

## CHAPTER 168

# ZONING CODE — GENERAL REGULATIONS

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### 168.01 VISION CLEARANCE.

1. Fences or Walls in Residential Zones. No fence, wall or planting more than thirty percent (30%) solid and more than three (3) feet high above the level of the public street may be located within forty (40) feet of a street intersection. Said forty (40) foot measurement shall be made from the curb line of and parallel to each of the intersecting streets. Fences, walls or hedges less than thirty percent (30%) solid and four (4) feet high or less may be located on any remaining part of the lot. Fences or walls six (6) feet high or less may be erected on those parts of a lot that are as far back or further back from a street than the main building. These fences may be solid. Higher fences or walls may be allowed only by approval by the Board of Adjustment.
2. Fences in Commercial and Industrial Zones. No fence, wall or planting more than ten (10) feet high may be located in commercial or industrial zones. There shall be no setback for fences in these zones. Higher fences may be allowed only by approval by the Board of Adjustment.

**168.02 STREET CLOSURES.** Whenever any street, alley, or other public way is vacated by official action of the City, the zoning district adjoining each side of the street, alley or public way shall be automatically extended to the center of such vacation, and all appropriate regulations of the extended districts.

**168.03 AREAS UNDER WATER.** All areas within the corporate limits of the City which are under water and not shown as included within any zone shall be subject to all of the regulations of the zone which immediately adjoins the water area. If the water area adjoins two or more zones, the boundaries of each zone shall be construed to extend into the water area in a straight line until they meet the other district at a half-way point.

**168.04 ESSENTIAL SERVICES.** Essential services shall be permitted as authorized and regulated by law and other ordinances of the City in any district, it being the intention hereof to exempt such erection, construction, alteration, and maintenance from the application of the Zoning Code.

**168.05 STRUCTURES TO HAVE ACCESS.** Every building erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

**168.06 SIGN REGULATIONS.** All signs erected or maintained, except official, public traffic, and street signs, shall conform with the provisions of this section and other ordinances or regulations of the City.

1. General Provisions for all Districts. The following regulations shall apply to all signs permitted in all Districts:

A. Signs shall not be permitted within the public right-of-way or easements.

B. Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district, and any signs not affixed to building or ground in any manner shall also not be permitted in any district.

C. No signs shall be permitted to obstruct any window, door, fire escape, stairway, or opening intending to provide light, air or access to any building or structure.

D. Upon notification by the Council or Zoning Administrator that a sign is rotted, unsafe or unsightly, the owner of said sign or owner of property thereunder shall remove or repair the same.

E. The owner, lessee or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which the sign is located.

F. Political signs may be permitted for a period of not more than sixty (60) days before and ten (10) days after an election.

2. Signs in Residential Districts. No sign shall be erected in any Residential District except:

A. A nameplate sign identifying the owner or occupant of a building or dwelling unit, provided such sign does not exceed two (2) square feet in surface area. Such sign shall not be illuminated.

B. A sign pertaining to the lease or sale of the building or property, provided such sign does not exceed four (4) square feet in surface area. Such signs shall not be illuminated.

C. A temporary sign identifying an engineer, architect, contractor, or product engaged in or used in the construction of a building, is

removed prior to the occupancy of the building. Such sign shall not be illuminated except for signs required by State or Federal law.

D. One identification sign not to exceed twenty-four (24) square feet in surface area displaying location information for churches, schools, hospitals, nursing homes, clubs, offices, libraries or similar use. Such signs may be illuminated.

E. Directional unilluminated signs not exceeding two (2) square feet in surface area displaying directional information for churches, schools, hospitals, nursing homes, clubs, libraries or similar uses excluding office or commercial establishments, provided that each such use shall be limited to one such sign per thoroughfare approach.

F. Public street identification signs, traffic signs, and directional signs in any parking area where such signs are necessary for the orderly movement of traffic.

G. Business signs located in Residential zones as Nonconforming or Home Occupations shall not be located in the front yard. Signs shall be attached to the house or located wholly within three (3) feet of the structure, shall not be illuminated and shall not be larger than two (2) square feet.

3. Signs in Commercial Districts. Signs may be erected in Commercial Districts subject to the following provisions:

A. The total surface area of all business signs on a lot shall not exceed two (2) square feet per lineal foot of lot frontage or ten (10) percent of the building frontage area, or seventy-five (75) square feet, in area whichever is greater. Signs may be illuminated.

B. Advertising sign structures shall be limited to one for a lot of 100 foot frontage or less, to only one for each additional 100 feet of additional frontage, or one per individual business. Rear signs on businesses shall be governed by the same restrictions as those pertaining to frontage.

C. Advertising structures may contain one sign per business per facing and shall not exceed 55 feet in total length. Free standing signs shall contain one sign per business but shall conform to the requirements of square footage as defined in the Zoning Code.

