

CHAPTER 41

ZONING CODE

SUBCHAPTER 1

GENERAL PROVISION

41.01 TITLE. This Chapter of the Windsor Heights Municipal Code shall be known as the Zoning Code of the City of Windsor Heights.

41.02 JURISDICTION. The provisions of this Chapter shall be applicable to all property within the corporate limits of the City of Windsor Heights as authorized by Iowa Code Chapter 380.

41.03 PURPOSE. The purposes of the Zoning Code of the City of Windsor Heights are to:

- a. Serve the public health, safety and general welfare of the City and its jurisdiction.
- b. Classify property in a manner that reflects its suitability for specific uses.
- c. Provide for sound, attractive development within the City and its jurisdiction.
- d. Encourage environmental compatibility of adjacent land uses.
- e. Protect environmentally sensitive areas.
- f. Further the objectives of the Comprehensive Development Plan of the City of Windsor Heights.

41.04 CONSISTENCY WITH COMPREHENSIVE DEVELOPMENT PLAN. The City of Windsor Heights intends that this Zoning Code and any amendments to it shall be consistent with the City's Comprehensive Development Plan. It is the City's intent to amend this Code whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Development Plan.

DEFINITIONS. The following words and phrases, when used in this Chapter, shall, for the purposes of this Chapter, have the meanings respectively ascribed to them in this section:

24A. "Group Home": a facility licensed by the State of Iowa in which at least three but no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training, living assistance or counseling for the purpose of adaptation to living with or rehabilitation from a physical or mental disability as defined by relevant provisions of the Iowa Code or by the Fair Housing Amendments Act of 1988.

41.05 CONFLICTING PROVISIONS. The Zoning Code shall be held to provide the minimum requirements necessary for the promotion of the public health, safety, and welfare. If any provision of the Zoning Code conflicts with any other provision of the Zoning Code, any other Ordinance of the City of Windsor Heights, or any applicable State or Federal law, the more restrictive provision shall apply.

41.06 RELIEF FROM OTHER PROVISIONS. Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State or Federal ordinance or statute.

41.07 SEVERABILITY OF PROVISION. If any sub-chapter, section, clause, or phrase of this Zoning Code is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Code.

41.08 PUBLICATION. This Code shall be published in book or pamphlet form and shall, together with the maps being a part hereof, shall be filed with the City Administrator of the City of Windsor Heights, Iowa.

SUBCHAPTER 2**DEFINITIONS**

41.09 PURPOSE. Subchapter 2 shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of this Zoning Code. The meaning and construction of words as set forth shall apply throughout this Zoning Code, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

41.10 GENERAL CONSTRUCTION OF LANGUAGE. The following general rules of construction apply to the text of the Zoning Code.

- a. **Headings.** Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, intent of any provision of the Zoning Code.
- b. **Illustration.** In the case of any real or apparent conflict between the text of this Zoning Code and any illustration explaining the text, the text shall apply.
- c. **Shall and May.** □Shall□ is always mandatory. □May□ is discretionary.
- d. **Tenses and Numbers.** Words used in the present tense include the future tense. Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- e. **Conjunctions.** Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
 1. And indicates that all connected items or provisions apply.
 2. Or indicates that the connected items or provisions may apply singly or in any combination.
 3. Either ... or indicates that the connected items or provisions shall apply singly but not in combination.
- f. **Referenced Agencies.** Unless otherwise indicated, all public officials, bodies, and agencies referred to in this Chapter are those of the City of Windsor Heights.

41.11 Definition of Terms. For the purposes of this Zoning Code, certain terms and words are hereby defined. Certain sections contain definitions which are additional to those listed here. Where terms are not specifically defined, their ordinarily accepted meaning or meanings implied by their context shall apply.

1. **Abutting:** Having lot lines or district boundaries in common, including property separated by a public street or alley. Used interchangeably with adjacent.
2. **Accessory Structure:** A structure which is incidental to and customarily associated with a specific principal use or building on the same site.
3. **Accessory Use:** A use which is incidental to and customarily associated with a specific principal use on the same site.
4. **Addition:** Any construction which increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.
5. **Agent of Owner:** Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.
6. **Alley:** A public right of way which is used as a secondary means of access to abutting property.
7. **Alteration:** Any construction or physical change in the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.
8. **Apartment:** A housing unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.
9. **Attached:** Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; facade wall extension; or archway.
10. **Base Zoning District:** A district established by this Zoning Code which prescribes basic regulations governing land use and site development standards. For any actions taken after the effective date of this Code, no more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.
11. **Basement:** A level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement. Subchapter 5 sets forth floodplain and floodway regulations governing building standards in flood-prone areas.
12. **Bedroom:** Any space intended for sleeping purposes in the conditioned space of a

dwelling unit which is 80 square feet and greater in size and which is located along an exterior wall, but not including the following: hall; bathroom; kitchen; laundry room.

13. Beginning of Construction: The initial incorporation of labor and materials within the foundation of a building or structure.

14. Block: An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse or lake, and which has been designated as such on a plat for the purposes of legal description of a property.

15. Block Face: The property abutting one side of a street and lying between the two nearest intersection streets, or between the one nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of Windsor Heights.

16. Board of Adjustment: A body, established by the City expressly for the purpose of granting relief from situations of hardship and to hear appeals as provided by this Zoning Code.

17. Bufferyard: A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

18. Building: A structure entirely separated from any other structure by space or by walls and having a roof and built to provide shelter, support, or enclosure for persons or property.

19. Building Coverage: The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

20. Building Envelope: The three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.

21. Building Line: The outer boundary of a building established by the location of its exterior walls.

22. Building Official: The designee of the City Council, responsible for the enforcement of Chapter 29 of the Code of Ordinances for the City of Windsor Heights.

23. Business: Activities that include the exchange or manufacture of goods or services on a site.

24. Business Center: A building containing more than one commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.
25. Certificate of Occupancy: An official certificate issued by the Building Official or his/her designee, upon finding of conformance with the City's Building Code (Chapter 29), and upon receipt of a Certificate of Zoning Compliance.
26. Certificate of Zoning Compliance: An official certificate issued by the Building Official or his/her designee, which indicates that the proposed use of building or land complies with the provisions of this Zoning Code.
27. Change of Use: The replacement of an existing use by a new use.
28. Cluster: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.
29. City: The City of Windsor Heights, Iowa.
30. City Council: The City Council of Windsor Heights, Iowa.
31. Collector Street: A street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.
32. Common Area: An area held, designed, and designated for common or cooperative use within a development.
33. Common Development: A development proposed and planned as one unified project not separated by a public street or alley.
34. Common Open Space: Land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.
35. Compatibility: The degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.
36. Comprehensive Plan: The duly adopted Comprehensive Development Plan of the City of Windsor Heights.
37. Conditioned space: An area, room or space normally occupied and being heated and/or cooled by any equipment for human habitation.

