRINCIPAL USE. Any use which is the primary function of a lot or structure.

- b. **PERMITTED USE.** Any use permitted as a matter of right when conducted in accordance with the regulations established by this Chapter; of which fulfills the primary function of a household, establishment, institution, or other entity.
- c. **CONDITIONAL USE.** A use allowable solely on a discretionary basis subject to a conditional use permit, and to all other regulations established by this Chapter.
- d. **ACCESSORY USE.** A use or activity located on the same lot and of a nature customarily incidental and subordinate to the principal use or building on the same site.

118. **VACANT (OR VACANCY).** Any unoccupied land, structure, or part thereof available or suitable for occupancy.

119. **VARIANCE.** The relaxation of the terms of the zoning regulations where such variance will not be contrary to the public interest and where, owing to conditions and peculiarity of the property and not the results of actions of the applicant, a literal enforcement of the zoning regulations would result in an unnecessary and undue hardship. A variance is intended to alleviate hardships on bulk regulations, setbacks, height, parking, signage, and other areas of this ordinance. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

120. **YARD.** An open space, other than a court, on the same lot adjoining a lot line, unoccupied and unobstructed from the ground upward, except for landscaping or as otherwise provided in this Chapter. In measuring a yard for the purpose of determining the depth of a front or rear



yard or the width of a side yard, the least distance between the lot line and the nearest principal building shall be used. A yard shall be measured exclusive of any dedicated or undedicated right-of-way.

*For yard area images on Page 15:*

*Note 1: A front yard can refer to both a street front yard and a lakeside front yard.*

*Note 2: An interior yard and side yard both refer to side yard areas. An interior yard is only that side yard space adjoining another lot or property. A side yard may be an interior or corner yard*

*Note 3: A side yard on a corner lot may also be referred to as “corner side yard” or “corner front yard”*

- a. **FRONT YARD.** An area of yard extending across the full width of a lot and measured between the front lot line and the building wall or other supporting elements, other than the typical projection of gutters.
  - b. **INTERIOR YARD.** An area of yard, not adjacent to a street, which is determined on the basis of an interior lot line.
  - c. **REAR YARD.** An area of yard extending across the full width of a lot and measured between the rear lot line and the building or other supporting elements, other than the typical projection of gutters. On both corner lots and interior lots the opposite end of the lot from the front yard shall be considered the rear yard.
  - d. **SIDE YARD.** An area of yard extending the depth of a lot from the front yard to the rear yard and measured between the side lot line and the nearest principal building.
121. **ZERO LOT LINE.** A development concept wherein a wall, typically a side wall, of the building is located directly on or immediately adjacent to the property line of the real property.
122. **ZONE.** Any one of the classes of districts established by this Chapter.
123. **ZONING.** The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.
124. **ZONING ADMINISTRATOR.** The individual appointed by the City Council of Wahpeton to administer and ensure compliance with these zoning regulations and issue permits.
125. **ZONING MAP.** An ordinance in map form adopted by the governing body that conclusively shows the location of zoning district boundaries, proposed streets, public areas, and other data referencing the distinction and separation of zoned land uses.
126. **ZONING PERMIT.** A permit issued and enforced by the Zoning Administrator as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building; acknowledging the proposed use, building, or structure complies with the provisions of the zoning ordinance, conditional use or authorized variance.

## **Section 2. SPECIFIC LAND USE DEFINITIONS.**

The purpose of land use definitions is to provide a consistent set of terms encompassing and defining uses permitted by right or conditional use in the zoning districts, and to provide a procedure for determination of the applicable use classification of any activity not clearly within any defined land use definition. In the event of any question as to the appropriate land use definition of any existing or proposed use or activity, the Zoning Administrator shall have the authority to determine the appropriate definition, subject to the right of appeal pursuant to Section 165.15.9. of this Chapter. In making such determination, the Zoning Administrator shall consider the characteristics of the land use in question, and consider any function, product, service, or physical requirements common with similar uses cited as examples of land use definitions.

### **2.1 AGRICULTURE & CONSERVATION LAND USE DEFINITIONS.**

1. *Agriculture*: The use of land for agricultural purposes, including animal husbandry, agriculture, dairying, farming, floriculture, forestry, groves, horticulture, orchards, poultry husbandry, ranching, viticulture, and the necessary accessory uses for packing, treating or storing the produce; however, the operation of the accessory uses shall be subordinate to that of the normal agricultural activities.
2. *Agricultural Animal Husbandry*: The raising and/or care of cattle, swine, poultry, horses, goats or similar other farm animals. Agricultural animals, not including usual domesticated pets such as dogs, cats, rabbits, etc., shall only be allowed within the city limits of Wahpeton under conditional use permit by the Board of Adjustment.
3. *Agricultural Storage Buildings*: Buildings or structures used and intended for the housing, storage and maintenance of machinery, equipment, supplies, products, and vehicles used for agricultural purposes. This does not include the use of buildings for rent or profit, or any commercial purposes for non-agricultural related vehicles including recreational vehicles.
4. *Conservation Areas*: Environmentally sensitive and valuable lands protected from intense land use that may alter the ecological integrity, balance or character, except in overriding public interest, including but not limited to wetlands, floodways, floodplains, drainage ways, river or stream banks, and areas of significant biological uniqueness.
5. *Critical Area*: A natural feature in need of preservation from encroaching land uses. Such areas may include, but not limited to sensitive or prime agricultural soils as defined by the Natural Resource Conservation Service (NRCS), areas of excessive slope, natural marshes, sloughs, fens, woodlands, and floodplains as defined by FEMA.
6. *Crop Production*: The raising and harvesting of tree crops, row crops, or field crops on an agricultural or commercial basis, including incidental packing and processing.
7. *Farm*: An area used for the growing of the usual farm products such as vegetables, fruits, seed crops, crops and grains and their storage on the premises, as well as necessary accessory uses for treating or storing produce; provided the operation of accessory uses shall be secondary to the normal farming activities and provided further that farming does not include the commercial feeding or housing of animals or poultry.
8. *Farm Dwelling, Principal*: A dwelling located on a farm and occupied by the owner, operator of the farm or renter.
9. *Farm Dwelling, Support Housing*: The occupancy of residential living accommodations by one (1) agricultural employee and their family on the same property as the principal permitted residence,



without regard to duration, which occurs exclusively in association with the performance of agricultural labor on the same property as the support housing.

10. *Stables*: means the following:

- a. Private. A building or structure used, or intended to be used, for housing horses belonging to the owner of the property and for noncommercial purposes.
- b. Public and Riding Academy. A building or structure used, or intended to be used, for the housing only of horses on a fee basis. Riding instructions may be given in connection with a public stable or riding academy.
- c. Riding Club. A building or structure used, or intended to be used, for the housing only of horses by a group of persons for non-commercial purposes.

11. *Undeveloped or Unimproved Land*: Land in its natural state before development.

12. *Wetland*: An area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

13. *Wildlife Management Area/Preserve*: Areas designated for the protection and sustaining of wildlife habitat in which human activities are limited and the natural environment is protected.

14. *Water Control Structures, Irrigation or Retention Basins*: Those man-made structures are intended to direct and/or control the water flow, drainage and percolation rate to aid in the prevention of flooding or to direct water away from tillable agricultural land. These structures do not apply to Low Impact Development (LID) measures required on properties.

## **2.2 RESIDENTIAL LAND USE DEFINITIONS.**

1. *Apartment*: A room or set of rooms, occupied as a dwelling unit, which is part of a multi-family structure containing cooking and housekeeping facilities for each dwelling unit.

2. *Condominium Residential*: The use of a site for three (3) or more dwelling units intended for separate ownership, together with common area serving all dwelling units; whereas the structure, common areas and facilities are owned by all of the owners on a proportional, undivided basis.

3. *Family Home (as per Chapter 414.22 Iowa Code)*: A community based residential home which is licensed as a residential care facility under Chapter 135C of the Iowa Code or as a child foster care facility under Chapter 237 of the Iowa Code to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight (8) persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under Chapter 237 of the Iowa Code.

4. *Group Residential*: The residential occupancy of living accommodations by groups of more than five (5) persons not defined as a family on a weekly or longer basis. Typical uses include but not limited to fraternity or sorority houses, dormitories, halfway houses or residence halls or group lodging for non-profit organizations.

5. *Mobile Home or Manufactured Housing*: The residential occupancy of mobile homes or manufactured housing by families on a weekly or longer basis. Uses only include mobile home parks or subdivisions and manufactured housing communities.

6. *Multiple Family Residential*: The use of a site for three (3) or more dwelling units, within one or more buildings.
7. *Relocated Residential*: An existing, previously built residential structure, intended for occupancy, which has been moved into the community from a location outside of Wahpeton, or an existing residential structure is relocated from another location from within the City of Wahpeton to a new residential site. A relocated residential structure does not include the moving of a new manufactured, modular or mobile home into the city. Relocated residential properties shall submit a route plan, photographs of the building to be moved, and a building permit prior to moving a building or structure. Any relocated residential dwelling or structure shall only be allowed after approval of a Conditional Use permit by the Wahpeton Board of Adjustment.
8. *Residential Cottage or Cabin*: A typically small residential dwelling unit used solely for the vacationing owner's or proprietor's occupancy during seasonal or short periods of time, and not used as a residence for the entire year.
9. *Residential Healthcare Facilities*: Any residential care service, intermediate care facility or skilled nursing home defined as:
  - a. *Residential Care Services*: A use, other than a hospital or convalescent facility, providing care for ambulatory persons in a residential setting, including overnight occupancy or extended care.
  - b. *Assisted Living Facility*: Residences for primarily senior or retired persons providing dwelling units, housekeeping, meals, personal care, and supervision of self-administered medication. Assisted living facilities may also provide other services and are sometimes combined with other housing options such as congregate housing, senior housing, or residential care.
  - c. *Nursing or Convalescent Home*: A building or structure containing sleeping rooms where persons are housed or lodged and are furnished with meals and nursing care for hire
10. *Single Family Residential*: The use of a site for only one (1) single family dwelling unit.
11. *Townhouse Residential*: The use of a site for three (3) or more townhouse dwelling units, constructed with common or adjacent walls and each located on a separate ground parcel within the total development site.
12. *Two Family Residential*: The use of a site for two (2) dwelling units on a single lot or parcel.

### **2.3 COMMERCIAL LAND USE DEFINITIONS.**

1. *Administrative and Business Offices*: Office of private firms or organizations primarily used for the provision of executive, management, or administrative services. Typical uses include but not limited to administrative offices, real estate, insurance, property management, investment, personnel, travel, secretarial services, telemarketing, photocopy and reproduction, and offices of public utilities or associations.
2. *Adult Entertainment*: Establishments meeting the criteria of and in conformance with the regulations outlined in Section 165.11.7. of this Chapter.
3. *Agricultural Sales and Services*: Establishments engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include but not limited to nurseries, hay, feed and grain stores, and tree service firms.
4. *Automotive Repair Services*: Repair of automobiles, noncommercial truck, motorcycles, motor

homes, recreational vehicles or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include but not limited to new and used car dealerships, motorcycle, boat, trailer, and recreational vehicle dealerships.

5. *Automotive Sales or Rental*: Sales or rental of automobiles, noncommercial truck, motor homes, motorcycles, recreational vehicles or boats; including storage, maintenance, and servicing. Typical uses include but not limited to new and used car dealerships, motorcycle dealerships, boat, trailer and recreational vehicle dealerships.
6. *Automotive Washing*: Washing and cleaning of automobiles, related light equipment, and trucks. Typical uses include but not limited to car washes or truck washes. Does not include large truck cleanouts or wash outs.
7. *Automobile Wrecking Yard*: Any lot, or any portion of a lot, for the dismantling or wrecking of automobiles, farm machinery, or motor vehicles; or for storage or sale of parts and equipment resulting from such dismantling or wrecking. (See also “Junkyard”)
8. *Bar*: Any establishment or place of business whose principal business is serving alcoholic beverages for consumption on the premises; and where music, entertainment, or both may be provided to patrons of the establishment. Food may also be served as an incidental service. Adult entertainment dancing or specified sexual activities shall be prohibited from any bar not classified as an adult entertainment business. Typical uses may include but not limited to cocktail lounge, tavern, night club, and other social drinking establishments.
9. *Business Support Services*: Establishments primarily engaged in the provision of maintenance and custodial services to other businesses, along with businesses engaged in the sale, rental or repair of equipment and supplies used by professional establishments. Typical uses include but not limited to janitorial, maintenance and cleaning services, office equipment supply, business machine repair, or hotel equipment and supply firms.
10. *Business or Trade School*: A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.
11. *Community Center*: A place, structure, or other facility used for and providing fraternal, social, recreational or other non-profit or governmental programs generally open to the public and designed to accommodate and serve various segments of the community.
12. *Commercial Auction Yards and Barns*: A place or structure where primarily, but not exclusively, livestock, fowl, poultry or other animals are offered for sale for profit to persons who bid in competition with each other.
13. *Commercial Off-Street Parking*: Parking of motor vehicles on a temporary basis within privately owned off-street parking facility, other than accessory to a principal use. Uses include commercial parking lots or parking garages.
14. *Commercial Recreation*: Establishments or places primarily engaged in the provision of sports, entertainment, or recreation. The following are commercial recreation use types:
  - a. *Indoor Entertainment and Recreation*: Uses conducted within an enclosed building. Typical uses include but not limited to bowling alleys, ice and roller skating rinks, arcades, movie theatres, meeting halls, dance halls.
  - b. *Outdoor Entertainment and Recreation*: Uses conducted in open or partially enclosed or screened facilities. Typical uses include but not limited to sporting arena, swimming pools, tennis courts, racquetball courts, racing facilities, go-kart track, amusement part, drive-in

theater, miniature golf course, or driving range.

15. *Communications Services*: Establishments primarily engaged in the provision of broadcasting and information relay services accomplished through the use of electronic and telephonic mechanisms but exclude those classified as Major Utility Facilities. Typical uses include but not limited to communications tower, telecommunication services; radio, television, cellular and other similar antennas, towers, or structures; and fiber optic lines and transmission facilities.
16. *Condominium Storage Unit*: A building or series of buildings in which the storage units or floor area is owned independently; and whereas the structure and property is owned by all of the owners on a proportional, undivided basis or by single ownership. These storage units are designed for individually owned indoor storage of RVs, boats, watercrafts, snowmobiles, motorcycles, automobiles, antiques, toys, trailers, record storage or other similar uses. Condominium storage must be designed in a way that each unit maintains a separate entrance.
17. *Construction Sales and Services*: Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale, from the premises, of materials used in construction of building or other structures other than retail sale of paint, fixtures and hardware; but excludes those classified as one of the automotive and equipment services use types. Typical uses include but not limited to building materials stores, tool and equipment rental or sales, or building contractors.
18. *Consumer Repair Services*: Establishments primarily engaged in repair services to individuals or households rather than firms, but excluding automotive and equipment uses. Typical uses include but not limited to appliance repair, watch/jewelry repair, or musical instrument repair.
19. *Convenience Storage*: Storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include but not limited to mini-warehousing.
20. *Convenience Store*: an establishment engaged in the retail sale of food and household products, including gasoline. However, the repair, storage or servicing of vehicles shall be prohibited.
21. *Equipment Repair Services*: Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include but not limited to truck repair garages, farm implement repair services, and machine shops but exclude dismantling or salvage.
22. *Equipment Sales*: Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes and similar heavy equipment, including incidental storage and servicing. Typical uses include but not limited to truck dealerships, construction equipment dealerships, farm implement dealerships and mobile home sales establishments.
23. *Financial Services*: Establishments primarily engaged in the provision of financial and banking services. Typical uses include but not limited to banks, savings and loan institutions, loan and lending activities, and similar services.
24. *Funeral Services*: Establishments engaged in undertaking services such as preparing the human dead for burial, arranging, and managing funerals. Typical uses include but not limited to funeral homes, crematoriums or mortuaries.
25. *Gas Station*: See “Service Station” or “Convenience Store”.
26. *General Retail Sales*: Sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified more specifically in this section. Typical uses include but not limited to department stores, apparel stores, food or grocery stores, delicatessens, meat

markets, bakeries, candy shops, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products, drugs, cards, and stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys and handcrafted items; apparel, jewelry, fabrics, and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, carpeting and floor covering, interior decorating services, office supplies; bicycles; and automotive parts and accessories (excluding service and installation)

27. *Golf Course*: Land area and buildings containing golf course, club house, restaurant and lounge, swimming pool and tennis courts, and other services or buildings typically associated with the operation of a golf course or country club.
28. *Health Club or Health Recreation*: Privately owned for-profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments that may include exercise equipment, locker rooms, whirlpool spa or sauna and pro shop.
29. *Hospital*: An institution or facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an inpatient basis and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.
30. *Kennel, Commercial*: The keeping of any dogs, cats or other domesticated animals, regardless of number, for sale, breeding, boarding or treatment purposes, except in an animal hospital, grooming parlor or pet shop, as permitted by law; or the keeping of five (5) or more animals, six (6) months or older, on premises used for residential purposes, or the keeping of more than one (1) dog on vacant property or on property used for business or commercial purposes.
31. *Laundry Sales*: Establishments primarily engaged in the provision of laundering, dry cleaning, or dyeing services other than those classified as Personal Services. Typical uses include but not limited to bulk laundry and cleaning facilities, diaper services, or linen supply services.
32. *Liquor Sales*: Establishments or places of business engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include but not limited to liquor stores, bottle shops, or any licensed sales for off-site consumption.
33. *Medical Clinics/Offices*: A use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by doctors, dentists, chiropractors, medical and dental laboratories, and similar practitioners of medical and healing arts licensed for practice by the State of Iowa.
34. *Nursery*: The use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.
35. *Personal Improvement Services*: Establishments primarily engaged in the provision of informational, instructional, personal improvement and similar services of nonprofessional nature. Typical uses include but not limited to photography studios, driving schools, health or physical fitness studios or dance studios.
36. *Personal Services*: Establishments or places of business primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include but not limited

to beauty and barbershops, seamstress, tailor, shoe repair, and self-service laundromat or apparel cleaning services.

37. *Pet Services*: Retail sales and grooming of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include but not limited to pet stores, animal bathing facilities, or pet grooming shops.
38. *Professional Office*: Any building or use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar licensed professions.
39. *Restaurant*: A use engaged in the preparation and retail sales of food and beverages, including sale of alcoholic beverages when conducted as an accessory or secondary feature and producing less than fifty percent (50%) of the gross income. A restaurant may include live entertainment. Typical uses include but not limited to restaurants, bar & grills, soda fountains, ice cream parlors, sandwich shops, cafes, and coffee shops.
40. *Service Station (Automotive)*: A retail place of business having pumps and/or storage tanks from which liquid fuel and/or lubricants are dispensed directly into the motor vehicle. Sales and installation of auto accessories, washing, polishing, inspecting and cleaning may be carried on incidental to the sale of such fuel and lubricants.
41. *Shopping Center*: A grouping of retail business and/or service uses on a single site with common parking facilities.
42. *Tattoo parlor or Tanning salon*: Any business or establishment incorporating the use of tattooing, permanent ink, body piercing, tanning booths, tanning beds or other similar uses.
43. *Vehicle Storage*: Long term storage of operating or non-operating vehicles, including but not limited to automobiles, trucks, heavy equipment, motorcycles, boats or recreation vehicles. Typical uses include but not limited to parking lots, paid long term storage or sales lots, tow-a-ways or impound yards, excluding dismantling or salvage.
44. *Veterinary Services*: Veterinary services for animals. Typical uses include but not limited to pet clinics, dog and cat hospitals, and veterinary hospitals.
45. *Visitor Habitation*: establishments primarily engaged in the provision of lodging services on a less-than-monthly basis with or without incidental food, drink and other sales and services intended for the convenience of guests. The following are visitor habitation use types:
  - a. *Campground*: Facilities or an area providing spaces for two (2) or more travel trailers, recreational vehicles, camping trailers, or tent sites for temporary occupancy with necessary incidental services, sanitation and recreation facilities to serve the traveling public. Typical uses include but not limited to campgrounds or recreational vehicle parks.
  - b. *Hotel-Motel*: A building occupied as the temporary residence of individuals who are lodged, with or without meals, and in which there are six (6) or more sleeping rooms or suites of rooms with no provisions made for cooking in any individual room or suite of rooms, and entrance is through a common lobby or office. Other such accessory uses associated with a hotel-motel may include a swimming pool, restaurant, meeting/conference rooms, management office and quarters for the use of operating personnel.
  - c. *Bed & Breakfast Inn*: A private, owner-occupied housing unit or portion thereof where short term lodging and meals are provided for guests for rent to the general public. The only meal to be provided to guests is breakfast, and it shall only be served to those taking lodging in the facility. Individual units designed to be rented shall contain no cooking facilities.

- d. *Boarding House*: A building, other than a hotel, where for compensation, meals and lodging are provided for four (4) or more persons not defined as a family.
  - e. *Resort Enterprise*: Any group of buildings containing guest rooms offered for rent primarily for temporary occupancy (typically less than 31 days or one (1) calendar month). Such buildings may include quarters for the boarding of employees.
  - f. *Commercial Cottage*: A single dwelling unit rented to the general public for periods of time not less than 31 days or one (1) calendar month.
  - g. *Time-share*: The ownership of any structure by three (3) or more unrelated persons not belonging to the same family, in which occupancy of typically a week or longer by shared owners occurs at varying times throughout the year.
  - h. *Tourist Park*: Any lot or property upon which three (3) or more single family camp cottages, or two (2) or more trailers, or any combination of tourist cottages or tourist home or trailers are located and maintained for the accommodation of transients, whether a charge is or is not made.
46. *Wind Energy Device*: Any device such as a wind charger, windmill, wind generator or wind energy conversion system (WECS) which converts wind energy to a form of useable energy.

#### **2.4 INDUSTRIAL LAND USE DEFINITIONS.**

1. *Custom Manufacturing*: Establishments primarily engaged in the on-site production of goods by hand manufacturing which involves the use of hand tools or mechanical equipment and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include but not limited to ceramic studios, candle making shops or custom jewelry.
2. *Heavy Industry*: A use engaged in the processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes utilizing flammable or explosive materials; or storage or manufacturing processes which potentially involve hazardous or commonly recognized offensive conditions.
3. *Light Industry*: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
4. *Research and Production Services*: Establishments primarily engaged in research of an industrial or scientific nature, including animal or human products testing. Typical uses include but are not limited to animal or human research laboratories, research and development firms, or animal or human pharmaceutical research labs.
5. *Resource Extraction*: A use involving the on-site extraction of surface mineral products or natural resources. Typical extractive uses are, but not limited to quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.
6. *Sanitary Landfill*: An area of land designated for the disposal of garbage, refuse, waste, rubbish, and other solid or semisolid materials, of which are buried between layers of earth.
7. *Scrap and Salvage Services*: Businesses primarily engaged in the storage, sale, dismantling or other processing of used or waste materials not intended for reuse. Typical uses include but not limited to auto wrecking, automotive scarp or storage yards, junkyards or salvage yards.