D. No advertising sign may be erected within one hundred (100) feet of an adjoining Residential District.

- E. For corner lots, the “frontage” used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street.
  - F. No sign shall project higher than six (6) feet above the height of the building, or thirty-two (32) feet above the average grade at the building line, whichever is greater.
  - G. Signs painted on a building shall be governed by the square footage limitations specified above. Such signs shall be maintained in good condition and shall be repainted, removed, or painted out when, in the opinion of the Council and/or Zoning Administrator, they are not so maintained.
  - H. Where a sign is illuminated, the source of light shall not be visible from any public right-of-way, and such light shall be directed away from any Residential District.
  - I. No sign shall project more than one (1) foot perpendicular from the building face.
4. Signs in the I-1 Light Industrial District. Signs may be erected in the I-1 Light Industrial District subject to the following provisions:
- A. Advertising sign structures shall be limited to one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) for each additional lot frontage. Such structures shall not exceed fifty-five (55) feet in length. No advertising sign may be erected within one hundred (100) feet of a Residential District.
  - B. Sign lighting shall not be directed toward a public right-of-way or any Residential District.
  - C. The total surface area of all business signs on a lot shall not exceed three (3) square feet per lineal foot of lot frontage or twenty (20) percent of the building frontage area or three hundred (300) square feet in area, whichever is greater. Such signs may be illuminated.

**168.07 PARKING AND LOADING REGULATIONS.**

1. **Scope of Regulations.** All parking hereafter constructed or maintained shall conform to the provisions of this section and any other ordinances or regulations of the City. For any and all uses or structures not specifically provided for hereunder, such parking space shall be determined by the Commission.
2. **Minimum Size Regulations.** The required parking and loading spaces shall be provided on the premises of each use. Each parking space shall contain a minimum area of not less than two hundred (200) square feet, not including access drives, and a width of not less than ten (10) feet, and a depth of not less than twenty (20) feet.
3. **Reduction and Use of Parking and Loading Space.** Whenever, after the date of the Zoning Ordinance, there is a change in the lawful use of the premises or in any unit of measurement specified in this section and whenever such change creates a need for an increase or decrease of more than fifteen (15) percent of the number of required off-street parking spaces, the number of off-street parking facilities shall be provided, on the basis of adjusted needs, within six (6) months or as determined by the Board of Adjustment. Should an unusual hardship result due to the requirements of this subsection, an appeal may be made to said Board, in the manner provided by law. Such required parking or loading space shall not be used for storage of goods or vehicles that are inoperable or for sale or rent.
4. **Computing Requirements.** In computing the number of such parking spaces required, the following rules shall govern:
  - A. Floor space shall mean the gross floor area of the specified use.
  - B. Where fractional space results, the parking spaces required shall be construed to be the nearest whole number.
  - C. The parking space requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Commission.
5. **Yards.** On-site parking at loading facilities shall not be subject to the front yard, side yard and rear yard regulations for the use district in which the parking is located, except that:
  - A. In all Commercial Districts, no parking or loading space shall be located within ten (10) feet of any property line that abuts a road or highway right-of-way or any Residential District.

- B. In an I-1 Light Industrial District, no parking or loading space shall be located within ten (10) feet of any property line that abuts a highway right-of-way line or any Residential District except for a railroad loading area.
6. Buffer Fences and Planting Screens. On-site parking and loading areas near or abutting Residential Districts shall be screened by a buffer fence of adequate design of a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan, and such fence or landscaping shall be installed as a part of initial construction.
7. Access.
- A. Parking and loading spaces shall have proper access from a public right-of-way.
- B. The number and width of access drives shall be located as to minimize traffic congestion and abnormal traffic hazards.
- C. Vehicular access to business or industrial uses across property in any Residential District shall be prohibited.
8. Location of Parking Facilities and Combined Facilities.
- A. Required on-site parking space shall be provided on the same lot as the principal building or use, except that combined or joint parking facilities may be provided for one (1) or more buildings or uses in Commercial Districts and Industrial Districts, provided that the total number of space shall equal the sum of the requirements for each building or use.
- B. Special purpose off-street automobile parking facilities, to the extent required in this section, may be provided on the same lot or premises with the parking generator on any lot or premises, a substantial portion of which is within eight hundred (800) feet of such parking generator.
9. Construction and Maintenance. No driveway or curb cut in a residential district shall exceed forty-five (45) feet in width. Driveways or curb cuts in areas zones as commercial or industrial shall not exceed one hundred (100) feet in width. For driveways associated with one or two family dwellings, the following requirements shall apply:
- A. Within City right-of-way a driveway leading to no garage or to a single stall garage, the maximum width shall be 12 feet.
- B. Within City right-of-way a driveway leading to a double stall garage, the maximum width shall be 24 feet.

C. Within City right-of-way a driveway leading to a three stall garage, the maximum width shall be 36 feet.

D. Approaches shall not project across projected property lines at the curb. Approaches may be six feet wider at the curb line than the maximum driveway width and then taper to the maximum width within ten feet of the curb.