38. Condominium: A real estate ownership arrangement that combines fee simple title to a specific unit and joint ownership in common elements shared with other unit owners. Types of units may include dwelling units, parking spaces, office spaces, or commercial spaces.
39. Conservation Development: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.
40. Conservation Subdivision: Wholly or in majority, a residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided 1) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and 2) the remaining land area is used for common space.
41. County: Polk County, Iowa.
42. Court: An approved private right-of-way which provides access to residential properties and meets at least three of the following conditions:
- (a) Serves twelve or fewer housing units or platted lots.
 - (b) Does not function as a local street because of its alignment, design, or location.
 - (c) Is completely internal to a development.
 - (d) Does not exceed 600 feet in length.
43. Courtyard: An open, unoccupied space, bounded on two or more sides by the walls of the building.
44. (Intentionally left blank).
45. (Intentionally left blank).
46. Density: The amount of development per specific unit of a site.
47. Drive-in Services: Uses which involve the sale of products or provision of services to occupants in vehicles.
48. Detached: Fully separated from any other building or jointed to another building in such a manner as not to constitute an enclosed or covered connection.

49. Driveway: A permanent surface area providing vehicular access between a street and an off-street parking or loading area. A driveway surface area shall be asphaltic, portland cement binder pavement, paver block, concrete block or similar surface so as to provide a durable and dustless surface. Gravel or rock are not deemed to be dustless surfaces.
50. Dwelling Unit: One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.
51. Easement: A privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility.
52. Enclosed: A roofed or covered space fully surrounded by walls.
53. Family: One or more persons occupying a single dwelling unit, related by blood, marriage, domestic partnership, adoption, or other custodial arrangement.
54. Federal: Pertaining to the Government of the United States of America.
55. Floor Area Ratio: The quotient of gross floor area divided by gross site area.
56. Frontage: The length of a property line of any one premises abutting and parallel to a public street, private way, or court.
57. Grade: The horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.
- (a) For buildings having walls facing one street only, the grade shall be the elevation of the sidewalk or the boundary line between the property and the street right-of-way in the absence of sidewalks, perpendicular to the center of the wall facing the street.
 - (b) For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.
 - (c) For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.
58. Gross Floor Area: The total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.
59. Height: The vertical distance from the established grade to the highest point of the

coping of a flat roof, the deck line of a mansard roof, gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.

60. Home Based Business/Home Occupation: An accessory occupational use conducted entirely within a dwelling unit by its inhabitants, which is clearly incidental to the residential use of the dwelling unit or residential structure and does not change the residential character of its site or have any external evidence of such use.

61. Housing Unit or Dwelling Unit: A building or portion of a building arranged for and intended for occupancy as an independent living facility for one family, including permanent provisions for cooking.

62. Impervious Coverage: The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

63. Landscaped Area: The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

(a) Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.

(b) Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.

64. Loading Area: An off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.

65. Lot: A parcel of property with a separate and distinct number or other identifying designation which has been created, assigned and recorded in the Office of the Polk County Recorder. Each individual lot is subject to the provisions of a particular base Zoning District, and shall have a minimum frontage of 20 feet, except as provided in an approved Planned Unit Development and/or Creative Subdivision.

(a) Corner Lot: A lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the angle of intersection is no greater than 135 degrees.

(b) Double Frontage Lot: A lot, other than a corner lot, having frontage on two streets, private ways or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this ordinance. (Also known as a Through Lot)

(c) Interior Lot: A lot other than a corner lot.

(d) Common Development Lot: When two or more contiguous lots are developed as part of a Planned Unit Development, these lots may be considered a single lot for purposes of this ordinance.

66. Lot Area: The total horizontal area within the lot lines of a lot.

67. Lot Depth: The mean horizontal distance measured between the front and rear lot lines.

68. Lot Line: A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement. Once established, lot lines may not be redefined due to a change of address which would result in a new definition of the prior defined lot lines.

(a) Front Lot Line: The lot line separating a lot and a public or private street right-of-way or easement.

1. For an interior lot, the lot line separating the lot from the right-of-way or easement.

2. For a corner lot, the shorter lot line abutting a public or private street or easement. In instances of equal line dimension, the front lot line shall be determined by the Building Official, or as may be noted on the final plat.

3. For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Building Official at the time of application for the original building permit for the lot, or as may be noted on the final plat.

(b) Rear Lot Line: The lot line which is opposite and most distant from the front line.

(c) Side Lot Line: Any lot line that is neither a front or rear lot line. A side lot line separating a lot from a street, private way or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

69. Lot Width: The horizontal distance measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

70. Manufactured Home Dwelling: A factory built single-family dwelling, structure which is to be used as a place for human habitation, which is manufactured or constructed under the authority of 42 U.S.C. 5403, Federal Manufactured Home Construction and Safety Standards, and which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; does not have permanently attached to its body or frame any wheels or axles. A mobile home constructed to the National Manufactured Home Construction and Safety Standards promulgated by the US Department of Housing and Urban Development is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling as is provided in the Code of Iowa (1983), section 435.26. For the purpose of any of these regulations, manufactured homes shall be considered the same as a single-family detached dwelling.

71. Mixed Use Building: A building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

72. Mixed Use Development: A single development which incorporates complementary land use types into a single development.

73. Mobile Homes: A building type designed to be transportable in one or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Iowa Department of Health or conformance to the manufactured home procedural and enforcement regulations, as adopted by the US Department of Housing and Urban Development; or not otherwise satisfying the definition of Manufactured Home Dwellings.

74. Mobile Home Park: A unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile Home Parks include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.

75. Mobile Home Subdivision: A development subdivided, planned, and improved for the placement of mobile home units on lots for uses by the individual owners of such lots. Mobile Home Subdivisions may include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purpose of display, inspection, sale, or storage.

76. Nonconforming Development: A building, structure, or improvement which does not comply with the regulations for its zoning district set forth by this Zoning Code but which complied with applicable regulations at the time of construction. No action can be taken which would increase the non-conforming characteristics of the lot.
77. Nonconforming Lot: A lot which was lawful prior to the adoption, revision, or amendment of this Zoning Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the non-conforming characteristics of the lot.
78. Nonconforming Sign: A sign that was legally erected prior to the adoption, revision, or amendment of this Zoning Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the non-conforming characteristics of the lot.
79. Nonconforming Structure: A structure which was lawful prior to the adoption, revision, or amendment of this Zoning Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the non-conforming characteristics of the structure.
80. Nonconforming Use: A land use which was lawful prior to the adoption, revision, or amendment of this Zoning Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the non-conforming characteristics of the land use.
81. Nuisance: An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.
82. Open Space: Area included on any site or lot that is open and unobstructed to the sky, except for allowed projections of cornices, overhangs, porches, balconies, or plant materials.
83. Outdoor Storage: The storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.
84. Overlay District: A district established by this Zoning Code to prescribe special regulations to be applied to a site only in combination with a base district.
85. Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

86. **Parking Facility:** An area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Zoning Code. Parking facilities include parking lots, private garages, and parking structures. Vehicle storage is distinct from parking, and is regulated by provisions in Sections 41.19(b), 41.20, 41.21(j) and Table 4-2. Vehicle storage is also governed by provisions of Subchapter 9: Parking Regulations.
87. **Parking Spaces:** An area on a lot and/or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with parking stall. Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhome residential uses shall be considered to have a means of access to a public street.
88. **Paved:** Permanently surfaced with poured concrete, concrete pavers or masonry units, brick, or asphalt.
89. **Permitted Use:** A land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Code.
90. **Planning Commission:** The Planning and Zoning Commission of the City of Windsor Heights, as authorized pursuant to Chapter 414 of the Code of Iowa.
91. **Planned Unit Development:** A development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.
92. **Porch, Unenclosed:** A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.
93. **Premises:** A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.
94. **Private Garage:** A building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.
95. **Property Line:** See Lot Line.
96. **Recreational Vehicle:** A vehicle towed or self propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; campers; motor coach homes; converted buses and trucks, snowmobiles, boats, and boat trailers.