8. *Stockyards*: Stockyard services involving the temporary keeping of livestock for slaughter, market or shipping. Typical uses include but not limited to animal stockyards, animal sales or crop or animal auction yards.
9. *Warehousing and Distribution*: Establishments or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment other than live animals and plants. Typical uses include but not limited to wholesale distributors, storage warehouses, moving companies, stone yards, grain elevators or open storage yards.

## **2.5 CIVIC OR PUBLIC LAND USE DEFINITIONS.**

1. *Cemetery*: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbiums, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.
2. *Club or Lodge*: A use providing meeting, recreational, or social facilities for private or non-profit association, primarily for use by members and guests. Typical uses include but not limited to private social clubs and fraternal organizations.
3. *Cultural Services*: A library, museum, art gallery, or similar nonprofit use affording display, preservation and exhibition of objects of permanent interest in one or more of the arts and sciences.
4. *Daycare Center*: A facility, or use of any dwelling or building or portion thereof, for the daytime care of seven (7) or more individuals. This term may include but not limited to daycare centers for children or adults, and similar uses.
5. *Detention Facilities*: A use providing housing and care for individuals confined by law.
6. *Dump (also Tree Dump or Green Waste Site)*: A premises used for the disposal of clean type fill or refuse such as dirt, rocks, cans, tree branches and similar materials, but not including organic matter of any type such as garbage or dead animals or portions thereof.
7. *Educational Facilities*: Public, private or parochial schools, nonprofit institution or facility that offers instruction at the elementary, secondary and collegiate levels.
8. *Government Buildings/Services*: Offices, administrative, clerical, governmental, or public services that deal directly with citizens. Typical uses include but not limited to federal, state, county, and city offices, postal facilities, or other public or non-profit organizations directly benefiting the general public.
9. *Local Utility Services*: Essential services necessary to support principal development and involve only minor structures such as lines and poles, control devices, junction boxes, and other ancillary utilities necessary to support principal development.
10. *Major Utility Facilities*: Generating plants, electrical switching facilities and primary substations, refuse collection or disposal facilities, water and wastewater treatment plants and similar facilities of public use or firms having potentially significant impact upon surrounding uses.
11. *Park and Recreation Services*: Publicly or privately owned parks, playgrounds, recreation areas, open spaces, and swimming pools.
12. *Pre-Kindergarten, Preschool, or Nursery School*: An establishment enrolling children, where for compensation, supplemental parental care of children and/or educational work, other than overnight care, is provided for children typically under the age of six.



13. *Religious Assembly*: Any use located in a permanent building and providing regular organized religious worship and religious education incidental thereto, but excluding primary or secondary educational facilities. Such Religious Assembly uses may include, but not limited to, church camps, religious retreats, facilities for temporary or seasonal religious worship, etc.
14. *Safety Services*: Facilities for public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.
15. *Treatment Services*: A use providing counseling, guidance, recuperative, vocational, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a residential or daytime basis.

**165.03 ZONING DISTRICTS AND OFFICIAL MAP**

- 1. Intent
- 2. Districts
- 3. Official Zoning Map
- 4. Map Replacement and Amendment
- 5. Boundaries
- 6. Interpretation of District Boundaries
- 7. Road or Public Right-of-Way Vacation
- 8. Zoning of Annexed Areas

**Section 1. INTENT.**

The City Council shall cause to be prepared and approved, an official zoning districts map showing the various districts, which may be changed or corrected from time to time as recommended by the Planning Commission and enacted by the City Council.

**Section 2. DISTRICTS.**

For the purpose of this Chapter, the City of Wahpeton is hereby divided into five (5) districts or zones as follows:

- R Residential District
- LF Lake Frontage Residential District
- C Commercial District
- I Institutional District
- A Agricultural District

**Section 3. OFFICIAL ZONING MAP.**

The city is hereby divided into districts as 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. The official zoning map shall be on file in a convenient place in the municipal office of the city and all references hereafter to said official map described herein above. If in accordance with the provisions of this Chapter, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the governing body. No amendment to this Chapter involving matters portrayed on the official zoning map shall become effective until after such change and entry has been made on said map.

**Section 4. MAP REPLACEMENT AND AMENDMENT.**

In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of use, the City Council may by resolution adopt a new official zoning map to supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. Amendments, supplements, or changes of the boundaries of districts as shown on the official zoning map shall be made by an ordinance amending these zoning regulations. The amending ordinance shall refer to the official zoning map and shall set out the identification of the area affected by legal description, and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the city clerk as other ordinances and a certified copy thereof be attached to the official zoning map. Such amendatory ordinance shall,

however, not repeal or reenact said map, but only amend it. The official zoning map, together with amending ordinances, shall be the final authority as to the current zoning status of land areas, buildings, and other structures in the city.

**Section 5. BOUNDARIES.**

The boundaries of the zoning districts are indicated and established as shown upon maps designated as the official zoning map of Wahpeton, Iowa, which, with all their notations, designations, references, and other matters shown thereon, are as much a part of these zoning regulations as if fully described and set forth herein.

**Section 6. INTERPRETATION OF DISTRICT BOUNDARIES.**

Where uncertainty exists as to a district's boundaries of any of the previously mentioned districts, the following rules shall apply:

1. Boundaries approximately following the center lines of streets, highways, alleys or other public rights-of-way and are not dimensioned otherwise, the lot lines of streets, highways, alleys and other public rights-of-way shall be construed to be the boundary of the district;
2. Boundaries approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines;
4. Boundaries approximately following city limits shall be construed as following such lines;
5. Boundaries 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 as following such center lines.
6. Boundaries parallel to or extensions of features indicated in subsections 1-5 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map the Board of Adjustment shall interpret the district boundaries.

**Section 7. ROAD OR PUBLIC RIGHT-OF-WAY VACATION.**

Whenever any road, street, or other public right-of-way is vacated by the official action of the City Council, the zoning district(s) adjoining each side of such road or public right-of-way shall automatically extend to the center of such vacation and all areas included in such vacation shall then and thereafter be subject to all appropriate regulations of the extended districts.

**Section 8. ZONING OF ANNEXED AREAS.**

Any land annexed to the city after the effective date of this Chapter shall automatically be assigned the zoning classification of R- Residential District until such a time the annexed land may be reviewed by the Planning Commission, in which the commission will recommend to the City Council to approve a zoning classification that best represents the use of the land being annexed. Said final zoning classification shall be reviewed within six (6) months of date of annexation.

## 165.04 R - RESIDENTIAL DISTRICT

1. Intent
2. Principal Permitted Uses
3. Conditional Uses
4. Permitted Accessory Uses
5. Site Development Regulations
6. Additional Requirements
7. Off Street Parking
8. Sign Regulations
9. Supplemental District Regulations
10. Zoning Permits Required

### Section 1. INTENT.

The R- Residential District is intended to provide for residential development of only single family and two family homes as defined in Section 414.22, Code of Iowa, designed to maintain, protect, and preserve a character of development with relatively low density housing and customary accessory buildings.

### Section 2. PRINCIPAL PERMITTED USES.

Within the R- Residential District, unless otherwise provided, no building or land shall be used for other than one or more of the following principal permitted uses.

Residential Uses	Civic Uses	Agriculture/Conservation Uses
Residential Cottage or Cabin Single Family Residential Two Family Residential Family Home	Park and Recreation Services Pre-Kindergarten, Preschool, or Nursery School Government Buildings/Services Local Utility Services	Conservation Areas Critical Areas Crop Production Undeveloped/Unimproved Land Wetlands Wildlife Management Areas/ Preserves Water Control, Irrigation or Retention Basins

### Section 3. CONDITIONAL USES.

The following uses and structures are allowed subject to specific conditions and requirements as approved by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Residential Uses	Civic Uses
Relocated Residential (Single or Two Family only)	Daycare Center Educational Facilities Major Utility Facilities Religious Assembly Safety Services

**Section 4. PERMITTED ACCESSORY USES.**

Permitted accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use.

1. Essential Services.
2. Private garage or carport.
3. Normal accessory buildings and structures for a dwelling such as swimming pools, children’s playhouses, radio and television receiving antennas, barbecue pits, playground equipment, tennis courts, etc.
4. Normal accessory buildings and structures for public recreation areas such as refreshment stands, playground equipment, all-weather shelters, tennis courts, barbecue pits, etc.
5. Domestic animals such as cats, dogs, birds, tropical fish, etc. Horses, cows, sheep, chickens, etc., normally considered farm or wild and untamed animals shall be excluded except as otherwise provided for in this Chapter.
6. Flower and vegetable gardening for noncommercial purposes.
7. Greenhouses and horticultural nurseries for noncommercial purposes.
8. Home occupations in accordance with Section 165.11.4.
9. Customary accessory buildings and structures incidental to permitted uses; however the storage of unlicensed and/or inoperable vehicle for more than three months is prohibited.

**Section 5. SITE DEVELOPMENT REGULATIONS.**

The following minimum requirements shall be provided for light and open space around permitted and conditional uses, buildings and structures in the R- Residential District; and subject to the Supplemental District Regulations.

Minimum Lot Area -	9,000 square feet for Single Family dwellings 12,500 square feet for Two Family dwellings 43,560 square feet (1 acre) for all other uses
Minimum Lot Width -	75 feet – Single Family dwellings 100 feet – Two Family dwellings 150 feet – All other uses
Maximum Height -	35 feet maximum height Except that no structure shall be permitted to extend into approach zones, clear zones or other restricted air space required for the protection of any airport.
Front Yard -	35 feet or line of sight, whichever is greater for all uses
Rear Yard -	35 feet - required setback for residential dwellings 50 feet - required setback for all other uses
Side Yard -	5 feet - required setback for residential dwellings 25 feet - required setback for all other uses

Street Side Yard - (Corner Lot)	35 feet - required setback for residential dwellings 50 feet - required setback for all other uses
Minimum Open Space -	35% of the total lot area Said space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks and ingress-egress drives; and ingress-egress drives shall not exceed two (2) twenty (20) foot lanes separated by open space.
Residential Density -	Not more than one (1) principal residential building per lot

The dimensions shown above for Front Yard, Side Yard and Rear Yard shall pertain to the required “setback” of a structure from the front, side and back lot lines. “Structure” includes, but is not limited to, not only the structure proper but all associated appurtenances, both attached and unattached, such as roof overhangs, entrance landings and stairs, decks, patios, porches, garages, gazebos, utility buildings, fire pits, flag poles, statues, and air conditioners, etc. The required setback shall also apply to hard-surfaced drives, except when they terminate at the lot line as is the case when a driveway is extended to the street right-of-way for access.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements. Any sidewalk constructed within a side yard setback shall be at least two (2) feet from the side lot line. A sidewalk shall be no wider than four feet (4’) and only one sidewalk shall be permitted from the front to rear yard.

All residential dwelling units must be constructed in compliance with the Minimum Requirements for Residential Structures regulations outlined in Section 165.11.5. of this Chapter. Furthermore, Manufactured or mobile homes placed in residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa.

**Section 6. ADDITIONAL REQUIREMENTS.**

1. In this district, no swamp or marshland that retains water seasonably or permanently shall be filled, graded, or dredged, unless approved by the Board of Adjustment.
2. In order to protect the lakes from the entry of petroleum products, rubber tire particles, sand, salt, and other debris; no street, driveway, or parking lot shall be constructed so as to drain directly into the lakes and canals.
3. No construction shall be undertaken resulting in covering more than sixty-five percent (65%) of any parcel of land with an impervious surface. When there is an increase in the impervious surface of a lot in excess of 500 square feet, storm water management features shall be incorporated in all construction or remodeling activities, sufficient to manage and filter a water quantity volume of 1.25 inches of rainfall in a twenty-four (24) hour period. Storm water management features shall utilize infiltration elements to provide for the maximum filtration of suspended solids, to maximize detention time and to reduce the amount and period of runoff, all pursuant to the Iowa Storm Water Management Manual and certified by an Iowa registered

engineer, an Iowa registered landscape architect, or by the Dickinson County Soil and Water Conservation District.

4. Provisions shall be made to accommodate the increased runoff caused by soil and surface conditions during and after development.
5. Surfacing of vegetation, re-grading or other development shall be done in such a manner as to minimize soil erosion for construction during the growing season. Seeding temporary vegetation or other surface control measures shall be applied to minimize soil erosion on land exposed for a period of more than thirty (30) days.

**Section 7. OFF-STREET PARKING.**

Off-street parking and loading requirements shall apply to activities in the R- Residential District in accordance with the provisions of Section 165.12. of this Chapter.

**Section 8. SIGN REGULATIONS.**

Sign regulations shall apply to activities in the R- Residential District in accordance with the provisions of Section 165.13. of this Chapter.

**Section 9. SUPPLEMENTAL DISTRICT REGULATIONS.**

Supplemental District Regulations governing open space, lot of record, building lines, yard regulations, decks, steps, patios, fences, living fences, street frontage, residential yard continuity, height exceptions, and landscaping and excavation of lakeshore property above the ordinary high water mark shall apply to activities in the R- Residential District in accordance with the provisions of Section 165.10. of this Chapter.

**Section 10. ZONING PERMITS REQUIRED.**

Zoning permits shall be required in accordance with the provisions of Section 165.15.3. of this Chapter.

# 165.05 LF – LAKE FRONTAGE RESIDENTIAL DISTRICT

1. Intent
2. Principal Permitted Uses
3. Conditional Uses
4. Permitted Accessory Uses
5. Site Development Regulations
6. Additional Requirements
7. Septic Tanks, Wells and Cesspools
8. Off Street Parking
9. Sign Regulations
10. Supplemental District Regulations
11. Zoning Permits Required

**Section 1. INTENT.**

The LF-Lake Frontage Residential District consists of property for primarily single family residential use. Because of the uniqueness of this water-abutting district, in any instance in which any regulation of the LF District conflicts with other provisions of this Chapter, the LF District regulations shall prevail.

**Section 2. PRINCIPAL PERMITTED USES.**

Within the R-Residential District, unless otherwise provided, no building or land shall be used for other than one or more of the following principal permitted uses.

Residential Uses	Civic Uses	Agriculture/Conservation Uses
Residential Cottage or Cabin Single Family Residential Family Home	Park and Recreation Services Local Utility Services	Conservation Areas Critical Areas Undeveloped/Unimproved Land Wetlands Wildlife Management Areas/ Preserves

**Section 3. CONDITIONAL USES.**

The following uses and structures are allowed subject to specific conditions and requirements as approved by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Residential Uses	Civic Uses	Agriculture/Conservation Uses
Relocated Residential (Single Family only)	Government Buildings/Services Major Utility Facilities Religious Assembly	Water Control, Irrigation or Retention Basins

**Section 4. PERMITTED ACCESSORY USES.**

Permitted accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use.



1. Essential services.
2. Private garage or carport.
3. Normal accessory buildings and structures for a dwelling such as swimming pools, children’s playhouses, radio and television receiving antennas, barbecue pits, playground equipment, tennis courts, etc.
4. Normal accessory buildings and structures for public recreation areas such as refreshment stands, playground equipment, all-weather shelters, tennis courts, barbecue pits, etc.
5. Domestic animals such as cats, dogs, birds, tropical fish, etc. Horses, cows, sheep, chickens, etc., normally considered farm or wild and untamed animals shall be excluded except as otherwise provided for in this Chapter.
6. Flower and vegetable gardening for noncommercial purposes.
7. Greenhouses and horticultural nurseries for noncommercial purposes.
8. Home occupations in accordance with Section 165.11.4.
9. Customary accessory buildings and structures incidental to permitted uses; however the storage of unlicensed and/or inoperable vehicle for more than three months is prohibited.

**Section 5. SITE DEVELOPMENT REGULATIONS.**

The following minimum requirements shall be provided for light and open space around permitted and conditional uses, buildings and structures in the LF- Lake Frontage Residential District; and subject to the Supplemental District Regulations.

Minimum Lot Area -	9,000 square feet for Single Family dwellings 9,000 square feet for all other uses
Minimum Lot Width -	75 feet – Single Family dwellings 75 feet – All other uses
Maximum Height -	35 feet maximum height except no structure shall extend into approach zones, clear zones or other restricted air space required for the protection of any airport.
Front Yard -	35 feet or line of sight, whichever is greater for all uses Note: the front property line shall be the line bounding the “ordinary high water mark” or the lake side property line.
Rear Yard -	35 feet - required setback for residential and all other uses Note: the rear property line shall be line bounding the street or other public right-of-way. This is the property line opposite the lake side of the lot.
Side Yard -	5 feet - required setback for residential dwellings and all other uses
Street Side Yard - (Corner Lot)	35 feet - required setback for residential dwellings and all other uses
Minimum Open Space -	35% of the total lot area

Said space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks and ingress-egress drives; and ingress-egress drives shall not exceed two (2) twenty (20) foot lanes separated by open space.

Residential Density - Not more than one (1) principal residential building per lot

The dimensions shown above for Front Yard, Side Yard and Rear Yard shall pertain to the required “setback” of a structure from the front, side and back lot lines. “Structure” includes, but is not limited to, not only the structure proper but all associated appurtenances, both attached and unattached, such as roof overhangs, entrance landings and stairs, decks, patios, porches, garages, gazebos, utility buildings, fire pits, flag poles, statues, and air conditioners, etc. The required setback shall also apply to hard-surfaced drives, except when they terminate at the lot line as is the case when a driveway is extended to the street right-of-way for access.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements. Any sidewalk constructed within a side yard setback shall be at least two (2) feet from the side lot line. A sidewalk shall be no wider than four feet (4’) and only one sidewalk shall be permitted from the front to rear yard.

All residential dwelling units must be constructed in compliance with the Minimum Requirements for Residential Structures regulations outlined in Section 165.11.5. of this Chapter. Furthermore, Manufactured or mobile homes placed in residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa.

#### **Section 6. ADDITIONAL REQUIREMENTS.**

1. In this district, no swamp or marshland that retains water seasonably or permanently shall be filled, graded, or dredged, unless approved by the Board of Adjustment.
2. In order to protect the lakes from the entry of petroleum products, rubber tire particles, sand, salt, and other debris; no street, driveway, or parking lot shall be constructed so as to drain directly into the lakes and canals.
3. No construction shall be undertaken resulting in covering more than sixty-five percent (65%) of any parcel of land with an impervious surface. When there is an increase in the impervious surface of any lot in excess of 500 square feet, storm water management features shall be incorporated in all construction or remodeling activities, sufficient to manage and filter a water quantity volume of 1.25 inches of rainfall in a twenty-four (24) hour period. Storm water management features shall utilize infiltration elements to provide for the maximum filtration of suspended solids, to maximize detention time and to reduce the amount and period of runoff, all pursuant to the Iowa Storm Water Management Manual and certified by an Iowa registered engineer, an Iowa registered landscape architect, or by the Dickinson County Soil and Water Conservation District.

4. Provisions shall be made to accommodate the increased runoff caused by soil and surface conditions during and after development.
5. Surfacing of vegetation, re-grading or other development shall be done in such a manner as to minimize soil erosion for construction during the growing season. Seeding temporary vegetation or other surface control measures shall be applied to minimize soil erosion on land exposed for a period of more than thirty (30) days.

**Section 7. SEPTIC TANKS, WELLS AND CESSPOOLS.**

See Dickinson County Board of Health Regulations, which are incorporated herein by reference.

**Section 8. OFF-STREET PARKING.**

Off-street parking and loading requirements shall apply to activities in the LF- Lake Frontage Residential District in accordance with the provisions of Section 165.12. of this Chapter.

**Section 9. SIGN REGULATIONS.**

Sign regulations shall apply to activities in the LF- Lake Frontage Residential District in accordance with the provisions of Section 165.13. of this Chapter.

**Section 10. SUPPLEMENTAL DISTRICT REGULATIONS.**

Supplemental District Regulations governing open space, lot of record, building lines, yard regulations, decks, steps, patios, fences, living fences, street frontage, residential yard continuity, height exceptions, and landscaping and excavation of lakeshore property above the ordinary high water mark shall apply to activities in the LF- Lake Frontage Residential District in accordance with the provisions of Section 165.10. of this Chapter.

**Section 11. ZONING PERMITS REQUIRED.**

Zoning permits shall be required in accordance with the provisions of Section 165.15.3. of this Chapter.

# 165.06 C – GENERAL COMMERCIAL DISTRICT

- 1. Intent
- 2. Principal Permitted Uses
- 3. Conditional Uses
- 4. Permitted Accessory Uses
- 5. Site Development Regulations
- 6. Additional Requirements
- 7. Off Street Parking
- 8. Sign Regulations
- 9. Supplemental District Regulations
- 10. Zoning Permits Required

**Section 1. INTENT.**

The intent of the C- General Commercial District is one designed to provide the commercial uses necessary for the proper development of the community. Furthermore, within the General Commercial District, it is the intent of this district to provide for a variety of retail, commerce and service-oriented commercial establishments easily accessible to vehicular or pedestrian traffic, while also recognizing and permitting the interspersed single family residential and multi-family dwelling units.

**Section 2. PRINCIPAL PERMITTED USES.**

Within the C- General Commercial District, unless otherwise provided, no building or land shall be used for other than one or more of the following principal permitted uses.

Commercial Uses		Civic Uses
Administrative/Business Offices	Personal Services	Cultural Services
Business Support Services	Pet Services	Educational Facilities
Community Center	Professional Offices	Government Buildings/Services
Commercial Off-Street Parking	Restaurant	Local Utility Services
Consumer Repair Services	Visitor Habitation	Parks and Recreation Services
Financial Services	- Bed & Breakfast Inn	Religious Assembly
Funeral Services	- Boarding House	Safety Services
Golf Course	- Campground	
Health Club or Health Rec.	- Commercial Cottage	
Personal Improvement Services	- Hotel/Motel	
	- Resort Enterprise	

Note: The City of Wahpeton will not permit timeshare properties within the city limits either as a permitted or conditional use.

**Section 3. CONDITIONAL USES.**

The following uses and structures are allowed subject to specific conditions and requirements as approved by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Commercial Uses		Residential Uses
Automotive Repair Services	Gas Station	Family Home
Automotive Sales or Rental	General Retail Sales	Group Residential
Automotive Washing	Kennel, Commercial	Residential Cottage or Cabin
Bar	Indoor Entertainment/Recreation	Residential Healthcare Facilities
Outdoor Entertainment/Recreation	Laundry Sales	- Residential Care Services
Communication Services	Liquor Sales	- Assisted Living Facility
Condominium Storage Unit	Medical Clinics/Offices	- Nursing or Convalescent Home
Convenience Storage	Nursery	Single Family Residential
Convenience Store	Shopping Center	Two Family Residential
Construction Sales and Services	Tattoo Parlor or Tanning Salon	
Equipment Repair Services	Vehicle Storage	<b>Civic Uses</b>
Equipment Sales	Veterinary Services	Club or Lodge
Garage, Mechanical	Wind Energy Device	Daycare Center
		Dump (Tree Dump/Green Waste)
		Major Utility Facilities
		Pre-Kindergarten, Preschool or Nursery School
		Religious Assembly

**Section 4. PERMITTED ACCESSORY USES.**

Permitted accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use.