E. Driveways and parking spaces on private property must be concrete, blacktop, asphalt, bricks or crushed rock, constructed and maintained in quality, quantity and size to prevent the creation of ruts or deterioration or damage to the driveway from vehicle use. If concrete, blacktop, asphalt or brick surfacing is not used, a minimum of 3 inches thickness of a minimum of  $\frac{3}{4}$  inch crushed stone shall be placed. Any driveway or parking space shall extend onto private property a minimum of 24 feet perpendicular to the street or to the entrance to a garage. Said driveway or parking space shall be completed within 120 days of the curb opening.

F. Only one driveway shall be permitted for each 100 feet of street frontage.

*(Ord. 05-89 – Feb. 06 Supp.)*

10. Lighting. Lighting shall be reflected away from the public right-of-way and nearby or adjacent Residential Districts.

11. Required Site Plan. Any application for a building permit shall include a site plan or plot plan drawn to scale and dimensioned, showing on-site parking and loading space to be provided in compliance with the Zoning Code.

12. Required Number of On-Site Parking Spaces. Off-street parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. For all uses conducted within a C-1 zone, the following are recommended minimums only and shall not be construed as requirements. The minimum number of required on-site parking spaces for various uses shall be as follows:

A. One and Two Family Dwelling. Two (2) parking spaces per family. No garages shall be converted into living space unless other acceptable on-site parking spaces are provided.

B. Multiple. Two (2) parking spaces for each apartment, except housing for the elderly projects, which shall provide one (1) parking space for each dwelling unit.

- C. Lodging, Rooming and Boarding Houses, Tourist Homes, Cabins or Motels. One (1) parking space for each guest or sleeping room or suite; plus three (3) spaces for the owner or manager if resident on the premises.
- D. Hotels. One (1) parking space for each room or suite; plus, two (2) spaces for each five (5) employees.
- E. Mobile Home Parks. Two (2) off-street parking spaces for each mobile home berth.
- F. Travel Trailer Courts or Camps. One and one-half (1½) parking spaces for each trailer space.
- G. Private Clubs or Lodges. Parking space equal in number to not less than twenty (20) percent of the active membership thereof; plus one (1) space for each employee of the club or lodge.
- H. Hospitals, Sanitariums, Convalescent Homes. One (1) parking space for each four (4) beds (excluding bassinets); plus one (1) for each staff or visiting doctor; plus one (1) for each three (3) employees including nurses. Loading and unloading space for all emergency vehicles is not included in the spaces herein.
- I. Mortuaries or Funeral Parlors. One (1) parking space for all “official” vehicles plus one (1) parking space for each family in residence on the premises; plus one (1) space for each thirty-five (35) square feet of seating area.
- J. Community Centers, Libraries, Museums, Post Offices, Civic Clubs and Similar Uses. One (1) space for each two (2) employees; plus one (1) parking space for each five hundred (500) square feet of floor area.
- K. Dance Hall. One (1) space for each thirty-five (35) square feet of dance floor area; plus one (1) space for each two (2) employees.
- L. Bowling Alleys. Five (5) parking spaces for each bowling lane, plus one (1) parking space for each two (2) employees.
- M. Miniature Golf Course, Archery or Golf Driving Range. Ten (10) parking spaces or one (1) parking space for each practice area, whichever is greater.
- N. Convention Hall, Auditoriums, Theaters, Stadiums, Sports Arenas or Similar Uses. One (1) parking space for each four (4) seats based upon design capacity plus one (1) parking space for each two (2) employees.



- O. Churches. One (1) parking space for each four (4) seats based on the design capacity of the main seating area.
- P. Medical and Dental Clinics and Similar Professional Offices. Four (4) parking spaces, plus one (1) space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet.
- Q. Golf Courses, Golf Clubhouse, Country Club, Swimming Club, Tennis Club, Public Swimming Pool. Twenty (20) spaces, plus one (1) space for each five hundred (500) square feet of floor area in the principal structure.
- R. Auto Sales, Trailer Sales, Marine And Boat Sales, Implement Sales, Garden Supply Store, Building Material Sales, Auto Repair. Six (6) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet.
- S. Retail Sales And Service Establishments. One (1) parking space for each one hundred (100) square feet of retail floor area.
- T. Restaurants, Night Clubs, Tearooms, Lunch Counters. One (1) parking space for each one hundred (100) square feet of gross floor space, or one (1) parking space per table and stool and one (1) space per average number of employees, whichever is greater.
- U. Schools.
- (1) Elementary. One and one-half (1½) parking spaces for each classroom.
  - (2) Junior High. One (1) parking space for each classroom plus one (1) space for each five (5) students based on design capacity.
  - (3) Senior High. One (1) parking space for each classroom plus one (1) space for each five (5) students based on design capacity.
- V. Office, Professional or Public Building. One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
- W. Automobile Service Station. Four (4) parking spaces plus two (2) parking paces for each service stall. Such parking spaces shall be in addition to the gas pump service area.
- X. Drive-in Restaurants. Twenty (20) parking spaces or one (1) parking space per each three (3) seats, whichever is greater.