97. Regulation: A specific requirement set forth by this Zoning Code which must be followed.
98. Remote Parking: A supply of off-street parking at a location not on the site of a given development.
99. Right-of-Way: Area dedicated for public use or contained in an easement or other conveyance or grant to the City, including but not limited to streets, alleys, boulevards, sidewalks, public greenways, and other public property between the lateral property lines in which a roadway lies.
100. Screening: The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features as may be permitted by the landscape provisions of this Code.
101. Setback: The distance, as required by the minimum setback(s) which establishes the horizontal component(s) of the building envelope.
102. Sign: A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land, which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea. Sign regulations are set forth in Subchapter 10 of this Zoning Code.
103. Site: The parcel of land to be developed or built upon. A site may encompass a single lot; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.
104. Site Plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land; and any other information that may be reasonably be requested by the City in order that an informed decision can be made on the associated request.
105. Special Permit Use: A use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Special permit uses are allowed in a zoning district only at the discretion of and with the explicit permission of the City Council, upon the recommendation of the Planning Commission.
106. State: The State of Iowa.
107. Story: The portion of a building included between the surface of any floor and the

surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof, the wall heights of which on at least two opposite, exterior walls are less than four feet.

108. Street: A right of way, dedicated to public use, which affords a primary means of access to the abutting property. This definition is intended to be inclusive of the term as defined in Iowa statute.

109. Street, Intersecting and Principal: In regard to a site, the principal street shall be the street to which the majority of lots on a blockface are oriented; the intersecting street shall be a street other than a principal street.

110. Street, Local: A street which is used primarily for access to the abutting properties.

111. Street, Major: A street carrying traffic between neighborhoods, connecting neighborhoods with major activity centers, or accommodating major through traffic. Major streets are designated as collectors, arterials, or expressways by the Comprehensive Plan.

112. Structure: Any object constructed or built, the use of which requires location on the ground or attachment to something located on the ground.

113. Townhouse: A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.

114. Townhouse Structure: A building formed by at least two and not more than twelve contiguous townhouses with common or abutting walls.

115. Use: The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.

116. Utilities: Installations, either above or below ground, necessary for the production, generation, transmission, delivery, collection, treatments, or storage of water, solid or fluid wastes, storm water, energy media, gas, electronic or electromagnetic signals, or other services which are precedent to development and use of land.

117. Yard; Required: That portion of a lot which lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for or required by this Zoning Code.

(a) Front Yard: The space extending the full width of a lot, lying between the front lot line and the front setback line. For a corner lot, the front yard shall normally be defined as that yard along a street which meets one of the following two

criteria:

1) The yard along the blockface to which a greater number of structures are oriented; or

2) The yard along a street that has the smaller horizontal dimension.

(b) Rear Yard: The space extending the full width of a lot, lying between the rear lot line and the rear setback line.

(c) Side Yard: The space extending the depth of a lot from the front to rear lot lines, lying between the side yard setback line and the interior lot line.

(d) Street Side Yard: On a corner lot, the space extending from the front yard to the rear yard, between the street side yard setback line and the street side lot line.

118. Zoned Lot: A parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.

119. Zoning District: A designated specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in this Zoning Code.

SUBCHAPTER 3**USE TYPES**

41.13 PURPOSE. Subchapter 3 shall be known as the Use Types. The purpose of the Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted or conditionally permitted within various zoning districts. The Use Types section also provides a procedure for determining the applicable use type of any activity not clearly within any defined use type.

41.14 DETERMINATIONS

a. **Classification of Uses.** In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Zoning Administrator of the City of Windsor Heights shall have the authority to determine the appropriate use type. A determination of the Zoning Administrator may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and Board of Adjustment shall consider such characteristics or specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists.

b. **Records.** The Zoning Administrator shall make all such determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination.

41.15 AGRICULTURAL USE TYPES. Agricultural use types include the on-site production and sale of plant and animal products by agricultural methods.

a. **Horticulture.** The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

b. **Crop Production.** The raising and harvesting of tree crops, row crops for field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

c. **Animal Production.** The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where grazing of natural vegetation is the major feed source; or the raising of animals for recreational use. Typical uses include grazing, ranching, dairy farming, and poultry farming.

41.16 RESIDENTIAL USE TYPES. Residential use types include uses providing wholly or primarily non-transient living accommodations. They exclude institutional living arrangements providing 24-hour skilled nursing or medical care, forced residence, or therapeutic settings.

- a. Single-Family Residential. The use of a site for one dwelling unit, occupied by one family. (NOTE: Mobile home units are not a single-family use type. See below categories for such units).
 1. Single-Family Residential (Detached): A single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit.
 2. Single-Family Residential (Attached): A single-family residential use in which one dwelling unit is located on a single lot and is attached by a common vertical wall to only one other adjacent dwelling unit on another single lot.
- b. Duplex Residential. The use of a legally-described lot for two dwelling units, each occupied by one family within a single building, excluding mobile home units, but including modular housing units.
- c. Two-Family Residential. The use of a site for two dwelling units, each occupied by one family, each in a separate building, excluding a mobile home unit.
- d. Townhouse Residential. The use of a site for three or more attached dwelling units, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.
- e. Multiple-Family Residential. The use of a site for three or more dwelling units within one building.
- f. Downtown Residential. The use of upper levels above street level of a building within the Town Center District of the City of Windsor Heights for single- or multiple-family residential uses.
- g. Group Residential. The use of a site for a residence by four or more unrelated persons, not defined as a family, on a weekly or longer basis.
- h. Manufactured Home Residential. Use of a site for one or more manufactured home dwellings, as defined in Section 41.12(68).

- i. Mobile Home Park. Use of a site under single ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a Mobile Home Park is leased from the owner of the facility.
- j. Mobile Home Subdivision. Division of a tract of land into lots that meet all the requirements of the City of Windsor Heights's subdivision regulations for the location of mobile homes. Generally, a lot within a Mobile Home Subdivision is owned by the owner of the mobile home placed upon such lot.
- k. Retirement Residence. A building or group of buildings which provide residential facilities for four or more residents of at least fifty years of age, or households headed by a householder of at least fifty years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences with more than 50 living units may include additional health care supervision or nursing care, provided that the number of beds for such residences shall not exceed 25% of the total number of individual living units. Typical uses include continuing care retirement centers.

41.17 CIVIC USE TYPES. Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with social importance.

- a. Administration. Governmental offices providing administrative, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, and city offices.
- b. Cemetery. Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.
- c. Clubs. Uses providing meeting, recreational, or social facilities for a private, non-profit or non-commercial association, primarily for use by members and guests.
- d. College and University Facilities. An educational institution of higher learning which offers a course of study designed to culminate in the issuance of a degree certified by a generally recognized accrediting organization.