1. Essential Services
2. Private garage or carport.
3. Normal accessory buildings and structures such as pools, tennis courts, playhouses, radio/television receiving antennas, barbecue pits, playground equipment, etc.
4. Normal accessory buildings and structures for public recreation areas such as refreshment stands, playground equipment, all-weather shelters, tennis courts, barbecue pits, etc.
5. Customary accessory buildings and structures incidental to permitted uses; however the storage of unlicensed and/or inoperable vehicle for more than three months is prohibited.
6. Water retention ponds and stormwater basins.
7. Temporary buildings for uses incidental to construction, in which buildings shall be removed upon the completion or abandonment of construction and in compliance with Section 165.11.3.
8. Any other commercial use type that is not listed as a permitted use in the same district, and complies with all the following criteria.
  - a. Operated primarily for convenience of employees, clients or customers of the principal use.
  - b. Occupies less than 10 percent of the total floor area of the principal use.
  - c. Located and operated as an integral part of the principal use; not as a separate business use.

**Section 5. SITE DEVELOPMENT REGULATIONS.**

The following minimum requirements shall be provided for light and open space around permitted and conditional uses, buildings and structures in the C- General Commercial District; and subject to the Supplemental District Regulations.

Minimum Lot Area -	9,000 square feet for all uses
Minimum Lot Width -	75 feet for all uses
Maximum Height -	35 feet maximum height, except that no structure shall extend into approach zones, clear zones or other restricted air space required for the protection of any airport.
Front Yard -	35 feet - required setback for all uses
Rear Yard -	35 feet - required setback for all uses
Side Yard -	10% of the lot width, but no less than 8 feet required setback
Street Side Yard - (Corner Lot)	35 feet - required setback for all uses
Minimum Open Space -	35% of the total lot area

Any building or land use in the Commercial District which abuts upon the lakeshore of West Okoboji shall comply with the following: On each lot there shall be provided an open space equal to at least thirty-five percent (35%) of the total lot area; said space shall be unencumbered with any structure, cement, blacktop or hard-surface or used as off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks. Ingress-egress drives shall not exceed two twenty (20) foot lanes separated by open space.

The dimensions shown above for Front Yard, Side Yard and Rear Yard shall pertain to the required “setback” of a structure from the front, side and back lot lines. “Structure” includes, but is not limited to, not only the structure proper but all associated appurtenances, both attached and unattached, such as roof overhangs, entrance landings and stairs, decks, patios, porches, garages, gazebos, utility buildings, fire pits, flag poles, statues, and air conditioners, etc. The required setback shall also apply to hard-surfaced drives, except when they terminate at the lot line as is the case when a driveway is extended to the street right-of-way for access.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

**Section 6. ADDITIONAL REQUIREMENTS.**

1. In this district, no swamp or marshland that retains water seasonably or permanently shall be filled, graded, or dredged, unless approved by the Board of Adjustment.
2. In order to protect the lakes from the entry of petroleum products, rubber tire particles, sand, salt, and other debris; no street, driveway, or parking lot shall be constructed so as to drain directly into the lakes and canals.

3. No construction shall be undertaken which would result in covering more than sixty-five percent (65%) of any parcel of land with an impervious surface.
4. When there is an increase in the impervious surface of any lot in excess of 500 square feet, storm water management features shall be incorporated in all construction or remodeling activities, sufficient to manage and filter a water quantity volume of 1.25 inches of rainfall in a twenty-four (24) hour period. Storm water management features shall utilize infiltration elements to provide for the maximum filtration of suspended solids, to maximize detention time and to reduce the amount and period of runoff, all pursuant to the Iowa Storm Water Management Manual and certified by an Iowa registered engineer, an Iowa registered landscape architect, or by the Dickinson County Soil and Water Conservation District.
5. Provisions shall be made to accommodate the increased runoff caused by soil and surface conditions during and after development.
6. Surfacing of vegetation, re-grading or other development shall be done in such a manner as to minimize soil erosion for construction during the growing season. Seeding temporary vegetation or other surface control measures shall be applied to minimize soil erosion on land exposed for a period of more than thirty (30) days.
7. Setback Requirements. If the property is located on West Lake Okoboji, the setback shall be a minimum of thirty-five (35) feet back from the lake, but shall not be closer to the lake than a line established by the requirements set forth in Section 165.10.10. Residential Yard Setback Continuity.
8. A minimum room size of fifty (50) square feet per occupant for motel or resort businesses.

**Section 7. OFF-STREET PARKING.**

Off-street parking and loading requirements shall apply to activities in the C-General Commercial District in accordance with the provisions of Section 165.12. of this Chapter.

**Section 8. SIGN REGULATIONS.**

Sign regulations shall apply to activities in the C-General Commercial District in accordance with the provisions of Section 165.13. of this Chapter.

**Section 9. SUPPLEMENTAL DISTRICT REGULATIONS.**

Supplemental District Regulations governing open space, lot of record, building lines, yard regulations, decks, steps, patios, fences, living fences, street frontage, residential yard continuity, height exceptions, and landscaping and excavation of lakeshore property above the ordinary high water mark shall apply to activities in the C- Commercial District in accordance with the provisions of Section 165.10. of this Chapter.

**Section 10. ZONING PERMITS REQUIRED.**

Zoning permits shall be required in accordance with the provisions of Section 165.15.3. of this Chapter.

## 165.07 I – INSTITUTIONAL DISTRICT

1. Intent
2. Principal Permitted Uses
3. Conditional Uses
4. Special Requirements Applicable to Conditional Uses
5. Permitted Accessory Uses
6. Site Development Regulations
7. Additional Requirements
8. Off Street Parking
9. Sign Regulations
10. Supplemental District Regulations
11. Zoning Permits Required

### Section 1. INTENT.

The intent of the I-Institutional District includes property for single family dwellings and for institutional facilities, including educational and religious facilities, governmental and public buildings and facilities, and guest and student housing and dining. Institutional districts may include lake frontage property.

### Section 2. PRINCIPAL PERMITTED USES.

Within the I- Institutional District, unless otherwise provided, no building or land shall be used for other than one or more of the following principal permitted uses.

Residential Uses	Civic Uses	Agriculture & Conservation Uses
Single Family Dwellings	Local Utility Facilities Parks and Recreation Facilities	Conservation Areas Critical Area Crop Production Undeveloped or Unimproved Land Wetlands Wildlife Management Area/ Preserves Water Control Structures, Irrigation or Retention Basins

### Section 3. CONDITIONAL USES.

The following uses and structures are allowed subject to specific conditions and requirements as approved by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Residential Uses	Civic Uses	Commercial Uses



Group Residential Relocated Residential	Government Buildings/Services Educational Facilities Major Utility Facilities Religious Assembly	Commercial Off Street Parking Community Center Communication Services Wind Energy Device
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**Section 4. SPECIAL REQUIREMENTS APPLICABLE TO CONDITIONAL USES.**

1. Non-Conformance. From and after the effective date of this Chapter, structures existing in the Institutional District that do not comply with the provisions of this Chapter are subject to the provisions of Sections 165.17 and 165.18 of this Chapter.
2. Conditional Use Permit Required. The establishment, expansion, or modification of an institutional use structure shall each be considered a conditional use and require a conditional use permit be issued by the Wahpeton Board of Adjustment. All such permits shall be issued only upon compliance with and fulfillment of all the standards, conditions and requirements contained in this Chapter or imposed by the Board of Adjustment.
3. Lakeshore Set Back. In the I-Institutional District no structures, except those permitted in the LF-Lake Frontage Residential District, shall be permitted in that area that is within one hundred fifty feet (150') of the ordinary high water mark of West Lake Okoboji. Existing structures may be maintained, pursuant to Sections 165.14 of this Chapter.
4. Minimization of Adverse Impact on Existing Residences and Residential Neighborhoods. In the case of removal of an existing structure, remodeling or expansion of an existing structure, or new construction in the I-Institutional District, the changes shall be accomplished in a manner so as to minimize the adverse impact on an adjacent (having a common boundary or separated only by a public right-of-way) residence or residential neighborhood. Potential adverse impacts include noise, traffic, dust, odor, reduction in residential property values, establishment of structures not typically found in residential areas or otherwise not compatible with residences, and large gatherings of persons or other activities not typically found in a residential area. New or remodeled structures shall be compatible in size, scale, orientation and architectural character with adjacent structures. Activities areas, recreational fields or parking areas shall not be established within one hundred feet (100') of an existing residence. However, an access drive not exceeding twenty-four feet (24') in width may be permitted. The Board of Adjustment shall consider a requirement for landscaped buffer areas at least fifteen feet (15') in width planted with a mixture of not less than fifty-percent (50%) coniferous plantings and berming to accomplish year-round screening between Institutional District uses and adjacent residences located within one hundred feet (100') of the institutional use.
5. Commercial Activity. The only commercial structures or activities (including those uses described in Section 165.06. of this Chapter), permitted in the I-Institutional District are those which are specifically permitted by the provisions of this Section 165.07 and those accessory to principal uses.
6. Consultants. In order to evaluate an application for a conditional use permit, the city may retain a professional consultant, at the applicant's expense, to evaluate the proposed conditional use and to submit a study or report to the Board of Adjustment. The city may also require the applicant, at the applicant's expense, to prepare and submit studies, plans or reports from

consultants approved by the city to demonstrate compliance of the proposed conditional use permit with all applicable Federal, State and City statutes, codes, ordinances, rules and policies. Such a consultant shall be retained by the city only with the advance approval of the applicant and with a stated “not to exceed” cost.

**Section 5. PERMITTED ACCESSORY USES.**

Permitted accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use. The following accessory uses may be permitted

1. Essential services.
2. Private garage or carport.
3. Normal accessory buildings and structures for a dwelling such as swimming pools, children’s playhouses, radio and television receiving antennas, barbecue pits, playground equipment, tennis courts, etc.
4. Normal accessory buildings and structures for public recreation areas such as refreshment stands, playground equipment, all-weather shelters, tennis courts, barbecue pits, etc.
5. Domestic animals such as cats, dogs, birds, tropical fish, etc. Horses, cows, sheep, chickens, and other animals normally considered farm or wild and untamed animals shall be excluded.
6. Flower and vegetable gardening for noncommercial purposes.
7. Greenhouses and horticultural nurseries for noncommercial purposes.
8. Home occupations in accordance with Section 165.11.4.
9. Customary accessory buildings and structures incidental to permitted uses; however the storage of unlicensed and/or inoperable vehicle for more than three (3) months is prohibited.

**Section 6. SITE DEVELOPMENT REGULATIONS.**

The following minimum requirements shall be provided for light and open space around permitted and conditional uses, buildings and structures in the I-Institutional District; and subject to the Supplemental District Regulations.

Minimum Lot Area -	9,000 square feet for single family dwellings 43,560 square feet (1 acre) for all other uses
Minimum Lot Width -	75 feet – single family dwellings 100 feet – all other uses
Maximum Height -	35 feet maximum height, except no structure shall extend into approach zones, clear zones or other restricted air space required for the protection of any airport.
Front Yard -	35 feet - required setback for residential and all other uses Note: Any property boundary abutting a public way and any property boundary abutting an ordinary high water mark shall each be considered “front” property lines, and subject to the front yard setback.
Rear Yard -	35 feet - required setback for residential and all other uses

Side Yard -	5 feet - required setback for single family dwellings 20 feet - required setback for all other uses
Street Side Yard - (Corner Lot)	35 feet - required setback for residential and all other uses
Minimum Open Space -	35% of the total lot area Said space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks and ingress-egress drives; and ingress-egress drives shall not exceed two (2) twenty (20) foot lanes separated by open space.
Residential Density -	Not more than one (1) principal residential building per lot

The dimensions shown above for Front Yard, Side Yard and Rear Yard shall pertain to the required “setback” of a structure from the front, side and back lot lines. “Structure” includes, but is not limited to, not only the structure proper but all associated appurtenances, both attached and unattached, such as roof overhangs, entrance landings and stairs, decks, patios, porches, garages, gazebos, utility buildings, fire pits, flag poles, statues, and air conditioners, etc. The required setback shall also apply to hard-surfaced drives, except when they terminate at the lot line as is the case when a driveway is extended to the street right-of-way for access.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements. Any sidewalk constructed within a side yard setback shall be at least two (2) feet from the side lot line.

All residential dwelling units must be constructed in compliance with the Minimum Requirements for Residential Structures regulations outlined in Section 165.11.5. of this Chapter. Furthermore, Manufactured or mobile homes placed in residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa.

### **Section 7. ADDITIONAL REQUIREMENTS.**

1. In this district, no swamp or marshland that retains water seasonably or permanently shall be filled, graded, or dredged, unless approved by the Board of Adjustment.
2. In order to protect the lakes from the entry of petroleum products, rubber tire particles, sand, salt, and other debris; no street, driveway, or parking lot shall be constructed so as to drain directly into the lakes and canals.
3. No construction shall be undertaken resulting in covering more than sixty-five percent (65%) of any parcel of land with an impervious surface. When there is an increase in the impervious surface of a lot in excess of 500 square feet, storm water management features shall be incorporated in all construction or remodeling activities, sufficient to manage and filter a water quantity volume of 1.25 inches of rainfall in a twenty-four (24) hour period. Storm water management features shall utilize infiltration elements to provide for the maximum filtration of suspended solids, to maximize detention time and to reduce the amount and period of runoff, all

pursuant to the Iowa Storm Water Management Manual and certified by an Iowa registered engineer, an Iowa registered landscape architect, or by the Dickinson County Soil and Water Conservation District.

4. Provisions shall be made to accommodate the increased runoff caused by soil and surface conditions during and after development.
5. Surfacing of vegetation, re-grading or other development shall be done in such a manner as to minimize soil erosion for construction during the growing season. Seeding temporary vegetation or other surface control measures shall be applied to minimize soil erosion on land exposed for a period of more than thirty (30) days.

**Section 8. OFF-STREET PARKING.**

Off-street parking and loading requirements shall apply to activities in the I-Institutional District in accordance with the provisions of Section 165.12. of this Chapter.

**Section 9. SIGN REGULATIONS.**

Sign regulations shall apply to activities in the I-Institutional District in accordance with the provisions of Section 165.13. of this Chapter.

**Section 10. SUPPLEMENTAL DISTRICT REGULATIONS.**

Supplemental District Regulations governing open space, lot of record, building lines, yard regulations, decks, steps, patios, fences, living fences, street frontage, residential yard continuity, height exceptions, and landscaping and excavation of lakeshore property above the ordinary high water mark shall apply to activities in the I-Institutional District in accordance with the provisions of Section 165.10. of this Chapter.

**Section 11. ZONING PERMITS REQUIRED.**

Zoning permits shall be required in accordance with the provisions of Section 165.15.3. of this Chapter.

## 165.08 A – AGRICULTURAL DISTRICT

1. Intent
2. Principal Permitted Uses
3. Conditional Uses
4. Permitted Accessory Uses
5. Site Development Regulations
6. Off Street Parking
7. Sign Regulations
8. Supplemental District Regulations
9. Zoning Permits Required

### Section 1. INTENT.

The intent of the A- Agricultural District is to preserve land best suited for agriculture from the encroachment of incompatible uses and to preserve in agricultural use land suited for eventual development into other uses until such time as streets, utilities and other community facilities may be provided or programmed as to ensure the orderly and beneficial conversion of these lands to nonagricultural use. Those agriculture or conservation uses which are deemed offensive to the surrounding area or to the community by reasons of noise, dust, smoke, odor, traffic, physical appearance or other similar factors are not permitted.

### Section 2. PRINCIPAL PERMITTED USES.

Within the A- Agricultural District, unless otherwise provided, no building or land shall be used for other than one or more of the following principal permitted uses.

Agriculture & Conservation Uses	Residential Uses	Civic Uses
Agriculture Agricultural Animal Husbandry* Agricultural Storage Buildings Conservation Areas Critical Area Crop Production Farm Farm Dwelling Farm Dwelling, Support Housing Undeveloped or Unimproved Land Wetlands Wildlife Management Area/ Preserves Water Control Structures, Irrigation or Retention Basins\	Single Family Dwellings	Government Buildings/Services Local Utility Services Major Utility Facilities Parks and Recreation Facilities

\*Note: Open grazing of animals or livestock is permitted except that the confined housing of livestock such as hogs, cattle, poultry of any kind, or sheep is strictly prohibited.

**Section 3. CONDITIONAL USES.**

The following uses and structures are allowed subject to specific conditions and requirements as approved by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Agriculture & Conservation Uses	Residential Uses	Commercial Uses
Stables	Relocated Residential - When it is the operator or renter of a farm or associated with agricultural purposes	Communication Services Wind Energy Device

**Section 4. PERMITTED ACCESSORY USES.**

Permitted accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use.

1. Essential Services
2. Private garage or carport.
3. Normal accessory buildings and structures for a dwelling such as swimming pools, children’s playhouses, radio and television receiving antennas, barbecue pits, playground equipment, tennis courts, etc.
4. Normal accessory buildings and structures for public recreation areas such as refreshment stands, playground equipment, all-weather shelters, tennis courts, barbecue pits, etc.
5. Flower and vegetable gardening for noncommercial purposes.
6. Greenhouses and horticultural nurseries for noncommercial purposes.
7. Home occupations in accordance with Section 165.11.4.
8. Accessory buildings and uses customarily incidental to any of the above permitted or conditional uses.

**Section 5. SITE DEVELOPMENT REGULATIONS.**

The following minimum requirements shall be provided for light and open space around permitted and conditional uses, buildings and structures in the A- Agricultural District; and subject to the Supplemental District Regulations.

- Minimum Lot Area - 10 acres for all uses
- Minimum Lot Width - 200 feet for all uses
- Maximum Height - No height limitation, except no structure shall extend into approach zones, clear zones or other restricted air space required for the protection of any airport.
- Front Yard - 50 feet - required setback for all uses
- Rear Yard - 50 feet - required setback for all uses

Side Yard -	50 feet - required setback for all uses
Street Side Yard - (Corner Lot)	50 feet - required setback for all uses

The dimensions shown above for Front Yard, Side Yard and Rear Yard shall pertain to the required “setback” of a structure from the front, side and back lot lines. “Structure” includes, but is not limited to, not only the structure proper but all associated appurtenances, both attached and unattached, such as roof overhangs, entrance landings and stairs, decks, patios, porches, garages, gazebos, utility buildings, fire pits, flag poles, statues, and air conditioners, etc.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

All residential dwelling units must be constructed in compliance with the Minimum Requirements for Residential Structures regulations outlined in Section 165.11.5. of this Chapter. Furthermore, Manufactured or mobile homes placed in residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa.

**Section 6. OFF-STREET PARKING.**

Off-street parking and loading requirements shall apply to activities in the A- Agricultural District in accordance with the provisions of Section 165.12. of this Chapter.

**Section 7. SIGN REGULATIONS.**

Sign regulations shall apply to activities in the A- Agricultural District in accordance with the provisions of Section 165.13. of this Chapter.

**Section 8. SUPPLEMENTAL DISTRICT REGULATIONS.**

Supplemental District Regulations governing open space, lot of record, building lines, yard regulations, decks, steps, patios, fences, living fences, street frontage, residential yard continuity, height exceptions, and landscaping and excavation of lakeshore property above the ordinary high water mark shall apply to activities in the A- Agricultural District in accordance with the provisions of Section 165.10. of this Chapter.

**Section 9. ZONING PERMITS REQUIRED.**

Zoning permits shall be required in accordance with the provisions of Section 165.15.3. of this Chapter.

## “QUICK REFERENCE GUIDE” ZONING DISTRICT BULK REGULATIONS

Zoning District	Minimum Lot Area	Minimum Lot Width	Required Front Yard	Required Rear Yard	Required Side Yard	Street Side Yard (Corner Lot)	Maximum Height
<b>R</b> Residential District	9,000 SF 12,500 TF 1 acre OU	75 ft. SF 100 ft. TF 150 ft. OU	35 ft. or line of sight, whichever is greater	35 ft. RU 50 ft. OU	5 ft. RU 25 ft. OU	35 ft. RU 50 ft. OU	35 ft.
<b>LF</b> Lake Frontage Residential District	9,000 SF 9,000 OU	75 ft. SF 75 ft. OU	35 ft. or line of sight, whichever is greater	35 ft.	5 ft.	35 ft.	35 ft.
<b>C</b> Commercial District	9,000 sq.ft.	75 ft.	35 ft.	35 ft.	10% of lot width, but no less than 8 ft.	35 ft.	35 ft.
<b>I</b> Institutional District	9,000 SF 1 acre OU	75 ft. SF 100 ft. OU	35 ft.	35 ft.	5 ft. SF 20 ft. OU	35 ft.	35 ft.
<b>A</b> Agricultural District	10 acres for all uses	200 ft.	50 ft.	50 ft.	50 ft.	50 ft.	No height limitation

Note: sq.ft. = Square Feet; SF= Single Family Residential; TF= Two Family Residential; RU = Residential Uses; OU= Other Uses



# 165.09 SITE PLANS

- 1. Intent
- 2. Scale
- 3. Legal Information
- 4. Site Plan Requirements

## Section 1. INTENT.

Site plans are required for review and approval for construction or addition of any principal use or conditional use in any district or elsewhere by this Chapter, and shall comply with and illustrate the following. Accessory uses, buildings and structures, interior or exterior remodeling projects that do not change the building footprint are exempt from site plan requirements. Although site plans according to these provisions are not required for such accessory uses or other remodeling or interior projects, it does not imply that such uses are exempt from the zoning permit process and any site drawings or plans required with the zoning permit application.

## Section 2. SCALE.

Site plans shall be drawn at a scale that legibly shows and accurately depicts the proposed improvements, but not less than 1" = 100' and two (2) copies of the site plan shall be submitted with the permit application.

## Section 3. LEGAL INFORMATION.

The site plan shall include the following legal information:

- 1. Each site plan must include the owner's name, date of application and legal description of said property to be improved.
- 2. Applicant's name, requested land use and zoning.
- 3. If the applicant is other than the legal owner, the applicant's interest shall be indicated and the legal owners' authority to appeal shall be submitted in a certified legal form.

