

**CITY OF FAIRBANK, IOWA**

**ZONING ORDINANCE**

ORDINANCE NUMBER 296

THE FOLLOWING ZONING ORDINANCE IS ENACTED AS NEW ORDINANCE NUMBER 296, THE CITY OF FAIRBANK, IOWA ZONING ORDINANCE AND SHALL BE INTEGRATED INTO THE CITY CODE OF ORDINANCES. ORDINANCE NUMBER 296 AND IS AN ORDINANCE CREATED FOR THE PURPOSE OF PROTECTING HEALTH, WELFARE, AND PUBLIC SAFETY WITHIN THE CITY OF FAIRBANK, IOWA.

Recommended for Adoption by  
Fairbank Planning and Zoning Commission  
After a Public Hearing  
July 18, 2006

Adopted by  
Fairbank City Council  
Public Hearing and First Reading: August 14, 2006  
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Prepared by the  
Iowa Northland Regional Council of Governments

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**CITY OF FAIRBANK, IOWA**

**ZONING ORDINANCE**

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

THE FOLLOWING ZONING ORDINANCE IS ENACTED AS NEW ORDINANCE NUMBER 296, THE CITY OF FAIRBANK, IOWA ZONING ORDINANCE AND SHALL BE INTEGRATED INTO THE CITY CODE OF ORDINANCES. ORDINANCE NUMBER 296 IS AN ORDINANCE CREATING ZONING REGULATIONS FOR THE PURPOSE OF PROTECTING HEALTH, WELFARE, AND PUBLIC SAFETY WITHIN THE CITY OF FAIRBANK, IOWA.

ARTICLE I

TITLE, PURPOSE, NATURE, AUTHORITY, IOWA OPEN MEETINGS LAW, AND DEFINITIONS

Section 1.00 TITLE

This Ordinance shall be known as and may be referred to and cited as “The City of Fairbank, Iowa Zoning Ordinance”. It is adopted in accordance with the Fairbank Comprehensive Plan.

Section 1.01 PURPOSE

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

1. Promoting the public health, safety, morals, comfort, general welfare, and preserving the natural, scenic and historically significant areas of the City;
2. Implementing the Comprehensive Plan for the City of Fairbank, Iowa;
3. Helping to achieve greater efficiency and economy of land development by promoting the grouping of those activities which have similar needs and are compatible;
4. Encouraging such distribution of population, classification of land use, and distribution of land development throughout the city that will tend to facilitate adequate and economic provision of transportation, communication, water supply, drainage, sanitation, education, recreation, and other public requirements;
5. Lessening or avoiding congestion in the public streets and highways;
6. Seeking to protect against fire, explosion, noxious fumes, flood, panic, and other dangers in the interest of public health, safety, comfort, and general welfare;
7. Helping to ensure that all residential, commercial, and manufacturing structures as well as other types of structures will be accessible to fire fighting and other emergency equipment;
8. Prohibit the formation or expansion of nonconforming uses of land, buildings, and structures which adversely affect the character and value of desirable development in each district;
9. Promoting the development of residential neighborhoods which are free of noise, dust, fumes and heavy traffic volumes in which each dwelling unit is assured of light, air, and open spaces;



10. Helping to prevent land development activities which lead to roadside blight, and to minimize the effects of nuisance producing activities;
11. To prevent, whenever possible, land boundary disputes or real estate title problems;
12. To provide for a balance between the land use rights of individual landowners and the economic, social, and environmental concerns of the public when a city is developing or enforcing land use regulations;
13. Promoting and guiding the continued growth and expansion of the City while protecting the natural, economic, historic and scenic resources of the City;
14. Conserving the taxable value of land and buildings throughout the City; and
15. Defining the powers and duties of the Zoning Administrator and other bodies, as provided herein.

Section 1.02 NATURE

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

Section 1.03 AUTHORITY

The authority for this Ordinance is granted by the Code of the State of Iowa, Chapter 414.

Section 1.04 IOWA OPEN MEETINGS LAW

The Fairbank City Council, Planning and Zoning Commission and Board of Adjustment, which are public bodies, are subject to the terms, regulations, and restrictions of the Iowa Open Meeting Law, Chapter 21 of the Code of Iowa as amended. Wherever in this Ordinance a conflict appears between the Ordinance and the open meeting law, the open meeting law shall control.

Section 1.05 DEFINITIONS

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

Words used in the present tense shall include the future tense; the singular number includes the plural, and the plural number includes the singular. The word “lot” includes the word “plot” or “parcel” and the word “building” includes “structure”. The word “shall” is mandatory; the word “may” is permissive. The following words, terms, and phrases are hereby defined and shall be interpreted as such throughout these regulations. Terms not herein defined shall have the meaning customarily assigned to them.

1. Accessory Building or Use: A permanent detached building or permanent use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building or use (See Section 3.02 for accessory building standards.).
2. Agricultural Uses: Uses primarily adapted for growing or raising crops or animals which are used for food, fuel or fiber.

3. Alley: A public access, other than a street, twenty (20) feet in width affording secondary means of access to abutting property. The right-of-way of an alley shall be a minimum of thirty (30) feet.
4. Apartment: A room or suite of rooms used as the dwelling for a household, including bath and culinary accommodations for each apartment, located in a building in which there are three (3) or more such dwelling units.
5. Appeal: A request for review by the Board of Adjustment of the Zoning Administrator's interpretation of any provision of this Ordinance.
6. Auto Body Repair Shop: Any building, structure or land used for automobile body repair, restoration, and painting.
7. Basement/Cellar: A basement shall be a portion of a building having two (2) or more of its sides below grade. A basement or cellar is not included in computing the number of stories for the purpose of height measurement.
8. Bed and Breakfast: A private residence which provides lodging and meals for guests only, in which the host or hostess resides, and in which no more than four (4) guest families are lodged at the same time. A bed and breakfast does not hold itself to the public to be a restaurant, hotel, or motel and serves only food to overnight guests.
9. Block: An area of land within a subdivision that is entirely bounded by streets, railroad rights-of way, rivers, tracts of public and, or the boundary of the subdivision.
10. Billboard: A type of sign having more than one hundred (100) square feet of display surface which is either erected on the ground or attached to or supported by a building or structure.
11. Board of Adjustment: "Board of Adjustment" shall mean the Zoning Board of Adjustment of the City of Fairbank, Iowa.
12. Boarding, Rooming, and Lodging House: A building other than a hotel where, for compensation and by arrangement, meals, lodging are provided for three (3) or more persons on a weekly basis.
13. Breezeway: A roofed or covered walkway between a principal building and accessory building. If connected to the principal building with a breezeway, an accessory building is no longer "accessory" to the principal use or building, and said building shall be considered part of the principal building for determining bulk requirement standards.
14. Building: Any structure designed or built for supporting, enclosing, or sheltering of any use or occupancy. This definition does not include signs of any type.
15. Building Height: The vertical distance from the sill plate to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the highest point of the building or roof line for gable, hip and gambrel roofs. The only exceptions to the building height requirements set forth in this Ordinance appear in Section 15.01.
16. Building Line: A line on a plat between which said line and a street, alley, or private place no building or structure may be erected.
17. Business or Commercial Use: Engaging in the purchase, sale, or exchange of goods or services, or the operation for profit of offices or recreational or amusement enterprises.

18. Car Wash: A building, or portion thereof, containing facilities for washing two (2) or more automobiles; using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices, or providing space, water, equipment, or soap for the complete or partial hand-washing of such automobiles, whether by operator or by a customer.
19. Carport: A roofed structure providing space for the parking of motor vehicles and enclosed on not more than three (3) sides. A carport attached to a principal building shall be subject to all yard requirements herein.
20. Channel: A natural or human-made open watercourse with definite bed and banks which periodically or continuously contains moving water; or which forms a connecting link between two (2) bodies of water.
21. Child Care Center (Institutional): Any established institution, such as a church or non-profit organization, which receives three (3) or more children under the age of sixteen (16) years for care apart from their natural parents, legal guardian, or custodians, when received for regular periods of time for compensation. An institutional child care center shall not be conducted in a dwelling unit or private home.
22. Child Care Center (In-Home): An organization located in a dwelling unit, or private home, which provides care services for children under the age of sixteen (16) years for care apart from their natural parents, legal guardian, or custodians, when received for regular periods of time for compensation. For the purposes of this Ordinance, a child care center operated in the home shall be considered a “home occupation” and shall follow the provisions outlined in this Ordinance.
23. City Council: “City Council” shall mean the City Council of the City of Fairbank, Iowa.
24. City Engineer: “City Engineer” shall mean the professional engineer registered in the State of Iowa designated as City Engineer by the City Council or other hiring authority.
25. Clinic: A building or buildings used by physicians, dentists, osteopaths, chiropractors, and allied professions for outpatient care of persons requiring such professional service.
26. Commercial Sales (Electronic): Sales of merchandise by means of telephone, fax or internet. No outside storage is allowed under this particular use. Not limited to materials, components, parts, storage containers, machinery or other equipment.
27. Common Sewer System: A central sewer collecting system, if available, to each platted lot and discharging into a treatment plant, the construction and location of which is approved by the City and County or State Boards of Health.
28. Common Water System: A central water supply system, if available, to each platted lot from one single source approved by the City and County or State Boards of Health.
29. Comprehensive Plan: The general plan outlining the development of the community, which may also be titled or referred to as the master plan, comprehensive land use plan or some other title, which has been adopted by the City Council. Said Comprehensive Plan shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
30. Consignment and Auction Sales Operations: A business which, as a primary use, stores and sells personal property of others to the public either indoors or outdoors.

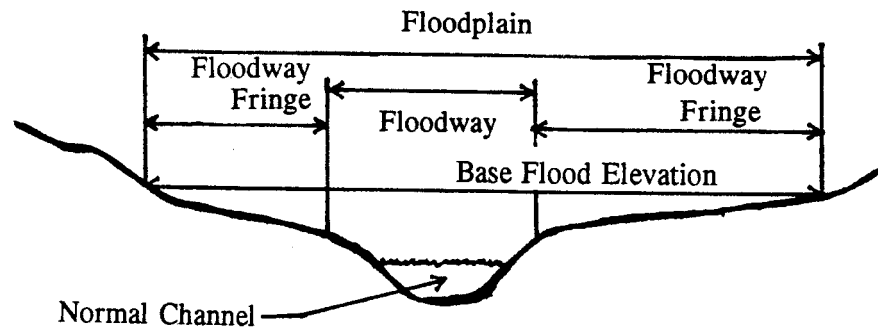
31. Contiguous: Adjoining or lying next to.
32. Convenience Store: A retail store that is designed and stocked to sell primarily food, beverages, fuel, and other household supplies to customers who purchase only a relatively few items. It is designed to attract and depends on a large volume of stop-and-go traffic.
33. Court: An open, unobstructed, and unoccupied space other than a yard which is bounded on two (2) or more sides by a building on the same lot.
34. Cul-de-sac: A street, which is not longer than five hundred (500) feet in length, having one (1) end connecting to another street that is terminated by a vehicular turn around. A cul-de-sac shall have an outside paved roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet.
35. Curblin: The line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curblin shall be determined by the city engineer.
36. Deck: An outdoor structure that is attached or unattached to a house or accessory building which is generally constructed of wood or structurally approved materials and used for recreational or relaxation purposes. A deck is not an accessory building unless it is a minimum of five (5) feet away from other buildings or structures. An attached deck shall be considered part of the principal building for setback measurement purposes.
37. Developer: The legal or beneficial owner or owners of a lot or of any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.
38. Development: Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.
39. Developmentally Disabled: For the purpose of the “family home” provisions of this Ordinance, a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following.
  - (a) Attributable to mental retardation, cerebral palsy, epilepsy, or autism.
  - (b) Attributable to any other condition found to be closely related to mental retardation.
  - (c) Attributable to dyslexia resulting from a disability.
  - (d) Attributable to a mental or nervous disorder.
40. District: A section or sections of the City within which certain uniform regulations and requirements governing the use of buildings and premises or the height and areas of buildings and premises are enforced.
41. Drive-in Restaurant or Refreshment Stand: Any place or premises principally used for the sale, dispensing, or serving of food, refreshment, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on or off the premises.
42. Driveway: A private roadway, providing access for vehicles to a parking space, garage, dwelling or other structure.

43. Dump/Landfill: A premises used for the disposal of “clean” type of fill material or refuse, such as dirt, rocks, bricks, concrete, rubble, tree branches, and similar materials, but not including organic matter of any type, such as garbage or dead animals or portions thereof.
44. Dwelling: Any building or portion thereof which is designed for or used exclusively for residential purposes but not including a tent, cabin, trailer, or mobile home.
45. Dwelling, Attached: A dwelling that is physically attached by a common roof, wall, or floor to another dwelling or accessory building.
46. Dwelling, Condominium: A multiple-family dwelling, with common approved walls, as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common or association ownership solely by the owners of the units with each owner having an undivided interest in the common real estate.
47. Dwelling Detached: A dwelling that is not attached to any other dwelling or accessory building by any means. The detached dwelling does not have any roof, wall, or floor in common with any other dwelling unit or accessory building and is a minimum of five (5) feet away from other buildings or structures.
48. Dwelling, Multiple-Family: A residential building designed for occupancy by three (3) or more families, with separate housekeeping and cooking facilities for each dwelling unit.
49. Dwelling, Row or Townhouse: A series of three (3) or more individual dwellings in a continuous row that are on individual lots, constructed with common approved walls, and are individually owned.
50. Dwelling, Single-Family: A detached residential dwelling unit, other than a mobile home, designed for occupancy by one (1) family only. Single-family dwelling shall include a “manufactured home”, as herein defined.
51. Dwelling Two-Family/Duplex: A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families with separate housekeeping and cooking facilities for each dwelling unit.
52. Dwelling Unit: A room or group of rooms that are arranged, designed or used as living quarters for the occupancy of one (1) family containing bathroom and/or kitchen facilities.
53. Earth Home: An earth home is a structure that is built for habitation below the finished or natural grade on two (2) or more sides and may be constructed with passive solar energy generation in mind. An earth home is to be considered a single-family dwelling for the purposes of this Ordinance. This definition is not to be confused with the definition of a basement or cellar.
54. Easement: A grant of one (1) or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.
55. Economic Base: The production, distribution and consumption of goods and services within a planning area.
56. Egress: An exit.