- e. Convalescent Services. A use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental illness, or communicable disease. Typical uses include nursing homes.
- f. Cultural Services. A library, museum, or similar registered non-profit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.
- g. Day Care Services (Limited). This Use Type includes all classifications of day care facilities regulated by the State of Iowa that operate providing care for not more than six (6) children. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.
- h. Day Care Services (General). This Use Type includes all classifications of day care facilities regulated by the State of Iowa that operate providing care for more than six (6) children. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.
- i. Detention Facilities. A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.
- j. Emergency Residential Services. A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings. Such facilities being limited to no more than three (3) victims at any one time.
- k. Family Home. A facility as defined in Iowa Code Section 414.22, and including, but not limited to, Elder Family Homes and Elder Group Homes.
1. Elder Family Homes: A facility as defined in Iowa Code Section 231A.
 2. Elder Group Homes: A facility as defined in Iowa Code Section 231B.
- l. Group Care Facility. A government-licensed or approved facility which provides for resident care and short or long-term, continuous multi-day occupancy of more than 8 but no more than 30 unrelated persons, not including resident staff. Group Care Facilities include facilities which provide services in accordance with individual needs for the:
1. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.

2. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder; or developmental disabilities.
 3. Rehabilitation from the effects of drug or alcohol abuse.
 4. Supervision while under a program alternative to imprisonment, including but not limited to pre-release, work-release, and probationary programs.
 5. Others who require direct adult supervision.
- m. Group Home. A facility licensed by the State of Iowa in which at least three but no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption, reside while receiving therapy, training, living assistance, or counseling for the purpose of adaptation to living with or rehabilitation from a physical or mental disability as defined by the relevant provisions of the Code of Iowa or by the Fair Housing Amendments Act of 1988.
- n. Guidance Services. A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.
- o. Health Care. A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis including emergency treatment, diagnostic services, training, administration and services to out-patients, employees, or visitors.
- p. Hospital. A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an in-patient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees, or visitors.
- q. Maintenance Facilities. A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.
- r. Park and Recreation Services. Publicly-owned and operated parks, playgrounds, recreation facilities, and open spaces.
- s. Postal Facilities. Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.

- t. Primary Educational Facilities. A public, private, or parochial school offering instruction at the elementary school level in the branches of learning study required to be taught in schools within the State of Iowa.
- u. Public Assembly. Facilities owned and operated by a public agency or a charitable non-profit organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, incidental sales, and exhibition facilities.
- v. Religious Assembly. A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (excluding private primary or private secondary educational facilities, community recreational facilities, day-care facilities, and incidental parking facilities). A property tax exemption obtained pursuant to Property Tax Code of the State of Iowa shall constitute prima facie evidence of religious assembly use.
- w. Safety Services. Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.
- x. Secondary Educational Facilities. A public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State of Iowa.
- y. Utilities. Any above ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, delivery, collection, or storage of water, sewage, electricity, gas, oil, energy media, communications, electronic or electromagnetic signals, or other services which are precedent to development and/or use of land.

41.18 OFFICE USE TYPES. Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele but are more limited in external effects than commercial uses.

- a. General Offices. Use of a site for business, professional, or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; banks or financial offices; or professional offices.
- b. Financial Services. Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies. An ATM (Automatic Teller Machine) which is not accompanied on-site by an office of a its primary financial institution is considered a "General Retail Services" Use Type.

- c. Medical Offices. Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar practitioners licensed for practice in the State of Iowa.
- (2) Structures Permitted Above the Height Limit. The building heights limitations of this Chapter shall be modified as follows:
 - A. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stage towers or scenery lofts, private water towers, church ornamental towers and spires, cellular telephone towers, radio or television towers or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances of the City, provided, however, that no structure shall exceed a height in excess of eighty (80) feet above ground level.
 - B. The height allowance provided in subparagraph A, above shall apply to commercial districts only. The height limits or allowances in R-1, R-1A, R-2 and R-3 districts shall be governed solely by Sections 41.09, 41.10, 41.11 and 41.12, respectively.

41.18A FAMILY HOMES

1. DEFINITIONS.

"Family Home": means a family home as defined in Iowa Code Section 414.22 and shall include, for zoning purposes only, "elder family homes" and "elder group homes".

"Elder Family Home": means an elder family home as defined in Iowa Code Section 231A".

"Elder Group Home": means an elder group home as defined in Iowa Code Section 231B.

2. PROXIMITY OF FAMILY HOMES

A. The proximity of Family Homes as defined in Iowa Code Section 414.22 (2) (C) shall be governed by Section 414.22(3) of the Iowa Code.

B. The proximity of Elder Family Homes and Elder Group Homes shall be as follows:

(1) New Elder Family Homes shall be dispersed throughout the

residential zones and districts and shall not be located within a one (1) mile radius of another Family Home, Elder Family Home or Elder Group Home.

- (2) New Elder Group Homes shall be dispersed throughout the residential zones and districts and shall not be located within a one (1) mile radius of another Family Home, Elder Family Home or Elder Group Home.

41.19 COMMERCIAL USE TYPES. Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

- a. Agricultural Sales and Service. Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally-related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

- b. Automotive and Equipment Services. Establishments or places of business primarily engaged in sale and/or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

1. Automotive Rental and Sales: Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.

2. Auto Services: Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, non-commercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.

3. Body Repair: Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.

4. **Equipment Rental and Sales:** Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.
 5. **Equipment Repair Services:** Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.
 6. **Vehicle Storage:** Storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of operating or non-operating vehicles beyond 21 days constitutes an Industrial Use Type.
- c. **Bed and Breakfast.** A lodging service that provides overnight or short-term accommodations to guests or visitors, usually including provision of breakfast. Bed and breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed and breakfasts are always owned and operated by the resident owner of the structure, include no more than ten units, and accommodate each guest or visitor for no more than 7 consecutive days during any one month period.
 - d. **Business Support Services.** Establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, janitorial services, photography studios, and convenience printing and copying.
 - e. **Business or Trade Schools.** A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.
 - f. **Campground.** Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than 7 consecutive days during any one month period.
 - g. **Cocktail Lounge.** A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

- h. Commercial Recreation. Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Typical uses include driving ranges, theaters, private dance halls, or private skating facilities. Commercial recreation is divided into the following categories:
1. Commercial Recreation (Limited): Facilities which include a structure of 10,000 square feet or less and/or a site covering an area of no more than one-half acre.
 2. Commercial Recreation (General): Facilities which include a structure of more than 10,000 square feet or and/or a site covering an area of more than one-half acre.
- i. Communications Services. Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities. Broadcast towers, and their minor ancillary ground structures are classified as "Miscellaneous Use Types."
- j. Construction Sales and Services. Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware. This use type excludes those uses classified under Automotive and Equipment Services. Typical uses include building materials sales, or tool and equipment rental or sales.
- k. Consumer Services. Establishments which provide services, primarily to individuals and households, but excluding Automotive Use Types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.
- l. Convenience Storage. Storage services primarily for personal effects and household goods within enclosed storage areas having individual access but excluding use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

m. Food Sales. Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

1. Convenience Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and by the sales of fuel for motor vehicles.

2. Limited Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, small grocery stores.

3. General Food Sales: Establishments selling a wide variety of food commodities, using facilities larger than 10,000 square feet. Typical uses include supermarkets.

n. Funeral Services. Establishments engaged in undertaking services such as preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

o. Gaming Facilities. Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to licensing regulations of the City of Windsor Heights or the State of Iowa.

p. General Retail Services (Small and Large Scale). Sale or rental with incidental service of commonly-used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services:

Household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photographic services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; retail sales of pets; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

1. General Retail Services (Small Scale) include facilities with no more than 10,000 square feet in a single establishment or 30,000 square feet within a multiple tenant Common Development.
 2. General Retail Services (Large Scale) include facilities of 10,000 or more square feet in a single establishment or 30,000 square feet within a multiple tenant Common Development.
- q. Kennels. Boarding and care services for dogs, cats and similar small mammals or large birds; or any premises on which three or more animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, ostrich raising facilities; pet motels, or dog training centers.
- r. Laundry Services. Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plans, diaper services, or linen supply services.
- s. Liquor Sales. Establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.
- t. Lodging. Lodging services involving the provision of room and/or board, but not meeting the classification criteria of Bed and Breakfasts. Typical uses include hotels, apartment hotels, and motels.