Y. Shopping Center. Where several business uses are grouped together according to a general development plan, five (5) parking spaces shall be provided on site for each one thousand (1,000) square feet of gross floor area; separate on-site space shall be provided for loading and unloading.

Z. Industrial or Manufacturing Establishments and Storage, Wholesale or Warehouse Establishments. One (1) off-street parking space for each two (2) employees on the major shift or one (1) space for each one thousand (1,000) square feet of gross floor area within the building, whichever is greater; plus one (1) space for each company motor vehicle when customarily kept on the premises.

13. Parking Lots in Residential Districts. The Commission may permit, temporarily or permanently, when in its opinion the best interest of the community will be served, the use of land in a Residential District for a parking lot where the land abuts or is across the street from a District other than a Residential District provided that:

A. The lot is used for only the parking of passenger vehicles of employees, customers or guests of the person or firm controlling and operating the lot, who shall be responsible for its maintenance.

B. There shall be no charge for parking on the lot.

C. The lot shall not be used for sales, repair work or other servicing of any kind.

D. Ingress and egress for the lot shall be located in such a way as to do no harm to a Residential District.

E. There shall be no advertising signs or material located on the lot.

F. All parking shall be kept back of the setback building line by barrier unless otherwise specifically authorized by the Board of Adjustment.

G. The parking lot and that portion of the driveway back of the building line is to be adequately screened from adjoining property in a Residential District by a hedge or other fence as approved by Board of Adjustment not less than six (6) feet in height and not more than ten (10) feet in height located back of the setback building line.

H. All lighting shall be arranged so that there will be no glare therefrom annoying to the occupants of adjoining property in a Residential District.

- I. The parking lot shall be asphalt, rock or concrete and be adequately drained.
  - J. Such other conditions as may be deemed necessary by the Board of Adjustment to protect the character of the Residential District.
14. **Parking Lots and Driveways Abutting Residential Districts.** Whenever a parking lot or a driveway to a parking lot is hereinafter established in other than a Residential District so as to abut the side or rear lines of a lot in a Residential District, a solid masonry wall or other fence as approved by Board of Adjustment not less than six (6) feet and not more than ten (10) feet in height shall be constructed and maintained at least five (5) feet from side or rear lot line up to, but not beyond, the front building setback line. Appropriate shrubbery of equal height may be used in place of masonry wall. In addition, in all use districts, the lighting, including any permitted illuminated sign, on any parking lot or driveway shall be arranged so that there will be no annoying glare directed or reflected toward residence buildings or districts or streets.
15. **Off-Street Loading Design and Maintenance.**
- A. **Location.** All required loading or unloading into or out of trucks in excess of three-quarter (3/4) ton capacity, or railroad cars, shall be conducted at facilities specifically designated for that purpose. These facilities shall be located upon the zoning lot of principal uses requiring them. All berths beyond one (1) shall be separate from areas used for off-street parking.
  - B. **Access.** Each required off-street loading berth shall be so designed as to avoid undue interference with other vehicular or rail access or use of public streets, alleys, or other public transport systems.
  - C. **Surfacing.** All off-street loading berths and maneuvering areas, shall be surfaced with a hard, all weather, dust free durable surfacing material and shall be well drained and landscaped and shall be maintained in a sightly and well kept condition.
  - D. **Landscaping and Screening.** All berths shall be screened from view from the property street frontage and from the zoning district boundary when the adjacent property or across the street or side street frontage is zoned or used for residential purposes. Said screening shall be accomplished by a solid wall not less than six (6) feet in height and shall be so designed as to be architecturally harmonious with the

principal structure. Screen plantings may be substituted for the prescribed wall, however, such plantings must not be less than two and one-half (2½) inches in diameter and of such type as to permit a minimum of ninety (90) percent capacity.

E. Design. All of the required number of truck berths shall be a minimum of sixty (60) feet in length, twelve (12) feet in width and fifteen (15) feet in height. All loading areas shall consist of a maneuvering area in addition to the berth and shall not use any portion of the site containing parking stalls. Maneuvering areas shall be of such size as to permit the backing of truck tractors and coupled trailers into a berth, without blocking the use of other berths or drives or maneuvering areas.

F. Required Loading Areas. Space for loading and unloading of goods, supplies and services shall be provided in addition to required off-street parking spaces and shall be sufficient to meet the requirements of each use as indicated in this subsection.

(1) Motels, Hotels, Lodging and Rooming Houses, Private Lodges and Clubs. One (1) space for each structure over 20,000 square feet of gross floor area.

(2) Retail and Wholesale Commercial Uses, except where otherwise specified. One (1) space for the first 10,000 square feet of gross floor area; plus one (1) space for each additional 5,000 square feet of gross floor area.

(3) Auditorium, Stadium, Gymnasium, Community Centers, Religious Institutions and Schools (public and private). One (1) space for each structure over 10,000 square feet of gross floor area.

(4) Office Buildings and Professional Offices (other than doctor and dentist) and Banks. One (1) space for buildings between 30,000 and 100,000 square feet of gross floor area; plus one (1) space for each additional 100,000 square feet of gross floor area.