57. Elder Home: A home for elderly residents that conforms to the definition of 'family home' in this Ordinance.
58. Eminent Domain: The authority of a government to take, or to authorize the taking of, private property for public use for just compensation.
59. Environmental Impact Statement (EIS): A statement on the effect of development proposals and other major activities that significantly affect the environment.
60. Essential Services: The erection, alteration, or maintenance, by public utilities, municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, cable television, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, streets, bridges, right-of-way, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies for the public health, safety or general welfare of the City of Fairbank. All buildings or telecommunication towers associated with 'essential services' however, must abide by this Ordinance (See Section 3.08).
61. Exotic Animals: Domesticated animals kept for commercial or personal purposes that are not common domesticated animals including, but not limited to: emus, ostriches, llamas, monkeys, snakes, spiders, chinchillas, and mink.
62. Family: One (1) or more persons occupying a single dwelling unit, provided that all members are related by blood, marriage, or adoption.
63. Family Home: A community-based residential home which is licensed as a residential care facility licensed under Chapter 135C of the Code of Iowa or as a child foster care facility under Chapter 237 of the Code of Iowa to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight (8) developmentally disabled persons and any necessary support personnel. A "family home" does not mean an individual foster care family as licensed under Chapter 237 of the Code of Iowa.
64. Farm Animal: Animals useful to humans, including but not limited to: dairy animals, poultry, livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees, fish, and fur animals but not including rabbits kept as pets.
65. Feasibility Study: An analysis of a specific project or program to determine if it can be successfully carried out.
66. Fence, Residential: A barrier and/or structure erected in a Residential District intended to provide security, mark a boundary, or as a means of landscaping. Such fence shall be constructed of materials commonly used for landscape fencing such as masonry block, lumber, chain link, but shall not include corrugated sheet metal, barbed wire or salvage material.
67. Fence, Non-Residential: A barrier and/or structure erected in a district other than a Residential District intended to provide security, mark a boundary or a means of landscaping. No such fence shall be constructed of salvaged material or use barbed wire unless the use is intended to protect the public health, welfare, and safety of residents.

68. Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters; (2) The unusual and rapid accumulation or runoff of surface waters from any source.
69. Floodplain: Any land area susceptible to being inundated by water from any source, as may be identified by the Federal Emergency Management Agency (FEMA)(See Figure 1).

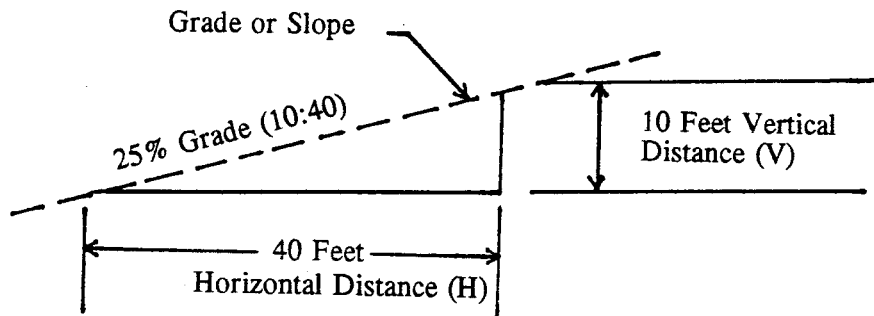
**Figure 1: Floodplain Definitions**



70. Floor Area: In the case of merchandising or service types of uses, “floor area” shall mean the gross floor area used or intended to be used by tenants, or for service to public or customers, patrons or clients, but shall not include areas used principally for non-public purposes, such as toilet or rest room, utilities, or dressing rooms.
71. Floor Area Ratio: The gross floor area of all buildings on a lot divided by the lot area on which the building or buildings are located.
72. Frontage: That side of a lot abutting a street; the front lot line. The 'front' of a building shall be considered that portion of the building fronting on the street from which the building's address is derived.
73. Garage, Attached: An attached structure designed or used for the storage of motor-driven vehicles owned and used by the occupants of the primary building.
74. Garage, Detached: A detached accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the primary building (See Section 3.02).
75. Garage, Public: A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles (See Section 3.02).
76. Garage, Storage: A building or portion thereof designed or used exclusively for term storage by pre-arrangement of motor-driven vehicles or other private items or materials, as distinguished from daily storage furnished transients, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold. This definition includes uses also referred to as ‘mini-storage’. (See Section 3.02).

- 77. Gas Station: Any building, structure or land used for the dispensing, sale, or offering for sale at retail of any vehicular fuels, oils, or accessories and in connection with which is performed general vehicular servicing as distinguished from automotive repairs.
- 78. Governing Body: The City Council of the City of Fairbank, Iowa.
- 79. Grade: The degree of rise or descent of a sloping surface (See Figure 2).

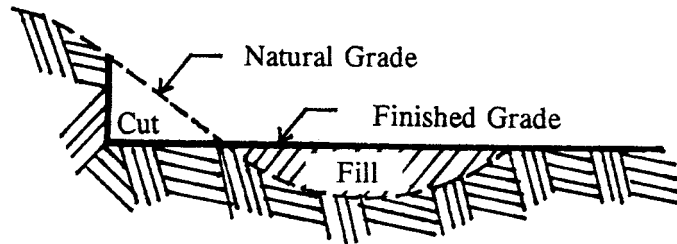
**Figure 2: Grade or Slope**



$$\text{SLOPE CALCULATION} = V / H$$

- 80. Grade, Finished: The final elevation of the ground surface after development (See Figure 3).
- 81. Grade, Natural: The elevation of the ground surface in its natural state before human-made alterations (See Figure 3).

**Figure 3: Grade or Slope; Cut and Fill Cross Section**



- 82. Grain Elevator: A structure or group of related structures whose purpose is limited to the receiving, storing, drying, and transporting of bulk grain.
- 83. Group Home or Group Care Facility: A facility that provides resident services to nine (9) or more individuals, or an unlicensed (under Chapter 135C or 237 of the Iowa Code) facility regardless of the number of individuals served. These individuals are aged, disabled, or are undergoing rehabilitation, and are provided services to meet their needs. This definition includes any licensed or supervised federal, state or county health/welfare agencies, such as group homes, halfway houses, resident schools, resident facilities, and foster or boarding homes.

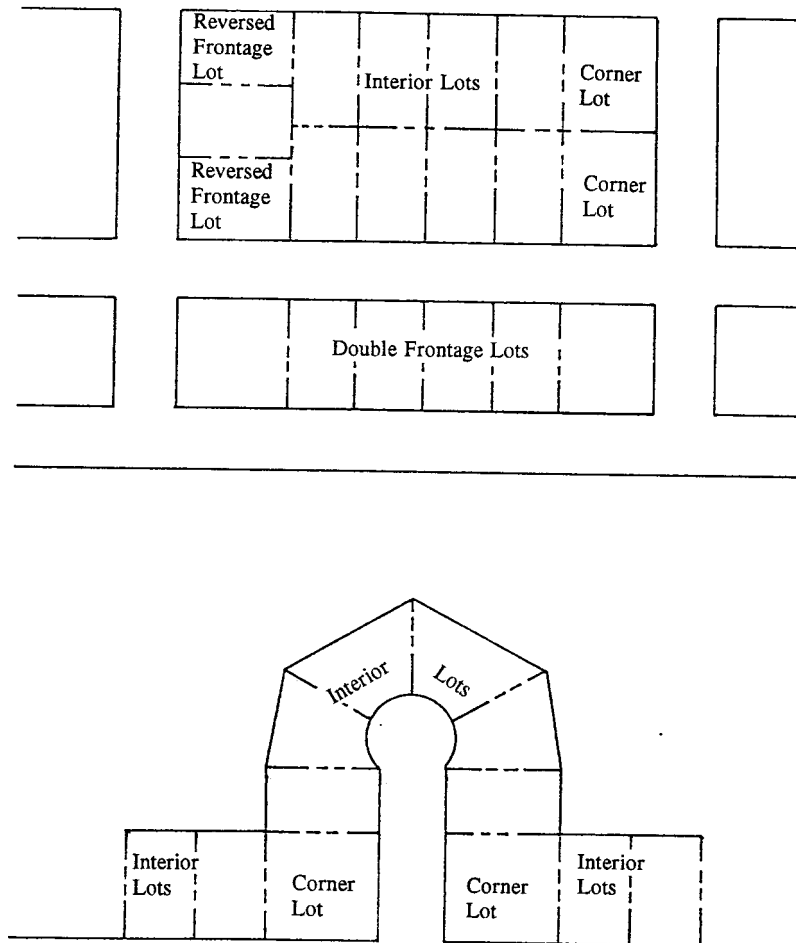


84. Historic Preservation: The protection, rehabilitation, and restorations of districts, sites, buildings, structures, and artifacts significant in American history, architecture, archaeology, or culture.
85. Historic Structure: Any structure that is: (a) Listed individually in the National Register of Historic Places a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.
86. Home Occupation: An occupation or profession conducted entirely within an enclosed dwelling unit that is clearly incidental and secondary to residential occupancy and does not change the character thereof.
87. Home Industry: An occupation or profession conducted entirely within an enclosed accessory building(s) and/or an attached garage of a dwelling unit that is clearly incidental and secondary to the residential occupancy and does not change the character thereof.
88. Hotel: A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boarding house or rooming house.
89. Household: A group of persons living together in a single “dwelling unit”, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.
90. Improvements: Changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, storm sewers, sanitary sewers, drainage ways, and other public works and appurtenances.
91. Ingress: Access or entry.
92. Institution: A nonprofit or quasi-public use or institution such as church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.
93. Junk or Salvage: All old or scrap copper, brass, lead, broken glass, rope, rags, batteries, paper trash, tires and rubber, debris, waste, tin-ware, plastics, appliances, furniture, equipment, building demolitions materials including wood and lumber, structural steel materials, or similar materials. This definition shall also include junked, dismantled, or wrecked motor vehicles, or parts of motor vehicles, and iron, steel, or other scrap ferrous or nonferrous material.

94. Junk or Salvage Yard: Any area where junk or salvage is bought, sold, exchanged, baled or packed, disassembled, kept, stored, or handled. This definition shall also include auto or other vehicle or machinery wrecking and/or salvaging; or the processing of used, discarded, or salvaged materials as part of a manufacturing operation located on the same property; and contractor's storage yards. The presence on any lot, parcel, or tract of land of two (2) or more unlicensed, wrecked, scrapped, ruined, dismantled, or inoperative vehicles, including implements of husbandry, shall constitute prima facie evidence of a junk or salvage yard. This shall not include motor vehicles licensed for the current year as provided by law, or motor vehicles legally placed in storage, if kept completely enclosed within a building.
95. Junk Vehicle: As defined in Chapter 51 of the Fairbank Code of Ordinances.
96. Kennel, Dog (Commercial): Any parcel of land on which three (3) or more dogs, six (6) months old or older are kept for the purposes of breeding, grooming, boarding or other activities associated with the care of dogs for commercial purposes.
97. Kennel, Dog (Private): Any parcel of land on which no more than three (3) dogs, six (6) months old or older, are kept for private purposes. Private kennels shall be considered accessory uses for the purposes of this Ordinance.
98. Laundromat: An establishment providing washing, drying and/or dry cleaning machines on the premises for rental use to the general public for family laundering and/or dry cleaning purposes.
99. Loading Space: An off-street space or berth used for the loading or unloading of vehicles.
100. Lot: A lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Such lot shall have frontage on a public street or private street and may consist of: (a) A single lot of record; (b) A portion of a lot of record; (c) A combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (d) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.
101. Lot Area: The total area within the lot lines of a lot, excluding any street rights-of-way.
102. Lot, Corner: A lot abutting upon two (2) or more streets at their intersections (See Figure 4).
103. Lot Depth: The mean horizontal distance between the front and rear lot lines.
104. Lot, Double Frontage: A lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot (See Figure 4).
105. Lot, Flag: A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private or public right-of-way.
106. Lot Frontage: The length of the front line measured at the street right-of-way line.
107. Lot, Interior: "Interior lot" means a lot other than a corner lot (See Figure 4).
108. Lot Line: A line of record bounding a lot which divides one (1) lot from another lot or from a public or private street or any other public space.

- 109. Lot Line, Rear: The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
- 110. Lot Line, Side: Any lot line other than a front or rear lot line.
- 111. Lot, Minimum Area of: The smallest lot area established by the Zoning Ordinance on which a use or structure may be located in a particular district.
- 112. Lot of Record: A lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder of the County in which it is located, or a lot or parcel described by metes and bounds, the description of which has been so previously recorded.
- 113. Lot Width: Lot width is measured at the building line at right angles to its depth or side lot lines.

**Figure 4: Examples of Lot Definitions**



114. Lumber Yard: A premises on which primarily new lumber and related building materials are sold.
115. Massage Establishment: Any place of business wherein massage (as the practice of a profession, scientifically applied to the patient by massage therapist's hands) is administered or used.
116. Manufactured Home: A single-family structure which is manufactured or constructed under the authority of 42 U.S.C. Section 5403 and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. For the purpose of these regulations, a manufactured home shall be subject to the same standards as a site-built dwelling, and if located outside of a factory built home park, shall be constructed with a permanent foundation system that is visually compatible with surrounding residential structures. The home shall also be converted to real estate and taxed as such, as required by Chapter 435 of the Iowa Code. For the purposes of this Ordinance, a manufactured home may also be known as a modular home.
117. Manufacturing or Industrial Use: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.
118. Mobile Home: A structure, transportable in one or more sections, which is at least eight (8) feet in width and thirty-two (32) feet in length, built on a permanent chassis and which is designed to be used as a dwelling unit. A mobile home may be used with or without a permanent foundation when connected to utilities and shall only be located in a "Mobile Home Park". The term mobile home does not include "recreational vehicle."
119. Mobile Home Park/ Land Lease Community: A parcel of land, not less than five (5) acres in area, divided into two (2) or more mobile home lots for rent or sale.
120. Motel: A building or groups of buildings used primarily for the temporary residence of motorists or travelers with parking facilities conveniently located to each unit, and may include a swimming pool, restaurant, meeting rooms, and other related accessory facilities.
121. Nonconforming Building: A building which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district in which it is situated.
122. Nonconforming Use: A use or activity which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district in which it is situated.
123. Nursing, Rest, or Convalescent Home: A home for the aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept, or provided with food, shelter and care, for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment, or care of the sick or injured.
124. Overhang: The part of a roof or wall which extends beyond the facade of a lower wall.