"Hotel" means one or more buildings containing 20 or more guest rooms, with such rooms being designed, intended to be used or are used as temporary or overnight accommodations for guests in which daily services of linen change, central telephone switchboard, towel change, soap change, general clean-up, and a registration lobby staffed on a twenty-four (24) hour daily basis are provided by the management. Each room shall be a minimum of 250 square feet in area, exclusive of bathroom, closet, or balcony space. No room may be used by the same person or persons for a period exceeding 30 (30) days per year. Access to all rooms shall be provided through one or more common entrance(s). Accessory uses are encouraged and permitted accessory uses include restaurants, cocktail lounges, banquet halls, ballrooms, or meeting rooms.

"Motel" means a building or group of buildings containing dwelling units, intended to be used or are used as temporary or overnight accommodations for guests in which daily services of linen change, central telephone switchboard, towel change, soap change, general clean-up, and a registration lobby staffed on a twelve (12) hour daily basis and twenty four (24) hour daily registration and emergency phone number are provided by the management. Each room shall be a

minimum of 250 square feet in area, exclusive of bathroom, closet, or balcony space. No room may be used by the same person or persons for a period exceeding 30 (30) days per year. Each living or sleeping unit shall have an individual entrance from outside the building. Living or sleeping units may be equipped with cooking facilities. Parking close to the entrance of each living or sleeping unit should be made available.

"Extended stay hotel or motel" means any structure consisting of one or more buildings, with more than five specific dwelling units with provisions for living, eating, contain kitchen facilities for food preparation including, but not limited to, refrigerators, stoves, and ovens, sanitation, separate bathroom and kitchen sink, and sleeping in each unit, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where temporary residence is offered for pay to persons, for a minimum stay of more than thirty days and a maximum stay of ten months within the dwelling units at the structure, that is approved pursuant to a valid certificate of occupancy issued by the building official having jurisdiction as having all of the required dwelling unit features, and for which such valid certificate of occupancy indicates the specific rooms within the structure that can be used as dwelling units, and that is approved by the fire marshal for extended stay temporary residence purposes. Each room shall be a minimum of 275 square feet in area, exclusive of bathroom, closet, or balcony space. Weekly services for each dwelling unit of linen change, towel change, soap change, general clean-up, and a registration lobby staffed on a twelve (12) hour daily basis and twenty four (24) hour daily registration and emergency phone number are provided by the management. Each extended stay dwelling unit and facilities are subject to the City's rental inspection outlined in the city code in Chapter 29 Building Property and Regulations. For the purposes of parking requirements, extended stay hotel or motels will have to meet the Multi-Family Residential parking requirements.

- u. Personal Improvement Services. Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a non-professional nature. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.
- v. Personal Services. Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; or dry cleaning stations serving individuals and households, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.
- w. Pet Services. Pet health services, and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

- x. Research Services. Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.
- y. Restaurants. A use engaged in the preparation and retail sale of food and beverages; including the sale of alcoholic beverages when conducted as a secondary feature of the use, producing less than 50 per cent of the establishment's gross income.
1. Restaurant (Drive-in or Fast Food): An establishment which principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and on-site accommodations, self-service, and short stays by customers.
 2. Restaurant (General): An establishment characterized by table service to customers and/or accommodation to walk-in clientele, as opposed to Drive-in or Fast Food Restaurants. Typical uses include cafes, coffee shops, and restaurants.
- z. Restricted Businesses. Any business activity which offers the opportunity to view sexual activities or view or touch anatomical areas for entertainment purposes in a manner that offends contemporary standards in the community of Windsor Heights, depicts or describes sexual conduct in a patently offensive way, and lacks serious literary, artistic, political, or scientific value. This category includes the sale or viewing of visual or print materials that meet these criteria. Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize sexual content; businesses which offer live performances characterized by exposure of specified anatomical areas; and adult theaters.
- aa. Stables and/or Riding Academies. The buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.
- bb. Surplus Sales. Businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.
- cc. Trade Services. Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

dd. Vehicle Storage. Short-term storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage beyond 21 days constitutes an Industrial Use Type.

ee. Veterinary Services. Veterinary services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.

41.20 PARKING USE TYPES

a. Off-Street Parking Lots/Facilities. Parking use types include surface parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility.

b. Parking Structure. The use of a site for a multi-level building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site.

41.21 INDUSTRIAL USE TYPES. Industrial use types include the on-site extraction or production of goods by non-agricultural methods, and the storage and distribution of products.

a. Construction Yards. Establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

b. Custom Manufacturing. Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

1. The use of hand tools, or
2. The use of domestic mechanical equipment not exceeding 2 horsepower, or
3. A single kiln not exceeding 8 KW or equivalent.

This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, candle making shops.

- c. Light Industry. Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or un-enclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.
- d. General Industry. Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, storage, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.
- e. Heavy Industry. Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.
- f. Recycling Collection. Any site which is used in whole or part for the receiving or collection of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.
- g. Recycling Processing. Any site which is used for the processing of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.
- h. Resource Extraction. A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, mining.
- i. Salvage Services. Places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards, or paper salvage yards.
- j. Vehicle Storage (Long-term). Long-term storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of 21 days or less constitutes a Commercial Use Type.
- k. Warehousing. Uses including open air storage, distribution, and handling of goods and materials, but not including storage of hazardous materials. Typical uses include monument yards or open storage.

41.22 TRANSPORTATION USE TYPES. Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

- a. Aviation Facilities. Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.
- b. Railroad Facility. Railroad yards, equipment servicing facilities, and terminal facilities.
- c. Transportation Terminal. Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, public transit facilities.
- d. Truck Terminal. A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

2. Filing Fees. Before any action shall be taken as provided in this section, the petitioner requesting such amendment in the district regulations or district boundaries shall pay to the City Clerk a filing fee to defray the administrative costs of processing of requests for an amendment to this Chapter. All filing fees under this Chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such filing fees, may from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective filing fees shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

41.23 MISCELLANEOUS TYPE USES.

- a. Alternative Energy Production Devices. The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, geothermal energy installations, or water-powered mills or generating facilities.
- b. Broadcasting Tower. A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district.
- c. Amateur Radio Tower. A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC-licensed Amateur Radio operators.

- d. Construction Batch Plant. A temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.
- e. Wind Energy Conservation System (WECS). Any device which converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines.
- f. Landfill (Non-putrescible Solid Waste Disposal). The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile.
- g. Landfill (Putrescible and Non-putrescible Solid Waste Disposal). The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency and/or the State of Iowa. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

SUBCHAPTER 4

ZONING DISTRICT REGULATIONS

41.24 PURPOSE. Subchapter 4 presents the Zoning District Regulations. Zoning Districts are established in this Zoning Code to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district.

41.25 ESTABLISHMENT OF DISTRICTS. The following base districts and overlay districts are hereby established. Table 4-1 displays the purposes of these districts.