## Section 4. SITE PLAN REQUIREMENTS.

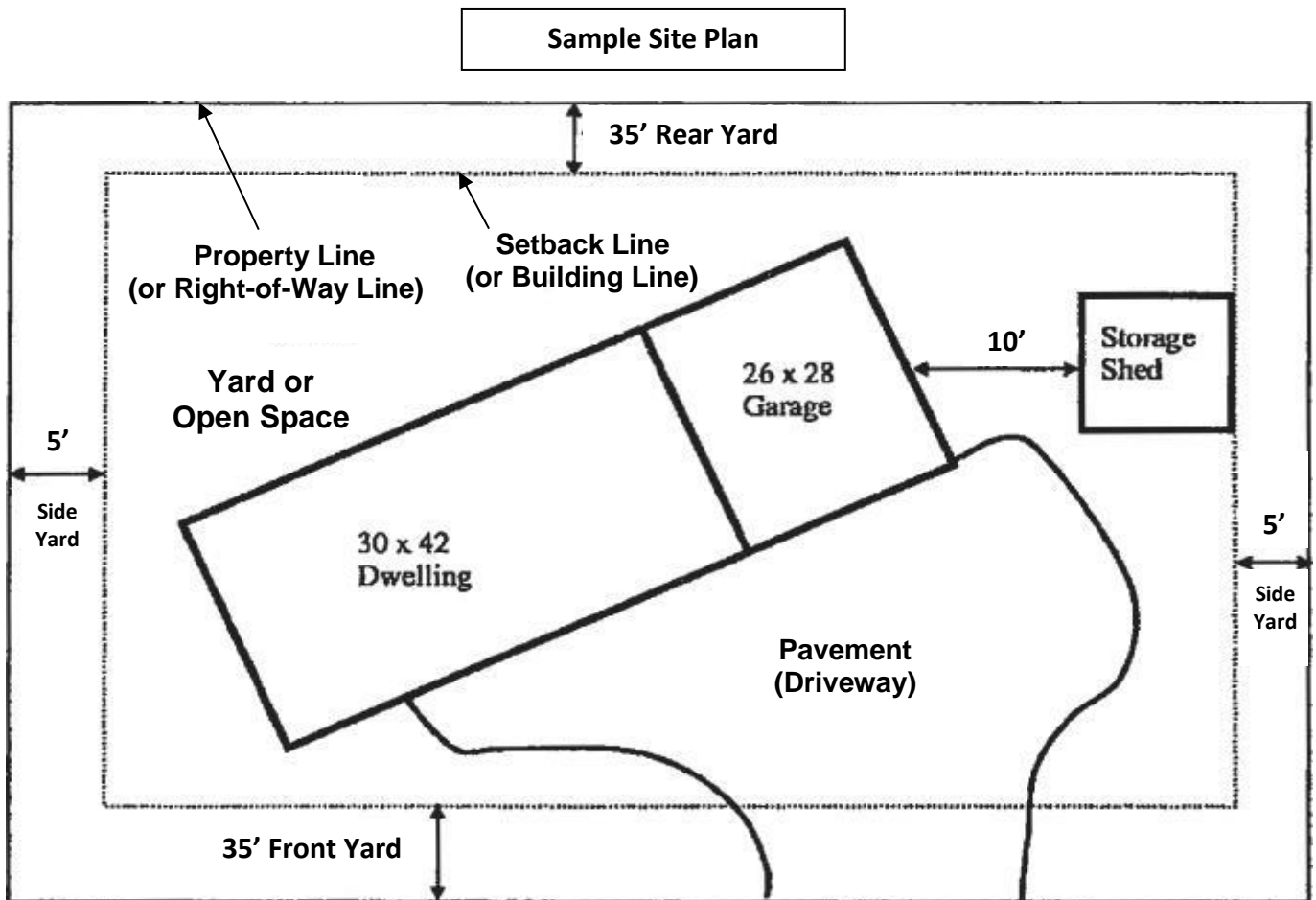
The site plan shall include and clearly illustrate, but not be limited to, the following:

- 1. Property boundary lines or lot lines, dimensions and total area. A survey of property may be ordered by the Zoning Administrator if the current lot lines are in question or in doubt of location. In the event of an ordered survey, all four or more lot pins that are required for a lot must be located by a certified land surveyor and clearly marked. No construction permit will be issued until all required action has been taken.
- 2. The availability and location of existing utilities.
- 3. The square feet of all proposed buildings.
- 4. Existing buildings, rights-of-way, streets, utilities, easements, or drainage ways.
- 5. Parking areas proposed, number of parking spaces required, and surfacing to be used.
- 6. Type of structure proposed
- 7. Number and size of dwelling units
- 8. Floor area of office or commercial building or child capacity of a daycare or nursery school
- 9. Soils and Topographical map of existing conditions
- 10. Said plans shall include current and proposed drainage.
- 11. Such plans shall specifically include any proposed alteration to existing ground level and

grade of the land and include the proposed measures to be taken to protect the adjoining owners and any adjoining or servient lands or waters from siltation, erosion, pollution or run-off during construction and after construction shall have been completed.

12. Buffers, landscaping, permanent retaining walls and other information deemed necessary to illustrate compliance with the requirements of this Chapter
13. Walkways, lighting, fences, signs, monuments and other man-made features
14. Traffic considerations, architectural themes, and any other considerations pertinent to the proposed use may be requested by city staff
15. A Low Impact Development (LID) plan shall be submitted for any new construction, addition or construction. A LID plan is not required unless there is an increase in the impervious surface of the lot in excess of 500 square feet.

A preliminary site plan may be submitted for preliminary or tentative land use approval, providing, however, that a final site plan shall be submitted, reviewed and approved as being in compliance with the provisions of this Chapter. Such separate plans shall be in substantial agreement with one another as to both design and quantities.



**165.09B NONCONFORMING USES AND STRUCTURES WITHIN REQUIRED FRONT YARDS in the LF Lake Frontage Residential Zoning District.**

The provisions of this section shall only apply to those lakeshore residential properties located within the “LF” Lake Frontage Residential District. To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which construction was lawfully begun on or before June 1, 2013

Within the LF zoning district there exist lots, structures, buildings and uses that were lawful before the effective date of Chapter 165; but which are now prohibited, regulated or restricted under the provisions of the Wahpeton Zoning Ordinance. The intent of this ordinance is to permit detached lake frontage nonconforming uses or structures to continue until they are removed. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Notwithstanding the provisions of Section 165.09, subsections 1 and 3, above, detached nonconforming lake frontage structures may be repaired, altered, or replaced in accordance with the following limitations:

1. Existing detached or freestanding decks, boat houses, utility sheds and other above ground detached structures or buildings located within the required front yard area of properties in the LF residential zoning district may continue to exist.
2. Existing detached lake frontage nonconforming structures or buildings may be repaired, structurally altered or replaced completely so long as the alterations, repairs or replacement structure is of the same or less size, footprint and cubic content as the original structure. No enlargement of any nonconforming structure or building is permitted, unless existing setbacks and all other zoning requirements are met.
3. Existing detached lake frontage nonconforming structures or buildings may be moved, but only to increase the conformity of a structure or building with existing yard setbacks and zoning requirements. No such structure may be moved or altered in a way that increases its nonconforming status. A permit issued by the Zoning Administrator is required for such a move. In such a permit the Zoning Administrator may request movement or relocation of such nonconforming structure in order to increase its conformity.

Any repair, restoration or reconstruction of a lake frontage nonconforming structure shall be accomplished pursuant to a zoning permit issued by the City Zoning Administrator. Any full replacement of an existing detached lake frontage nonconforming structure or building shall be reviewed by the City Zoning Administrator. The Zoning Administrator shall make a determination if the proposed alteration or replacement should be approved. . When issuing a permit for detached lake frontage nonconforming structures or buildings, the Zoning Administrator shall consider and recommend to the property owners that any improvement within the required front yard (lakeside) should include alterations or improvements that do not limit or impede a neighboring property owners view of the lake (e.g. changing out wide deck rails for narrow boards, wire or clear materials).

The purposeful removal of any detached lake frontage nonconforming use or structure in which no replacement structure or building has been constructed within six (6) months of the removal of a nonconforming use or structure shall result in loss of preexisting nonconforming status and any new structure shall then hereafter conform to all provisions of the Wahpeton Zoning Ordinance.

There may be a change of tenancy, ownership, or management of any existing detached lake frontage nonconforming use, building or structures without affecting the conformity or nonconforming status of such use, building or structure. **(Ord. 150 Created Section 165.09B)**

# 165.10 SUPPLEMENTAL DISTRICT REGULATIONS

- 1. Intent
- 2. Open Space Requirements
- 3. Lot of Record
- 4. Building Lines on Approved Plats
- 5. Yard and Area Regulations
- 6. Decks, Steps & Patios
- 7. Fences, Living Fences or Walls
- 8. Street Frontage Required
- 9. Required Yard Cannot Be Reduced
- 10. Residential Front Yard Continuity
- 11. Height Exceptions, Modifications and Interpretations
- 12. Landscaping and Excavation of Lakeshore Property above of Ordinary High Water Mark
- 13. Silt Fence Screening Required

## Section 1. INTENT.

The regulations set forth in this section qualify, supplement or modify the area, yard and height regulations set forth elsewhere in this Chapter. In event of any conflict in provisions, the more restrictive provision shall apply unless specifically indicated to the contrary.

## Section 2. OPEN SPACE REQUIREMENTS.

The intent of this section is to require no less open space than which is necessary to preserve the basic qualities and beauty of nature. All buildings and land use in any R or LF District shall comply with the following: On each lot there shall be provided an open space equal to at least thirty-five percent (35%) of the total lot area. This space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery.

## Section 3. LOT OF RECORD.

In any district on a lot of record at any time of enactment of this ordinance, any use regardless of the size of lot, provided all other requirements of this Chapter are met. Only one principal building will be permitted on one lot of record, except in a planned unit development. Any lot of record at the time of passage of this ordinance shall maintain the required front, side, and rear yards on each side of the use. Furthermore, where two (2) or more vacant or contiguous substandard lots are held in common ownership, they shall be combined into a single zoning lot and thereafter be maintained in common ownership by deed restriction and shall be so joined and developed for the purpose of forming an effective and conforming zoning lot. For the purpose of this section, the razing of a building on a substandard lot shall constitute the formation of a vacant lot.

## Section 4. BUILDING LINES ON APPROVED PLATS.

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

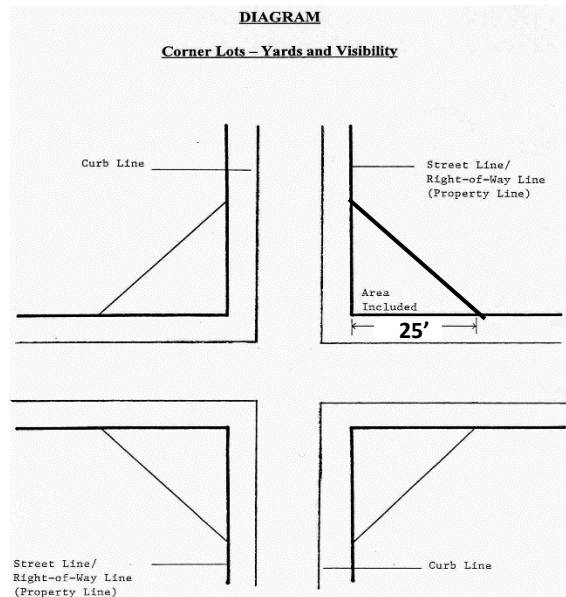
## Section 5. YARD AND AREA REGULATIONS.

- 1. *Projecting Overhang or Structure.* The ordinary horizontal projection from buildings including

eaves, sills, fascia, parapets, cornices, or other similar architectural features, except for gutters, shall not project or encroach into any required yard setback.

2. *Yard Encroachments.* Air conditioning units, heat pumps, egress window wells, bay or bow windows, cantilevered projections, free standing or post supported satellite dishes (does not include 18” or smaller satellite dishes attached to the house), chimneys or any other such similar devices or structures, exclusive of regular utility devices (i.e. electric meter, gas meter, cable box, etc.) shall not project or encroach into any required yard setback.
3. *Through Lots.* Buildings on through lots, extending from street to street, shall provide the required front yard on both streets.
4. *Corner Lots.* For corner lots platted after the effective date of this Chapter, the front yard setbacks shall apply to both street sides of the lot. For corner lots, platted after such effective date, the minimum required lot width shall be increased by an amount not less than twenty (20) feet so as to allow for the additional required street side yard, e.g. for a minimum required lot width of seventy-five feet (75’), the minimum width of a corner lot shall be not less than ninety-five feet (95’). On corner lots platted and of record at the time of the effective date of such ordinance, the same regulations shall apply except that these regulations shall not be so interpreted as to reduce the buildable width of the corner lot facing an intersecting street and of record or as shown by existing contract of purchase at the time of the effective date of such ordinance to less than twenty-two feet (22’) or to prohibit the erection of an accessory building. On any corner lot, the depth of a front yard or side street yard abutting a major street shall be measured from the proposed right-of-way lines shown on the official major street plan.

5. *Vision Clearance (at Intersections).* On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of two and one-half (2½) feet and ten (10) feet above the centerline grades of the area described as follows: that area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five (25) feet from the point of intersection of said right-of-way lines.



**Section 6. STEPS, DECKS AND PATIOS.**

1. Steps shall not encroach or project into any yard setback.
2. Decks of any height, including ground level decks or patios, shall conform to required setbacks and shall not encroach or project into any yard setback, including the established line of sight for decks in front yards or lakeshore yards.
3. Open patios and other concrete structures or surfaces may be permitted but shall conform to the required setbacks and not encroach or project into any yard setback; except driveways or other impervious parking surfaces shall be no closer than five feet (5’) from the side yard property

line and sidewalks or other impervious walkways shall be located no closer than two feet (2') from the side yard property line.

## **Section 7. FENCES, LIVING FENCES (HEDGES) OR WALLS.**

*Definition.* For purposes of this section, the term “fence” means a constructed barrier of any material or combination of materials erected to enclose or screen areas of land. Plants, shrubs, bushes and trees are not normally considered “fences.” However, if shrubs, bushes and trees are planted, maintained and used to form a barrier to enclose or screen areas of land, such use of plant materials shall constitute a “fence” or “living fence”.

1. In all districts, fences and walls not exceeding six feet (6') in height are permitted within the limits of side and rear yards. A fence or wall not exceeding four feet (4') in height and not exceeding fifty percent (50%) solid is permitted within the limits of front yards. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment. Fences not exceeding four (4) feet in height are permitted along lake frontage streets. Please reference Section 165.10.5.5. when considering fences in front or side yards. Fences in excess of six feet (6') will be allowed in the cases of tennis courts and swimming pools, subject to further restrictions and upon granting of a conditional use permit by the Board of Adjustment.
2. On lakeshore lots, no fence shall be maintained on the lot between the front wall of the principal residence and the lakeshore.
3. No fence or wall shall be located closer than two feet (2') from the property lot line unless the owners of the adjoining properties execute, record with the Dickinson County Recorder and file with the City Clerk a written agreement providing for the location of a fence on the property line and providing for the ownership, maintenance and repair of such a fence.
4. All fences and walls constructed or maintained in the City of Wahpeton shall be of uniform style, construction and appearance from both sides. For example, if the posts and connecting components of the fence are covered or faced, they shall be covered or faced on both sides with the same materials. Fences shall not be constructed of corrugated tin, metal, or fiberglass; sheet metal or fiberglass, or non-treated wood products. Fences may be constructed from treated wood products; non-decomposing natural wood products such as such as cedar, redwood, etc.; chain link, molded plastic, molded fiberglass, or wrought iron. The Board of Adjustment may approve other materials as presented. Fences should be constructed in an orderly and neat manner as to accent and complement the natural landscape of the property. All fences shall be subject to a completed and approved building permit.
5. In any district where a fence or wall is required by a section of this Chapter, the Subdivision Ordinance or other ordinance, to serve as a screening wall, buffer wall or other separating or protective wall, the restrictions of subsection 1 above shall yield to the requirements of the specific ordinance.
6. Determining the maximum height for fences and walls shall be made by measuring from the natural grade of the lot adjacent to the fence to the top of the finished fence structure.

**Section 8. STREET FRONTAGE REQUIRED.**

Except as permitted in Section 165.14, Nonconformities, no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts at least forty (40) feet on at least one street or right-of-way, or unless it has an exclusive unobstructed private easement of access or right-of-way at least twenty (20) feet wide to a street; and there shall be no more than one (1) single-family dwelling for such frontage or easement, except that a common easement of access at least fifty (50) feet wide shall be provided for two (2) or more such single family dwellings or for one (1) or more two (2) family or multiple dwellings.

**Section 9. REQUIRED YARD CANNOT BE REDUCED.**

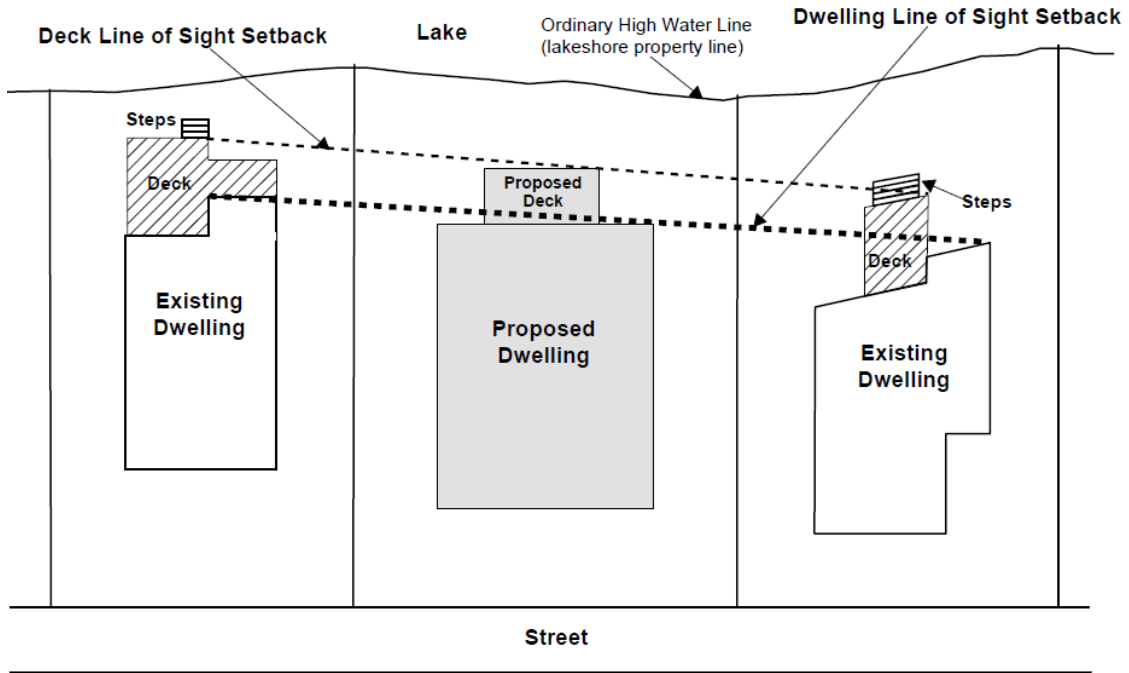
No lot shall be reduced in size so as to make the width or total area of the lot or any yard, or any other open space, less than the minimum required by this Chapter. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Chapter shall be included as part of a yard or other open space required under this Chapter for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified. However, no off-street parking shall be permitted in the front yard in a Residential District, except on driveways.

**Section 10. RESIDENTIAL YARD SETBACK CONTINUITY.**

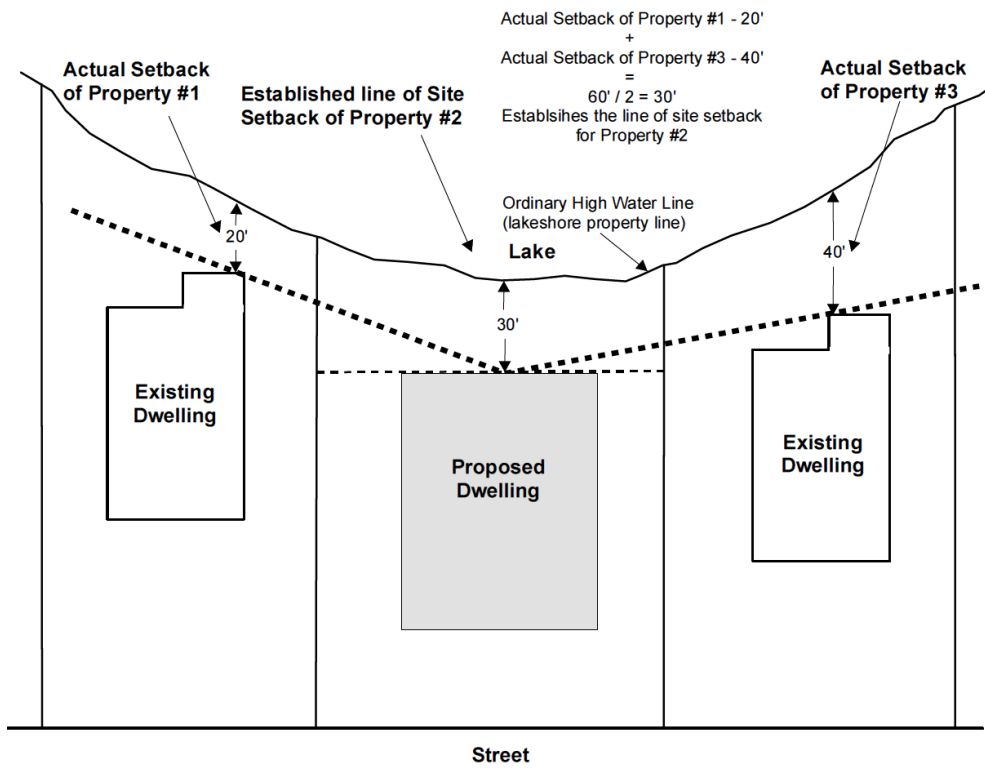
In any Residential District there shall be a minimum front yard setback required as stated in the yard requirements for that particular district. In the event the minimum required front yard setback is determined to be a hardship due to the placement of dwellings on adjoining properties, the Zoning Administrator may choose to use the line of sight in determining the minimum required front yard setback in the R and LF districts and for all residential properties abutting the canals in Wahpeton. Line of sight is used to protect the view of the lakes as much as possible and to prevent lakeshore creeping of new buildings or structures. With that stated, any property owner is not guaranteed a view of the lake any more than the perpendicular projection, the same width of any property owner's lakeshore lot.

1. Line of sight for dwellings or principal buildings. The setback line is determined by a line of sight joining the farthest projecting overhangs (closest point of the principal dwelling or building to the ordinary high water mark) of the nearest buildings on either side of the subject property. Existing steps shall not be used in determining the line of sight. For dwellings or buildings located along the canals in Wahpeton, the line of sight determination applies to the rear yard (canal side) setback.
2. Line of sight for decks and/or patios. The setback line for establishing a deck or patio is determined by a line of sight joining the farthest projecting deck or patio points (closest to the ordinary high water mark) of the two nearest adjacent dwellings. Existing steps shall not be used in determining the line of sight. Two adjoining above grade decks may be used in establishing the line of sight for an at-grade patio. However, two adjoining at-grade patios may not be used in establishing a line of sight for an above grade deck.