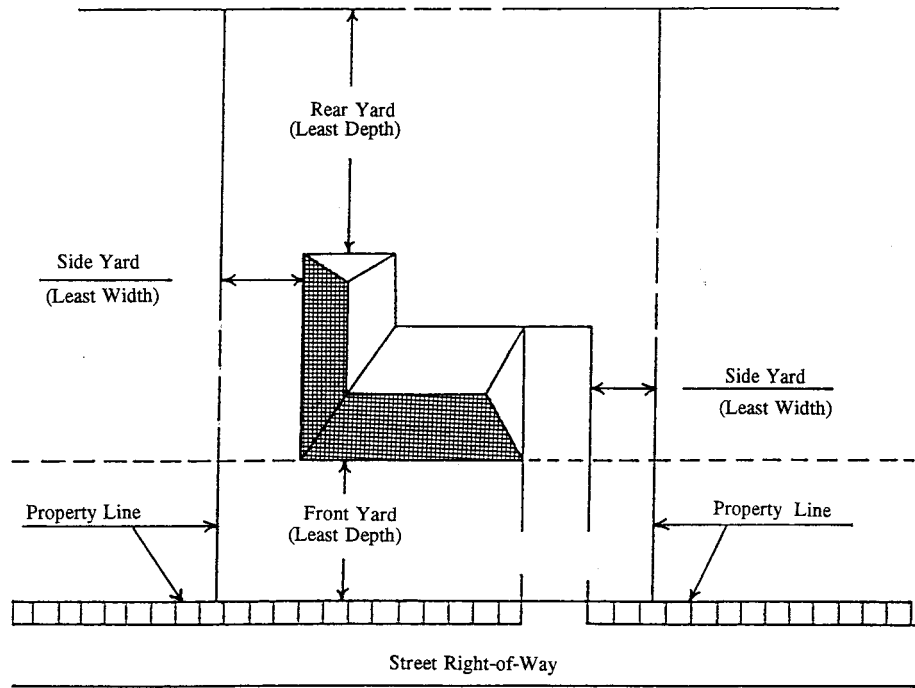
125. Overlay District: A district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.
126. Owner: The legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
127. Parcel: A part of a tract of land.
128. Parking Lot: A parcel of land devoted to unenclosed parking spaces.
129. Parking Space: A surfaced area, enclosed in the principal building, an accessory building, or an unenclosed area of not less than one hundred eighty (180) square feet exclusive of driveways, permanently reserved for the temporary storage of one (1) automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.
130. Planning and Zoning Commission: “Planning and Zoning Commission” shall mean the Planning and Zoning Commission of the City of Fairbank, Iowa.
131. Porch, Unenclosed: A roofed projection which has no more than fifty (50) percent of each outside wall area enclosed by a building or siding material other than meshed screens.
132. Principal Building or Use: The primary use of land or structures as distinguished from an accessory use.
133. Recreational Vehicle: A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towed by a light duty truck, and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.
134. Residential Use: Uses that are primarily adapted or constructed for human habitation as dwellings.
135. Restaurant: An establishment that prepares and retails food for consumption on the premises or for carry-out.
136. Rights-of-Way: The land area, which is secured or reserved by the contracting authority, that is to be used for road, rail, or other transportation purposes.
137. Screening: Either: (a) a strip of land at least ten (10) feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four (4) feet high at the time of planting of a type that will form a year-round dense screen at least six (6) feet high; or (b) an opaque wall or barrier or uniformly painted fence at least six (6) feet high. Either (a) or (b) shall be maintained in good condition at all times and may have no signs affixed to or hung in relation, unless in accordance with this Ordinance.
138. Sidewalk: A paved, or surfaced area, paralleling and usually separated from the street, used as a pedestrian walkway.
139. Sign: An identification, description, illustration, or device that is affixed to, or represented on a building, structure, or parcel of land and that directs attention to a product, place, activity, person, profession, service, institution, or business.

140. Site Plan: A plan (to scale) showing uses and structures proposed for a parcel of land as required by the regulations involved.
141. Special Exception: A listed use that may not be in exact compatibility with other principal permitted uses of a zoning district, but which may be allowed according to the provisions and requirements of this Ordinance by the Board of Adjustment.
142. Stable, Private: A building, incidental to an existing residential, principal use, that shelters equine for the exclusive use of the occupants of the premises.
143. Stable, Public: An accessory building in which equine are kept for commercial use including boarding, hire, and sale.
144. Story: That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.
145. Story, First: The lowest story in a building, excluding the basement, which qualifies as a story, as defined herein, except that a floor level in a building having only one (1) floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade for more than fifty (50) percent of the total perimeter, or not more than eight (8) feet below grade at any point.
146. Story, Half: A space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than four (4) feet above the top floor level.
147. Street or Road: Any thoroughway having a public right-of-way that is designed to channel or circulate vehicular and pedestrian traffic. The term “street” may refer to any right-of-way bounded by adjacent property lines or to the paving installed within such right-of-way.
148. Street, Arterial: A major street in the City's street system that serves as an avenue for the circulation of traffic into, out of, or around the city and carries high volumes of traffic. Standards for an arterial street shall be those established in the Fairbank Subdivision Ordinance.
149. Street, Collector: A street whose principal function is to carry traffic between minor, local, and sub-collector streets and arterial streets but that may also provide direct access to abutting properties. Standards for a collector street shall be those established in the Fairbank Subdivision Ordinance.
150. Street, County: Any road or street owned, operated, and maintained by Buchanan and/or Fayette Counties.
151. Street, Local or Service: A street whose sole function is to provide access to abutting properties. Standards for a local street shall be those established in the Fairbank Subdivision Ordinance.
152. Street, Private: Any privately-owned road, street, or driveway.
153. Street Width: Street width is defined as the horizontal distance, paved or unpaved, that is located within rights-of-way.
154. Structure: A structure shall be anything constructed or built with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings (principal and accessory) and signs.

155. Structural Alteration: Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.
156. Structural Member: A component part of a structural system required to carry the primary supportive stresses of the building to the ground, as opposed to members carrying little or no supportive stress other than their own weight, and functioning as an in-fill or nonstructural enclosure.
157. Subdivision: Any land, vacant or improved, which is divided or proposed to be divided into lots, parcels, sites, units, plots, or interests for the purpose of sale, including a sale on contract or the making of a gift, or lease, or development, including resubdivision. "Subdivision" includes the division or development of residential or non-residential zoned land, whether by deed, sale on contract, devise, intestate succession, lease, map, plat, or other recorded instrument. The subdivision process is governed by the City's subdivision ordinance.
158. Surveyor: A licensed land surveyor who engages in the practice of land surveying pursuant to the Code of Iowa.
159. Swimming Pool: A tank of water either above or below grade level that is designed and constructed for human occupancy.
160. Towers: Any radio, television, telephone, short-wave, cellular telephone, or microwave antenna or tower.
161. Trailer Camp or Tourist Camp: An area providing spaces for two (2) or more recreational vehicles, or tent sites for temporary occupancy, with necessary incidental services, sanitation and recreation facilities to serve the traveling public.
162. Utilities: Systems for the distribution or collection of water, gas, electricity, wastewater, stormwater, telephone and cablevision. See the definition of "essential services".
163. Variance: A grant of relief considered by the Board of Adjustment to an applicant from the terms of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.
164. Violation: An intentional or deliberate failure of a structure or other development to be fully compliant with the provisions of this Ordinance.
165. Wetlands: That classification of land subject to protection measures as indicated by the U.S. Army Corps of Engineers and/or the Iowa Department of Natural Resources.
166. Yard: An open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building shall be used (See Figure 5).
167. Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the building (See Figure 5). This area is to be considered clear area and is not to be used for storage or obstruction. A front yard shall be measured from the wall of the structure(s).

168. Yard, Rear: A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots the rear yard shall be in the rear of the front yard (See Figure 5). A rear yard shall be measured from the wall of the structure(s).
169. Yard, Side: A yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto (See Figure 5). A side yard shall be measured from the wall of the structure(s).
170. Zoning Administrator: The administrative officer designated or appointed by the City Council to administer and enforce the regulations contained in this Ordinance.

**Figure 5: Yard Definitions**





ARTICLE II

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

Section 2.00 ESTABLISHMENT OF DISTRICTS

For the purposes of this Ordinance, the City of Fairbank is hereby organized into the following zoning districts:

Agricultural District

“A-1” Suburban Agricultural District

Residential Districts

“R-1” Single Family Residential District

“R-2” Low Density Residential District

“R-3” Moderate to High Density Residential District

“R-MH” Planned Mobile Home District

Commercial Districts

“C-1” Commercial District

“C-2” Commercial District

Manufacturing Districts

“M-1” Light Industrial and/or Manufacturing District

“M-2” Heavy Industrial and/or Manufacturing District

Section 2.01 ZONING MAP

The location and boundaries of the zoning districts established by this Ordinance are set forth on the map entitled “ Official Zoning Map” which is located in the Fairbank City Hall and hereby made a part of this Ordinance. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Ordinance as though fully set forth and described herein.

Section 2.02 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the centerlines of such streets highways, or alleys;
2. Boundaries shown as following or approximately following platted lot lines or other property lines shall be construed to follow said boundary lines;
3. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines;
4. Boundaries shown as following or approximately following the courses of streams, rivers, or other continuously flowing waters shall be construed as following either the channel centerline or the mean high water mark of such water courses;

5. Boundaries shown as following or closely following the City limits of Fairbank shall be construed as following such city limit lines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 2.02.1 through 2.02.6 shall be so construed. Any distances not specifically dimensioned on the official zoning map shall be determined by the scale of the map;
7. Where existing physical or cultural features conflict with those shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries;
8. Whenever any street, alley, or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classifications of the vacated land.

Section 2.03 ANNEXED TERRITORY

All territory that may hereafter be annexed to the City of Fairbank shall be automatically classified as being in an “R-1” Single Family Residential District until such classification shall be changed by amendment of this Ordinance as provided hereafter.

ARTICLE III  
GENERAL PROVISIONS

Section 3.00      ZONING AFFECTS EVERY STRUCTURE

Except as hereinafter provided, no building, structure or land shall be erected, constructed, reconstructed, occupied, moved, altered, or repaired, except in conformity with the regulations specified herein for the class of District in which it is located.

Section 3.01      MINIMUM STREET FRONTAGE, LOT OF RECORD, NUMBER OF BUILDINGS ON LOT, AND LOTS UNSERVED BY SEWER OR WATER

1.      Minimum Street Frontage: No lot shall be created after the adoption of this Ordinance unless it abuts at least sixty (60) feet on a public street right-of-way, or is accessible to a public street by an easement.
2.      Lot of Record: In any Residential District on a lot of record at the time of enactment of this Ordinance, a single-family dwelling may be established regardless of the size of the lot, provided all other requirements of this Ordinance are met (See Article XV).

Further, where two (2) or more contiguous recorded lots are held in common ownership, they may be combined into a zoning lot and shall thereafter be maintained in common ownership by deed restriction and shall be so joined and developed for implementing this section. The razing of a building on a substandard lot shall constitute the formation of a vacant lot.

3.      Lots Unserved by Sewer and Water: In any Residential District where neither public water supply nor public sanitary sewer are reasonably available, one (1) single-family dwelling may be constructed on a lot provided the otherwise specified lot area and width requirements are met. In no case, shall the lot area be less than one (1) acre.

Section 3.02      DETACHED ACCESSORY BUILDINGS, GARAGES, STRUCTURES, AND USES

1.      General Provisions: No accessory building or structure shall be erected in any front yard. Accessory buildings or structures shall be no closer than five (5) feet from any principal buildings. The total per lot area of any garage(s) or carport(s) or detached or accessory building(s) shall be a maximum of one thousand two hundred ninety-six (1,296) square feet. Nothing in this section shall preclude a garage of four hundred forty (440) square feet from being constructed on a lot of record, as herein defined.
2.      Time of Construction: No garage, accessory building, or structure shall be constructed on any lot prior to the completion of the foundation of the principal building to which it is accessory. In situations where an accessory building is to be built on a vacant lot that is contiguous to the lot of the principal building and where both lots are held in common ownership, a deed restriction on both lots may be used to satisfy this requirement.
3.      Percentage of Rear Yard Occupied Within an Residential District: No detached accessory building or buildings shall occupy more than thirty (30) percent of the area of a rear yard.
4.      Height of Accessory Buildings Within an Residential District: No detached accessory building or structure shall exceed twenty-four (24) feet in height (measured from the door sill to its highest point), and the side walls shall not exceed twelve (12) feet in height.

5. Accessory Building Materials: No detached accessory building walls or roofs shall be constructed of any type of fabric, plastic, vinyl, or fibrous materials.

Section 3.03 ONE PRINCIPAL STRUCTURE ON LOT

In any District, only one (1) principal structure (except in the case of condominiums), housing a principal permitted use, may be erected on a single lot provided the area, yard, and other requirements are met.

Section 3.04 REQUIRED YARD CANNOT BE REDUCED OR USED BY ANOTHER BUILDING

No lot, yard, court, parking area or other open space shall be so reduced in area or dimension as to make any such area or dimension less than the minimum required by this Ordinance, and if already less than the minimum required it shall not be further reduced. No required open space provided around any building or structure shall be included as part of any open space required for another building or structure.

Section 3.05 CONVERSION OF DWELLINGS

The conversion of any principal building or structure into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under the Ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, dimensions of yards and other open spaces, and off-street parking. Each conversion shall be subject also to such further requirements as may be specified hereinafter within the article applying to such district.

Section 3.06 YARD AND PARKING SPACE RESTRICTION

No part of yard, or other open space, or off-street parking or loading space required by this title, shall be included as part of yard, open space, off-street parking, or loading space similarly required for any other building.

Section 3.07 TRAFFIC VISIBILITY ACROSS CORNER LOTS

In a Residential or Agricultural District on any corner lot, no fence, wall, hedge, or other planting will be allowed to obstruct vision between a height of two and one-half (2½) feet and ten (10) feet above the centerline grades of the intersecting streets. Nor shall the above be erected, placed, or maintained within the triangular area formed by the right-of-way lines at such corner and a straight line joining the right-of-way lines at points that are twenty-five (25) feet distant from the intersection of the right-of-way lines, and measured along the right-of-way line.

Section 3.08 ESSENTIAL SERVICES

Essential services shall be permitted as authorized and regulated by law and other ordinances of the community. With the exception of buildings and telecommunication towers, it is the intent to exempt such essential services from the application of this Ordinance. Associated buildings and telecommunication towers must be located in the appropriate Zoning District, and must abide by the corresponding requirements thereof (See Section 3.16).

Section 3.09 VALIDITY OF EXISTING PERMITS

Nothing contained herein shall require any change in the overall layout, plans, construction, size or designated uses of any development, structure or part thereof, for which the official approvals and required permits have been granted prior to enactment of this Ordinance. The construction of which, conforming with such plans, shall have been started prior to the effective date of the Ordinance and the completion thereof carried on in a normal manner within the subsequent one (1) year period, and not discontinued until completion, except for reasons beyond the property owner and/or builder's control.

Section 3.10 HEIGHT EXCEPTIONS

The height limitations contained in Articles IV through XII do not apply to spires, steeples, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing, or other structures placed above roof level that are specifically not intended for human occupancy. Article XV shall govern the height restrictions for these structures.

Section 3.11 PUBLIC RIGHT-OF-WAY USE AND EASEMENTS

No portion of the public street or alley right-of-way shall be used, or occupied by an abutting use of land or structures for any purpose including storage or display purposes. No portion of a public street or alley right-of-way shall be used to provide any parking, loading space, or signage required by this Ordinance, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.

No structure, building, sign, fencing or landscaping shall be placed in an easement. The City will not bear any responsibility, financial or otherwise, for moving or reconstructing any of these types of structures when access is required to an easement

Section 3.12 FENCES

1. Fences in a Residential District: Residential fences or landscape features such as sculpture or walls may be erected or constructed. No portion of the fence shall extend onto adjacent property or right-of-way, however it may not be built on a property line. No such fence in any front, side, or rear yard having street frontage shall exceed four (4) feet in height and eight (8) feet in height in the case of side and rear yards not having street frontage. Fences in any front or side yard of a corner lot shall not exceed four (4) feet in height.
2. Fences in Other Districts: Nonresidential fences located in a district other than a Residential District shall not be less than four (4) feet nor exceed eight (8) feet in height. No portion of the fence shall extend onto adjacent property or right-of-way, however it may not be built on a property line. Fences in any front or side yard of a corner lot shall not exceed four (4) feet in height. For Commercial and Manufacturing Districts, fences shall be opaque and shall not include barbed or razor wire, unless in the case of a security fence then the top portion of the fence may be barbed wire.