<u>BASE ZONING DISTRICTS</u>	<u>DISTRICT NAMES</u>
R-1	Single-Family Residential District (Low-Density)
R-2	Single-Family Residential District (Urban-Density)
R-3	Urban Family Residential District
R-4	Multiple-Family Residential District
MH	Mobile Home Residential District
LC	Limited Commercial/Office District
CC	Community Commercial District
GC	General Commercial District
UC	University Avenue Corridor Mixed Use District
TC	Town Center District
LI	Limited Industrial District
<u>OVERLAY DISTRICTS</u>	
MU	Mixed Use District
PUD	Planned Unit Development Overlay District
F	Floodplain/Floodway Overlay District

41.26 APPLICATION OF DISTRICTS. A base district designation shall apply to each lot or site within the City and its planning jurisdiction. Each site must be in one base district.

The Planned Unit Development and Floodplain/Floodway Overlay Districts may be applied to any lot or site or any portion thereof, in addition to any base district designation. The Mixed Use District may stand alone as a base district or act as an overlay district.

41.27 HIERARCHY. References in this Zoning Code to less intensive or more intensive districts shall be deemed to refer to those agricultural, residential, commercial, and industrial base zoning districts established in Section 41.25, and shall represent a progression from the R-1 Single-Family Residential District as the least intensive to the LI Limited Industrial District as the most intensive. The Overlay Districts shall not be included in this reference.

41.28 DEVELOPMENT REGULATIONS. For each Zoning District: Purposes are set forth in Table 4-1; Uses permitted are set forth in Table 4-2; and Site Development Regulations are presented in Table 4-3.

Supplemental Regulations may affect specific land uses or development regulations in each zoning district. The applicable Supplemental Regulations are noted in Table 4-2.

41.29 ZONING MAP.

- a. Adoption of Zoning Map. Boundaries of zoning districts established by this Zoning Code shall be shown on the Zoning Map maintained by the City Clerk. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, and concurrent with this Code. The Zoning Map shall be prominently displayed in the council chambers and/or an area accessible to the public at Windsor Heights City Hall.
- b. Changes to the Zoning Map. The Zoning Map may be changed from time to time by ordinance, following the procedure set forth by Subchapter Twelve. Such changes shall be reflected on the Zoning Map. The City Administrator shall keep a complete record of all changes to the Zoning Map.

41.30 INTERPRETATION OF DISTRICT BOUNDARIES. The following rules shall apply in determining the boundaries of any zoning district shown on the Zoning Map.

- a. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be considered the district boundaries.
- b. Where district boundaries are indicated as within street or alley, railroad, or other identifiable rights-of-way, the centerline of such rights-of-way shall be deemed the district boundary.
- c. Where a district boundary divides a property, the location of the boundary shall be determined by the use of the scale appearing on the Zoning Map.
- d. The City Council shall determine any other uncertainty regarding district boundaries not covered in this section.

41.31 VACATION OF STREETS AND ALLEYS. Whenever a public street or alley is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

Table 4-1 Purposes of Zoning Districts

Symbol	Title	Purpose
R-1	Single-Family Residential (Low-Density)	This district is intended to provide for low-density residential neighborhoods, characterized by single-family dwellings on relatively large lots with supporting community facilities and urban services. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.
R-2	Single-Family Residential (Urban Density)	This district is intended to provide for medium-density residential neighborhoods, characterized by single-family dwellings on moderately-sized lots with supporting community facilities and urban services. Its regulations apply to established parts of Windsor Heights and to new areas which are developed to higher residential densities. Regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.

Table 4-1 (continued) Purposes of Zoning Districts

Symbol	Title	Purpose
R-3	Urban Family Residential	This district is intended to provide for medium-density residential neighborhoods, characterized by single-family dwellings on small to moderately-sized lots and low-density, multiple-family development. It provides special regulations to encourage innovative forms of housing development. It adapts to both established and newer neighborhoods, as well as transitional areas between single-family and multi-family neighborhoods. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.
R-4	Multiple Family Residential	This district is intended to provide locations primarily for multiple-family housing, with supporting and appropriate community facilities. It also permits some non-residential uses such as offices through a special permit procedure, to permit the development of mixed use neighborhoods.
MH	Mobile Home Residential	This district recognizes that mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods.
O	Office/ Limited Commercial	This district reserves appropriately located area for office and community-oriented commercial development and distinguishes these from other, more intensive commercial activities. The commercial and office uses permitted are compatible with nearby residential and civic areas. Development regulations are designed to ensure compatibility in size, scale, and landscaping with nearby residences.

Table 4-1 (continued) Purposes of Zoning Districts

Symbol	Title	Purpose
CC	Community Commercial	This district is intended for commercial facilities which serve the needs of markets ranging from several neighborhoods to the overall region. While allowed commercial and office uses are generally compatible with nearby residential areas, traffic and operating characteristics may have more negative effects on residential neighborhoods than those permitted in the O District. CC Districts are appropriate at major intersections, at the junction of several neighborhoods, or at substantial commercial subcenters.
GC	General Commercial	This district accommodates a variety of commercial uses, including auto-oriented uses, some of which have significant traffic or visual effects. These districts may include commercial uses which are oriented to services, including automotive services, rather than retail activities. These uses may create land use conflicts with adjacent residential areas, requiring provision of adequate buffering. This district is most appropriately located along major arterial streets or in areas that can be adequately buffered from surrounding residences.
UC	University Avenue Corridor Mixed Use	This district recognizes the mixed use character of the University Avenue Corridor, which contains a combination of residential, commercial, and office uses. This corridor will include special aesthetic and sign design standards which will help enhance its character as Windsor Heights main street.
TC	Town Center District	This district is intended to provide appropriate development regulations to encourage the emergence of the 66th and University Avenue area as a town center for Windsor Heights. The regulations will recognize the mixed use and civic character of the area, and will help to encourage the development of a pedestrian oriented district at the intersection.

Table 4-1 (continued) Purposes of Zoning Districts

Symbol	Title	Purpose
LI	Limited Industrial	This district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development, while assuring that facilities are served with adequate parking and loading facilities.

Special and Overlay Districts	Purposes
These districts may be applied to a parcel in combination with a Base Zoning District.	Overlay Districts are intended to help the City manage development in areas that exhibit special characteristics or features that warrant a greater differentiation of standards. Special and Overlay Districts include: MIXED USE DISTRICT PLANNED UNIT DEVELOPMENT DISTRICT FLOODPLAIN/FLOODWAY
	Specific purposes and standards for each Overlay District are detailed in Subchapter 5: Overlay Districts.

Table 4-2 Permitted Uses by Zoning Districts

Use Types	R-1	R-2	R-3	R-4	MH	O	CC	GC	UC	TC	LI	Additional Regulation
Agricultural Uses:												
Horticulture							C	C				
Crop Production												
Animal Production												
Residential Uses:												
Single-Family Detached	P	P	P	P	P	C			P	C		
Single-Family Attached	C	P	P	P	P	C			P	C		41.60
Duplex		C	P	P		C			P			
Two-Family	C	C	P	P					P			
Townhouse			P	P		C	C		P			41.60
Multiple-Family				P		C	C		P	P		
Downtown Residential										P		41.60
Group Residential			C	P		C						
Manufactured Housing Residential	P	P	P	P	P	C						41.60
Mobile Home Park					C							41.60
Mobile Home Subdivision					C							
Retirement Residential	C	C	C	P	C	C			C	P		

P=Uses Permitted by Right

C=Uses Permitted by Conditional Use Permit approval according to Section 41.112.