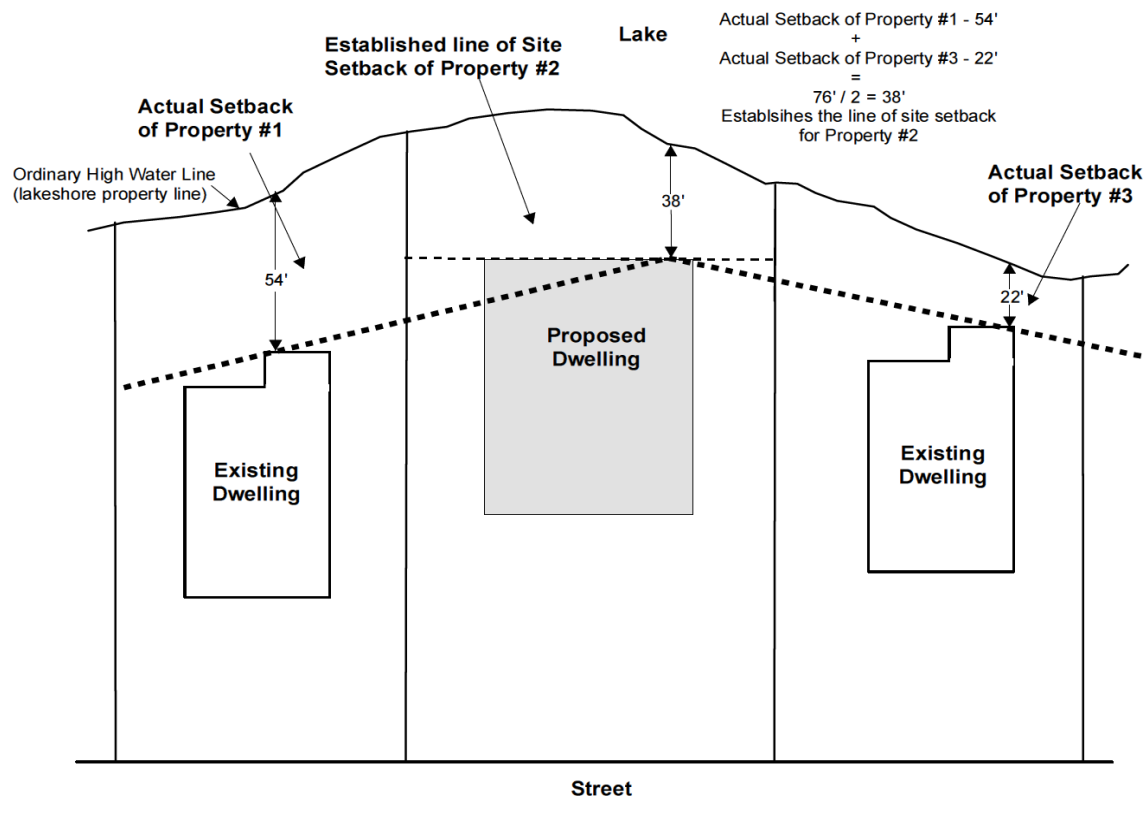




- When a new structure is to be built on a lakefront or shoreline curve or point in which the line of sight determination does not work because of the curvature of the shoreline, the actual setbacks of the nearest dwelling and deck on each side shall be added together and divided by two to determine the setback of the subject property located within a cove or on a point.



4. When there is no building within two hundred feet (200') on one side of a lot, the actual setback of the nearest building on the other side shall establish the line of sight setback.
5. If there is no building within two hundred feet (200') on either side of the lot, the minimum required setback for the zoning district shall apply.
6. A structure located entirely on the rear one-half (1/2) of a lot shall not be considered in determining a front yard setback.



### Section 11. HEIGHT EXCEPTIONS, MODIFICATIONS AND INTERPRETATIONS.

Height regulations shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, grain elevators, ornamental towers and spires, chimneys, elevator bulkheads, drilling rigs, conveyors, flagpoles and other pertinent mechanical apparatuses which may be erected to any height not in conflict with any other applicable regulations of the city. These additional structures or accessories may be erected to a height approved by the Board of Adjustment, provided however, all towers or structures exceeding height requirements shall not be permitted to extend into approach zones, clear zones or other restricted air space required for the protection of the flying public. Furthermore, any building or structure receiving a height exemption from the regulations of this Chapter, shall review such proposed height in accordance with the Spirit Lake 2013 Airport Land Use and Height Overlay Zoning Ordinance intended for the Spirit Lake Municipal Airport located in the City of Okoboji. Public, semi-public, or public service buildings, hospitals or schools when permitted in a district may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line at least one foot (1') in addition to the minimum yard requirements, for

each two feet (2') of additional building height above the height limit otherwise provided in the district in which the building is constructed.

## **Section 12. LANDSCAPING AND EXCAVATION OF LAKESHORE PROPERTY ABOVE THE ORDINARY HIGH WATER MARK.**

Upon consideration of a recommendation that an ordinance be enacted for the purpose of preserving and protecting the health, safety and general welfare of the people of the city and their property therein, the City Council finds:

- The prevention of erosion and the siltation of the soil and other chemicals from entering or flowing into the waters of West Lake Okoboji is required in the interest of the general welfare of the people.
  - The protection and conservation of the natural terrain of the shoreline of West Lake Okoboji, including its native vegetation and plant cover, is required in the interests of the general welfare of the people.
  - The protection of the water quality of West Lake Okoboji and the conservation and protection of the natural terrain of its shoreline and its native vegetation will strengthen and preserve the city's unique environmental heritage and its attribute as a city that includes shoreline on a Blue Water Lake.
  - It is desirable to preserve and protect the existing water quality of West Lake Okoboji and the panorama of natural shoreline terrain for the enjoyment and environmental enrichment of the citizens of the city and visitors.
  - The preservation and protection of the lake's water quality and of the natural terrain of the lake's shoreline and its native vegetation will stabilize and enhance the aesthetic and economic vitality of the city and will protect and enhance the city's attraction to tourists and visitors.
  - To normally permit corrective action taken on shoreline banks to prevent erosion while maintaining the natural terrain and native vegetation of the shoreline.
1. Definitions. For use in this subsection, the following terms are defined:
    - a. *Adjoiners* - Adjoining lands touching the subject land.
    - b. *Bank Ground Cover* - Any natural vegetation existing or added so as to provide protection from erosion and to promote a green face.
    - c. *Bank Toe/Base* - That area of the bank at the ordinary high water mark.
    - d. *Benching* - When backfilling, the necessary excavation to assist in the placement of backfill materials in level lifts for uniform compaction.
    - e. *Cribbing* - A frame of wood, timber or other structural materials used to retain a bank of earth when lateral clearance will not provide normal earth slopes.
    - f. *Green Face* - Vegetation to cover exposed earth.
    - g. *Ground Water Drainage* - Water beneath the surface of the ground that flows or moves through the subsurface strata under the proposed project area.
    - h. *Hard Cover* - Any structure, blacktop or other material which interferes to any degree with the direct absorption of rainfall into the ground, including rock, gravel and landscaping over non-permeable material.

- i. *Lake* - All publicly owned lakes or the portion thereof within the city limits of the City of Wahpeton, Iowa.
  - j. *Landscaping* - A comprehensive array of activities pursuant to which rock or soil is cut into, dug, quarried, uncovered, displaced or relocated and which includes removal of viable plant life, rock or soil deposited by persons in the past or by natural means and replaced by any manner or terracing by rock, timbers, retaining walls or other conventional means. Landscaping does not mean the act of excavating real property for construction of a foundation or otherwise preparing the same for the construction or erection of a dwelling, building or structure.
  - k. *Landscaping Fabric* - Permeable fabric for use under rip-rap, around subdrain pipe, behind walls, etc. for protection of earth slopes against erosion from surface drainage, ground water drainage, stream flow and wave action.
  - l. *Ordinary High Water Mark (OHWM)* – A line or mark determined by the Iowa Department of Natural Resources establishing the ordinary high water mark of West Lake Okoboji. The OHWM elevation for West Lake Okoboji is 1,398.26’ (NGVD 29), National Geodetic Vertical Datum of 1929. There are two vertical datum’s that are referenced in this area. Federal Emergency Management Agency (FEMA) uses the elevation of 1,399.4’ (NGVD 29) as the 100 year flood elevation. Dickinson County and the City of Wahpeton require all buildings to be constructed at least 1 foot above the FEMA 100 year flood elevation which is 1,400.4’ for flood insurance concerns. Note: the maximum recorded water level of West Lake Okoboji was 1,400.42 (NGVD 29) on July 17, 1993. Records have been kept since 1933.
  - m. *Pilings* - Structural materials excavated, bored or driven to a deeper soil stratum having a high bearing capacity to provide required bearing capacity to support loads from above.
  - n. *Rip-rap* - A layer of natural rock or stone for protection of earth slopes against erosion from stream flow or wave action (preferably nominal 12-inch average diameter in combination with larger diameter).
  - o. *Sheeting* - Materials that structurally support embankments for protection against erosion from stream flow and wave action and to support embankment to prevent earth shear.
  - p. *Shoreline Bank* - Includes, for the purpose of this Chapter, real property on any lot in the City of Wahpeton above the “ordinary high water mark” and below the existing grade of the lot or lots of which the shore line bank is a part.
  - q. *Surface Drainage* - Water derived from rains and melting snow that is diffused over the surface of the ground and flows toward the lake through the proposed project area.
  - r. *Terracing* - The cutting and shaping of the earth to create various levels having one or more vertical or sloping sides and one or more level planes.
2. Unlawful Act. It is unlawful for any person to landscape shoreline bank except as provided herein. It is unlawful for any person to permanently remove viable native vegetation or other viable plant life from the shoreline bank without replacing the same with other vegetation that is equally effective in retarding erosion and preserving the natural appearance of the shoreline bank. This provision shall not be construed to prohibit the pruning or trimming of existing vegetation nor shall it prohibit the removal of harmful, poisonous or noxious plant life from the shoreline bank. The removal of trees, six inches (6”) or larger in diameter, may not be removed within thirty-five feet (35’) of the ordinary high water mark unless such tree is dead,

diseased, or has significant storm damage. Such removal shall not be accomplished until application for a tree removal permit is filed with the city and approved by the Zoning Administrator and the Chairman of the Board of Adjustment, as set by the Council. If either officer fails to approve the application, the application is denied. An application may appeal to the Board of Adjustment from the denial of a tree removal permit. There is a fee, as set by resolution of the City Council, for a tree removal permit. Removal of trees six inches or larger, for visual reasons, is not allowed. Absent special and unusual circumstances, the approval of a tree removal permit shall include a condition requiring the planting and maintenance of a replacement tree.

3. Shoreline Setback Requirement. All new construction, additions, decks, fences, etc., must be located at least thirty-five feet (35') back from the ordinary high water mark. Within the area between the ordinary high water mark and the 35 feet setback line or line of sight, whichever is greater, no hard cover is allowed. Absorption and infiltration is a key process in removing nutrients from run-off water before it enters the lake. Therefore it is prohibited to have paved and/or graveled driveways, patios, sidewalks, decks, roofs, boat ramps and landscaped areas containing impervious materials, as all are considered hard or impervious cover. There is an exception to this provision for steps and sidewalks. Upon application and approval, a permit may be obtained from the Zoning Administrator to allow a lot owner to construct a sidewalk and steps to the lake. The steps may be no larger than four feet in width. The sidewalk may be no larger than four feet in width. The sidewalk may be constructed of cement, asphalt, stepping stones or any other like kind impervious material.
4. Surface Drainage Requirements. Adequate provisions or improvements are provided to intercept surface water drainage that causes erosion or siltation. No permits shall be issued for landscaping activities which continue the potential for erosion or siltation, or which do not reduce the surface water drainage potential to minimize it to the extent existing prior to the landscaping activities.
5. Groundwater Drainage Requirement. Adequate provisions shall be provided to intercept drainage of groundwater, thus reducing the potential for bank failure, erosion or siltation.
6. Bank Stabilization Requirement. The preferred method of bank stabilization shall be vegetation, supplemented and enhanced as necessary by rock rip-rap. Vegetation and rock may be supplemented as necessary with liners, pilings or other construction materials, or by terracing, benching or cribbing. Such supplemental bank stabilization modifications shall be incorporated in landscaping activities only when vegetation and rock provide inadequate bank stabilization. Such supplemental bank stabilization features shall be constructed to be covered with vegetation and rock. Platforms, decks, porches, steps and walkways shall not be utilized for bank stabilization.
7. Excavation Requirements. Any excavation of real property for construction shall be subject to the following:
  - a. No excavation from the ordinary high-water mark to a point thirty-five feet (35') toward the rear lot line from the ordinary high-water mark shall be undertaken without first obtaining a special permit as provided in this subsection 9.

- b. Construction within this 35 feet zone shall be limited and shall not include any buildings to be used for occupancy by people or for use for boat storage.
  - c. Any excavation below this ordinary high water mark shall require a permit issued by the State Department of Natural Resources.
8. Shoreline Grading/Retaining Wall/Landscaping. Any land alterations in the area between the shoreline and the thirty-five feet (35') setback line requires a landscaping permit issued pursuant to the provisions of this subsection 9. This requirement includes any installation or replacement of retaining walls, walls or terraces, and may include landscaping involving changes in ground elevations, all of which shall be submitted to the Zoning Administrator.
9. Procedure for Obtaining a Landscaping Permit. A request for a landscaping permit shall be submitted by a written application, prepared and drawn to scale by a registered civil engineer, a registered landscape architect, or the Dickinson County, Iowa, Soil and Conservation District office. The application shall set out the necessity for the proposed landscaping, as well as corrective measures proposed and materials to be used. The application shall provide cross sections of proposed improvements with a side view, plan view, and elevation view. Any corrective measures proposed in an application submitted under this subsection shall minimize, as far as is reasonably possible, any change in the level of the finished surface of the ground proposed to be landscaped and shall minimize permanent removal of vegetation or plant cover. Upon receiving a written application for a landscape permit, the Zoning Administrator and the Chairman of the City Board of Adjustment shall review the application and shall either grant or deny the requested permit. If either officer does not approve the application, it shall be considered denied. If an application for a landscape permit is denied, that decision may be appealed to the Board of Adjustment.
10. Exceptions. It is acknowledged that in certain areas, shoreline bank is subject to erosion and siltation due to the terrain of adjacent real estate and due to the drainage of surface water therefrom into the lake. It is further acknowledged that in certain areas shoreline bank is subject to bank erosion due to wave action of the lake. A special landscaping permit may be obtained from the Zoning Administrator, at no cost, for the purpose of allowing the performance of limited landscaping of shoreline bank in order to prevent erosion and siltation in such instances, but then only in a manner to restore it to its original natural condition.
11. Procedure for Obtaining a Special Landscaping Permit. Upon the written application of the title holder of any real estate abutting West Lake Okoboji, on forms furnished by the City, the Zoning Administrator may issue a special landscaping permit upon demonstration of the following:
- a. Erosion of the shoreline bank is occurring or likely to occur as a result of the drainage of surface water from the subject property and adjacent property into the lake; or
  - b. Erosion of the shoreline bank is occurring or likely to occur as a result of the wave action of the lake against the shoreline and the landscaping of the shoreline bank will prevent further erosion from occurring.
12. Appeal. Appeals of any decision by the Zoning Administrator denying the issuance of a special landscaping permit may be appealed pursuant to Section 165.15.9. of this Chapter.

13. Penalty. Any violation of the provisions of this subsection may be enforced in accordance with Section 165.16.1. of this Chapter.

**Section 13. GENERAL LANDSCAPING AND EXCAVATION**

1. Definitions. The Definitions set forth in Chapter 165.10, Sub-Section 12, Subparagraph 1 are hereby incorporated in this Sub-Section 13.
2. Unlawful Act. It is unlawful for any person to conduct landscaping activities without first making application for and receiving a landscaping permit from the City of Wahpeton.
3. Procedure for Obtaining a Landscaping Permit. A request for a landscaping permit shall be submitted by a written application, including a diagram or site plan of the parcel upon which landscaping activities are to take place, together with a diagram or illustration and a description of all contemplated landscape activities. The application shall set out the necessity for the proposed landscaping, as well as corrective measures proposed and materials to be used. Landscaping Permit Applications shall be reviewed by the City Zoning Officer who shall either issue, modify or deny a permit. Decisions of the Zoning Officer on a landscaping permit may be appealed to the Wahpeton Board of Adjustment.
4. Storm Water Drainage. No landscaping activity shall divert the flow of storm water from its natural course and no landscaping activity shall have the effect of increasing the volume or rate of flow of storm water over adjoining public or private property.
5. Silt Fence Screening Required. Silt mat or silt fence screening material must be used on any lot, regardless of the lot grade or elevation on which there is to be any excavating, earthmoving, or disturbance of the lot grade or ground surface cover due to remodeling, rebuilding or new construction, which could cause silt or dirt runoff. It is to be installed with three feet (3') silt screening installed on posts set not more than four feet (4') apart, with the screening material installed one foot (1') below ground level and two feet (2') above ground level. Silt fence screening is to be constructed around any street storm sewer or drain intakes which could also carry dirt or silt into the law and affected by the project. All silt fence screening shall be maintained by the applicant for the landscaping permit and/or zoning permit to allow for its effective operation. **(Ord. 174 Updated 165.10(13))**

# 165.11 ADDITIONAL USE REGULATIONS

- 1. Accessory Buildings
- 2. Portable Accessory Buildings and Storage Structures
- 3. Temporary Uses and Structures
- 4. Home Occupations
- 5. Minimum Residential Dwelling Standards
- 6. Solar Energy Equipment Use
- 7. Adult Entertainment Regulations
- 8. Planned Unit Development (PUD) – As a Special Use

## Section 1. ACCESSORY BUILDINGS (INCLUDING DETACHED GARAGES).

The purpose of these provisions is to establish the relationship among principal and accessory uses and to establish provisions governing the conduct of accessory uses. Principal uses specified as permitted uses or conditional uses for a district shall be deemed to include accessory buildings and uses identified by these regulations and such other accessory uses that are necessary and customarily associated with and are appropriate, incidental, and subordinate to such principal or conditional uses. Accessory buildings and uses shall be subject to the same regulations as apply to principal uses in each district, except as otherwise provided in these regulations.

- 1. Accessory buildings (residential storage buildings) no larger than 80 square feet may be built, erected, placed or located no closer than five feet (5') to the rear or side property line only within rear yards on lots not located along a water source (interior residential lots not including canal lots) in the R-Residential District.
- 2. An accessory building or structure located entirely within the principal building area of the lot (the lot minus the required yards and courts) whether attached or detached to the principal building shall be subject to the regulations applicable to the principal building.
- 3. Accessory buildings, except buildings housing animals or fowl, may be erected as part of the principal building or may be connected thereto by an attaching structure that includes a common wall and common roof to the principal building. In such instances, the accessory building shall be considered attached to the principal building and shall comply with all yard requirements for a principal building.
- 4. Accessory buildings (including detached garages) may be located in rear yards and side yards provided they are constructed a minimum of ten feet (10') from other structures and conform to required yard setbacks.
- 5. No accessory buildings shall be erected, placed, located or moved into any required front yard.
- 6. An unattached garage building shall not exceed fifteen feet (15') in height and shall only be one story in the R and LF residential and I-institutional districts, and shall not exceed twenty-five feet (25') in height in the A-agriculture and C-commercial districts.
- 7. Accessory buildings in the R, LF and I districts shall maintain the residential character of the neighborhood and not have a commercial or industrial appearance to them.
- 8. Accessory buildings and structures regardless of height which are constructed above the normal ground surface in any required yard area shall not occupy more than thirty percent (30%) of the yard area in which they are located; however, this regulation shall not be



interpreted to prohibit the construction of a two (2) car garage which does not exceed seven hundred twenty (720) square feet gross building area.

9. All unattached garages shall be set back no less than twenty feet (20') from the rear lot line (street side) in the Lake Frontage Residential (LF) District.
10. Accessory buildings shall not be used for dwelling purposes.
11. No permanent accessory buildings shall be erected, placed, located or constructed on any required, permanent, temporary or utility easement.

## **Section 2. PORTABLE ACCESSORY BUILDINGS AND STORAGE STRUCTURES.**

“Storage Structure” shall mean one of the following definitions:

1. *Membrane storage structure*: A structure consisting of a frame covered with a plastic, fabric, canvas, aluminum or other non-permanent material, which is used to provide storage for vehicles, boats, recreational vehicles or other personal property. The term also applies to structures commonly known as hoop buildings, canopy carports or tent garages; but shall not apply to temporary tents or canopies used for special events such as weddings or graduations.
2. *On-demand or on-site storage structure*: Any portable or permanent storage container, storage pod, storage unit, receptacle or other portable structure that is used for the storage of personal property, which is located outside an enclosed building. The term does not include normal sheds, garages, outbuildings or membrane storage structures.

The term “storage structure” shall not apply to a truck trailer or semi-trailer while it is actively being used for the transportation of materials, inventory or equipment and is temporarily located adjacent to a loading dock. A storage structure may be used as a construction site trailer but only during construction on the site.

In all zoning districts except for the commercial district, temporary membrane storage structures are not permitted on any residential properties. A permanent membrane storage structure with a hard roof (such as a carport structure) may be permitted on any property if the structure is permanently attached to the ground, concrete driveway or hard surface, or permanently attached to a principal or accessory structure. A temporary portable on-demand or on-site storage structure may be kept within the yard areas on any residential property for a maximum of 30 days for purposes of packing, shipping or moving materials from a permanent structure.

In the commercial zoning district, permanent membrane storage structures or on-site storage structures are not permitted within the commercial zoning district. A temporary membrane storage structure is permitted on commercial properties for a period of no longer than 30 days. A portable on-site storage unit may be permitted for up to six (6) months for use on-site during construction or renovation of the principal structure on the property.

## **Section 3. TEMPORARY USES AND STRUCTURES.**

Notwithstanding other provisions of this Chapter, the City Council may without notice, public hearing, or other procedures described in this section issue a special permit authorizing the operation of a charitable or other non-profit sponsored carnival or event for a period not to exceed

seven (7) days. Provisions authorizing temporary uses are intended to permit those uses consistent with the purposes of these regulations and compatible with other nearby uses.

Temporary buildings associated with construction (i.e. contractor's office, storage yard, and equipment parking and servicing on the site) may be permitted in any district during the period that the construction is in progress, but such temporary building(s) shall be removed within thirty (30) days after completion or abandonment of work. Additional similar uses determined to be temporary may be approved by the Board of Adjustment.

Each site occupied by a temporary use shall be left free of debris, litter, or other evidence of temporary use upon completion or removal of the use. The Zoning Administrator may establish such additional conditions as deemed necessary to ensure land use compatibility and to minimize potential impacts on nearby uses, including but not limited to time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or enclosure, and guarantees for site restoration and cleanup following temporary use. Temporary uses will be compatible with nearby uses in the general vicinity and will not create traffic hazards or otherwise interrupt or interfere with the conduct of uses in the vicinity. Any temporary use authorized pursuant to these provisions shall not be exempted or relieved from compliance with any other ordinance, law, permit, or license applicable to such use.