Section 3.13 PROPOSED USE NOT COVERED BY TITLE

Any proposed use not specifically addressed or listed in this Ordinance as a principal permitted use or special exception shall be referred to the Planning and Zoning Commission for a recommendation as to the proper District in which said use should be permitted. The Ordinance shall be amended as provided in Article XVI, Section 16.10, before a request is made or permit is issued for the proposed use.

Section 3.14 ACCESS REQUIRED

Every building hereinafter erected or structurally altered shall be accessible from a public right-of-way, either directly or by easement.

Section 3.15 APPLICATION OF REGULATIONS

The regulations within each district of this Ordinance shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

Section 3.16 PERMITTED USES

For the purposes of the distribution of essential services, these uses are permitted in all zoning districts. However, the design and placement of essential services equipment and devices may be reviewed by the Planning and Zoning Commission at the request of the City Council and then approved by the Council.

All other uses are permitted only as listed under each specific Zoning District.

Section 3.17 TEMPORARY USES

The following uses may be permitted by a Temporary Use Permit valid for ten (10) days or less after review and approval of a completed application by the City Council.

1. Carnival, circus.
2. Festivals.
3. In determining whether a Temporary Use Permit shall be granted the City Council shall give consideration to the health, safety, morals, and comfort of area residents any adverse impact on land uses, possibility of traffic congestion, harm to public roads, erosion of adjacent property and threat to any source of water supply. Conditions and restrictions as determined necessary to protect the public health, safety, morals, and comfort may be attached to the permit.

Section 3.18 BULK REQUIREMENTS

All buildings constructed after enactment of this Ordinance shall conform to the building regulations established herein for the district in which each building shall be located. Further, no existing building shall be enlarged, reconstructed, structurally altered, converted or relocated in such a manner as to conflict or to further conflict with the bulk regulations of this Ordinance for the district in which such buildings shall be located, unless allowed to do so under Articles XIV, XV, or XVI (16.04).

Bulk requirements are listed in Table 1 on the following page.

**Table 1: Bulk Requirements.**

District Use	Maximum Building Height <sup>4</sup>	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard <sup>2,3,5</sup>	Minimum Side Yard <sup>2,3,5</sup>	Minimum Side Yard on a Corner Lot <sup>2,3,5</sup>	Minimum Rear Yard <sup>2,3,5</sup>
<b>A-1</b>							
Single Family	35 Ft. or 3 Stories	3 Acres	200 Ft.	30 Ft.	20 Ft.	30 Ft.	30 Ft.
Other Permitted Uses	--	3 Acres	200 Ft.	30 Ft.	20 Ft.	30 Ft.	30 Ft.
<b>R-1</b>							
Single Family	35 Ft. or 2½ Stories	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
Other Permitted Uses	---	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
<b>R-2</b>							
Single Family	40 Ft. or 3 Stories	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
Two-Family	40 Ft. or 3 Stories	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
Condominiums or Row Houses	45 Ft. or 3 Stories	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft. (Exterior)	25 Ft.	25 Ft.
Multiple Family up to four (4) units	40 Ft. or 3 Stories	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
Other Permitted Uses	40 Ft. or 3 Stories	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
<b>R-3</b>							
Single Family	45 Ft. or 3 Stories	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
Two (2) Family	45 Ft. or 3 Stories	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
Multiple Family; Five (5) or more units	45 Ft. or 3 Stories	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
Other Permitted Uses	45 Ft. or 3 Stories	7,500 Sq. Ft.	60 Ft.	25 Ft.	5 Ft.	25 Ft.	25 Ft.
<b>R-MH</b>							
Mobile Home, Per Unit	25 Ft. or 2 Stories	4,000 Sq. Ft.	40 Ft.	20 Ft.	10 Ft.	---	10 Ft.
Mobile Home Park	---	5 Acres	360 Ft.	40 Ft.	40 Ft.	40 Ft.	40 Ft.
<b>C-1</b>							
	50 Ft. or 4 Stories	---	---	---	1'	---	---
<b>C-2</b>							
	---	---	---	40 Ft.	10 Ft.	25 Ft.	25 Ft.
<b>M-1</b>							
	50 Ft. or 4 Stories	---	---	25 Ft.	10 Ft.	15 Ft.	15 Ft.
<b>M-2</b>							
	50 Ft. or 4 Stories	---	---	25 Ft.	15 Ft.	40 Ft.	40 Ft.

NOTES:

<sup>1</sup>None required except adjoining any Residential District, in which case not less than (15) feet. However, development shall not have a negative impact on surrounding properties.

<sup>2</sup>Accessory building to be placed in the rear or side yards may reduce minimum side and rear yard requirements to four (4) feet.

<sup>3</sup>Accessory Buildings standards are defined in Section 3.02.

<sup>4</sup>Maximum Height shall be measured by either the designated footage or by stories, whichever is lower.

<sup>5</sup>Yard dimensions shall be measured from the wall of the structure(s).

Section 3.19 HOME OCCUPATION STANDARDS

The following standards and criteria shall apply to home occupations.

1. The home occupation shall be clearly incidental and secondary to the use of the dwelling unit as a residence.
2. The home occupation shall be conducted entirely within an existing dwelling unit.
3. The home occupation shall be conducted by a member(s) of the family residing within the dwelling unit and no more than one (1) non-resident employee.
4. There shall be no evidence of such occupation being conducted within the dwelling unit, which is perceivable at or beyond the lot lines, by virtue of: outside storage, displays, noise, odors, smoke, vibration, heat, dust, electrical disturbances or excessive traffic generation.
5. Water, sewer, and waste disposal systems shall be subject to approval of the City Council.
6. Customer parking shall be provided and be as inconspicuous as possible on the premises.
7. The home occupation shall occupy less than fifty (50) percent of the floor area of the dwelling unit in which it is located.

Section 3.20 HOME INDUSTRY STANDARDS

The following standards and criteria shall apply to home industries.

1. The home industry shall be clearly incidental and secondary to the residential occupancy of a dwelling unit located up on the property.
2. The home industry shall be conducted entirely and confined within an accessory detached building(s) located upon the property.
3. The home industry shall be conducted by a member(s) of the family residing within the dwelling unit located on the property and no more than one (1) non-resident employee.
4. There shall be no evidence of such industry being conducted within the accessory building(s) which is perceivable at or beyond the lot lines, by virtue of: outside storage, displays, noise, odors, smoke, vibration, heat, dust, electrical disturbances or excessive traffic generation.
5. Water, sewer, and waste disposal systems shall be subject to approval of the City Council.
6. Customer parking shall be provided and be as inconspicuous as possible on the premises.
7. Meet the accessory building requirements outlined in Section 3.02.

Section 3.21 HOME OCCUPATION AND HOME INDUSTRY SIGN REGULATIONS

Only one (1) identification sign may be displayed upon the lot, subject to the following requirements.

1. Contains only the name of the occupant and the nature of the occupation.



2. Shall not contain more than four (4) square feet and shall be attached to the principal building.
3. Shall not be illuminated.
4. If located along a state or federal highway, an Iowa Department of Transportation permit must be obtained.

Section 3.22

HOME OCCUPATION AND HOME INDUSTRY PERMIT PROCESS

1. An initial application for a home occupation or home industry permit shall be completed by the property owner and presented to the City staff for review and consideration. The staff shall also charge an initial non-refundable fee, per Section 17.04 of this Ordinance, which is to be collected with the completed application. When reviewing the application, the City staff shall consider the provisions of this Ordinance as well as the effect of the proposed home occupation or home industry upon the character of the neighborhood, traffic conditions, public utility infrastructure, and other matters pertaining to the general welfare of the City. The staff shall make a formal recommendation to the City Council regarding the application.
2. The City Council will then hold a public hearing, notice of which shall be published in a newspaper with general circulation not less than seven (7) days, but not more than twenty (20) days, before rendering a decision on the application. Surrounding property owners, within two hundred (200) feet, will also be mailed a copy of the public hearing notice prior to the hearing as a courtesy. If approved by the City Council, a home occupation or home industry permit will be valid until the home occupation or home industry ceases, or the property changes ownership, or it is revoked by the City Council after a public hearing. Because operating a home occupation or home industry is a privilege, a previously approved application may be revoked by the City Council upon substantiated complaint of the surrounding neighborhood, or upon violation of this Ordinance, or the City of Fairbank Code of Ordinances.
3. If denied by the City Council or revoked by the City Council, a property owner must wait for a period of one (1) year before reapplying for a home occupation or home industry permit.

## ARTICLE IV

### “A-1” SUBURBAN AGRICULTURAL DISTRICT

#### Section 4.00 GENERAL DESCRIPTION

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

#### Section 4.01 PRINCIPAL PERMITTED USES

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

1. Agricultural uses involving crop activity only.
2. Single-family dwellings, including manufactured homes.
3. Churches and temples.
4. Public buildings and facilities, including essential service buildings.
5. Public and semi-public parks and playgrounds.
6. Golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
7. Home occupations and home industries, provided Sections 3.19 through 3.22 are met.
8. Accessory uses and buildings that are customarily incidental to any of the above stated uses.

#### Section 4.02 SPECIAL EXCEPTIONS

Property and buildings in this District may be used for the following purposes in accordance with the provisions contained herein if the Board of Adjustment deems them appropriate:

1. Airports, airfields, and airstrips, public or private.
2. Cemetery or mausoleum that are a minimum of ten (10) acres in size.
3. Recreational development for seasonal or temporary use, excluding race tracks.
4. Roadside stand for sale of produce raised on the premises.
5. Public riding stables, at least one hundred (100) feet from all property lines of the lot on which it is located.
6. Greenhouses and plant nurseries operated for commercial purposes.

7. Farm animal husbandry including: dairy farming, livestock farming, poultry farming, private stables and other agricultural activities provided that said activity occurs on a farm, which is defined as a parcel at least thirty-five (35) acres or more in size, and is at least one thousand three hundred twenty (1,320) feet from any existing dwelling, excluding the dwelling owned by the applicant.
8. Telecommunications towers (See Section 15.01(3)).

Section 4.03 HEIGHT REGULATIONS, LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

Shall be those regulations as specified in Section 3.18.

Section 4.04 OFF STREET PARKING AND LOADING REQUIREMENTS

Shall be those regulations as specified in Section 13.00.

Section 4.05 SIGN REGULATIONS

The following signs are allowed, but require a permit unless otherwise stated.

1. Nameplates attached flat against the wall of the principal building not to exceed four (4) square feet in area (No permit required).
2. Church or public bulletin boards not to exceed eight (8) feet in width and ten (10) feet in height.
3. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area (No permit required).
4. Trade, advertising, business or industry identification signs provided that: (a) free standing signs do not exceed twenty-five (25) feet in height; (b) signs attached to a building shall not project above the height of the building or more than four (4) feet from the wall of the building; (c) no sign shall exceed one hundred fifty (150) square feet in area nor shall any sign cover more than ten (10) percent of the building face which it covers.
5. Billboards provided that: (a) free standing signs do not exceed fifty (50) feet in height; (b) signs attached to a building shall not project above the height of the building or more than four (4) feet from the wall of the building; (c) no sign shall exceed three hundred (300) square feet in area; (d) they are not within one hundred fifty (150) feet of an intersection, highway structure, residence, park, school, cemetery, public, or semi-public building; (e) they are not within one hundred fifty (150) feet of another billboard facing in the same direction.
6. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish. Signs are subject to the city's municipal infractions ordinance.
7. Portable signs provided they are displayed no longer than ninety (90) days per calendar year.

## ARTICLE V

### “R-1” SINGLE FAMILY RESIDENTIAL DISTRICT

#### Section 5.00 GENERAL DESCRIPTION

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

#### Section 5.01 PRINCIPAL PERMITTED USES

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

1. Single-family dwellings, including manufactured homes.
2. Churches.
3. Public schools, elementary, junior high and high schools.
4. Parochial or private schools having similar curricula as public schools and having no rooms used regularly for housing or sleeping purposes.
5. Public, semi-public parks, and playgrounds.
6. Public buildings and facilities, including essential service buildings.
7. Family Homes.
8. Home occupations and home industries, provided Sections 3.19 through 3.22 are met.
9. Accessory uses and buildings that are customarily incidental to any of the above stated uses. Accessory uses shall include private garages and carports, private swimming pools, and private greenhouses not operated for commercial purposes.

#### Section 5.02 SPECIAL EXCEPTIONS

Property and buildings in this District may be used for the following purposes in accordance with the provisions contained herein if the Board of Adjustment deems them appropriate:

1. Hospitals, nursing homes, or convalescent homes with the same off-street parking and yards as those required for other institutional uses under this Ordinance.
2. Swimming pools, golf courses, cemeteries, and country clubs, except miniature courses or driving ranges operated for a profit.

Section 5.03 HEIGHT REGULATIONS, LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

Shall be those regulations as specified in Section 3.18.

Section 5.04 OFF STREET PARKING AND LOADING REQUIREMENTS

Shall be those regulations as specified in Section 13.00.

Section 5.05 SIGN REGULATIONS

The following signs are allowed, but require a permit unless otherwise stated.

1. Nameplates attached flat against the wall of the principal building not to exceed four (4) square feet in area (No permit required).
2. Church or public bulletin boards not to exceed eight (8) feet in width and ten (10) feet in height.
3. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area (No permit required).
4. Illumination of signs, bulletin boards, and nameplates shall be lighted only with indirect, non-intermittent lighting
5. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line.
6. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.

## ARTICLE VI

### “R-2” LOW DENSITY RESIDENTIAL DISTRICT

#### Section 6.00 GENERAL DESCRIPTION

The “R-2” Mixed Residential District is to provide for single, two-family, and low-density residential development. The principle use of land may range from single family to low density multiple-family dwelling units, which may permit up to a maximum of four (4) dwelling units as well as rowhouses and condominiums. Certain uses are permitted that are more compatible with intensive residential uses than with commercial uses. The recreational, religious, and educational facilities normally found in an orderly and attractive residential area are included. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

#### Section 6.01 PRINCIPAL PERMITTED USES

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

1. Any use principally permitted in the “R-1” Single Family Residential District.
2. Condominiums and rowhouses up to four (4) units provided each unit has individual access to essential services.
3. Two-family dwellings.
4. Multiple-family dwellings up to four (4) units.
5. Accessory uses and buildings that are customarily incidental to any of the above stated uses.

#### Section 6.02 SPECIAL EXCEPTIONS

Property and buildings in this District may be used for the following purposes in accordance with the provisions contained herein if the Board of Adjustment deems them appropriate:

1. Any special exception allowed in the “R-1” Single Family Residential District, unless said use is specifically listed as a principally permitted use in this District.
2. Child care centers, institutional.
3. Mortuary or funeral homes.

#### Section 6.03 HEIGHT REGULATIONS, LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

Shall be those regulations as specified in Section 3.18.

#### Section 6.04 OFF STREET PARKING AND LOADING REQUIREMENTS

Shall be those regulations as specified in Section 13.00.