(5) Restaurants and other Food Dispensing Establishments except Drive-in Restaurants. One (1) space for each structure with over 10,000 square feet of gross floor area.

(6) Furniture, Automobile and Boat Sales and Appliance Sales. One (1) space; plus one (1) space for each 25,000 square feet of gross floor area.

(7) Hospitals, Nursing Homes, Rest Homes, etc.. One (1) space; plus one (1) space for each 10,000 square feet of gross floor area.

(8) Bowling Alleys. One (1) space for each 20,000 square feet of gross floor area.

(9) Manufacturing and Research, Experimental or Testing Stations. One (1) space for each 50,000 square feet of gross floor area.

**168.08 REQUIREMENTS FOR VEHICULAR CIRCULATION.** All commercial building or structures and their accessory uses shall be accessible to and from nearby public streets and sidewalks by driveways and walkways surfaced with a hard, all weather, durable, dust free material and properly drained. Vehicular traffic generated by a commercial use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards, excessive traffic through residential areas, particularly truck traffic. The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the Commission who may require such additional measures for traffic control as may be deemed necessary, including but not limited to the following: directional signalization, channelization, standby turn lanes, illumination, and storage area and distribution facilities within the commercial site to prevent backup of vehicles on public streets. No area used by motor vehicles other than driveways serving as ingress and egress to the commercial site shall be located within the public street right-of-way.

1. Driveway Widths: (Measurements between roadway edges)

<u>Type</u>	<u>Maximum Feet</u>	<u>Minimum Feet</u>
One-way	25	12
Two-way	30	24

2. Minimum Driveway Angle to Street: Thirty (30) degrees when street is one-way or divided, otherwise sixty (60) degrees.
3. Minimum Distance between Driveways: Twenty (20) feet, between roadway edges measured along street curb line.
4. Minimum Distance of Driveway from Street Intersections (Measured along street curb line between nearest driveway edge and intersecting street curb line):

If the driveway enters a street classified as a:	And the intersecting street is classified as a:	and the Driveway enters land approach or leaving intersection	
		Approach	Leaving
Minor Street	Minor Street, Collector Street or Minor Arterial	25 feet	25 feet
	Major Arterial	25 feet	25 feet
Collector Street	Minor Street	25 feet	25 feet
	Collector Street or Minor Arterial	25 feet	25 feet
	Major Arterial	35 feet	25 feet
Major Arterial	Minor Street	25 feet	25 feet
	Collector Street or Minor Arterial	25 feet	25 feet
	Major Arterial	40 feet	25 feet

*NOTE:* Minimum distance to be the same as that specified for approaching lane if left turn is permitted into or out of driveway.

**168.09 REGULATIONS ON SCREENING, LANDSCAPING, LIGHTING, STORAGE AND OUTDOOR DISPLAYS.**

1. Screening. All principal and accessory uses, except business signs, which are situated within fifty (50) feet of a Residential District, shall be screened from such district by a wall or fence of not less than ninety (90) percent capacity and not less than five (5) nor more than seven (7) feet in height above the level of the residential district in property at the district boundary. Walls or fences of lesser heights or planting screens may be permitted by the City Council if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the adjacent residential district, or there is a finding that a screening of the type required by the Zoning Code would interfere with the provisions of adequate amounts of light and air to same said properties. Loading docks in the Commercial or Industrial District shall be screened so as not to be visible from any public street right-of-way within a Residential District. All required screening devices shall be so designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

2. Landscaping. All exposed ground areas surrounding or within a principal or accessory use including street boulevards, which are not devoted to drives, sidewalks, patios, or other such uses shall be landscaped with grass, shrubs, trees, or other ornamental landscaped materials. All landscaped areas shall be kept neat, clean, and uncluttered. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies, or merchandise.

3. Lighting. All sources of artificial light situated in a Commercial or Industrial District site shall be so fixed, directed, designed or sized that the sum total of their illumination will not increase the level of illumination on any nearby residential district by more than 0.1 foot candle in or within twenty-five (25) feet of a dwelling nor more than 0.5 foot candle on any other part of the property. "Glare," whether direct or reflected, as differentiated from general illumination, shall not be visible from beyond the limit of the immediate site from which it originates. Lighting on sport complexes where said lighting is used periodically shall be exempt from this section.

4. Storage; Displays. All materials, supplies, merchandise or other similar matter not on display for direct sale, rental or lease to the ultimate consumer or user shall be stored within a completely enclosed building within the Commercial or Industrial District, or within the confines of a one hundred (100) percent opaque wall or fence not less than five (5) feet high. Merchandise which is offered for sale as described above may be displayed beyond the confines of a building in the Commercial or Industrial District, but the area occupied by such outdoor display shall not constitute a greater number of square feet than ten (10) percent of the ground floor area of the building housing the principal use, unless such merchandise is of a type customarily displayed outdoors such as garden supplies. No storage of any type shall be permitted within the one-half of the required front or side street set-back nearest the street.