#### **Section 4. HOME OCCUPATIONS.**

A home occupation is an accessory use, conducted entirely within a dwelling unit, which is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site. Home occupations as an accessory to the residential use are subject to the following limitations:

1. The use must be conducted as a secondary use and in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term. The home occupation shall be conducted entirely within a dwelling unit that is the bona fide residence of the practitioner(s).
2. Only one (1) unrelated person living outside the residence and members of the immediate family may be employed in the home occupation.
3. The residential character of the lot and building shall be maintained. The exterior of the dwelling shall not be structurally altered so as to require compliance with nonresidential construction to accommodate the home occupation.
4. The home occupation shall not generate customer related vehicular traffic substantially in excess of the normal anticipated residential neighborhood traffic.
5. No equipment or materials associated with the home occupation shall be displayed or stored where visible from anywhere off the premises, except the proprietor may utilize temporary vehicle signage or vehicle magnets to advertise a home occupation business.
6. Home occupations may have only one flush mounted, non-illuminated sign not exceeding four (4) square feet in area and six feet (6') in height that will indicate from the exterior that the building is being utilized for any purposes other than that of a dwelling.
7. No more than 25% of the gross area of the main floor may be used in pursuit of the home occupation. This regulation shall not apply to day care services.

8. The occupation shall not produce external noise, vibration, smoke, dust, odor, heat, glare, fumes, or waste run off outside the dwelling or on property surrounding the dwelling unit.
9. The use must not infringe upon the right of neighbors to enjoy peaceful and healthy occupancy of their home for which purpose the residential district was created and primarily intended.
10. Daycare services, for purposes of a home occupation, are permitted according to state regulations.
11. The following businesses or occupations shall not be permitted as home occupations: animal hospitals, animal breeding, clinics, hospitals, contractor's yards, junk or salvage yards, restaurants, rental outlets, automotive or boat repair, tattoo or massage parlors.

#### **Section 5. MINIMUM RESIDENTIAL DWELLING STANDARDS.**

All residential dwelling units placed, erected, assembled or constructed in the City of Wahpeton after the effective date of this Chapter shall meet and comply with the following minimum standards:

1. *Structure Size*: The dwelling unit must have a minimum main body width of twenty-two (22) feet for at least sixty-five percent of the length of the dwelling unit, said dimension to be exclusive of attached garages, porches or other accessory structures.
2. *Minimum Floor Area*: All dwelling units shall provide for a minimum of eight hundred (800) square feet of floor space
3. *Foundation*: All dwelling units including attached garages shall be placed on a permanent frost-protected perimeter foundation, except that a perimeter foundation shall not be required for a manufactured home if a perimeter foundation is incompatible with the structural design of the building. For manufactured homes, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site. Foundation materials may be masonry, poured concrete, wood or metal and must extend below the normal frost line or be an approved frost-protected permanent foundation. All residential structures must be permanently attached to the foundation.
4. *Roof Pitch*: All dwelling units shall have a minimum roof pitch of 3:12. This requirement shall not apply to manufactured housing if the housing otherwise complies with 42 U.S.C. Sec. 5403.

#### **Section 6. SOLAR ENERGY EQUIPMENT USE.**

The use of solar energy equipment as defined in this ordinance is encouraged and supported in the City of Wahpeton. The placement of solar energy equipment on roofs of principal buildings is recommended. Zoning permits shall be required for the installation and use of solar energy equipment, of which such solar energy equipment must comply with appropriate yard setback and height requirements of each zoning district. Ground mounted solar panels are discouraged in the City of Wahpeton, but if such ground mounted solar energy equipment is requested because roof mounted is not a viable option, the all such ground mounted solar energy equipment shall also comply with the minimum required yard setback distances and maximum height allowed in each district. Ground mounted solar energy equipment shall be adequately screened from view of residential neighbors by appropriate vegetative screening or appropriate and adequate solid

fencing. Any proposed fencing shall comply with the fencing requirements outlined in this ordinance.

## **Section 7. ADULT ENTERTAINMENT REGULATIONS.**

The City of Wahpeton finds that adult entertainment businesses or establishments require special consideration in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of the community. Such adult entertainment businesses, because of their very nature, have a detrimental effect on both existing uses surrounding them and adjacent residential areas. Adult entertainment businesses often times have serious objectionable operational characteristics, thereby contributing to blight and downgrading the quality of life in the adjacent area.

The concern over sexually-transmitted diseases is a legitimate health concern of Wahpeton that demands reasonable regulation of adult entertainment establishments in order to protect the health and well-being of the community. Wahpeton wants to prevent such adverse effects and thereby protect the health, safety, and welfare of its residents; protect residents from increased crime; preserve the quality of life; preserve the property values and character of the surrounding area and deter the spread of blight. It is not the intent of these regulations to suppress any free speech activities protected by the First Amendment, but to enact content neutral regulations that address the secondary effects of adult entertainment establishments as well as the problems associated with such establishments.

1. Adult Entertainment Defined. Adult entertainment establishments consisting of, including, or having the characteristics of any or all of the following.
  - a. *Adult Entertainment:* Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.
  - b. *Adult Entertainment Business or Establishment:* Any establishment with or without a liquor license, including bookstores, novelty stores, video stores, cabarets, nightclubs, bar, restaurants, motels, hotels, picture theatres or any other building or place of establishment offering adult entertainment and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below. It further means any premises that feature topless dancers, go-go dancers, strippers, male or female impersonators, or other similar entertainers for observation by patrons. Adult entertainment establishments further mean those places to which are arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area for the purposes of viewing adult motion pictures, or adult entertainment dancing.
  - c. *Operators:* Any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.
  - d. *Specified Anatomical Areas:* Less than completely and opaquely covered female or male genitals or buttocks, and the fully exposed female breasts.
  - e. *Specified Sexual Activities:* Simulated or actual acts of:

- (i) showing of specified anatomical areas in a state of sexual stimulation or arousal;
- (ii) actual or simulated acts of sexual intercourse, sodomy, sado-masochism; or
- (iii) fondling or erotic touching of specified anatomical areas.

2. Locational Requirements and Restrictions.

An adult entertainment business shall be permitted within the City of Wahpeton only in the C-Commercial zoning district upon receipt of a site plan in accordance with Chapter 165.09. and a conditional use permit in accordance with the procedures set forth in Chapter 165.18.; and only if it meets all of the location requirements set forth below. Distances provided hereafter shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property upon which the proposed adult entertainment business is to be located, to the nearest point of the parcel of property or zoning district from which the proposed adult entertainment business is to be separated.

- a. Adult entertainment establishments shall be prohibited in or within one thousand (1,000) feet of the borders of a residential district.
- b. Adult entertainment establishments shall be prohibited within one thousand (1,000) feet of any church, synagogue, mosque, temple, or other place of religious worship.
- c. Adult entertainment establishments shall be prohibited within one thousand (1,000) feet of any public or private school.
- d. Adult entertainment establishments shall be prohibited within one thousand (1,000) feet of any public park or playground.
- e. Adult entertainment establishments shall be prohibited within one thousand (1,000) feet of any other adult entertainment business.

3. Development Design Standards.

It shall be unlawful for an owner of an adult entertainment business to allow merchandise or activities to be visible from a point outside the business. Furthermore, adult entertainment businesses shall not allow the exterior portion to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representation of any manner depicting specified anatomical areas or specified sexual activities. In addition to the sign regulations identified elsewhere in these zoning regulations, the display surfaces of the sign shall not contain any flashing lights or photographs, silhouettes, drawings, or pictorial representations of any manner, except for the name of the enterprise.

4. Responsibilities of the Operator.

Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

5. Minors.

It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult entertainment business at any time the establishment is open for business. The operator is responsible for monitoring public entrances at all times during

regular business hours. No part of the interior of any adult business shall be visible from a pedestrian sidewalk, walkway, street, or other public or semi-public area.

### **Section 8. PLANNED UNIT DEVELOPMENT (PUD) – AS A SPECIAL USE**

Planned Unit Developments (PUD's) are intended to accommodate a wide variety of use types in accordance with the city's comprehensive plan. It is the intent of the PUD to provide flexibility from use and site development regulations in order to encourage innovative, well-designed projects that achieve a high level of low impact development, environmental sensitivity, energy efficiency, safety, aesthetics and other community goals. Each PUD will be applied for and reviewed as a conditional use within the zoning district in which it is located. The PUD application shall contain a general statement by the applicant describing how the proposed development, on balance, is an improvement over what otherwise would be required under the community's standard zoning and land development regulations. The purpose of this section is:

- To encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning requirements.
  - To ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site, including wetlands, woodlands, steep slopes, and scenic areas.
  - To facilitate the economical provision of streets and public utilities.
  - To decrease side yard requirements using zero-lot-line zoning.
  - To encourage low impact developments.
1. *Authorized Uses.* No use shall be established and no development shall be permitted in the PUD District unless approved pursuant to the procedures and standards of Chapter 166, the Wahpeton Subdivision Regulations ordinance. No use shall be approved within a PUD if it is found by the Planning Commission to be contrary to the comprehensive plan or contrary to the health, safety and general welfare of the present and future residents of the City. The overall land use makeup of PUDs shall be consistent with the underlying land use designation and the following standards. PUDs to be established on lands designated for residential land uses on the comprehensive plan's future land use map shall be considered as "Residential PUDs." The Planning Commission may approve any residential and public/civic uses within residential PUDs permitted in any "R" District. Permitted dwelling units shall include detached, clustered, semi-detached, attached or multi-storied structures or combinations thereof. Customary accessory uses are also permitted.
  2. *General Regulations.* The City may approve the planned unit development only if it is found that the development satisfies all of the following regulations:
    - a. Conformance with the Comprehensive Plan. The proposed PUD is in conformance with the comprehensive plan for Wahpeton. At a minimum, the Planning Commission shall find the PUD does not conflict with the comprehensive plan. The proposed use shall not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities that serve the area. The PUD must be an effective and unified treatment of the development possibilities on the project site, and the development provides for preservation of unique natural amenities such as streams, wooded cover, rough terrain and similar areas. The proposed use shall not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to surrounding uses. The proposed use shall incorporate low impact development practices.

- b. Coordination with Subdivision Regulations. It is the intent that subdivision review of the City's subdivision regulations is carried out simultaneously with the review of a planned development under this section of the Zoning Ordinance. The plans required under this section must be submitted in a form that will satisfy the requirements of the subdivision regulations for the preliminary and final plats required under those regulations.
- c. Ownership and Financing. No application for a PUD shall be accepted or approved unless an individual has been designated by the property owner(s) to be in control of the development, or financing is available to the applicant in an amount sufficient to assure completion of the planned unit development. To evidence this finding, the applicant shall submit a written statement of financial feasibility acceptable to the City.
- d. Minimum Site Area. The minimum contiguous site area included in a PUD shall be two (2) acres. Property shall be deemed to be contiguous so long as all parts of under unified control of the applicant, and all parts abut or are separated by only a road, easement or right-of-way. A minimum of two (2) or more principal structures is proposed.
- e. Preservation of Natural Features. Mature trees, vegetative cover, watercourses and other natural site features shall be preserved to the greatest extent possible. Abrupt changes in natural slope shall be avoided. Preservation shall be directed toward:
  - 1) Enhancing the quality of new development;
  - 2) Protecting the natural environment;
  - 3) Providing buffering between new developments and surrounding properties;
  - 4) Preserving the character of existing neighborhoods;
  - 5) Handling of storm water flows in natural channels;
  - 6) Maintaining existing vegetation along stream corridors as water quality filters;
  - 7) Maintaining upland forest areas; and
  - 8) Developing and sustaining low impact developments.
- f. Common Open Space. A minimum of five percent (5%) of the gross area of every residential PUD containing ten (10) or more dwelling units shall be devoted to common open space for the use and enjoyment of the residents. The following areas shall qualify wholly or partially as common open space:
  - 1) Major Recreational Areas – must be at least 20,000 square feet in size and is linked to all dwelling units within the PUD by a pedestrian system. A golf course may be used to satisfy the common open space requirement.
  - 2) Mini-Parks – may include benches, playground apparatus, barbecue pits, fire rings or other approved recreational amenities.
  - 3) Recreational Buildings – may be a multi-use recreation building or outdoor facilities.
  - 4) Pedestrian Open Space System - consisting of permanently maintained walks and trails leading to a natural amenity, recreation facility or commercial use, offering circulation that is separate and apart from roads and streets.
  - 5) Environmental Features – The Planning Commission may require natural habitats of significant value or environmentally sensitive areas are left in an undisturbed state and adequately protected or incorporated into the design of the PUD.
- g. Maintenance of Common Open Space. Any common open space established by an adopted final development plan for a PUD shall establish an organization for ownership and

maintenance of common open space. That organization shall not be dissolved nor shall it dispose of any common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space). The conditions of any transfer shall conform to the adopted development plan. In the event that the organization established to own and maintain common open space shall fail to maintain the common open space in reasonable condition, the Zoning Administrator shall serve written notice upon such organization defining the maintenance deficiencies. If such deficiencies of maintenance are not corrected after thirty (30) days, the Zoning Administrator shall call upon any public or private agency to maintain the common open space. In such cases, the City shall annually notify Dickinson County of the costs of such maintenance, and the Tax Assessor shall assess the costs proportionally against all properties with the PUD that have the right of use of the common open space.

- h. Arrangement of Structures and Common Area. Structures and common areas shall be arranged in such a way as to best serve the needs of occupants and/or other users of the proposed development and minimize any adverse effects on surrounding land uses and minimize site grading.
- i. Site Design and Buffering.
  - 1) Perimeter Screening - additional buffering beyond minimum requirements shall be provided at the perimeter of the proposed development where appropriate to reduce noise, glare or other influences having an adverse impact on adjacent land.
  - 2) Interior Screening - additional landscaping beyond minimum requirements shall also be provided where appropriate to mitigate adverse impacts; to provide additional shade, screening and open space in parking areas and around structures.
  - 3) Visual and Acoustical Privacy - fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and privacy of occupants, screening of objectionable view or uses, and reduction of noise.
- j. Integrated Architectural Design. The plan for development shall integrate an architectural design for buildings, structures, landscaping and common open areas. Yard setback, lot size, height, and frontage requirements may be modified in a PUD, provided the spirit and intent of this Chapter is complied with in the total development plan as determined by the City Council after report by the Planning Commission. The Commission may determine that certain setbacks shall be required within all or a portion of the PUD and whether the total development plan complies with the spirit and intent of this section and shall so state in its report to the City Council.
- k. Density. Land area for developments, exclusive of open space, shall not be more than sixty-five percent (65%) of the lot area in the “LF” or “R” district.
- l. Neighborhood Relationship and Land Use Compatibility. A PUD shall be harmonious and not conflict with surrounding neighborhoods and existing natural features. It shall be planned, designed and constructed so as to avoid undue traffic congestion in the surrounding area and provide a compatible land use relationship with the surrounding area, making use of landscaping, screening, natural stream ways as storm water management; open space and the placement of buildings where appropriate in accordance with accepted land use planning and design principles.



- m. Development Phasing. The timely construction of any PUD authorized under this section shall be undertaken to assure full completion of the development in accordance with the adopted preliminary and final development plan. Each phase of the proposed development must be of sufficient size, composition and arrangement so that its construction, marketing, and operation are feasible as a complete unit; and provisions for and construction of dwelling units and common open space is balanced and coordinated. In addition, the total development is designed in such a manner as to form a desirable and unified environment within its own boundaries. At the time of preliminary plan approval, the City Council or Planning Commission may require that a phasing plan be submitted, in which case each phase shall be related to surrounding areas and available public facilities in such a manner that failure to proceed to subsequent phases will not adversely affect those areas or facilities. Each completed phase shall comply with all applicable standards. The infrastructure, as installed, shall be sufficient to accommodate each phase of the development.
- n. Lighting. All lighting from proposed developments shall be arranged to prevent direct glare or hazardous interference to adjoining streets or lands.
- o. Off-Street Parking and Loading. Off-street parking and loading requirements shall be required for activities in the Planned Unit Development (PUD) District in accordance with the provisions of Section 165.12 of this Chapter, unless a deviation from those standards is specifically approved during the PUD approval process.
- p. On-Site Utilities. Underground utilities shall be encouraged and provided where possible.
- q. Other Conditions. The Zoning Administrator and the Planning Commission shall have the authority to recommend, and the City Council shall have the authority to impose, such other conditions as are necessary to accomplish the purposes of this Chapter and the Wahpeton Comprehensive Plan.
- r. Final Approval. The approval of a PUD shall be by the City Council after recommendation of the Planning Commission, and building permits shall not be issued until approval of the final development plan. As a condition of approval of a PUD, the City Council may require the deposit of funds into an escrow account or the posting of a performance bond to secure performance of the construction of the PUD or the elements thereof, in accordance with the application and approved plan.

# 165.12 OFF-STREET PARKING REQUIREMENTS

- 1. Intent
- 2. General Parking Area and Surface Requirements
- 3. Off-Street Parking Area Required
- 4. Computation of Parking Spaces
- 5. Location and Type of Parking
- 6. Off Street Loading Requirements

## Section 1. INTENT.

It is the intent of this section to prevent traffic congestion and to provide for proper traffic safety by preserving the public thoroughfares for the unimpaired movement of pedestrian and vehicular traffic. Therefore, it shall be recognized that the requirements of this section are minimum and that in certain uses of land, these requirements may be inadequate. Where review of the site plans and intended land use indicate through the application of proven standards or experienced statistics that the requirements herein are inadequate for the specific land use adaptation, a greater requirement for off-street parking space may be required to preserve the intent of this Chapter.

## Section 2. GENERAL PARKING AREA AND SURFACE REQUIREMENTS.

All off-street parking areas shall comply with the following minimum requirements.

- 1. All buildings and structures erected and all uses of lands in all districts established after the effective date of this Chapter shall provide parking as required under this section.
- 2. A parking space shall be not less than two hundred square feet (200 sq.ft. typically 10' x 20').
- 3. Enclosed parking areas or garages shall qualify to meet the minimum parking space requirements under this section.
- 4. Owners of two (2) or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, easements, leases, or contract documents to establish such a joint use of area.
- 5. No off street parking shall be permitted within the required front yard in the R and LF residential districts, except that portion of the driveway lying within the front yard may be used to satisfy the off street parking requirements.

## Section 3. OFF STREET PARKING AREA REQUIRED.

In all districts, space for parking and storage of vehicles shall be provided in accordance with the following schedule. No parking area required hereunder shall be less than one thousand (1,000) square feet in area, except in the case of dwellings and retail stores and shops under five hundred (500) square feet. All required off-street parking shall be on the same lot as the principal use or on an immediately adjacent lot.

- 1. Single Family & Two Family Residential:      2 spaces per dwelling
- 2. Multi-Family Residential:                              2 spaces per dwelling unit  
*Includes condominiums and townhouses*

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|--|---|
| 3. Hotel/Motel, Bed & Breakfast lodging house or resort enterprise:  | 1 space per room or suite of rooms for tourist accommodations and 1 space for each two (2) persons regularly employed on the premises.  |
| 4. Residential or Cottage Rental Properties:   | 1 space plus one (1) space for each bedroom.  |
| 5. Group Residential:  | 1 space for each two (2) bedrooms   |
| 6. Banks, business and professional offices:   | 1 space for each 200 square feet of floor area and 1 space for each office in the principal building or 1¼ space for each person regularly employed on the premises, whichever is greater.  |
| 7. Public Assembly/Religious Assembly:<br><i>Churches, Auditoriums, Theaters, Community Center, etc.</i>                             | 1 space for each four (4) seats of seating capacity provided  |
| 8. Automobile sales and service garages:   | 1 space for each 300 square feet of floor area and 1 space for each four (4) persons regularly employed on the premises.  |
| 9. Furniture, appliance and other retail stores displaying large and bulky merchandise:  | 1 space for each 400 square feet of floor area.   |
| 10. Restaurants, bars, night clubs or similar places dispensing food, drink or alcohol:  | 1 space for each 50 square feet of floor area devoted to patron use within the establishment plus 1 space for each 4 persons regularly employed.  |
| 11. General Retail Sales/Professional Office:  | 1 space per 300 feet of gross floor area  |
| 12. All Educational Facilities:<br><i>Includes Preschools/Nurseries/Daycares</i>   | 1 space per regular employee/classroom or 1 space for every six (6) seats in the largest facility for public assembly, whichever is greater.  |
| 13. Commercial Docks/Marinas:<br><i>Applies to commercial docks, marinas or commercially rented slips, dock space or boat hoists</i> | One (1) space per one (1) dock slip or hoist.   |
| 14. Campgrounds, camp site or RV parks:  | One (1) space per one (1) camping or RV site  |
| 15. All other uses:  | All other buildings having a gross floor area of more than two thousand (2,000) square feet shall provide 1 space for each five hundred (500) square feet of floor space. All other building having a gross floor area of less than two thousand (2,000) square feet shall provide 1 space for each five hundred (500) square feet of floor space and 1 space for each person regularly employed on the premises; however, there shall no less than 5 parking spaces. |

#### **Section 4. COMPUTATION OF PARKING SPACES.**

1. In the case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply, as determined by the Zoning Administrator.
3. Where fractional spaces occur, the parking spaces required shall be construed to be the next whole number.
3. Whenever a building or use constructed or established after the effective date of this Chapter is changed, altered, relocated, added to, or modified in any way to enlarge the building, structure or use in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Chapter is enlarged to the extent of fifty percent (50%) or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
4. In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses if computed separately.

#### **Section 5. LOCATION AND TYPE OF PARKING SPACES.**

Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot shall be developed and maintained in accordance with the following requirements:

1. Where a parking lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than ten feet (10') in width for a dwelling, and not less than twenty feet (20') in width for loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question. Except where provided in connection with a use permitted in a residential district, such easement of access or access drive shall not be located in any residential district.
2. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form and execution, and shall be filed with the application for a zoning permit.
3. Lighting used to illuminate any off-street parking area including any commercial parking lot shall be so arranged as to reflect the light away from adjoining premises in any R District.
4. No part of any parking space shall be closer than five feet (5') to any established street right-of-way or alley line. Where a commercial or other non-residential parking lot adjoins an R or LF residential district, it shall be set back at least five (5) feet from the R or LF residential district boundary and shall be effectively screened immediately by the use of a fence, hedge, or other similar methods upon approval of the Zoning Administrator.
5. Off street parking in any district is not permitted on any public right-of-ways. No on street public parking shall be defined as meeting the requirements of this Section.

6. Any off-street parking area, including any commercial parking lot for more than two (2) vehicles shall be surfaced with an asphaltic or portland cement binder pavement or such other surface as shall be approved by the Zoning Administrator so as to provide a durable and dustless surface; shall be so graded and drained as to expeditiously dispose of all surface water accumulation within the area; and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of vehicles.

**Section 6. OFF STREET LOADING REQUIREMENTS.**

At the time of construction, alteration, or enlargement of every commercial or industrial building hereafter erected; every hospital, hotel, institution, manufacturing, storage, warehouse, retail store, wholesale store, or other similar commercial or industrial building having secondary access from an alley, side street or otherwise shall have one (1) permanently maintained loading space for buildings in excess of ten thousand (10,000) square feet.