Section 6.05 SIGN REGULATIONS

The following signs are allowed, but a permit is required unless otherwise stated.

1. Nameplates attached flat against the wall of the principal building not to exceed four (4) square feet in area (No permit required).
2. Church or public bulletin boards not to exceed eight (8) feet in width and ten (10) feet in height.
3. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area (No permit required).
4. Illumination of signs bulletin boards, and nameplates shall be lighted only with indirect, non-intermittent lighting.
5. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line.
6. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.

## ARTICLE VII

### “R-3” MODERATE TO HIGH DENSITY RESIDENTIAL DISTRICT

#### Section 7.00 GENERAL DESCRIPTION

The “R-3” Mixed Residential District is to provide for moderate to high-density residential development and compatible, light commercial uses. The principal residential use of land may range from single-family to high-density multiple-family dwelling units, which may permit five (5) or more dwelling units. Certain light commercial uses that are compatible with intensive residential uses and with customary commercial uses are permitted. The recreational, religious, and educational facilities normally found in an orderly and attractive residential area are included. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

#### Section 7.01 PRINCIPAL PERMITTED USES

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

1. Any use principally permitted in the “R-2” Low Density Residential District.
2. Condominiums and rowhouses with five (5) or more units provided each unit has individual access to essential services.
3. Multiple-family dwellings that are five (5) units or greater.
4. Group homes.
5. Accountants, attorneys, engineers, and architecture offices, after review and recommendation by the Planning and Zoning Commission and approval by the City Council.
6. Beauty and barber shops, after review and recommendation by the Planning and Zoning Commission and approval by the City Council.
7. Insurance and real estate offices, after review and recommendation by the Planning and Zoning Commission and approval by the City Council.
8. Medical, dental, or mental health clinics or offices, after review and recommendation by the Planning and Zoning Commission and approval by the City Council.
9. Accessory uses and buildings that are customarily incidental to any of the above stated uses.

#### Section 7.02 SPECIAL EXCEPTIONS

Property and buildings in this District may be used for the following purposes in accordance with the provisions contained herein if the Board of Adjustment deems them appropriate:

1. Any special exception allowed in the “R-2” Low Density Residential District, unless said use is specifically listed as a principally permitted use in this District.



Section 7.03 HEIGHT REGULATIONS, LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

Shall be those regulations as specified in Section 3.18.

Section 7.04 OFF STREET PARKING AND LOADING REQUIREMENTS

Shall be those regulations as specified in Section 13.00.

Section 7.05 SIGN REGULATIONS

The following signs are allowed, but require a permit unless otherwise stated.

1. Nameplates attached flat against the wall of the principal building not to exceed four (4) square feet in area (No permit required).
2. Church or public bulletin boards not to exceed eight (8) feet in width and ten (10) feet in height.
3. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area (No permit required).
4. Illumination of signs bulletin boards, and nameplates shall be lighted only with indirect, non-intermittent lighting.
5. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line.
6. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.
7. Portable signs provided they are displayed no longer than ninety (90) days per calendar year.

## ARTICLE VIII

### “R-MH” PLANNED MOBILE HOME DISTRICT

#### Section 8.00 GENERAL DESCRIPTION

The intent of the “R-MH” District is to provide sites only for the location of mobile homes which will allow the maximum amount of freedom possible in the design of mobile home parks and will provide for the related recreational, commercial, and other service facilities for the planned mobile home residential developments.

#### Section 8.01 PRINCIPAL PERMITTED USES

1. Single-wide mobile homes in mobile home parks, as regulated herein.
2. Non-commercial community recreational facilities that are intended exclusively for the use of the residents and their guests of the mobile home development.
3. Pedestrian oriented personal service facility which are intended exclusively for the use of the residents of the mobile home development, provided that such personal service facilities occupy not more than ten (10) square feet of gross floor area for each mobile home in the development.
4. Buildings used for the management and maintenance of the development.
5. Commercial mobile home sales.

#### Section 8.02 ACCESSORY USES PERMITTED IN THE “R-MH” DISTRICT

1. Buildings and uses customarily accessory to mobile homes such as garages and storage buildings.
2. One (1) indirectly lighted, non-flashing sign not to exceed one (1) square foot for each five (5) feet of frontage of said mobile home park.

#### Section 8.03 HEIGHT REGULATIONS, LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

Shall be those regulations as specified in Section 3.18

#### Section 8.04 DESIGN PROCEDURE, STANDARDS, AND REQUIREMENTS

1. Procedure. The owner or owners of any tract of land comprising an area of not less than five (5) acres shall submit to the Planning and Zoning Commission a plan for the use of development of the entire tract of land. This plan shall include the site location and uses of all buildings, the location of each single-wide and double-wide mobile home stand, the locations and types of all community and recreational facilities; open spaces, including developed open spaces and those to be preserved in their existing state; points of access to the site, principal pedestrian and vehicular circulation ways, parking facilities, and other principal elements of the vehicular and pedestrian transportation system. The Planning and Zoning Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principals of civic design, land use planning, and landscape architecture. The Planning and Zoning Commission may after holding a public hearing and reviewing the development plan recommend approval, approval with modifications, or disapproval of

the development plan which accompanies the application. The Planning and Zoning Commission shall forward its written recommendations to the City Council which shall after notice and public hearing, approve or disapprove said application and plan, or may require such changes thereto as it deems necessary to effectuate the intent and purpose of this Ordinance.

2. Standards. The land usage, minimum lot area, yard, height, and accessory uses shall be determined by the requirements set out as follows which shall prevail over conflicting requirements of this Ordinance or the City's subdivision ordinance.
  - (a.) Uses along the project boundary lines shall not be in conflict with those allowed in adjoining or opposite property. To this end the Planning and Zoning Commission may require, in the absence of an appropriate physical barrier, that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project.
  - (b.) A plat of the development shall be recorded, showing building locations, common land, streets, easements, and other applicable items required by the City's subdivision ordinance.
  - (c.) No building permits shall be issued until the final plat of the development is approved and recorded, and the applicant must file with the Zoning Administrator of the City, proof of compliance with all requirements of the Department of Health of the State of Iowa.
3. Deed Restrictions. In its review of the plan, the Planning and Zoning Commission or City Council may consider any deed restrictions or covenants entered into or contracted for by the developer concerning the use of common land or permanent open space. Common land as herein contained shall refer to land dedicated to the public use and to land retained in private ownership but intended for the use of the residents of the development unit or the general public.
4. Land Use and Density Requirements.
  - (a.) Seven (7) mobile home stands shall be permitted for each acre of land contained in the useable area of the plan.
  - (b.) No part of any mobile home or other structure shall be located within twenty-five (25) feet of any public road shown on the official Major Street Plan, nor within twenty (20) feet of any exterior boundary of the Planned Mobile Home Development.
  - (c.) Parking facilities shall be provided within the development at the rate of two (2) spaces per mobile home.
  - (d.) Commercial uses and accessory uses within the "R-MH" District shall not consume more than fifteen (15) percent of the total district.
  - (e.) No permit for any commercial structure or building shall be issued until at least twenty-five (25) percent of the mobile home site is developed for residential uses.
  - (f.) Mobile home parks shall include storm/emergency shelters sufficient in size to accommodate the number of occupants living in the development.

## ARTICLE IX

### “C-1” COMMERCIAL DISTRICT

#### Section 9.00 GENERAL DESCRIPTION

The “C-1” Commercial District is intended and designed for business professions and occupations that are located in the Central Business District.

#### Section 9.01 PRINCIPAL PERMITTED USES

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

1. Antique shops.
2. Apartments above first story level of a store or shop with off-street/on site parking.
3. Apparel shops.
4. Arcade and other commercial amusements.
5. Art shops.
6. Bakeries, bakery outlets, or catering businesses.
7. Banks, savings and loan associations, and similar financial institutions.
8. Barbershops and beauty parlors.
9. Bicycle shops sales and repair.
10. Business offices, professional offices, and studios.
11. Camera stores.
12. Car washes, including truck bays.
13. Churches and temples.
14. Clothes cleaning and laundry pick-up stations, excluding dry-cleaning establishments.
15. Clothing stores.
16. Collection office of public utility.
17. Commercial sales (electronic).
18. Confectionery stores, including ice cream or snack bars.
19. Dance studio.
20. Delicatessens.

21. Dental and medical clinics.
22. Drive-in restaurants.
23. Drug stores, including pharmacies.
24. Dry-cleaning establishments.
25. Dry goods stores.
26. Florist shops.
27. Furniture stores.
28. Funeral homes and mortuaries.
29. Gift shops.
30. Grocery stores, including supermarkets.
31. Hardware stores.
32. Health club.
33. Hobby shops.
34. Hotels and motels.
35. Household appliances, sale and repair.
36. Jewelry stores and watch repair shops.
37. Launderette or coin-operated laundry establishments.
38. Leather goods store.
39. Locker plant for storage and retail sales.
40. Lumber yards.
41. Music stores and music studios.
42. Office supply store or shop.
43. Paint and wallpaper stores.
44. Pet shops, including kennels.
45. Pharmacies.
46. Photographic studios, printing and developing establishments.
47. Plumbing and heating business.
48. Post offices.

49. Printing and lithographing shops.
50. Playgrounds and public parks.
51. Public buildings and facilities, including essential service buildings.
52. Publishing and engraving establishments.
53. Radio and television sales and repair shops.
54. Rental or rent-to-own store.
55. Restaurants, taverns, and cafes.
56. Shoe and hat repair shops.
57. Sporting goods stores, excluding external boat storage or display.
58. Tailor and dressmaking shops.
59. Theaters.
60. Toy stores.
61. Upholstering and embroidery shops.
62. Variety stores.
63. Accessory uses and buildings that are customarily incidental to the above stated uses.
64. Other uses similar to the foregoing designated uses after review and approval per Section 16.10.

Section 9.02 SPECIAL EXCEPTIONS

Property and buildings in this District may be used for the following purposes in accordance with the provisions contained herein if the Board of Adjustment deems them appropriate:

1. Animal hospitals, veterinary clinics, pet shops, and commercial kennels.
2. Billiard parlors and pool halls.
3. Book stores.
4. Carpentry or cabinet making shop with three (3) or less employees.
5. Dance halls.
6. Liquor stores and lounges.
7. Private clubs and lodges.
8. Roadside stands for the sale of fresh fruits, vegetables, nursery stock, and plant food.
9. Gas or service stations, including convenience stores.

10. Nightclubs.
11. Video equipment rental and sales, including film rental.
12. Wholesale display and sales rooms and offices.

Section 9.03 HEIGHT REGULATIONS, LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

Shall be those regulations as specified in Section 3.18.

Section 9.04 OFF STREET PARKING AREAS AND LOADING REQUIREMENTS

Shall be those regulations as specified in Section 13.00.

Section 9.05 SIGN REGULATIONS

The following signs are allowed, but require a permit.

1. Advertising signs, billboards, trade, business or industry identification signs provided that: (a) free standing signs do not exceed twenty-five (25) feet in height; (b) signs attached to a building shall not project above the height of the building or be more than four (4) feet from the wall of the building; (c) no sign shall exceed one hundred fifty (150) square feet in area nor shall any sign cover more than ten (10) percent of the building face which it covers.
2. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.
3. Portable signs provided they are displayed no longer than ninety (90) days per calendar year.

ARTICLE X

“C-2” COMMERCIAL DISTRICT

Section 10.00 GENERAL DESCRIPTION

The “C-2” Commercial District is intended and designed for business professions and occupations that are oriented toward automobile traffic or which require amounts of space and parking too great to be located in the Central Business District.

Section 10.01 PRINCIPAL PERMITTED USES

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

1. Any use principally permitted in the “C-1” Commercial District.
2. Agricultural feed and seed sales, excluding grinding, mixing, and/or blending of feed.
3. Automobile sales and accessory parts stores.
4. Bowling alleys.
5. Business and vocational schools.
6. Department stores.
7. Lawn mower repair shops.
8. Accessory uses and buildings that are customarily incidental to the above stated uses.
9. Other uses similar to the foregoing designated uses after review and approval per Section 16.10.

Section 10.02 SPECIAL EXCEPTIONS

Property and buildings in this District may be used for the following purposes in accordance with the provisions contained herein if the Board of Adjustment deems them appropriate:

1. Any special exception allowed in the “C-1” Commercial District, unless said use is specifically listed as a principally permitted use in this District.
2. Wholesale display and sales rooms and offices.

Section 10.03 HEIGHT REGULATIONS, LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

Shall be those regulations as specified in Section 3.18.

Section 10.04 OFF STREET PARKING AREAS AND LOADING REQUIREMENTS

Shall be those regulations as specified in Section 13.00.



Section 10.05 SIGN REGULATIONS

The following signs are allowed, but require a permit.

1. Advertising signs, billboards, trade, business or industry identification signs provided that: (a) free standing signs do not exceed twenty-five (25) feet in height; (b) signs attached to a building shall not project above the height of the building or more than four (4) feet from the wall of the building; (c) no sign shall exceed one hundred fifty (150) square feet in area nor shall any sign cover more than ten (10) percent of the building face which it covers.
2. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.
3. Portable signs provided they are displayed no longer than ninety (90) days per calendar year.

## ARTICLE XI

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

#### Section 11.00 GENERAL DESCRIPTION

The “M-1” Light Industrial and/or Manufacturing District is intended primarily for the limited conduct of manufacturing, assembling, repair, and fabrication.

#### Section 11.01 PRINCIPAL PERMITTED USES

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

1. Any use principally permitted in the “C-2” Commercial District.
2. Automobile body repair and paint shop.
3. Automobile restoration and rebuilding shops.
4. Automobile, trailer, motorcycle, boat, and farm implement service or repair establishments.
5. Cabinet making plants or factories with more than three (3) employees.
6. Consignment and auction sales operations of any kind having no more than four (4) public sales per month, but excluding the sale of livestock, fish, fowl, or animals of any kind.
7. Construction businesses, contractor's shops, and storage yards enclosed by a solid, opaque fence eight (8) feet high.
8. Farm implement sales, service, repair and assembly.
9. Rental storage buildings, including mini-storage facilities.
10. Semi-tractor trailer parking.
11. Tool and die operations.
12. Truck or bus garage and repair shop.
13. Welding and machine shops.
14. Wholesaling and warehousing, but not including the bulk storage of hazardous chemicals.
15. Uses and buildings which are accessories and customarily incidental to the above stated permitted uses and including temporary buildings used in conjunction with construction work provided such buildings are removed promptly upon completion of the construction work.
16. Other uses similar to the foregoing designated uses after review and approval per Section 16.10.

Section 11.02 SPECIAL EXCEPTIONS

Property and buildings in this District may be used for the following purposes in accordance with the provisions contained herein if the Board of Adjustment deems them appropriate:

1. Any special exception allowed in the “C-2” Commercial District, unless said use is specifically listed as a principally permitted use in this District.
2. Animal pound and commercial kennels.
3. Telecommunication towers (See Section 15.01(3)).

Section 11.03 HEIGHT REGULATIONS, LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

Shall be those regulations as specified in Section 3.18.

Section 11.04 OFF STREET PARKING AREAS AND LOADING REQUIREMENTS

Shall be those regulations as specified in Section 13.00.