**168.10 MANUFACTURED DWELLINGS.** Nothing in this section shall be construed to allow a manufactured dwelling or mobile home to be located in other than an approved manufactured dwelling park, except if the dwelling is in compliance with the following provisions:

1. Such dwelling shall comply with the minimum floor-area and width requirements of the one- and two-family dwelling district.
2. Such dwelling shall be certified by the Federal Department of Housing and Urban Development, hereinafter referred to as HUD, or HUD-approved third-party agency, as being in compliance with all requirements of the most recent edition of the Federal Manufactured Home Construction and Safety Standards. The HUD certification label shall be placed on each section or module of the dwelling in accordance with HUD regulations.
3. The foundation system for a manufactured home shall be compatible with the structural design of the manufactured home structure. When such manufactured homes are located outside a mobile home park, the foundation system shall meet the following requirements:

- A. The perimeter foundation system shall be visually compatible with the foundation systems in the surrounding residential structures; and
  - B. The perimeter foundation system shall be constructed of wood, masonry materials or siding material consistent with the construction of a manufactured home; and
  - C. The foundation system shall meet all other structural requirements established in City ordinance.
4. The vehicular frame shall be removed, or if not removable, permanently modified or destroyed to the extent of making the dwelling nontransportable, and the dwelling permanently attached to the foundation.
  5. Such dwelling shall be converted to and taxed as real estate. Evidence shall be provided in the form of an affidavit that any and all indebtedness applicable to the dwelling is secured as a real estate mortgage as opposed to a chattel loan. If no indebtedness exists the owner shall so certify and provide evidence of clear title. The vehicle title, registration card, registration plates, unless said plates are retained to be attached to another manufactured dwelling, and any required information shall be filed with the assessor when applying for a building permit, and evidence provided that the application for conversion is satisfactory in the form of a certified statement signed by the assessor. No certificate of occupancy, either permanent or temporary, shall be granted until the assessor has certified that the conversion has been satisfactorily completed and the property entered upon the tax rolls. A bond or other surety may be required to ensure that the conversion is satisfactorily completed. The dwelling shall be new and undamaged and shall not have been previously installed or occupied for any purpose as evidenced by the chain of title and certification by the dealer.
  6. All additions and modifications shall be constructed in accordance with the City's Building Code.
  7. Sewer, water and utility services, and all other site improvements shall conform to all City Codes and specifications.
  8. No manufactured dwelling not within a mobile home district shall be replaced with another without conforming to the above specifications.
  9. The minimum horizontal dimension of a single-family detached dwelling shall be 20 feet for at least 65 percent of the longer horizontal dimension of the dwelling, said dimensions to be exclusive of attached garages, porches or other accessory structures, unless such dwelling is located in an approved mobile home park.



It is unlawful for any person to park or occupy any factory-built dwelling unit or recreational vehicle on the streets, alleys, highways, any public place or on private land except as otherwise provided by State law and City regulations. Recreational vehicles, while not being used for residential occupancy may be stored temporarily by the owner at his or her place of residence if such vehicle is operable and in good repair.

### **168.11 NONCONFORMING USES OF LAND OR STRUCTURES.**

1. Interpretation. This Zoning Code and the districts herein, or any later amendments may create situations where structures, buildings, or uses of the land previously permitted may become prohibited, regulated or otherwise restricted. It is the intent of the Zoning Code to permit the continuance of these nonconforming structures or uses until they are removed, but not to encourage their survival. Such uses are declared by the Zoning Code to be incompatible with the permitted uses in the districts involved.

A. An existing building or premises devoted to a use not permitted by the Zoning Code in the district in which such building or premises is located shall not be enlarged upon, extended, reconstructed or structurally altered, not be used as grounds for adding other buildings or structures prohibited elsewhere in the same district, except when required to do so by law or ordinance, unless such use is changed to one permitted in the district in which such building or structure or land is located.

B. A nonconforming use of a building may be replaced with another nonconforming use provided no structural alterations are made.

C. No change from one nonconforming use to another shall be made without first applying to and receiving from the Commission a permit to make such change except as defined in Subsection 168.11(2), Nonconforming Lots of Record.

D. A nonconforming use may be changed to conforming use at any time.

E. Whenever a nonconforming use has been changed to a conforming use, such shall not thereafter be changed to a nonconforming use.

F. The extension or addition of a lawful use to any portion of a nonconforming building or structure or land shall not be deemed as the extension of the nonconforming use.