1. Each loading space shall be no less than ten feet (10') in width and forty feet (40') in length.
2. No truck or trailer, for purposes of loading, unloading or parking will be permitted to be located on any street or other public right-of-way.
4. Such space may occupy all or any part of any required yard or open space, except where adjoining an R or LF residential district. If the loading space is adjacent to any residential district, it shall be set back at least ten feet (10') from said district and be effectively screened from view.

# 165.13 SIGN REGULATIONS

- 1. Intent
- 2. Definitions
- 3. Exempt Signs
- 4. Sign Requirements
- 5. Conditional Uses for Signs
- 6. Sign Permit
- 7. Unsafe Signs and Removal of Signs
- 8. Nonconforming Signs

## Section 1. INTENT.

This section is established to protect and promote health, safety, general welfare and order within the city through the establishment of comprehensive and uniform standards, regulations and procedures governing the type, numbers, size, structure, location, height, lighting, erection, use or display of devices, signs, or symbols serving as a visual communications media to persons situated within or upon public rights-of-way or private properties. Hereafter, no sign shall be erected, constructed, altered or modified except as regulated by the provisions of this section, except a permit is not required for temporary or exempt signs as noted in Section 165.13.3.

## Section 2. DEFINITIONS.

The following terms, for the purposes of this section, have the meanings stated herein. Where terms are not defined, they shall have their ordinarily accepted meanings within the context in which they are used.

- 1. *Abandoned Sign*: A sign that no longer correctly advertises a bona fide business, lessor, owner, product, or activity conducted on the premises where such sign is displayed.
- 2. *Billboard (Off-Premises Sign)*: Billboards shall include all structures, regardless of the materials used, that are erected, maintained or used for public display of posters, painted signs, or wall signs, whether the structure be placed on the wall or painted itself, pictures or other pictorial reading material which advertise a business or attraction which is not carried on, manufactured, grown or sold on the premises where said signs or billboards are located.
- 3. *Curb Line*: is the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb line shall be established by the Zoning Administrator.
- 4. *Display Surface*: is the area made available by the sign structure for the purpose of displaying the advertising message.
- 5. *Erect*: To build, construct, attach, hang, suspend or affix, and includes painting of wall signs.
- 6. *Facing (or surface)*: The surface of the sign upon; against or through which the message is displayed or illustrated on the sign.
- 7. *Sign*: Any identification, description, illustration, or device affixed to or represented directly or indirectly upon a building, structure, or land and designed to inform or attract the attention of persons not on the premises of which the sign is located.
  - a. *Address Sign*: A sign identifying street address only, whether written or numerical form.
  - b. *Awning Sign*: A device made of cloth, metal, or other material affixed to and projecting from a building in such a manner that the device is either permanently fixed or so erected as to

- allow it to be raised or retracted and return to a flat position against the building when not in use. Awnings may be artificially lighted; however, awning signs shall not have any flashing, strobe, or otherwise intermittent light emitting from the awning sign.
- c. *Campaign Sign*: A temporary sign promoting the candidacy of a person running for a governmental office, or promoting an issue to be voted upon at a governmental election.
  - d. *Construction Sign*: A sign placed at construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.
  - e. *Combination Sign*: A sign incorporating any combination of the features of pole, projecting and roof signs.
  - f. *Directional Sign*: A sign erected on public or private property with only the address and name of a business, institution, church, or other use or activity plus directional arrows or information on location.
  - g. *Electric Sign*: Is any sign containing electrical wiring, but not including signs illuminated by an exterior light source.
  - h. *Flashing Sign*: Any illuminated sign that has artificial light or color that is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature or similar information shall not be considered a flashing sign.
  - i. *Free Standing Sign*: Any sign or sign structure, not securely attached to the ground or to any other structure. This shall not include trailer signs as defined in this section
  - j. *Governmental Sign*: A sign which is erected by a governmental unit.
  - k. *Ground Sign*: A billboard or similar type of sign that is supported by one or more uprights, poles or braces in or upon the ground other than a combination sign or pole sign, as defined by this Chapter.
  - l. *Illuminated Sign*: Any sign that has character, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.
  - m. *Information Sign*: Any sign giving information to employees, visitors or delivery vehicles, but containing no advertising or identification.
  - n. *Joint Identification Sign*: A free-standing sign which identifies a subdivision, a multiple residential complex consisting of three (3) or more structures, a shopping center consisting of three (3) or more separate business concerns, an industrial area, an office complex consisting of three (3) or more structures or any combination of the above.
  - o. *Non-Conforming Sign*: A sign which lawfully existed at the time of the passage of this ordinance but which does not conform to the regulations of this Chapter.
  - p. *Pole Sign*: A sign wholly supported by a sign structure in the ground.
  - q. *Projecting Sign*: A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.
  - r. *Real Estate Sign*: A business sign placed upon a property advertising that particular property for sale, for lease or for rent.
  - s. *Roof Sign*: A sign erected upon or above a roof or parapet of a building or structure.

- t. *Swinging Sign*: A sign installed on an arm or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.
  - u. *Trailer Sign*: Any sign mounted on a vehicle normally licensed by the State of Iowa as a trailer and used for advertising or promotional purposes.
  - v. *Wall Sign*: Any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall.
8. *Sign, On-Site*: A sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.
  9. *Sign, Off-Site*: A sign other than an on-site sign. See also “Billboard”.
  10. *Sign Structure*: Any structure that supports or capable of supporting a sign as defined in this Chapter. A sign structure may be a single pole or an integral part of the building.
  11. *Temporary Sign*: Any sign, banner, pendant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a limited period of time only.

### **Section 3. EXEMPT SIGNS.**

The following signs do not require a sign permit, but shall comply with all other applicable provisions of this Chapter.

1. Official notices authorized by a court, public body or public safety official.
2. Intricate, decorative or architectural features of buildings such as memorial plaques, building identification signs and building cornerstones when made an integral part of the building or structure; except letters, trademarks, moving parts or moving lights.
3. Flags and insignias of any government except when displayed for commercial promotion.
4. Religious symbols and seasonal decorations within the appropriate public holiday season.
5. Address signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
6. Real estate signs are permitted in any district, advertising the sale, lease or rental of premises or buildings on which they are located.
7. Construction Signs announcing the names of architects, engineers, contractors, future use, and other individuals or firms involved with the construction, alteration, or repair of such building (but not including any advertisement of any product) shall be permitted. One sign, not to exceed 32 sq. ft. (i.e. 4' x 8') is allowed.
8. Campaign Signs as allowed by Section 68A.406-yard signs, Code of Iowa.
9. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
10. Government signs of a public, non-commercial nature to include safety signs, danger signs, trespassing signs, traffic signs, signs of scenic or historical points of interest, and the like; when signs are erected by order of a public officer or city employee.



11. Signs directing and guiding traffic and parking on private property but bearing no advertising.
12. Directory signs identifying the business, owners, manager, or occupant and set forth the occupation or address but contains no advertising. There may be one directory sign per zoning lot not to exceed two square feet per business or occupant.
13. Temporary signs including portable or moveable signs, search lights, banners, pendants, and similar devices shall be allowed in addition to the sign limitations of this Chapter for continuous periods not to exceed thirty (30) consecutive days. Portable temporary signs and sign structures, including sign trailers, must be located at least twenty feet (20') behind the front property line.

#### **Section 4. SIGN REQUIREMENTS.**

No part of a sign or sign structure shall be closer to any street line than the front line of the nearest building within one hundred feet (100'). However, when a sign or sign structure is erected between two (2) buildings within one hundred feet (100') of that sign, no part of the sign shall be erected closer to any street line than a line drawn from the nearest front corner of one building to the nearest front corner of the other building.

1. Signs and sign structures must maintain a thirty feet (30') side yard setback from any residential district or residential use.
2. No sign structure may be closer than fifty feet (50') to any other sign structure unless such structures are back to back, V-shaped or on opposite faces of a building.
3. The total allowable area of all use identification signs on any building of a business establishment shall be determined by permitting two (2) square feet of sign area for each one (1) horizontal feet of the building wall displaying such sign or signs, not to exceed a maximum of 500 square feet on the entire building and premises.
4. A ground sign structure shall not exceed a height of twenty-five (25) feet.
5. Intermittent or flashing illumination and animated signs shall be subject to the approval of the Zoning Administrator. The source of any illumination shall not be visible to any residential use.
6. No sign shall emit sounds.
7. No sign shall encroach or extend over any public right-of-way.
8. Signs for non-residential or business uses in any residential district shall not exceed sixteen (16) square feet.
9. Home occupation signs shall be permitted pursuant to Section 165.11.5. of this Chapter.
10. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or displaying device containing elements organized, related and composed to form a unit. Where matter is displayed randomly without organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign. The surface area of a sign shall be computed as including the entire area within a geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area, except where such frames and structural members are used as an integral primary

or subsidiary portion of the graphic, literal, or numerical display, such as forming a picture frame to facilitate continuity or providing contrasts to emphasize the intended purpose of the sign.

#### **Section 5. CONDITIONAL USES FOR SIGNS.**

Any sign type may be granted conditional use status after review by the Board of Adjustment and subject to any conditions deemed by the board to be appropriate.

#### **Section 6. SIGN PERMIT.**

It shall be unlawful for any person to erect, alter, or relocate within the City any sign or other advertising structure as defined in this Chapter, without first obtaining a sign permit. The permit application shall contain information on location of the proposed sign structure, the names and addresses of the sign owner and of the sign erector, drawings showing the design, size, and location of the sign. Signs located along a state primary highway will also require a state sign permit. Fees for sign permits will be established by resolution of the City Council. A sign permit will become null and void if the work authorized under a sign permit has not been completed within one (1) year after date of issuance of said permit.

#### **Section 7. UNSAFE SIGNS AND REMOVAL OF SIGNS.**

All signs and sign structures shall be properly maintained and kept in a safe, orderly condition. Signs shall also maintain a neat and orderly appearance in which the sign is easily read. All parts and supports of signs shall be properly painted. No advertising sign or billboard shall be allowed to remain if it is structurally unsafe and in a state of needed repair; nor will any sign be permitted which constitutes or tends to constitute a traffic hazard for safe and efficient operation of vehicles, or creates a condition that endangers the safety of persons or property. The City Council may order its removal based upon a complete report after inspection by the Zoning Administrator as to traffic or safety problems created by any such sign. The Zoning Administrator shall notify the sign company of any existing problem and if the conditions are not remedied in thirty (30) days. A hearing shall be held to discuss the removal of said sign. If said sign is not removed within thirty (30) days after the date of public hearing held by the City Council, the City shall remove said sign and bill the property owner where the sign is located for the full cost. If, however, the Zoning Administrator finds that any sign or other advertising structure poses a serious and immediate threat to the health or safety of any person, the removal of such sign may be ordered without notice to the permit holder. Obsolete signs no longer advertising a bona fide business, an activity, business product or service produced or conducted on the premises shall be removed within ninety (90) days from date of notice provided by the City of Wahpeton. If after the expiration of the ninety (90) day period, the sign has not been removed, the city may cause the sign to be removed and any expenses may be charged back to the property owner.

#### **Section 8. NONCONFORMING SIGNS.**

Nonconforming signs shall be brought to compliance at the time of replacement of such nonconforming sign. Such replacement of sign may be due to a change of ownership, change of business use or change from the age or condition of such nonconforming sign.

# 165.14 NONCONFORMITIES

- 1. Intent
- 2. Nonconforming Lot of Record
- 3. Continuing Existing Uses
- 4. Nonconforming Buildings and Structures
- 5. Nonconforming Uses of Land
- 6. Replacing Damaged Buildings
- 7. Nonconforming Uses and Structures within Lakeshore Front Yards
- 8. Change of Tenancy or Ownership

## Section 1. INTENT.

Within the City of Wahpeton, there exist lots, structures, buildings and uses considered lawful before the Wahpeton Zoning Code became effective but which would be prohibited or specially restricted under the provisions of the Zoning Code. The intent of this Chapter is to permit these non-conformities to continue until they are removed but not to encourage their continuance. Such non-conformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the district. Such uses are declared by this Chapter to be incompatible with permitted uses in the districts involved.

## Section 2. NONCONFORMING LOT OF RECORD.

In any district in which buildings or structures are permitted, such buildings or structures and customary accessory buildings may be erected on any single lot of record at the effective date of the adoption of the Wahpeton Zoning ordinance notwithstanding lot area or width requirements established in this Code. However any variance from front, side, or rear yard setback requirements may be accomplished only upon the grant of a variance issued by the Board of Adjustment. Where two or more nonconforming lots, or portions thereof, are contiguous in frontage and under the same ownership shall be considered to be an unsubdivided zoning lot for purposes of this Chapter. No portion of said zoning lot shall be sold and used which does not meet lot width and area requirements established by this Chapter, nor shall any division of the parcel be made which leaves any lot width or area below the stated requirements of this Chapter.

## Section 3. CONTINUING EXISTING USES.

The lawful use of a building existing or for which building permits have been issued at the time of the enactment of the ordinance codified herein or amendments thereto may be continued even though such use or permit may not conform to the regulations of this Chapter for the district in which it is located. Any use in existence at the adoption of such ordinance which was not an authorized nonconforming use under previous Zoning Ordinances, shall not be authorized to continue as a nonconforming use pursuant to this Chapter, or amendments thereto.

## Section 4. NONCONFORMING BUILDINGS AND STRUCTURES.

- 1. General Provisions. Non-conforming buildings or structures may be repaired and maintained including but not limited to residing, reroofing, adding windows, doors and adding electrical service, as long as the repair or maintenance does not increase the nonconformity of the existing structure.
- 2. Moving Nonconforming Buildings or Structures. Should such structure be moved for any reason for any distance it shall thereafter conform to the regulations for the district in which it is located after it is moved.

3. Guest House and Boat House Limitations. Nothing in this Chapter shall be construed or interpreted to permit an existing boathouse to be repaired or maintained to the end that it shall be used for residential purposes or personal occupancy. Nothing in this Chapter shall be construed or interpreted to permit repair or maintenance of a guest house to the end that the guest house increases the occupancy in excess of the number of such accommodations that were available prior to such repair or maintenance.

#### **Section 5. NONCONFORMING USES OF LAND.**

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

1. Substitution. If no structural alterations are made, a nonconforming use of a building or structure may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
2. Discontinuance. In the event that a nonconforming use of any building, structure or land is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located. The use of land upon which no improvement or structure is erected or constructed which does not conform to the provisions of this Chapter and the use of land upon which no building is erected or constructed which becomes nonconforming by reason of a subsequent change in this Chapter, shall be discontinued within one year from the date of the change.
3. No Increase in Nonconformity Permitted. No such nonconforming use shall be able to increase its nonconformity in intensity, volume, product, service or substantially change the type of nonconforming use being allowed to operate on such premises.
4. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

#### **Section 6. REPLACING DAMAGED BUILDINGS.**

Any nonconforming building or structure, damaged such that the cost to repair exceeds 50% of the value of the structure prior to the damage may not continue as a non-conforming use and must be repaired or reconstructed and thereafter used as a conforming structure and use. Structures damaged to a lesser extent may be restored, reconstructed and used as before provided that repair of reconstruction is begun within one (1) year of the damage and pursued in an orderly fashion until completion. In the event the structure is a legal pre-existing nonconforming use, such structure may be replaced with no greater square footage of floor areas, and subject to the additional limitation that such rebuilt or repaired structure shall not contain accommodation for personal occupancy in excess of the number of such accommodation that were available in the destroyed or damaged structure. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon orders of such official. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its value prior to replacement it shall be reconstructed in conformity with the provisions of this Chapter.

## **Section 7. NONCONFORMING USES AND STRUCTURES WITHIN LAKESHORE FRONT YARDS.**

The provisions of this section shall only apply to those lakeshore residential properties located within the “LF” Lake Frontage Residential District. 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 construction was lawfully begun on or before June 1, 2013. The intent is to permit detached lake frontage nonconforming uses or structures to continue until they are removed. It is further the intent that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. Notwithstanding the provisions of this Chapter, detached nonconforming lake frontage structures may be repaired, altered, or replaced in accordance with the following limitations:

4. Existing detached or freestanding decks, boat houses, utility sheds and other above ground detached structures or buildings located within the required front yard area of properties in the LF residential zoning district may continue to exist.
5. Existing detached lake frontage nonconforming structures or buildings may be repaired, structurally altered or replaced completely so long as the alterations, repairs or replacement structure is of the same or less size, footprint and cubic content as the original structure. No enlargement of any nonconforming structure or building is permitted, unless existing setbacks and all other zoning requirements are met.
6. Existing detached lake frontage nonconforming structures or buildings may be moved, but only to increase the conformity of a structure or building with existing yard setbacks and zoning requirements. No such structure may be moved or altered in a way that increases its nonconforming status. A permit issued by the Zoning Administrator is required for such a move. In such a permit, the Zoning Administrator may request movement or relocation of such nonconforming structure in order to increase its conformity.

Any repair, restoration or reconstruction of a lake frontage nonconforming structure shall be accomplished pursuant to a zoning permit issued by the Zoning Administrator. Any full replacement of an existing detached lake frontage nonconforming structure or building shall be reviewed by the Zoning Administrator. The Zoning Administrator shall make a determination if the proposed alteration or replacement is approved. When issuing a permit for detached lake frontage nonconforming structures or buildings, the Zoning Administrator shall consider and recommend to property owners that any improvement within the front yard (lakeside) should include alterations or improvements that do not limit or impede a neighboring property owners view of the lake (e.g. changing out wide deck rails for narrow boards, wire or clear materials).

The purposeful removal of any detached lake frontage nonconforming use or structure in which no replacement structure or building has been constructed within one (1) year of the removal of a nonconforming use or structure shall result in loss of preexisting nonconforming status and any new structure shall then hereafter conform to all provisions of the Wahpeton Zoning Ordinance. There may be a change of tenancy, ownership, or management of any existing detached lake frontage nonconforming use, building or structures without affecting the conformity or nonconforming status of such use, building or structure.

## **Section 8. CHANGE OF TENANCY OR OWNERSHIP.**

There may be a change of tenancy, ownership, or management without affecting the nonconforming status of any uses of land, structures, or structures and uses in combination.

# 165.15 ZONING ENFORCEMENT

- 1. Zoning Administrator
- 2. Zoning Administration and Enforcement
- 3. Zoning Permits Required
- 4. Application for Zoning Permit
- 5. Construction and Use to be provided in Application, Plans and Permit
- 6. Additional Requirements
- 7. Zoning Fees
- 8. Permit for Conditional Uses
- 9. Administrative Appeals
- 10. Duties of Zoning Administrator, Board of Adjustment, City Council, and Courts on Matters of Appeal

## Section 1. ZONING ADMINISTRATOR.

The purpose of this section is for the City of Wahpeton, Iowa to confirm the existing Zoning Administrator, and it shall be the duty of said administrator to enforce this Chapter. Such administrator may be a person holding other appointive office in the city, or another governmental or contracted agency. The term of appointment for the Zoning Administrator shall be set by and at the pleasure of the City Council. Once the Zoning Administrator is appointed by City Council that appointment becomes perpetual until such further decision and notification is made by the council. Additionally, termination of the Zoning Administrator and/or certain duties or responsibilities shall also be upon consideration and discretion of the City Council.

## Section 2. ZONING ADMINISTRATION AND ENFORCEMENT.

The provisions of this Chapter shall be enforced and administered by the Zoning Administrator. If the Zoning Administrator shall find that any of the provisions of this Chapter are being violated, said Administrator shall notify in writing the person responsible for such violations indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings 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 Chapter to insure compliance with or to prevent violation of its provisions.

## Section 3. ZONING PERMITS REQUIRED.

- 1. Zoning Permit Required. Buildings or other structures including signs, decks, fences and at-grade cement or patios shall not be erected, moved, added to, or structurally altered without a permit issued by the Zoning Administrator. Zoning permits shall be issued in conformance with the provisions of this Chapter, or upon written order from the Board of Adjustment. Zoning permits shall be null and void if the purpose for which the permit is issued is not commenced within six (6) months from the date of issuance. Buildings and structures for which a zoning permit is issued shall be weather-tight and substantially completed within one (1) year from the date of issuance of the permit. Weather-tight shall mean a solid roofing surface and solid walls or siding over the basic subsurface and framing of such building or structure. Furthermore, substantially complete will be determined by the Zoning Administrator, but in most circumstances means completion in excess of 90 percent complete. Such buildings and structures that are not weather tight or substantially completed within the specified timeframe, as determined by the Zoning Administrator, shall apply for an extension from the Zoning Administrator or the original permit shall be voided. If such zoning permit is voided due to

timeframe violations, the owner or developer will be subject to a zoning violation in accordance with Section 165.16 of this ordinance. No site of any structure or proposed structure shall be altered without approval of the Zoning Administrator.

2. Connection to Sewer Facilities Required. No person shall erect, remodel or repair any building intended for human occupancy having sewer facilities within the same without first hooking the sanitary sewer facilities of the said building to the sanitary sewer collection system and no permit shall be issued for said building unless the Zoning Administrator is assured the said building will be connected to said sanitary sewer.
3. Zoning Inspections. Zoning compliance inspections are allowed any time during construction by the Zoning Administrator. The Zoning Administrator may make periodic inspections to review and determine if the actual construction is being built in compliance with plans and specifications provided or in accordance to information supplied in the zoning permit. The Zoning Administrator may revoke such permit and suspend construction on sites where the actual construction is not in compliance with the approved zoning permit.

#### **Section 4. APPLICATION FOR ZONING PERMIT.**

All applications for zoning permits shall be accompanied by three (3) sets of plans showing the actual dimensions and shape of the lot to be built upon, and the location and dimensions of the existing or proposed building or alteration, and any proposed site alteration. The application for a zoning permit involving the construction of a new principal building or structure or addition to an existing building or structure that alters the footprint of the original building shall be accompanied by a site plan prepared in accordance with Chapter 165.09. The property owner is required to apply and sign for the zoning permit. (Ord. 165 Updated 165.16(4)) Said permit shall expire within one (1) year from its issuance, unless the stated project has commenced construction. Said permit may also be revoked if such project is not weather protected or substantially completed within one (1) year of the commencement of construction. Every applicant for a zoning permit shall provide with the application a copy of a plat of survey, prepared pursuant to the provisions of Chapter 355 of the Code of Iowa, for the property on which the structure is to be constructed. The property owner shall also uncover and make visible the corner monuments of the property that have been placed pursuant to the survey. Any failure to comply with the provisions of this paragraph shall be grounds for denial of the requested zoning permit. Approved permits shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished upon request. The Zoning Administrator shall try to act upon the request for any zoning permit within seven (7) days.

#### **Section 5. CONSTRUCTION AND USE TO BE PROVIDED IN APPLICATION, PLANS AND PERMIT.**

Zoning permits issued on the basis of plans and applications, approved by the Zoning Administrator, authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this Chapter and punishable as provided by Section 165.16.1.