Section 11.05 SIGN REGULATIONS

The following signs are allowed, but require a permit.

1. Trade, advertising, business or industry identification signs provided that: (a) free standing signs do not exceed twenty-five (25) feet in height; (b) signs attached to a building shall not project above the height of the building or more than four (4) feet from the wall of the building; (c) no sign shall exceed one hundred fifty (150) square feet in area nor shall any sign cover more than ten (10) percent of the building face which it covers.
2. Billboards provided that: (a) free standing signs do not exceed fifty (50) feet in height; (b) signs attached to a building shall not project above the height of the building or more than four (4) feet from the wall of the building; (c) no sign shall exceed three hundred (300) square feet in area; (d) they are not within one hundred fifty (150) feet of an intersection, highway structure, residence, park, school, cemetery, public, or semi-public building; (e) they are not within one hundred fifty (150) feet of another billboard facing in the same direction.
3. No sign or billboard shall be located in, overhang, or project into a required front or side yard.
4. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.
5. Portable signs provided they are displayed no longer than ninety (90) days per calendar year.

## ARTICLE XII

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

#### Section 12.00 GENERAL DESCRIPTION

The “M-2” Heavy Industrial and/or Manufacturing District is intended primarily for the conduct of manufacturing, assembling, and fabrication on a larger scale. It is designed to provide an environment suitable for industrial activities, which may create appreciable nuisances or hazards, such as noise, fumes, and dust. The uses permitted in this District shall be separated from residential uses.

#### Section 12.01 PRINCIPAL PERMITTED USES

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

1. Any use principally permitted in the “M-1” Light Industrial/Manufacturing District.
2. Concrete and asphalt plants.
3. Flour, feed, and milling operations, including grinding, mixing, and/or blending of feed and seed.
4. Freight terminal and grain elevator.
5. Manufacturing and assembly plants, including those for machinery.
6. Uses and buildings which are accessories and customarily incidental to the above stated permitted uses and including temporary buildings used in conjunction with construction work provided such buildings are removed promptly upon completion of the construction work.
7. Other uses similar to the foregoing designated uses after review and approval per Section 16.10.

#### Section 12.02 SPECIAL EXCEPTIONS

Property and buildings in this District may be used for the following purposes in accordance with the provisions contained herein if the Board of Adjustment deems them appropriate:

1. Any special exception allowed in the “M-1” Light Industrial/Manufacturing District, unless said use is specifically listed as a principally permitted use in this District.
2. Bulk storage of petroleum and liquid fertilizer.
3. Extraction of sand, gravel, topsoil, or other natural resources provided the land is restored to a condition suitable for the permitted uses of this district.
4. Fertilizer manufacture.
5. Hazardous chemical sales and distribution, wholesaling and storage.

6. Junkyards, including automobile wrecking and/or salvage enclosed by a solid, opaque fence that is a minimum of eight (8) feet in height.
7. Stockyards.
8. Telecommunication towers (See Section 15.01(3)).

Section 12.03 HEIGHT REGULATIONS, LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

Shall be those regulations as specified in Section 3.18.

Section 12.04 OFF STREET PARKING AREAS AND LOADING REQUIREMENTS

Shall be those regulations as specified in Section 13.00.

Section 12.05 SIGN REGULATIONS

The following signs are allowed, but require a permit.

1. Trade, advertising, business or industry identification signs provided that: (a) free standing signs do not exceed twenty-five (25) feet in height; (b) signs attached to a building shall not project above the height of the building or more than four (4) feet from the wall of the building; (c) no sign shall exceed one hundred fifty (150) square feet in area nor shall any sign cover more than ten (10) percent of the building face which it covers.
2. Billboards provided that: (a) free standing signs do not exceed fifty (50) feet in height; (b) signs attached to a building shall not project above the height of the building or more than four (4) feet from the wall of the building; (c) no sign shall exceed three hundred (300) square feet in area; (d) they are not within one hundred fifty (150) feet of an intersection, highway structure, residence, park, school, cemetery, public, or semi-public building; (e) they are not within one hundred fifty (150) feet of another billboard facing in the same direction.
3. No sign or billboard shall be located in, overhang, or project into a required front or side yard.
4. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.
5. Portable signs provided they are displayed no longer than ninety (90) days per calendar year.

ARTICLE XIII

SPECIAL PROVISIONS

Section 13.00 OFF-STREET PARKING AREAS AND LOADING SPACES

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

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

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

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

2. Provisions of Off-Street Parking: In all Districts, off-street accessory parking areas in the open or in a garage shall be provided in connection with the uses set forth hereinafter, and to the extent indicated therewith, in addition to the above required loading and unloading spaces.
  - (a) With the exception of the C-1 Commercial District, parking areas in Commercial and Manufacturing Districts shall be on the premises intended to be served, as per Table 2.
3. Number of Parking Spaces Required: Table 2 indicates the required number of spaces by use. With the exception of the C-1 Commercial District, employee parking in Commercial and Manufacturing Districts shall be provided at the rate of one (1) space per employee plus the customer spaces as listed in Table 2 on the following page.

**Table 2: Parking Requirements.**

USE	PARKING REQUIREMENT
Animal Hospital and Veterinary Clinic	1 for each 500 sq. ft. of floor area.
Automobile or Farm Implement Sales and Service Garages	1 for each 2 employees.
Barber Shops and Beauty Parlors	1 for each chair plus one.
Bowling Alleys	3 for each lane.
Clothing Stores, Grocery Stores, Hardware Stores, Jewelry Stores, Pharmacies	1 for each 300 sq. ft. of floor area.
Church or Temple	1 for each 6 seats.
Community Center, Library, and Museum	11 plus 1 for each 500 sq. ft. in excess of 2,000 sq. ft. of floor area.
Dental and Medical Clinics	1 for each 500 sq. ft. of floor area.
Drive-In Restaurant	3 for each employee on maximum shift.
Dwelling (including multiple family and mobile homes)	2 for each dwelling unit.
Financial Institutions, Business Offices, Professional Offices, and Studios	1 for each 500 sq. ft. of floor area.
Frozen Food Lockers, Laundries, and Dry-Cleaning	1 for each 500 sq. ft. of floor area.
Furniture and Household Appliance Sale and Service Establishments	1 for each 500 sq. ft. of floor area.
Hospitals	1 for each 4 beds.
Indoor Theaters	1 for each 4 seats.
Mortuary or Funeral Home	1 for each 5 seats.
Motel and Hotel	1 for each unit or suite plus 1 for each 100 sq. ft. of commercial floor area.
Printing, Publishing, and Engraving Establishments	1 for each 500 sq. ft. of floor area.
Private Club or Lodge	1 for each 200 sq. ft. of floor area.
Restaurants, Cafes, Nightclubs	1 for each 100 sq. ft. of floor area.
Sanitarium, Nursing, Rest, or Convalescent Home	1 for each 6 beds.
Schools and Public Buildings	1 for each classroom or office room plus 1 for each 6 seats in main auditorium, stadium, or place of public assembly.
Sports Arena or Auditorium, other than in a School	1 for each 3 seats.
Warehouse, Storage, and Manufacturing Operations	1 for each 2 employees plus 1 for each vehicle used by the industry
Wholesale Display and Sales Rooms and Offices	1 for each 300 sq. ft. of floor area
In the case of any use which is not specifically mentioned herein, the provisions for a similar use mentioned shall apply or see Section 13.00.6, Exceptions. Note, either Table 2 or the Building Code, as may be amended and adopted by the City, will be used for parking standards, whichever is more restrictive.	

4. Definition and Interpretation.
- (a) Parking Space: Each parking space rectangular in shape shall be not less than nine (9) feet wide and twenty (20) feet long or not less than one hundred and eighty (180) square feet in area exclusive of access drives or aisles.
  - (b) Loading Space: Each loading space shall not be less than ten (10) feet wide, sixty-five (65) feet in length and fourteen (14) feet in height, exclusive of access and turning areas.
  - (c) Floor Area: In the case of merchandising or service types of uses, “floor area” shall mean the gross floor area used or intended to be used by tenants, or for service to public or customers, patrons or clients, but shall not include areas used principally for non-public purposes, such as toilet or rest room, utilities, or dressing rooms.
5. Development Standards: Off-street accessory parking areas shall be of usable shape, and shall be improved with a durable and dustless surface and so graded and drained as to dispose of all surface water accumulation within the area.
- (a) Where a parking lot does not abut on a public or private alley or easement of access, there shall be provide an access drive not less than eight (8) feet in width in the case of a one (1) or two (2) family dwelling. The drive shall not be less than sixteen (16) feet in width, at the widest point, in all other cases leading to the loading or unloading spaces and parking or storage areas required herein.
  - (b) No part of any parking space shall be closer than five (5) feet to any established street right-of-way or alley line. In case the parking lot adjoins an Residential District, it shall be set back at least five (5) feet from the Residential District boundary and shall be effectively screened.
  - (c) Any off-street parking or drive area, including any commercial parking lot, for more than five (5) vehicles shall be surfaced with asphalt or Portland cement concrete pavement or such other surfaces so as to provide a durable and dustless surface. The parking area shall be so graded and drained to dispose of surface water accumulation within the area, and shall be so arranged and marked as to provide for orderly and safe loading, unloading, parking, and storage of self propelled vehicles. Stormwater shall be managed in such a way that it does not negatively impact surrounding properties.
  - (d) Any lighting used to illuminate such parking areas shall be arranged as to reflect light away from adjoining premises in any Residential District.
6. Exceptions: The Board of Adjustment may authorize on appeal a modification, reduction or waiver of the foregoing parking requirements, if it should find that in the particular case the peculiar nature of the use, or other exceptional situation or condition would justify such modification, reduction, time extension, or waiver.

Section 13.01 MOBILE HOMES AND RECREATIONAL VEHICLES

Mobile homes shall not be parked or stored on any lot occupied by a dwelling or any lot in any Residential District except in accordance with the following provisions:



1. Mobile Home: A “mobile home” shall be parked or stored only in a mobile home park or mobile home sales area. A mobile home shall not be occupied, whether temporarily or permanently, unless it is parked or stored in a mobile home park, as authorized under the ordinances of the City of Fairbank. In any case, a mobile home shall not be used as an accessory building.
  
2. Recreational Vehicle: A “recreational vehicle” shall only be used as living quarters for a maximum of two (2) weeks. Using a “recreational vehicle” for living quarters beyond two (2) weeks, shall require Planning and Zoning Commission and City Council approval.

ARTICLE XIV

NONCONFORMING BUILDINGS, STRUCTURES, USES OF LAND, AND LOTS

Section 14.00 NONCONFORMING BUILDINGS AND STRUCTURES

1. General: A lawful, or authorized, nonconforming building or structure existing at the time of adoption of this Ordinance may be continued, maintained, and repaired, except as otherwise provided in this Section even though said building or structure may not conform with the regulations of this Ordinance for the District in which it is located. A nonconforming building or structure in existence at the adoption hereof that was not a lawful, or authorized, building or structure under previous zoning ordinances shall not be authorized to continue as a nonconforming building or structure pursuant to this Ordinance, or amendments thereto. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe.
2. Alteration or Enlargement of Building and Structures: A nonconforming building or structure shall not be added to or enlarged in any manner unless said building or structure including additions and enlargements, is made to conform to all the regulations of the District in which it is located.
3. Building Vacancy: A building or structure or portion thereof, that is nonconforming which is or hereafter becomes vacant and remains unoccupied for a continuous period of one (1) year shall not thereafter be occupied except by a use which conforms to the use regulations of the District in which it is located.
4. Destruction of Nonconforming Residential Building or Structure: If any nonconforming residential building or structure, accessory or principal, in any zoning district, is destroyed by any means including an Act of God (defined as a flood, tornado, wind, hail, or thunderstorm), it shall be allowed to be reconstructed to the size, dimension, and on the location it was prior to said destruction.
5. Destruction of Other (Non-Residential) Nonconforming Buildings or Structures: If any nonconforming building or structure used for business, commercial, or manufacturing uses, in any zoning district, is destroyed by an Act of God (defined as a flood, tornado, hail or thunderstorm), it shall be allowed to be reconstructed to the size, dimension, and on the location it was prior to said destruction. Destruction of a nonconforming building or structure caused by a means other than an Act of God, that exceeds fifty (50) percent of the market value prior to destruction, shall not be allowed to be reconstructed in a nonconforming manner and shall comply with this Ordinance.

Section 14.01 NONCONFORMING USES OF LAND

1. General: A lawful, or authorized, nonconforming use existing at the time of adoption of this Ordinance may be continued, maintained, and repaired, except as otherwise provided in this Section. Any nonconforming use in existence at the adoption hereof that was not a lawful, or authorized use under previous zoning ordinances shall not be authorized to continue as a nonconforming use pursuant to this Ordinance, or amendments thereto.
2. Extension or Expansion of Use: A nonconforming use may not be extended or expanded, nor shall it occupy more lot area or be considered a more intense use than was in existence on the effective date of this Ordinance.

3. Discontinuance of Use: If said nonconforming use or any portion thereof is discontinued for a period of one (1) year, or changed, any future use of such land, or change in use, shall be in conformity with the provisions of the District in which it is located.
4. Change of Uses: A nonconforming use of a conforming building or structure may be expanded or extended into any other portion of the structure provided the structure was manifestly arranged or designed for such use at the time of adoption or amendment of the Ordinance, but no such use shall be extended to occupy any land outside such building. If the nonconforming use, or a portion thereof, is changed to a conforming use, any future use of such building, structure or portion thereof shall be in conformity with the regulations of the district in which such building or structure is located. A vacant or partially vacant conforming building or structure may be occupied by a nonconforming use for which the building or structure was designed or intended if occupied within a period of one (1) year after the effective date of this Ordinance, but otherwise it shall be used in conformity with the regulations of the district in which it is located.

The use of a nonconforming building or structure may be changed to a use of the same or a more restricted district classification. However, where the use of nonconforming building or structure is changed to a use of a more restricted district classification, it shall not be changed thereafter to a use of a less restricted district classification unless appropriately rezoned. This is provided that the building or structure that is nonconforming at the time of adoption of this Ordinance is not in violation. For the purpose of this subsection only, the "R-1" Single Family Residential District shall be considered the most restrictive and the "M-2" Heavy Industrial and/or Manufacturing District the least restrictive District.

Section 14.02 NONCONFORMING LOTS

1. General: A lawful, or authorized, nonconforming lot existing at the time of adoption of this Ordinance may be continued, maintained, and repaired, except as otherwise provided in this Section. Any nonconforming lot in existence at the adoption hereof that was not a lawful, or authorized use under previous zoning ordinances shall not be authorized to continue as a nonconforming lot pursuant to this Ordinance, or amendments thereto.
2. Nonconforming Lots as Lots of Record: A nonconforming lot in existence on the effective date of this Ordinance shall be considered a "lot of record", as defined and regulated within this Ordinance.