- G. Where nonconforming status applies to a building or structure, the removal or destruction of same shall eliminate the nonconforming status of the land.
- H. If a building or structure is moved for any reason or any distance whatever, it shall therefor conform to the regulations for the district in which it is located after it is removed.
- I. All uses which lawfully exist on the effective date of the Zoning Code and are classified as a Conditional Use by the Zoning Code for the district in which they are located, shall be considered lawful Conditional Uses.
- J. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the provisions of this Section shall also apply to any nonconforming uses developing as a result of such action.
2. Nonconforming Lots of Record.
- A. A single family dwelling and customary accessory buildings, notwithstanding limitations imposed by other provisions of the Zoning Code, may be erected in any district in which single family dwellings are permitted on any single lot of record at the effective date of adoption of or amendment to the Zoning Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.
- B. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.
3. Construction Approved Prior to Zoning Ordinance. To avoid undue hardship, nothing in this Zoning Code shall require change in the plans, construction or designated use of any building or structure provided that:
- A. A building permit has been issued within sixty (60) days prior to the adoption of the Zoning Ordinance.
- B. The construction of the building or structure shall have commenced within thirty (30) days after the adoption of the Zoning Ordinance.
- C. The construction is continuous until the building or structure is completed.

D. Actual construction is hereby defined to include the placing of construction materials in permanent position; except where demolition or removal of an existing building or structure has commenced preparatory to construction, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building or structure involved.

4. Repairs and Maintenance.

A. Nothing in the Zoning Code shall prevent the reconstruction, repairing or rebuilding of a nonconforming building, structure or part thereof existing at the effective date of the Zoning Ordinance, rendered necessary by wear and tear, deterioration or depreciation provided the cost of such work shall not exceed fifty percent (50%) of the replacement value of such building or structure at the time such work is done, or prevent compliance with the provisions of the City Building Code or City Housing Codes relative to the maintenance of buildings or structures; provided that the cubic content of the building as it existed at the time of passage or amendment of the Zoning Code shall not be increased. That the above apply to all dwellings except for the cubic content requirement and that all structure additions shall comply with yard and area regulations for their respective district.

B. Nothing in the Zoning Code shall prevent the reconstruction, repairing, rebuilding and continued use of any nonconforming building or structure damaged by flood, fire, collapse, explosion, or Acts of God, subsequent to the date of the Zoning Ordinance, wherein the expense of such work does not exceed fifty (50) percent of the replacement cost of the building or structure at the time such damage occurred. However, the Board of Adjustment may issue a Conditional Use Permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately floodproofed, elevated, or otherwise protected in conformity with the Flood Plain District.

5. Discontinuance.

A. When a nonconforming use of structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three year period, the structure, or structure and premises in combination, shall not therefore be used except in conformance with the regulations of the District in which it is located.

- B. A nonconforming use shall be considered discontinued:
- (1) When the intent of the owner to discontinue the use is apparent, or
  - (2) When the characteristic equipment and the furnishing of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within ninety (90) days, unless other facts indicate the intention to resume the nonconforming use, or
  - (3) When it has been replaced by a conforming use, or
  - (4) When uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses, or
  - (5) When nonconforming uses located in the floodway portion of the Flood Plain District shall be eliminated or brought into conformity with the standards contained in the Zoning Code within a reasonable period of time as determined by the Board of Adjustment, after hearing for each such nonconforming use. The Board shall make its determination upon the basis of the normal useful life of any improvement upon the premises. In addition, the monetary value of any competitive advantage derived by the operation of such nonconforming use, by reason of the limitation on establishment of competing businesses as a result of the Zoning Code, shall be considered as a reduction of losses resulting from the requirement of termination of the use under the Zoning Code.
6. Cessation of Junk and Salvage Yards. Junk or salvage yards not within an enclosed masonry building and not within an Industrial District shall not be operated or maintained for more than twelve (12) months after a zoning change to a use district within which such yard is not permitted except where the Board of Adjustment determines that it is impractical to roof over a large area containing junk or salvage material. The Board may permit the construction around such area of a fence, screen planting or other device of such height as to completely screen the operation, and may then permit the continued use of such property for such purposes for a specified period.
7. Nonconforming Signs. Signs which are nonconforming uses shall be allowed to remain until removed voluntarily or for any other reason. Signs which are intended to replace nonconforming signs or any new signs shall conform to the provisions of the Zoning Code.

**168.12 WIND TURBINES.**

1. Intent. This section establishes general guidelines for the siting and use of wind turbine generators and related devices and structures. This section is intended to:

A. Protect residential areas from any potentially adverse visual or noise impacts of wind turbine generators or related devices or structures.

B. Provide for a land use that will provide an energy source with low associated environmental impacts.

C. Provide for the removal of abandoned or noncompliant wind turbine generator towers, anemometer towers, or related devices and structures.

D. Allow restricted use of wind turbine generator towers and anemometers of limited height.

2. Definitions Related to Wind Turbine Generators.

A. Anemometer. An instrument for measuring and recording the speed of the wind.

B. Anemometer Tower. A structure, including all accessory facilities, temporarily erected for no more than two (2) years, on which an anemometer is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

C. Wind Turbine Generator. A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following is mounted:

(1) A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind kinetic energy into electrical energy.

(2) A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.

(3) A generator, alternator, or other device used to convert mechanical energy transferred by the rotation of the rotor into electrical energy.