#### **Section 6. ADDITIONAL REQUIREMENTS.**

The names and addresses of all contractors, subcontractors, or builders to be used in performance of the construction or alteration contemplated shall be submitted as a part of the application. If the names of the same are unknown at the time of submission of the application, such application may

be conditionally issued to become effective after the submission of the names of said persons and approval thereof by the Zoning Administrator.

#### **Section 7. ZONING FEES.**

Before receiving a zoning permit the owner or the owner's agent shall pay to the city the permit fee as provided by resolution of the City Council. Fees shall be double for those compliance permits issued after the construction, moving, placement or alteration of such structures has begun, in which a zoning permit was required but not obtained. The city, county, state and federal governments shall be exempt from paying any scheduled fees.

#### **Section 8. PERMIT FOR CONDITIONAL USES.**

A zoning permit for a conditional use may be issued by the Zoning Administrator by order of the Board of Adjustment.

#### **Section 9. ADMINISTRATIVE APPEALS.**

This procedure is intended to afford review of administrative actions taken pursuant to the zoning ordinance where such actions may be in error. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, or board of the City affected by any administrative decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days of the decision, by filing with the Zoning Administrator a notice of appeal, which shall specify the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall act on the appeal within 30 days following the closing of a public hearing. In exercising the powers set out in this section, the Board of Adjustment may, in conformity with the provisions of this Chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may take such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whose action the appeal was taken. The Board shall notify the appellant of its decision by mail. The concurring vote of three members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is required to pass under these provisions.

#### **Section 10. DUTIES OF ZONING ADMINISTRATOR, BOARD OF ADJUSTMENT, CITY COUNCIL AND COURTS ON MATTERS OF APPEAL.**

It is the intent of this Chapter that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator. Such questions pertaining to the Zoning Administrator's interpretation shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law. It is the further intent of this Chapter that the duties of the City Council shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in Section 165.15.9. of this Chapter. Under this Chapter, the City Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this Chapter as provided by law.



# 165.16 VIOLATION AND PENALTY

## 1. Violation and Penalty

### Section 1. VIOLATION AND PENALTY.

All departments, officials and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure or purpose if the same would not conform to the provisions of this Chapter. Any person who violates this Chapter or fails to comply with any of its requirements shall in addition to any other penalty imposed pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense and may be the subject of repeated prosecutions, if so continued. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agency or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Unless provided elsewhere in this Chapter or the city’s municipal code, any person failing to perform a duty, obtain a zoning permit, or violating the Wahpeton Zoning Ordinance, or any rule or regulation adopted by reference shall be guilty of a municipal infraction. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or resists enforcement of this Chapter, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor, or a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa, is a municipal infraction as defined per the Wahpeton Municipal Code, and punishable by civil penalty as provided herein. (*Code of Iowa, Sec. 364.22[3]*)

A municipal infraction for a zoning violation in Wahpeton, Iowa is punishable under the following civil penalties: (*Code of Iowa, Sec. 331.307[1]*)

- First offense – not less than \$100 and not to exceed \$750.00 plus court costs
- Second and repeat offenses – not less than \$250 and not to exceed \$1,000.00 plus court costs

Nothing herein contained shall prevent the City from taking other lawful action as is necessary to prevent or remedy any violation. It is hereby declared to be the policy of the City that it shall be grounds for refusal of the issuance of a zoning compliance permit hereunder that a proposed contractor, subcontractor or builder shall have by prior action knowingly violated or assisted another in the violation of any of the terms hereof. It is a further grounds for non-issuance of the permit that the proposed contractor, subcontractor or builder shall have failed to establish an ability to comply with the provisions of this Chapter.

# 165.17 BOARD OF ADJUSTMENT

- 1. Confirmation of the Board of Adjustment
- 2. Proceedings of the Board of Adjustment
- 3. Hearings, Appeals, and Notice
- 4. Powers and Duties
- 5. Variances
- 6. Decisions of the Board of Adjustment
- 7. Appeals from the Board of Adjustment

## Section 1. CONFIRMATION OF THE BOARD OF ADJUSTMENT.

The five (5) member Board of Adjustment is hereby confirmed to continue their appointed terms of office. Members of the Board of Adjustment shall be appointed by the City Council for a term of five (5) years. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any resigning or removed member by the City Council.

## Section 2. PROCEEDINGS OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment shall adopt rules of administrative procedures necessary to conduct its affairs, and in keeping with the provisions of this Chapter. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in the absence of the Chairperson, the Acting Chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Zoning Administrator may be an ex-officio member and/or act as secretary for the Board of Adjustment. The Board shall keep minutes of its proceedings, including a Findings of Fact form for each case heard by the Board showing the vote of each member upon each question. The Board shall keep records of its meetings and other official actions or decisions, all of which shall be a public record and immediately filed in the office of the Zoning Administrator. The presence of three (3) members shall be necessary to constitute a quorum even in the instance of absentee members or during conflicts of interest. The lack of three members voting in the affirmative shall constitute denial of the motion.

## Section 3. HEARINGS, APPEALS AND NOTICE.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer or bureau of the city affected by a decision of the Zoning Administrator. Such appeals should be taken within a reasonable time, not to exceed thirty (30) days, by filing with the Zoning Administrator and the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record from which the action was taken.

An appeal stays all proceedings in furtherance of the action which was appealed, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on the application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notices thereof, as well as due notice to the parties of interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or attorney. A fee, to be determined by resolution of the City Council, shall be paid to the City at the time the notice of appeal is filed.

The Board of Adjustment shall act on the appeal within 30 days following the closing of the public hearing. In exercising the powers set out in this section, the Board may, in conformity with the provisions of this Chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may take such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whose action the appeal was taken. The Board shall notify the appellant of its decision by mail. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant for any matter upon which it is required to pass under these provisions. The lack of three (3) members of the Board voting in the affirmative shall constitute denial of the motion.

#### **Section 4. POWERS AND DUTIES.**

The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Chapter, or any supplement or amendment.
2. Conditional Uses. To hear and decide conditional uses as the Board of Adjustment is specifically authorized to review by the terms of this Chapter, and as provided for in Section 165.18, Conditional Uses.
3. Variances: To authorize upon appeal in specific cases such variance from the terms of this Chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship, so the spirit of this Chapter shall be observed and substantial justice done.

#### **Section 5. VARIANCES.**

A variance from the terms of this Chapter shall not be granted by the Board of Adjustment unless and until:

1. A written application for the variance shall be filed with the Zoning Administrator. The application shall include the following:
  - a. Name and address of the owner and applicant.
  - b. Address and legal description of the property.
  - c. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner.
  - d. A statement describing the variance requested and the reasons why it complies with the criteria for variances provided in this section.
  - e. An abstractor's list providing the property names and addresses of the owner of each lot within two hundred feet (200') of the subject property.

2. The Zoning Administrator may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a variance exist.
3. Notice of public hearing shall be given to property owners and residents within two hundred feet (200') of the property requesting such variance.
4. The public hearing shall be held. Any party may appear in person or by agent or attorney.
5. The Board of Adjustment may grant a variance if it makes affirmative findings of fact on each of the following criteria.
  - a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - b. Literal interpretation of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter;
  - c. Special conditions and circumstances do not result from the actions of the applicant;
  - d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
6. 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.
7. 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 Chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
8. A fee, determined by resolution of City Council, shall accompany the variance application.
9. 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 Chapter.
10. Unless a longer time period shall be specifically established as a condition of approval, a variance shall lapse and shall become void one (1) year following the date on which the variance became effective, unless prior to the expiration of one (1) year a zoning compliance permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the variance application.
11. Upon violation of any applicable provision of this Chapter, or if granted subject to the conditions, upon failure to comply with conditions, a variance shall be revoked upon notification to the owner of the use or property subject to the variance.
12. Unless otherwise specified at the time a variance is granted, an approved and completed variance shall run with the land; and a completed variance shall continue to be valid upon a change of ownership of the site or structure to which it applies.

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

**Section 6. DECISIONS OF THE BOARD OF ADJUSTMENT.**

1. 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 and Chapter 414, Code of Iowa, reverse or affirm, wholly or partly, or may modify, order requirements, decision, or determination as ought to be made and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The concurring vote of three (3) members of the entire Board, even upon instances of absentee members or during conflicts of interest, shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to affect any variation in application of this Chapter. The lack of three (3) members of the board voting in the affirmative shall constitute denial of the motion.
2. The action of the Board shall not become effective until it has a written decision describing such action, the vote of each member participating therein and the reasons for such action, specifying the manner in which the applicant either satisfied or failed to satisfy each of the applicable standards, conditions or elements set forth in this Chapter.
3. If any application for a variance or conditional use permit is denied by the Board of Adjustment, no new application for the same shall be considered for one (1) year from the date of the Board's decision, unless the Board shall find that conditions have changed.

**Section 7. APPEALS FROM THE BOARD OF ADJUSTMENT.**

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

# 165.18 CONDITIONAL USES

- 1. Regulations
- 2. Jurisdiction
- 3. Conditional Uses not Considered Nonconforming Uses
- 4. Application for a Conditional Use Permit
- 5. Procedures
- 6. Standards
- 7. Revocation
- 8. General Conditions
- 9. Supplemental Conditions

## Section 1. REGULATIONS.

The regulations set forth in this section or elsewhere in this Chapter shall apply to the conditional uses listed in each district regulations. It is recognized that certain uses possess characteristics of such unique and special form as to make impractical their being included automatically in any class of use as set forth in the various districts established by this Chapter; therefore, these uses shall be subject to certain conditions and standards set forth in this section, and the authority for the location thereof shall be subject to review by the Planning Commission and the issuance of a conditional use permit by the Board of Adjustment. However, a conditional use permit may not be granted for a use in a zoning district from which it is specifically excluded by the provisions of this section. The board shall grant or deny a conditional use permit in accordance with the standards set forth herein.

## Section 2. JURISDICTION.

The Zoning Administrator shall be responsible for administration of the conditional use procedure and the Board of Adjustment shall be responsible for the review, evaluation, and action on all applications for a conditional use permit.

## Section 3. CONDITIONAL USES NOT CONSIDERED NONCONFORMING USES.

Any use for which a conditional use permit is issued, as provided by this Chapter, shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in such district. Any expansion shall be with approval of the Board of Adjustment.

## Section 4. APPLICATION FOR CONDITIONAL USE PERMIT.

Written application on approved forms shall be filed with the Zoning Administrator and shall be accompanied by such plans as required by the provisions of this section. The application shall also be accompanied by a fee as determined by resolution of the City Council. The application shall be referred to the Planning Commission. The application shall include the following:

- 1. Name and address of the owner and applicant.
- 2. Address and legal description of the property.
- 3. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner of the property.
- 4. An abstractor's list providing the property names and addresses of the owner of each lot within two hundred feet (200') of the subject property.
- 5. A statement describing the nature and operating characteristics of the proposed use, including any data pertinent to the findings required for approval of the application.

6. The request for authorization of conditional use shall be accompanied by a site plan in compliance with Section 165.09 of this Chapter.

### **Section 5. PROCEDURES.**

The Board of Adjustment shall not grant a conditional use permit unless and until the following procedures have been fulfilled:

1. The Planning Commission shall review the application for conditional use permit and shall make a report to the Board of Adjustment regarding the recommended disposition of the application within forty-five (45) days from the date of such referral.
2. Within 30 days after receiving said recommendation of the Planning Commission, the Board of Adjustment shall schedule a public hearing in relation to the conditional use request. Notice of hearing by the Board shall be given of the public hearing as required by state statute by publication in a newspaper of general circulation in the city at least seven (7) days prior to the public hearing, and shall contain the time and location of such hearing. Notice shall be given in writing to a complete list of persons provided by the applicant who are all of property owners within two hundred feet (200') of the boundary of the property on which the conditional use is to be located.
3. The Board of Adjustment shall hold a public hearing. The conditional use permit issued may include time limits, and other conditions or safeguards deemed necessary or appropriate by the Board. Violations of such conditions and safeguards shall be deemed a violation of this Chapter and punishable under the provisions of this Chapter. In addition, the conditional use permit in connection with such violation shall be subject to revocation by the Board.
4. The concurring vote of three (3) members of the entire Board of Adjustment grants a conditional use permit, even in the instance of absentee members or conflicts of interest.
5. No order of the Board of Adjustment granting a conditional use permit shall be valid for a period longer than one (1) year from the date of such order, unless the Board of Adjustment specifically grants a longer period of time or a building permit is obtained within the one (1) year period and construction is commenced.
6. Whenever an application for conditional use permit has been denied by the Board, no new application for conditional use permit including the same property or any portion thereof shall be filed or considered by the Board until thirty (30) days shall have elapsed from the date of the official denial of the first application.

### **Section 6. STANDARDS.**

The following shall apply to all conditional use permits issued by the Board of Adjustment:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community.
2. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminishes and impairs property values within the neighborhood.

3. In the case of existing relocated single family dwellings, that the proposed use aesthetically blend in with the neighboring existing permitted uses and special attention be given to the architectural style, size and quality of construction of the proposed use.
4. The establishment of the conditional use will not impede the normal and orderly development in improvement of the surrounding property for uses permitted in the district.
5. Adequate utilities, access roads, drainage, parking, and/or necessary facilities have been or will be provided.
6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
7. The use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
8. The use shall not include noise that is unreasonable due to volume, frequency, or beat unless muffled or otherwise controlled.
9. The use shall not include vibration discernable without instruments on adjoining property.
10. The use shall not involve any malodorous gas or matter discernable on adjoining property.
11. The use shall not involve any pollution of the air by fly-ash, dust vapors or other substance which is harmful to health, animals, vegetation or other property or which causes soiling, discomfort or irritation.
12. The use shall not involve any direct or reflected glare visible from adjoining property or from any public street, road, or highway.
13. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
14. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
15. The use shall not interfere with the use or enjoyment of neighboring permitted uses. If such interference is found, provisions must be made for increased setbacks from property lines or screening of incompatible use by the use of fences or hedges.
16. That the use will not be in conflict with the city's comprehensive plan.
17. The ground coverage shall be such that no additional dust or storm runoff is generated by the conditional use.
18. The use shall not create a hazard to vehicular traffic. If any such hazard is determined, provisions must be made to increase the required setback in regards to open-air storage.
19. The use shall not cause any permanent, irreparable environmental damage to the parcel or neighboring lands.
20. The conditional use permit may be reviewed after a specified period of time for compliance and for possible additional conditions.



21. Residential uses listed as conditional uses in commercial districts may be required to provide the setbacks required in the R residential district for the safety and comfort of residents and for the provision of open space and off-street parking.

#### **Section 7. REVOCATION.**

The issuance of a conditional use permit by the Board of Adjustment shall entitle the owner to continue to operate the use so long as the owner remains in compliance with the terms and conditions of this Chapter and the terms, conditions, limitations, requirements and safeguards set forth in the conditional use permit. If such permit is granted, it does expressly grant to the city the power and authority to enter upon the premises at any reasonable time for the purpose of inspection and enforcement of the terms of the conditional use permit. In the event the owner or occupant of the property for which such permit has been issued, shall violate any term, condition, limitation, regulation or safeguards contained in the conditional use permit, the permit shall become null and void and the owner or occupant shall be deemed to be in violation of this Chapter; and the city may proceed to enforce the provisions of this Chapter and the terms, conditions, limitations, and safeguards of the conditional use permit.

#### **Section 8. GENERAL CONDITIONS.**

1. A conditional use permit shall not authorize a use that does not comply with the minimum requirements of the district in which it is located.
2. A conditional use permit shall not authorize a use that is in conflict with any ordinance of the City, or law of the State regulating nuisances, pollution or hazardous occupation.
3. Buildings involving the assemblage of two hundred (200) or more people shall not be located less than three hundred feet (300') from any existing dwelling site.
4. Uses involving nuisances such as noise, vibration, pollution, etc., shall not be located less than five hundred feet (500') from any R District or less than one thousand feet (1,000') from an existing dwelling.
5. Uses involving the assemblage of two hundred (200) or more people shall not be located where the arterial traffic system is inadequate to provide for the increased traffic density.
6. Uses involving the extensive use of exterior lighting shall not be located where such lighting may be hazardous to air or ground traffic ways and such uses shall not be located less than a distance required to reduce the light intensity to normal residential street lighting intensity at any R District boundary.
7. Uses of a utility or public service located within any district shall be screened from public view by landscaping.

#### **Section 9. SUPPLEMENTAL CONDITIONS.**

Certain specified uses shall only be permitted upon approval of a conditional use permit and adhere to specific standards as follows. Within these circumstances, the application for a conditional use permit shall meet the minimum requirements described herein:

1. *Open-air Sales Display and Storage:* All open-air sales display and storage, including new and/or used auto sales and storage, new and/or used farm implement and equipment sales and

storage, boat trailer and/or boat hoists storage, new and used truck, machinery, or equipment sales and storage, shall require a conditional use permit. The application shall be accompanied with drawings and other documents describing the intent, layout, and construction or installation in accordance with the following minimum requirements. The sides and rear lot lines, when abutting properties used for residential dwellings, shall be required to be screened with a wall or fence with its surface at least fifty (50) percent solid and at least six feet (6') in height. The fence shall not be required to extend beyond the front yard setback line. All lighting and lighted facilities shall be designed and arranged so that they do not focus or glare directly on adjacent residential properties, or public streets thereby creating a traffic hazard. No lighted flashing signs or revolving beacon lights shall be permitted. The open-air storage yard or display area shall be maintained to be reasonably free of weeds, debris, trash and other objectionable materials.

2. *Boat and Marine Accessory Storage:* Boats, Personal Watercraft, trailers, boat hoists, or other marine accessories may be stored on an owner's lot for no longer than nine (9) consecutive months in the same location. Multiple boats, personal watercraft, trailers, boat hoists, or other marine accessories stored on any parcel, lot, or group of lots for longer than nine (9) consecutive months for private, commercial or monetary purposes shall conform to the requirements of section 2 "Open-air Sales Display and Storage" above.

# 165.19 CHANGES AND AMENDMENTS

- 1. Procedures
- 2. Initiation
- 3. Application for Change in Zoning District Boundaries
- 4. Protest Provision
- 5. New Application

## Section 1. PROCEDURES.

This zoning ordinance and the zoning district map created by said Chapter may be amended from time to time. However, no amendment shall become effective unless it is proposed by or shall be first submitted to the Planning Commission for review and recommendation. The Planning Commission shall have sixty (60) days from receipt of the requested amendment in which to submit its recommendation to the City Council. Prior to making recommendation to the City Council, the Planning Commission shall hold at least one public hearing on the text amendment or rezoning request. At least once during the public hearing process, either at the Planning Commission or City Council meeting, property owners within two hundred feet (200') of the subject property shall be notified by mail. No more than sixty (60) days following the recommendation of the Planning Commission, the City Council shall hold at least one public hearing on the text amendment or a rezoning request. Within 30 days following the closing of a public hearing, the City Council shall make a specific finding as to whether the change is consistent with the objectives of this Chapter. If the Council finds that the change is consistent, it shall introduce an ordinance amending the text of the zoning regulations or amending the zoning map, whichever is appropriate. If the City Council finds that the change is not consistent, it shall deny the application. The City Council shall not modify a recommendation of the Planning Commission on a rezoning or change until it has requested and considered a report of the Commission on the modification.

## Section 2. INITIATION.

Rezoning requests or zoning text amendments may be initiated by one of three ways.

- 1. The Planning Commission may initiate a text amendment or rezoning request.
- 2. The Council may, on its own motion after public notice and hearing as provided by law, and after report by the Planning Commission, may initiate an amend, supplement or text amendment or rezoning request.
- 3. By petition, the owner or the authorized agent of the owner of property may initiate a rezoning request by filing an application for a change in district boundaries (rezoning). If the property for which rezoning is proposed is in more than one ownership, all owners or authorized agents shall join in filing the application.

## Section 3. APPLICATION FOR CHANGE IN ZONING DISTRICT BOUNDARIES.

Applications for rezoning requests shall be filed with the Zoning Administrator on a form provided by the City, and shall include the following data and maps:

- 1. Each application shall be filed and accompanied by a fee as determined by resolution by the City Council.
  - a. The name and address of the owner and applicant. If the applicant is not the owner, a statement that the applicant is an authorized agent of the owner.

- b. The legal description and local address of the property.
  - c. The present zoning classification and the zoning classification requested for the property.
  - d. The existing use and proposed use of the property.
  - e. An abstractor's list providing the property names and addresses of the owner of each lot within two hundred feet (200') of the subject property.
  - f. A statement why the applicant feels the present zoning is no longer appropriate.
2. Upon receipt of the application by the Zoning Administrator a copy shall be forwarded immediately to the Planning Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:
- a. Whether or not the current district classification of the property to be rezoned is valid.
  - b. Whether there is a need for additional land zoned for the purpose requested.
  - c. Whether the proposed change is consistent with the current land use plan.
  - d. Whether the rezoning would result in a population density or development that would cause demand for services and utilities in excess of the capacity planned for the area.
  - e. Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity.
  - f. Whether there is intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable timeframe.
  - g. The Planning Commission may require additional information or maps if necessary to determine whether the change is consistent with the objectives of this Chapter.

**Section 4. PROTEST PROVISION.**

Any owner or owners of property in the area to be included in the proposed amendment may present a petition duly signed and verified, requesting an amendment, supplement or change in the regulations prescribed for a district or part thereof. Such petition shall be signed by the owners of fifty percent (50%) of the property within two hundred feet (200') therefrom, and said petition shall be filed with the Commission. The Commission shall make a report to the Council within sixty (60) days from the date of receipt of such petition, except those initiated by the Commission. In case the proposed amendment, supplement or change be disapproved by the Commission, or in case of a protest against any proposed amendment or change signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear or to either side, extending the depth of one (1) lot or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto, extending the depth of one (1) lot or not to exceed two hundred feet (200') therefrom, or not to exceed two hundred feet (200') from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths (¾) of all the members of the Council.

**Section 5. NEW APPLICATION.**

Whenever a petition requesting an amendment, supplement or change of this Chapter has been denied by the City Council such petition cannot be renewed for one year thereafter unless it is signed by the owners of at least fifty percent (50%) of the property owners who previously objected to the change. This provision, however, shall not prevent the City Council from acting on its own initiative in any case or at any time provided in this section.

## 165.20 EFFECTIVE DATE

### 1. Effective Date

#### Section 1. EFFECTIVE DATE.

This Chapter shall be in full force and effect from and after its adoption and publication as required by law and as provided for in Chapter 380.6 and 380.7 of the Code of Iowa.

*(Code of Iowa, Sec. 380.6[1]; Sec. 380.7[3]; and Sec. 362.3)*

## ADOPTION

Passed and approved of the first consideration on April 14, 2014

Passed and approved of the second consideration on May 12, 2014

Passed and approved of the third and final consideration on June 9, 2014

Adopted on June 9, 2014

Published on June 18, 2014

Frank Joenks  
Mayor, City of Wahpeton

Attest:

Bonnie Roberts, City Clerk/Administrator  
Wahpeton City Clerk