ARTICLE XV

ADDITIONAL REQUIREMENTS, EXCEPTIONS, MODIFICATIONS AND INTERPRETATIONS

Section 15.00 GENERAL

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

Section 15.01 USE OF EXISTING LOTS OF RECORD

In any district where dwellings are permitted, a single-family dwelling may be located on any lot official record as of the effective date of this Ordinance irrespective of its area or width; and in addition, any two-family dwelling may be located on any lot or plot in any R-2 or R-3 District that has a lot width of not less than sixty (60) feet and is of official record as of the effective date of this Ordinance; provided however:

1. The sum of the side yard widths of any such lot or plot shall not be less than ten (10) feet, but in no case less than five (5) feet, for any one (1) side yard.
2. The depth of the rear yard of any such lot need not exceed twenty (20) percent of the depth of the lot, but in no case less than ten (10) feet.
3. In the case of a lot of record where the above requirements are greater than those of the district in which it is located, the lesser requirement shall apply.
4. In the case of building setback lines established on lots of record, as of the effective date of this Ordinance, such setback lines may apply in lieu of those required by this Ordinance unless existing adjacent building setbacks are greater than specified on the plat of record, in which case the provisions of Article III shall apply.

Section 15.02 HEIGHT AND SIZE LIMITS

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

1. Barns, silos, or other farm buildings or structures on farms provided these are not less than fifty (50) feet from every lot line; church spires or steeples, belfries, cupolas and domes, monuments, water towers, fire and hose towers, masts, and aerials; parapet walls extending not more than four (4) feet above the limiting height of the building. However, if in the opinion of the Zoning Administrator, such structure would adversely effect adjoining or adjacent properties, such greater height shall not be authorized unless it is approved by the Board of Adjustment.
2. Bulkheads, conveyors, derricks, elevator penthouses, water towers or tanks, monitors and scenery lofts; to monuments, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height than specified, such may be authorized by the Board of Adjustment.
3. Telecommunication towers, the base of which shall be at least the height of the tower from all adjoining property lines, including public right-of-way.

Section 15.03 FRONT YARD EXCEPTIONS AND MODIFICATIONS

1. Front yard requirements do not apply to bay windows or balconies that do not project more than three (3) feet into the front yard.
2. With the exception of the Agricultural District and the Manufacturing Districts, averaging front yard setbacks is allowed. Where the average depth of two (2) or more existing front yards on lots within one hundred (100) feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed, front yards may be varied. The depth of the front yard on such lot shall not be less than the average depth of said existing front yards or the average depth of the two (2) lots immediately adjoining or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of the front yard on a lot in any Residential District shall be at least ten (10) feet and need not exceed sixty (60) feet.
3. For the purpose of determining lot width or front yard requirements, that portion of a flag lot used for ingress and egress shall not be included as a part of the required front yard.
4. An existing open porch may be remodeled or rebuilt to an enclosed non-habitable vestibule entrance-way (which may include closet space) when projecting not more than one-fourth ( $\frac{1}{4}$ ) the distance of the front yard setback and extending in width not more than one-fourth ( $\frac{1}{4}$ ) of the width of the residence.

Section 15.04 SIDE YARD EXCEPTIONS AND MODIFICATIONS

1. Along any district boundary line, any abutting side yard on a lot in the less restricted District shall have a least width equal to that required in the more restricted district. Where a lot in a Manufacturing District abuts a lot in an Residential District, the side yard shall be increased by three (3) feet for each foot that the building proposed on such lot exceeds the height limit of the said Residential District.
2. On a corner lot the least width of a side yard along the side street lot line shall be equal to the required front yard along the side street. No part of any accessory building shall be nearer a side street lot line than the least depth on any front yard required along such side street.
3. The following projections or structures may be permitted in side yards:
  - (a) Accessory buildings or structures subject to the provisions contained elsewhere in this Ordinance.
  - (b) Fences or walls not over eight (8) feet above the average natural grade except as noted in Section 3.12.
  - (c) Fire escapes, three (3) feet from side lot line. Bays and balconies not more than three (3) feet from the building, provided these projections are entirely within planes drawn from either main corner of the side wall.
  - (d) Chimneys, flues, sills, overhangs, pilasters, and lintels, ornamental features, cornices, gutters and the like into or over a required side yard not more than two (2) feet.
  - (e) Terraces, steps, uncovered porches, patios (not including decks), stoops or similar features, not higher than the elevation of the ground story of the building and distant three (3) feet from the side lot line.

Section 15.05 REAR YARD EXCEPTIONS AND MODIFICATIONS

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

1. In any Commercial or Residential District, a building which is non-conforming as to rear yard setbacks may be expanded or enlarged, provided the enlargement or expansion does not encroach closer to the rear property line than the already existing building, All other Bulk Requirements must be met.
2. Accessory buildings or structures subject to the provisions contained elsewhere in this Ordinance.
3. Fences or walls, not over eight (8) feet in height.
4. Chimneys, flues, sills, pilasters, lintels, ornamental features, cornices, eaves, and the like, into or over a required rear yard not more than two (2) feet.
5. Terraces, steps, decks, uncovered porches, or similar features not more than ten (10) feet into a required rear yard, nor closer than four (4) feet of an alley or within ten (10) feet of a rear lot line.
6. Swimming pools.

ARTICLE XVI

ADMINISTRATION AND ENFORCEMENT

Section 16.00 ORGANIZATION

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

Section 16.01 BASIS OF REGULATIONS

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

Section 16.02 MAYOR AND CITY COUNCIL

1. Jurisdiction: The Mayor and City Council of the City of Fairbank, Iowa, shall discharge the following duties under this Ordinance. Appointments shall be made by the Mayor, subject to approval by the City Council.
  - (a) Appoint a Zoning Administrator whose responsibilities it will be to enforce the provisions of this Ordinance.
  - (b) Appoint members of the Board of Adjustment as provided for in this Ordinance.
  - (c) Appoint members to the Planning and Zoning Commission as provided for in this Ordinance.
  - (d) Receive and decide upon all recommendations concerning amendments, supplements, and changes presented by the Planning and Zoning Commission.
  - (e) Receive from the Planning and Zoning Commission all recommendations on the effectiveness of this Ordinance.
  - (f) To decide all matters upon which it is required to pass under this Ordinance.

Section 16.03 BOARD OF ADJUSTMENT

1. Creation: The Board of Adjustment, as established under applicable provisions of the Code of Iowa, is the Board referred to in this Ordinance.

2. Appointment-Terms-Removal: The Board shall consist of five (5) members, who are residents, to be appointed by the Mayor and subject to approval by City Council for a term of five (5) years except when the Board shall first be created then one (1) member shall be appointed for a term of five (5) years, one (1) for a term of four (4) years, one (1) for a term of three (3) years, one (1) for a term of two (2) years, and one (1) for a term of one (1) year. A majority of the members of the Board shall be persons representing the public at large. The Board of Adjustment members shall not also be members of the Planning and Zoning Commission or City staff, and members shall not hold an elective office in municipal government nor shall a majority of the members be involved in the business of purchasing or selling real estate. Members of the Board may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Mayor, subject to City Council approval for the unexpired term of the member affected.
3. Powers and Duties: The Board of Adjustment is hereby vested with the following powers and duties:
  - (a) To hear and decide all applications for variances from the terms provided in the Ordinance in the manner prescribed and subject to the standards herein.
  - (b) To hear and decide all applications for special exceptions in the manner prescribed in this Ordinance.
  - (c) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance. The Board shall also interpret the Official Zoning Map, if necessary.
4. Meetings and Rules: The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this article. Meetings shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in their absence, the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each agenda item requiring action, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be filed in the office of the Zoning Administrator and City Clerk.

The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this title, or to effect any variation in application of this title.
5. Finality of Decisions of the Board of Adjustment: All decisions and findings of the Board of Adjustment on appeals applications, applications for a variance, or application for a special exception, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to judicial review as is stated in the Code of Iowa.



Section 16.04 VARIANCES

1. Purpose and Findings of Fact: The Board of Adjustment, after a public hearing, may determine and vary the regulations of this Ordinance in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Adjustment makes written findings of fact in accordance with the standards hereinafter prescribed and further, finds that there are no practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Ordinance.
2. Application for Variance: An application for a variance shall be filed in writing with the Zoning Administrator. Said application shall contain such information, and appropriate non-refundable fee, as the Board of Adjustment may, by rules, require.
3. Hearing on Application: Upon receipt in proper form of the application referred to in Section 16.04(2), the Board of Adjustment shall hold at least one (1) public hearing on the proposed variance. Notice of time and place of such hearing shall be published not less than seven (7) days nor more than twenty (20) days in advance of the public hearing in a newspaper of general circulation in the City of Fairbank. Property owners within two hundred (200) feet of the property for which the change is being requested shall be notified as a courtesy as well. Before an application is filed with the Board of Adjustment, the applicant shall pay a non-refundable fee to the City of Fairbank to cover the publishing and administration costs of said request, per the adopted fee schedule established in Section 17.04.
4. Standards for Variance: The Board of Adjustment shall not vary the regulations of this Ordinance, as authorized in this Section, unless there is evidence presented to it in each specific case that:
  - (a) Special conditions and circumstances exist which are unique to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district. Special conditions shall include but not be limited to a property owner who can show that their property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographic conditions or other exceptional or extraordinary situations the strict application of the terms of this Ordinance actually prohibits the use of the property in manner reasonably similar to that of other property in the district.
  - (b) Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance. In other words, an unnecessary hardship would result from literal enforcement of this Ordinance.
  - (c) Special conditions and circumstances do not result from the actions of the applicant.
  - (d) Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

5. Further Requirements:

- (a) The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- (b) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and the Fairbank Comprehensive Plan, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- (c) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this title and punishable under Article XVIII.
- (d) Under no circumstances shall the Board of Adjustment grant a variance to allow for a use not permissible under the terms of this Ordinance in the District involved, or any use expressly or by implication prohibited by the terms of this Ordinance in the District.
- (e) If property lines cannot be determined through existing surveys or property markers, the request must be accompanied by a certified survey.

6. Denial and Revocation of Variance:

- (a) Denial: No application for a variance that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of change of conditions that may be found to be valid by the Board of Adjustment.
- (b) Revocation: In any case where variance has not been established within one (1) year after the date of granting thereof, the Board shall provide notice to the applicant that the approved variance may be revoked. Said notice shall offer the applicant an opportunity to be heard by the Board of Adjustment. The Board may, after this process, revoke or extend the approved variance.

Section 16.05 SPECIAL EXCEPTIONS

1. Special Exception Requirements

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

- (2) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- (b) Initiation of Special Exceptions: Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of an exclusive possessory interest, either of which is specifically enforceable, may file an application to use such land for one (1) or more of the special exceptions provided for in this Ordinance in the zoning district in which the land is located.
- (c) Application for Special Exception: An application for a special exception shall be filed with the Zoning Administrator on a form as the Zoning Administrator shall prescribe. The application shall be accompanied by an appropriate non-refundable fee and such plans and/or data prescribed by the Board of Adjustment and shall include a statement indicating the Section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.
- (d) Hearing on Application: Upon receipt in proper form of the application and statement referred to in Section 16.05.1(c), the Board of Adjustment shall hold at least one (1) public hearing on the proposed special exception. Notice of time and place of such hearing shall be published not less than seven (7) days nor more than twenty (20) days in advance of the public hearing in a newspaper of general circulation in the City of Fairbank. Property owners within two hundred (200) feet of the property for which the exception is being requested shall be notified as a courtesy as well. Before an application is filed with the Board of Adjustment, the applicant shall pay a non-refundable fee to the City of Fairbank to cover the publishing and administration costs of said request, per the adopted fee schedule established in Section 17.04.
- (e) Authorization: For each application for a special exception the Zoning Administrator shall prepare and file with the Board of Adjustment findings and recommendations, including the recommended stipulations of additional conditions and guarantees that are deemed necessary for the protection of the public interest.
- (f) Standards: No special exception shall be granted by the Board of Adjustment unless such Board shall find:
- (1) That the establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
  - (2) That the special exception will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish and impair property values within the neighborhood;
  - (3) That the establishment of special exceptions will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
  - (4) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided and that the request not impair an adequate supply of air or light to adjacent properties;

- (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
  - (6) That the special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment;
  - (7) That the special exception shall be consistent with the Fairbank Comprehensive Plan and the Code of Ordinances.
- (g) Conditions and Guarantees: Prior to the granting of any special use, the Board of Adjustment shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the Standards and requirements specified in Subsection (f) above. In all cases in which special exceptions are granted, the Board of Adjustment shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be met.
- (h) Denial and Revocation of Special Exception:
- (1) Denial: No application for a special exception that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Adjustment.
  - (2) Revocation: In any case where special exception has not been established within one (1) year after the date of granting thereof, the Board shall provide notice to the applicant that the approved exception may be revoked. Said notice shall offer the applicant an opportunity to be heard by the Board of Adjustment. The Board may, after this process, revoke or extend the approved exception.

Section 16.06 APPEALS OF THE STAFF AND OTHER POWERS OF THE BOARD OF ADJUSTMENT

1. Appeals of Staff Interpretations and Decisions

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by a decision of the Zoning Administrator or official in enforcement of this Ordinance. Such appeal shall be taken to the Board within a reasonable time, as prescribed by the Board's Rules of Procedure. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken.

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

The Board shall hold one (1) public hearing and shall give a reasonable time for the hearing on the appeal. Notice of time and place of such hearing shall be published not less than seven (7) days nor more than twenty (20) days in advance of the public hearing in a newspaper of general circulation in the City of Fairbank. Property owners within two hundred (200) feet of the property for which the appeal is being requested shall be notified as a courtesy as well. Before an application is filed with the Board of Adjustment, the applicant shall pay a non-refundable fee to the City of Fairbank to cover the publishing and administration costs of said request, per the adopted fee schedule established in Section 17.04.

In exercising the above-mentioned powers, the Board may, in conformity with the provisions of the law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as it believes proper and to that end will have the powers of the Zoning Administrator. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter which it is required to pass under this Ordinance, provided that the action of the Board shall not become effective until after the written decision or resolution of the Board, setting forth the full reason for its decision and the vote of each participating member has been recorded in the minutes. Said written decision or resolution shall be filed in the office of the Zoning Administrator and shall be open to public inspection.

2. Other Powers of the Board of Adjustment

The Board of Adjustment is hereby vested with the following additional authority and jurisdiction:

- (a) Interpretation of District Map: Where the application of the rules for interpretation of district boundaries contained in Section 2.02 leaves a reasonable doubt to the boundary between two (2) Zoning Districts the Board of Adjustment after notice to the owners of the property and after public hearing, shall interpret the Map in such a way as to carry out the intent and purposes of this Ordinance.

Section 16.07 APPEALS OF BOARD OF ADJUSTMENT DECISIONS

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

Section 16.08 PLANNING AND ZONING COMMISSION

1. Creation: The Planning and Zoning Commission of the City of Fairbank, as established under the applicable provisions of the Code of Iowa, is the Planning and Zoning Commission referred to in this Ordinance.
2. Membership: The Planning and Zoning Commission shall consist of five (5) members, who are residents, to be appointed for a term of five (5) years except when the Commission shall first be created then one (1) member shall be appointed for a term of five (5) years, one (1) for a term of four (4) years, one (1) for a term of three (3) years, one (1) for a term of two (2) years, and one (1) for a term of one (1) year. Said Planning and Zoning Commission shall consist of persons who are qualified by knowledge or experience to act in matters pertaining to the development of a city planning and who shall not hold any elective office in the municipal government or be a member of the Board of Adjustment or City staff. Members shall be appointed by the Mayor, subject to the approval of the City Council.