Blank=Use Not Permitted

Table 4-2 (continued) Permitted Uses By Zoning Districts

Use Types	R-1	R-2	R-3	R-4	MH	O	CC	GC	UC	TC	LI	Add 1 Reg
Civic Uses:												
Administration	C	C	C	C	C	P	P	P	P	P	P	
Cemetery	C	C	C	C								
Clubs	C	C	C	C	C	C	P	P	P	P		41.61(a)
College/University	C	C	C	C	C	C	P	P	C	C		
Convalescent Service		C	C	C	C	P	P		C			
Cultural Services	C	C	C	P	P	P	P	P	P	P	P	
Day Care (Limited)	P	P	P	P	P	P	P	P	P	P	C	41.61(b)
Day Care (General)	C	C	C	P	C	P	P	P	P	P	C	41.61(b)
Detention Facilities								C			C	
Elder Family Home	C	C	C	P	C	P			P	P		41.61(c)
Elder Group Home	C	C	C	P	C	P			P	P		41.61(c)
Emergency Resident <input type="checkbox"/>	C	C	C	C	C	P	P	C	P	P	C	
Family Home	C	C	C	P	C	C			C	C		
Group Care Facility		C	C	P	C	P	P	P	P	P	C	41.61(d)
Group Home	C	C	C	P	P	P	P	C	P	P		41.61(d)
Guidance Services				C		P	P	P	P	P	P	
Health Care			C	C		P	P	P	P	P	P	
Hospitals				C		P	C	C	C	C	C	
Maintenance Facility								P			P	
Parks/ Recreation	P	P	P	P	P	P	P	P	P	P	P	
Postal Facilities						P	P	P	P	P	P	

P=Uses Permitted by Right

C=Uses Permitted by Conditional Use Permit approval according to Section 41.112.

Blank=Use Not Permitted

Table 4-2 (continued) Permitted Uses by Zoning Districts

Use Types	R-1	R-2	R-3	R-4	MH	O	CC	GC	UC	TC	L1	Addl Reg
Public Assembly						P	C	P	P	P		
Religious Assembly	C	C	C	P	P	P	P	P	P	P		
Safety Services	C	C	C	P	P	P	P	P	P	P	P	
Secondary Education	C	C	C	C	C	C	C	C	C	C		
Utilities	C	C	C	C	C	C	P	P	P	P	P	
Office Uses:												
General Offices				C		P	P		P	P	P	
Financial Services				C		P	P		P	P	P	
Medical Offices				C		P	P		P	P	P	
Commercial Uses:												
Ag Sales/Service							C	P			P	
Auto Rental/Sales							C	P			P	41.62(c)
Auto Services						C	C	P	C	C	P	41.62(a,b)
Body Repair							C	C			P	41.62(a)
Equip Rental/Sales								P			P	41.62(c)
Equipment Repair								P			P	41.62(a)
Bed and Breakfast	C	C	C	C		P	P	P	P	P		41.62(d)
Business Support						P	P	P	P	P	P	
Business/Trade School						C	P	P	P	P	P	
Campground								C				41.62(e)
Cocktail Lounge							P	P	C	C	C	
Commercial Rec (Limited)						C	P	P	P	P	P	

Table 4-2 (continued) Permitted Uses by Zoning Districts

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P=Uses Permitted by Right

C=Uses Permitted by Conditional Use Permit approval according to Section 41.112.

Blank=Use Not Permitted

Use Types	R-1	R-2	R-3	R-4	MH	0	CC	GC	UC	TC	L1	Addl Reg
Commercial Uses (Cont.)												
Commercial Rec (General)							C	P	C		P	
Communication Service						P	P	P	P	P	P	
Construction Sale/Serv							P	P			P	
Consumer Service						C	P	P	P	P	P	
Convenience Storage							C	C			P	41.62(f)
Food Sales (Conven)						C	C	P	C	C		
Food Sales (Ltd)						C	P	P	P	P		
Food Sales (General)							P	P	C	C		
Funeral Service			C	C		P	P	P	P	P		
Gaming Facility							C	P	C	C		
General Retail (small-scale)						C	P	P	P	P		
General Retail (Large-scale)							P	P	C	P		
Kennels								C			P	
Laundry Services								P	C		P	
Liquor Sales							P	P	C	C	C	
Lodging						C	P	P	C	C		
Personal Improvement				C		P	P	P	P	P	P	
Personal Services				C		P	P	P	P	P	P	
Pet Services							P	P	P	P	P	
Research Services						C	P	P	P	P	P	

P=Uses Permitted by Right

C=Uses Permitted by Conditional Use Permit approval according to Section 41.112.

Blank=Use Not Permitted

Table 4-2 (continued) Permitted Uses by Zoning Districts

Use Types	R-1	R-2	R-3	R-4	MH	O	CC	GC	UC	TC	L1	Addl Reg
Restaurants (Drive-in)							P	P	C		C	41.62(g)
Restaurants (Gen)						P	P	P	P	P	C	41.62(g)
Restricted Businesses												41.62(h)
Stables												
Surplus Sales								P			P	
Trade Services							P	P	C	C	P	
Vehicle Storage								C			P	
Veterinary Services						C	P	P	P	P	P	
Parking Uses:												
Off-Street Parking						C	C	P	C	P	P	
Parking Structure						C	C	C	P	P	P	
Industrial Uses:												
Custom Manufacturing							C	P	C	C	P	
Light Industry								C			P	
General Industry											C	
Heavy Industry												
Resource Extraction												
Salvage Services											C	
Veh. Stor (Long- term)											C	
Warehousing											C	
Construction Yards											C	
Recycling Collection							C	P			P	
Recycling Processing											C	

P=Uses Permitted by Right

C=Uses Permitted by Conditional Use Permit approval according to Section 41.112.

Blank=Use Not Permitted

Table 4-2 (continued) Permitted Uses by Zoning Districts

Use Types	R-1	R-2	R-3	R-4	MH	O	CC	GC	UC	TC	L1	Addl Reg
Transportation Uses:												
Aviation												
Railroad Facilities											P	
Truck Terminal											C	
Transportation Terminal							P	P	C	C	P	
Miscellaneous Use Types:												
Broadcasting Tower							C	C			C	
Amateur Radio Tower	P	P	P	P	P	P	P	P	P	P	P	41.70(b)
Construction Batch Plant											P	41.67(b)
WECS	C	C	C	C	C		C	C			P	
Landfill (Non-Putrescible)												
Landfill (Putrescible)												
Alternative Energy Production Devices	C	C	C	C	C		C	C			P	

Note: Provisions of Sections 41.64 through 41.67 apply to all use types.

P=Uses Permitted by Right

C=Uses Permitted by Conditional Use Permit approval according to Section 41.112.