- D. Wind Turbine Generator Height. The distance between the ground and the highest point of the wind turbine generator equipment, including the blades.
- E. Shadow Flicker. The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadows.
3. Applicability.
- A. Wind turbine generator tower and anemometer tower setbacks for towers shall be a distance equal to 110% of the total height of the tower and blades from overhead utility lines, public road right-of-way, and property boundaries.
- B. All wind turbine generators and anemometer towers shall only be permitted after a conditional use permit approval in accordance with Section 165.12.
- C. The Creston Airport Board must approve the maximum height and location of all generator towers (plus blades) or anemometer towers to insure the safety of airplane traffic.
- D. The City Building Department shall approve any electric generator system before and after installation.
4. General Requirements.
- A. Minimum Site Area. The minimum site area for a wind turbine generator or an anemometer tower shall be as necessary to meet required setbacks and any other standards of this section.
- B. Maximum Height. The maximum wind turbine generator height (blades included), or the height of an anemometer tower erected prior to the wind turbine generator, shall be 300 feet.
- C. Minimum Rotor Wind Vane or Blade Clearance. The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than 25 feet or  $\frac{1}{4}$  of the tower height, whichever is greater.
- D. Maximum Noise Levels. Any proposed wind turbine generator shall produce sound levels that are no more than 50 decibels as measured on the dB(A) scale at the property lines of the site in question. A variance is allowed when due to occasional high winds. A noise report shall be submitted with any application for an anemometer tower or wind or wind turbine generator tower. A noise report shall be prepared by a qualified professional or equipment vendor and shall include the following, at a minimum:

- (1) A description and map of the project's noise producing features, including the range of noise levels expected, and the basis of the expectation.
  - (2) A description of the projects proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive land uses.
- E. **Maximum Vibrations.** Any proposed wind turbine generator shall not produce vibrations humanly perceptible beyond the property on which it is located.
- F. **Transmission Lines.** Any on-site electrical transmission lines connecting the wind turbine generator to the public utility electricity distribution system shall be located underground.
- G. **Ice Shedding.** Wind turbine generator owners shall ensure that ice from the rotor blades does not impact any off-site properties.
- H. **Interference with Reception.** Any wind turbine generators shall be constructed and operated so that they do not interfere with television, microwave, navigational, or radio reception to neighboring areas.
- I. **State and Federal Requirements.** Any proposed wind turbine generator or anemometer tower shall meet or exceed any standards and regulations of the FAA, the Iowa Utilities Board, National Electric Code, and any other agency of the State or Federal government, with the authority to regulate wind turbine generators or other tall structures in effect at the time the conditional use permit is approved.
- J. **Aesthetics and Lighting.** Any proposed wind turbine generator or anemometer tower shall meet the following requirements:
- (1) Each wind turbine generator or anemometer tower, including all accessory structures, shall be galvanized or painted a non-reflective neutral color to reduce visual obtrusiveness.
  - (2) Each wind turbine generator tower may be monopole, monotube, or lattice style construction and shall not include guy wires. This provision shall not apply to anemometer towers.
- K. **Signs.** A sign no more than four (4) square feet in area displaying the location of any shut off switch, an address, telephone

number for emergency or information inquiries shall be posted at the wind turbine generator tower or anemometer tower erected prior to a wind turbine generator. No wind turbine generator tower or anemometer tower or site shall include an advertising sign other than the wind turbine and related equipment manufacturers.

L. Unauthorized Access. Wind turbine generators and anemometer shall be designed to prevent unauthorized access. The tower shall be designed and installed to not provide step bolts or a ladder readily accessible to the public for a minimum height of ten (10) feet above the ground.

M. Essential Services. Wind turbine generators and anemometers shall be regulated and permitted pursuant to this section of the zoning ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

N. Removal of Abandoned or Unsafe Wind Turbine Generators or Anemometer Towers.

(1) Any wind turbine generator or anemometer that is not operated for a period of 12 months shall be considered abandoned.

(2) A tower found to be unsafe or not in compliance with the special land use conditions related to noise or shadow flicker placed upon it by the Creston City Council, shall be found to be in violation of the conditional use permit.

(3) The owner of any wind turbine generator tower or anemometer tower that is abandoned or in violation of the conditional use permit shall remove the same within 90 days of receipt of notice from the City of Creston for such abandonment or violation.

(4) Failure to remove an abandoned wind turbine generator or anemometer tower within the 90-day period provided in this subsection shall be grounds for the City of Creston to remove the wind turbine generator or anemometer tower at the owner's expense. The City shall mail a statement of the total cost to the person failing to abide by the notice to remove and if the amount shown has not been paid within one (1) month, the cost shall be certified to the Union County Auditor and it shall then be collected with, and in the same manner as, general property taxes.



O. Engineer Certification. Applications for any wind turbine generator shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of all components of the wind turbine generator showing compliance with the applicable regulations and certified by a licensed professional engineer shall also be submitted.

P. Insurance. The owner/operator of a wind turbine must demonstrate adequate liability insurance with a minimum of \$100,000.00 (One hundred thousand dollars) minimum coverage.

*(Section 168.12 – Ord. 11-128 – Oct. 10 Supp.)*