Vacancies shall be filled by appointments for unexpired terms only. All members of the Commission shall serve without compensation except for actual expenses, which shall be subject to the approval of the City Council.

Immediately following their appointment, the members of the Planning and Zoning Commission shall meet, organize, elect such officers as it may deem necessary, and adopt and later change or alter, rules and regulations of organization and procedure consistent with City Ordinances and state laws. The Commission shall keep written records of its proceedings which shall be filed with the Zoning Administrator and City Clerk and open at all times to public inspection.

3. Powers and Duties: The Planning and Zoning Commission shall hold the following powers, discharge the following duties, and make recommendations to the City Council under this Ordinance. Included are the following responsibilities:

- (a) Review and make recommendations regarding the adoption, or amendment of, the Fairbank Comprehensive Plan;
- (b) Review and make recommendations regarding the adoption, or amendment of, this Ordinance. This includes all amendments to the written, map, and application components of the Ordinance, as well as any other duties or responsibilities assigned to the Commission within this Ordinance;
- (c) Review and make recommendations regarding all subdivision plats, including those for re-subdivision, proposed within the city, as well as those that may be proposed within two (2) miles of the city limits, as may be established within the Fairbank Subdivision Ordinance. All plats shall be reviewed in accordance with the provisions outlined in the city's subdivision ordinance, if any;
- (d) Review and make recommendations regarding the vacation of subdivisions and public rights-of-way, according to the Fairbank Subdivision Ordinance, if any;
- (e) Conduct the necessary public hearings, as prescribed under the Fairbank Comprehensive Plan, this Ordinance, or the Iowa Code;
- (f) Review, adopt, and amend the Commission's Administrative Rules or Rules of Procedure, which govern the actions of the Commission;
- (g) Rely on the City Council to provide sufficient staffing in order to ensure that the business of the Commission is addressed in a timely fashion; and
- (h) Review any other land use change or issue, which at the direction of the City Council, are sent to the Commission for consideration and recommendation.

Amendments made to the Fairbank Comprehensive Plan and to this Ordinance shall, when directed by the City Council or an applicant, be considered by the Planning and Zoning Commission within thirty (30) days of their receipt.

#### Section 16.09 ZONING ADMINISTRATOR

- 1. Designation of Zoning Administrator: The Zoning Administrator shall be designated by the Mayor and the City Council.
- 2. Powers and Duties of the Zoning Administrator: The Zoning Administrator shall enforce this Ordinance and in addition shall:

- (a) Issue all building permits and collect any fees.
- (b) Process and review all applications for variances, special exceptions, and interpretation for referral to the Board of Adjustment.
- (c) Respond to complaints of alleged violations to the Ordinance. If after response by the Zoning Administrator the complaint remains unresolved, the issue shall be referred by the Administrator to the Mayor and City Council for resolution.
- (d) Provide applications and forms and maintain public information relative to all matters arising out of this Ordinance.
- (e) Process and review all applications for rezoning prior to consideration by the Planning and Zoning Commission.
- (f) Review site plans for conformance with this Ordinance.
- (g) Attend meetings of the Planning and Zoning Commission and the Board of Adjustment, as well as carry out duties that may be requested by both bodies.

Section 16.10 AMENDMENTS TO THIS ORDINANCE

1. Procedure: The regulations, restrictions, and boundaries may from time to time, be amended, supplemented, changed, modified, or repealed by the City Council. No such amendments shall be made final without: (1) the applicant completing a rezoning application, unless the City is the applicant; (2) holding a public hearing before the Planning and Zoning Commission, who shall thereafter send a recommendation to the City Council; and (3) after a public hearing is held by the City Council and the proper ordinance amendment procedures, as required by the Code of Iowa, are followed by the City Council. The notice of the time and place of the hearings shall be published in a newspaper with general circulation in the City not less than seven (7) days nor more than twenty (20) days before either of the public hearings. In no case shall the City Council hearing be held earlier than the next regularly scheduled City Council meeting after the Planning and Zoning Commission hearing.

In case the Planning and Zoning Commission does not approve the change, or in the case of a protest filed with the City Council against such change signed by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent to, not to exceed two hundred (200) feet, such amendments shall not be passed except by the favorable vote of three-fourths ( $\frac{3}{4}$ ) of all members of the City Council. As part of an amendment to this Ordinance changing land from one (1) zoning district to another zoning district, or as part of approving a site development plan, the City Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this Section or any adjournment of that hearing. The conditions must be reasonable and imposed to satisfy public needs that are directly caused by the requested change.

2. Rezoning Application: An application for rezoning shall contain the following items:
  - (a) The legal description and local address, if applicable, of the property to be rezoned.
  - (b) The present zoning classification and the zoning classification requested for the property.

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

3. Fees: Before any action is taken upon an application as provided in this section, the applicant shall pay the Zoning Administrator a non-refundable fee, as established in Section 17.04. The applicant shall pay this fee to the credit of the general revenue fund of the City. Failure to approve the change, by either the Planning and Zoning Commission or City Council, will not be construed as any reason for refunding the fee to the applicant.



ARTICLE XVII

BUILDING CONSTRUCTION, CERTIFICATES, FEES

Section 17.00 BUILDING CONSTRUCTION

No building or structure shall hereafter be erected, constructed, reconstructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate permit for each building or structure has first been obtained from the Zoning Administrator. Said permit and the application for the permit shall contain a plot plan showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building or structure to be erected or affected, the name and address of the owner or owners of the involved lot, and such other information as may be necessary to provide for the enforcement of this Ordinance. The application and permit shall be on forms prepared by the Zoning Administrator and approved by the Council. No permit shall be issued for any construction not in compliance with this Chapter. Any construction started without a permit shall be stopped immediately, and shall be subject to the remedies of Section 18.02.

Section 17.01 COMMENCEMENT AND COMPLETION OF CONSTRUCTION

An applicant who is issued a zoning permit under the provisions of this chapter is bound, by acceptance of the permit, to commence the construction for which the permit is issued within six (6) months from and after the date of issue of said permit, and is bound to finish said construction within twelve (12) months from and after said date of issue. Failure to commence construction within six (6) months shall cause the permit to expire. A zoning permit issued under the provisions of this chapter shall be valid for a period of twelve (12) months from and after the date of issue of said permit. Upon expiration of a permit, the holder shall make a new application for a new permit under the provisions of this chapter and shall otherwise go through the same procedure as required for issuance of the original zoning permit. The fee for the second permit, as in the case of the original permit fee, shall be set by resolution by the City Council.

Section 17.02 STRUCTURE STANDARDS

The following standards shall apply to all structures and all construction for which building permits are issued on or after the effective date of the Ordinance codified by this chapter:

1. All dwellings shall be affixed to a permanent foundation system in accordance with building construction standards.
2. All structures shall comply with all requirements of this Chapter, including all requirements contained in the definitions of Section 1.05 including, without limitation the definitions of "Dwelling(s)", "Fence", and "Screening"; all bulk requirements; and all other provisions of this Ordinance.

Section 17.03 CERTIFICATE OF OCCUPANCY

No change in the use or occupancy of land, nor any change in use or occupancy in an existing building shall be made, nor shall any new building be occupied for any purpose or use until a certificate of occupancy, permanent or temporary, has been issued by the Zoning Administrator. Every certificate of occupancy, permanent or temporary, shall state that the new occupancy complies, or upon completion will comply, with the provisions of this Ordinance.

Temporary certificates of occupancy may be issued by the Zoning Administrator at their discretion. If a temporary certificate of occupancy is issued by the Zoning Administrator, it shall be valid for a period of six (6) months unless extended by the Zoning Administrator after making a finding of extenuating circumstances.

Section 17.04 APPLICATIONS AND NON-REFUNDABLE FEES

The Zoning Administrator is instructed to issue permits upon proper applications under this Ordinance, and charge a non-refundable fee as determined by the City Council and adopted by resolution. If the City initiates any of the actions listed below, it shall not be required to pay the corresponding fee. Applicable fees include, but are not limited to, the following.

1. Zoning Map Amendments (Rezoning Requests) or Ordinance Text Amendments.
2. Variances.
3. Special Exceptions.
4. Appeals of Staff Interpretations and Decisions.
5. Home Occupations and Home Industries.

## ARTICLE XVIII

### VIOLATIONS AND LEGAL REMEDIES PROVISIONS

#### Section 18.00 NOTICE TO VIOLATORS

If the Zoning Administrator finds that any provision of this Ordinance is being violated, they 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 buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance or by the City Code to insure compliance with or to prevent violation of its provisions.

#### Section 18.01 RESPONSIBILITY

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

#### Section 18.02 CITY REMEDIES

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Ordinance, the City may, in addition to other remedies, institute an injunction, municipal infraction, mandamus, or other appropriate lawful action necessary to prevent, correct, or abate such violation. A violation of this Ordinance shall be deemed a violation of City Code and thus a municipal infraction, under Chapter 3 of the Fairbank Code of Ordinances, and punishable as such. Any construction started without a permit or which does not comply with the requirements of the Code of Ordinances shall be removed immediately. The City Council may, without limitation, provide for abatement of such infraction, pursue civil action in court, or prosecute such violation, such action to be prosecuted in the name of the City, or may pursue any combination of remedies. Each day that said violation is continued shall constitute a separate violation. Nothing in this section shall limit the remedies and enforcement powers of the City, which shall include injunctive relief.

ARTICLE XIX

ORDINANCE REPEALER, SEVERABILITY CLAUSE, AND EFFECTIVE DATE

Section 19.00 REPEALER

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

Section 19.01 SEVERABILITY

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

Section 19.02 EFFECTIVE DATE

This Ordinance is enacted as new Ordinance Number 296, the City of Fairbank, Iowa Zoning Ordinance and shall be integrated into the City Code of Ordinances. Ordinance Number 296 is an Ordinance creating zoning regulations for the purpose of protecting health, welfare, and public safety within the City of Fairbank, Iowa.

Recommended for adoption was made by the Fairbank Planning and Zoning Commission on July 18, 2006, after a public hearing was held.

Passed and approved by the City Council on the following dates:  
Public Hearing and First Reading: August 14, 2006  
Second Reading: August 28, 2006  
Third and Final Reading: September 11, 2006

Ordinance Number 296, "The City of Fairbank, Iowa Zoning Ordinance", as adopted, shall be in full force and effect on January 1, 2007.

Adopted by the City Council of Fairbank, Iowa.

\_\_\_\_\_  
Mayor

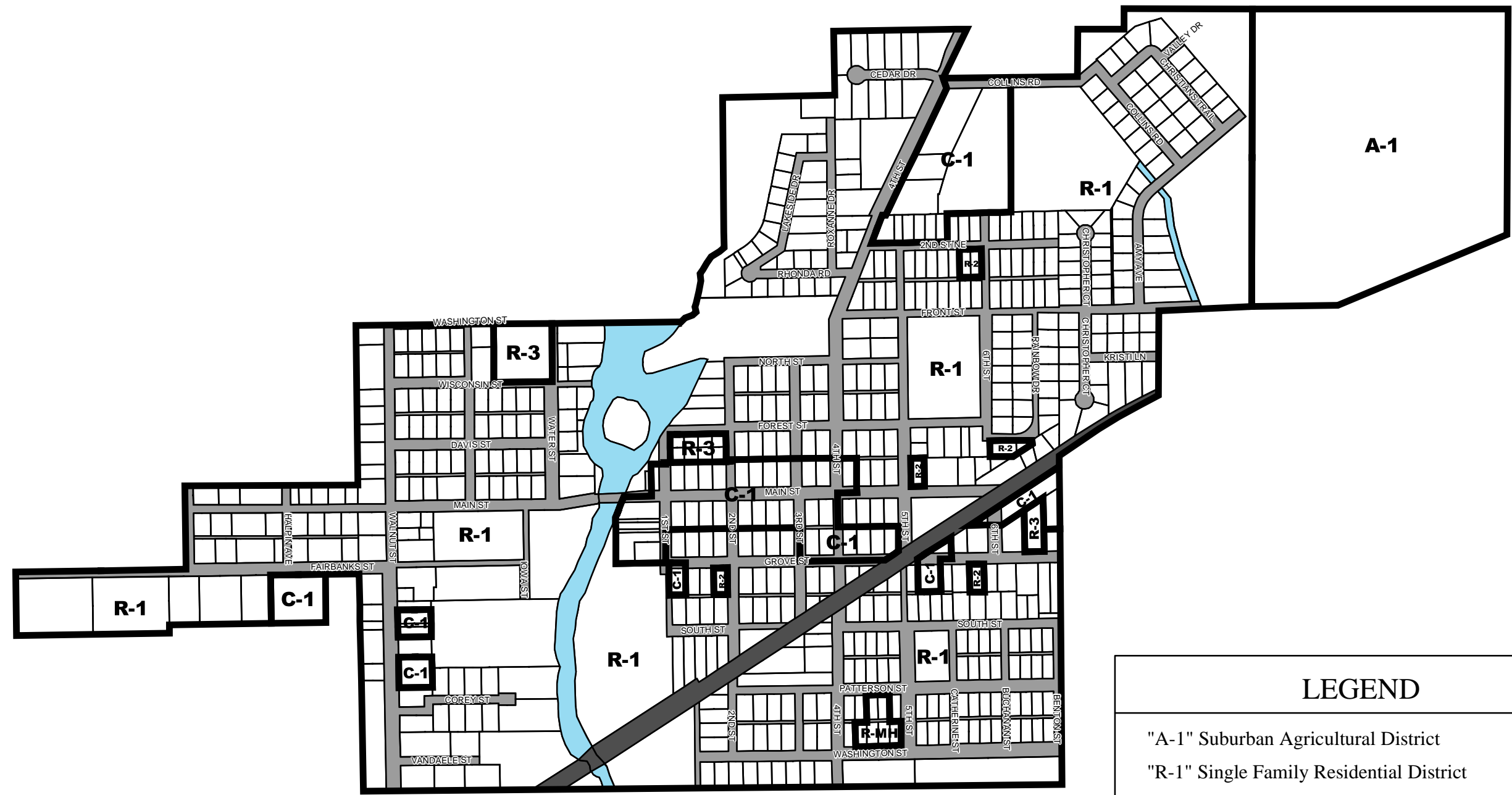
\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Date

# Fairbank, Iowa Official Zoning Map



LEGEND	
"A-1"	Suburban Agricultural District
"R-1"	Single Family Residential District
"R-2"	Low Density Residential District
"R-3"	Moderate to High Density Residential District
"R-MH"	Planned Mobile Home District
"C-1"	Commercial District
"C-2"	Commercial District
"M-1"	Light Industrial and/or Manufacturing District
"M-2"	Heavy Industrial and/or Manufacturing District

The map does not represent a survey, no liability is assumed for the accuracy of the data delineated herein, either expressed or implied by INRCOG.  
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