Blank=Use Not Permitted

Table 4-3 Summary of Site Development Regulations

Regulator	R-1	R-2	R-3	R-4	MH	O
Minimum Lot Area (square feet)	9,600	7,200	(Note 3)	(Note 5)	See Section 41.60(f)	5,000 (Note 10)
Minimum Lot Width (feet)	80	50	60 (Note 4)	(Notes 4,6)		50 (Note 10)
Site Area per Housing Unit (square feet)	9,600	7,200	(Note 3)	(Note 7)		(Note 10)
<u>Minimum</u> Yards (feet)						
Front Yard	35	35	35	35		25
Street Side Yard	35	35	35	35		15
Interior Side Yard	8 (Note 1)	7 (Note 2)	7 (Note 2)	(Note 8)		7
Rear Yard	35	35	35	35		25
Maximum Height (feet) Main Building Accessory Building	35 12	35 12	35 12	(Note 9) 12		45
Maximum Building Coverage	35%	45%	50%	50%		50%
Maximum Impervious Coverage	50% (Note 12)	55% (Note 12)	60% (Note 12)	65% (Note 12)		70% (Note 12)
Floor Area Ratio	NA	NA	NA	NA		0.50
Regulator	CC*	GC*	UC (Note 11)	TC (Note 11)	LI*	
Minimum Lot Area (square feet)	7,200	5,000	5,000	None	10,000	
Minimum Lot Width (feet)	60	50	50	20	50	
Site Area per Housing Unit (square feet)	Note 7	NA	Note 7	500	NA	

Table 4-3 (continued) Summary of Site Development Regulations

Regulator	CC*	GC*	UC (Note 11)	TC (Note 11)	LI*
<u>Minimum Yards</u> (feet)					
Front Yard	25	15	25	0	25
Street Side Yard	25	15	25	0	10
Interior Side Yard	0	0	0	0	10
Rear Yard	20	15	10	0	10
Maximum Height (feet) Main Building	60	60	45	45	45
Maximum Building Coverage	60%	70%	60%	100%	70%
Maximum Impervious Coverage	80% (Note 12)	90% (Note 12)	80% (Note 12)	100% (Note 12)	90% (Note 12)
Floor Area Ratio	0.50	1.00	1.00	2.00	1.00

* Uses in the R-4, LC, CC, GC, and LI Districts are subject to landscape and screening provisions contained in Subchapter 8.

Notes to Preceding Pages: Table 4-3

Note 1: Sum of side yards shall be 15 feet in R-1. Setbacks for non-residential uses in R-1 shall be 40 feet on each side. See Section 41.60 for supplemental regulations governing single-family attached, zero lot line, and 2-family residential use types.

Note 2: Sum of side yards shall be 15 feet in R-2 and R-3. Setbacks for non-residential uses in R-2 and R-3 shall be 35 feet on each side. See Section 41.60 for supplemental regulations governing single-family attached, zero lot line, 2-family, and townhouse residential use types.

Note 3: 7,200 square feet for single-family lots; 4,200 square feet per dwelling unit for two-, three-, or four-unit residential buildings.

Note 4: See Section 41.60 for supplemental regulations regarding modifications of lot width for townhouse residential use type.

Note 5: 7,200 square feet for single-family lots; 8,400 square feet per dwelling unit for two-unit residential buildings; 10,000 square feet for multi-family residential development.

Note 6: 60 feet for single-family of duplex residential, 80 feet for multi-family residential.

Note 7: 7,200 square feet for single-family lots; 4,200 square feet per dwelling unit for two-unit residential buildings; 1,000 additional square feet for each additional unit over four units. Density of multi-family residential may exceed this maximum, subject to approval of a Special Use Permit by the Board of Adjustment, with the recommendation of the Planning and Zoning Commission.

Note 8: Heights up to 30 feet: 10 foot minimum.
Heights between 30 and 45 Feet: 15 foot minimum, 30 foot sum of side yards.

Note 9: Heights over 45 feet permitted provided that each foot in height over 45 feet adds one foot to the minimum front, rear, and side yard setbacks.

Note 10: Same as R-4 for residential uses.

Note 11: The Planning Commission may establish different regulators for sites within the UC and TC Districts, based on the recommendations of the Comprehensive Plan or on specific redevelopment plans or projects within the districts.

Note 12: Maximum impervious restrictions apply not only to zoning districts, but also to uses outside of those districts consistent with the properties in the district. For Example, a single-family residence located in a commercial district, may still have only a maximum impervious coverage of 50 or 55% based on lot size. Lot sizes consistent with an R1 designation would be restricted to a maximum of 50% and lot sizes with an R2 would be restricted to a maximum of 55%.

SUBCHAPTER 5**SPECIAL AND OVERLAY DISTRICTS**

41.32 GENERAL PURPOSE. Special Districts provide for base districts that allow multiple land uses and flexible development, with the requirement that a specific plan for the area be submitted by applicants. Overlay Districts are used in combination with base districts to modify or expand base district regulations. Overlay Districts are adapted to special needs of different parts of the City of Windsor Heights.

The Overlay Districts are designed to achieve the following objectives:

- a. To recognize special conditions in specific parts of the City which require specific regulation.
- b. To provide flexibility in development and to encourage innovative design through comprehensively planned projects.

ARTICLE 1: MU MIXED USE DISTRICT

41.33 PURPOSE. The MU Mixed Use District is intended to accommodate projects which combine several compatible land uses into an integrated development. The MU District may also be used to pre-designate parts of the City which are appropriate for a mixture of residential, commercial, office, and accessory uses. The District permits mixing residential areas with workplaces and services. Development in the MU District must accommodate transportation systems, pedestrian and bicycle movement, and surrounding environments. All projects developed in an MU District are subject to a Special Use Permit process.

41.34 PERMITTED USES. Each regulation establishing an MU District establishes the use types permitted within its boundaries.

41.35 SITE DEVELOPMENT REGULATIONS

- a. The minimum area of any MU District is three acres.
- b. Prior to the issuance of any building permits or other authorization, all projects in the MU District shall receive approval by the City Council, following a recommendation by the Planning Commission, according to the Special Use Permit procedure set forth in Subchapter 12. This approval may be granted for a specific plan for the development of an MU District in lieu of a plan for individual projects, provided that any subsequent developments are consistent with the specific plan.

- c. Applications for approval must contain at a minimum the following information:
1. A detailed site map, including:
 - (a) a boundary survey
 - (b) site dimensions
 - (c) contour lines at no greater than five foot intervals
 - (d) adjacent public rights of way, transportation routes, and pedestrian or bicycle systems
 - (e) description of adjacent land uses
 - (f) utility service to the site and easements through the site
 - (g) description of other site features, including drainage, soils, or other considerations that may affect development.
 2. A development plan, including:
 - (a) a site layout, including the location of proposed buildings, parking, open space, and other facilities
 - (b) location, capacity, and conceptual design of parking facilities
 - (c) description of the use of individual buildings
 - (d) description of all use types to be included in the project or area, and maximum floor area devoted to each general use
 - (e) maximum height of buildings
 - (f) schematic location and design of open space on the site, including a landscaping plan
 - (g) vehicular and pedestrian circulation plan, including relationship to external transportation systems
 - (h) schematic building elevations and sections if required to describe the project
 - (i) grading plans

- 0) proposed sewer and utility improvements
 - (k) location, sizes, and types of all proposed signage.
3. Specific proposed development regulations for the project, including:
- (a) the specific use types permitted within the proposed district
 - (b) maximum floor area ratios
 - (c) front, side, and rear yard setbacks
 - (d) maximum height
 - (e) maximum building and impervious coverage
 - (f) design standards applicable to the project.
4. A traffic impact analysis, if required by the City.

41.36 AMENDMENTS. The Zoning Administrator is authorized at his/her discretion to approve amendments to an approved development plan, provided that:

- a. A written request is filed with the Zoning Administrator, along with information specifying the exact nature of the proposed amendment.
- b. The amendment is consistent with the provisions of this section.
- c. The amendment does not alter the approved site regulations of the development plan and does not materially alter other aspects of the plan, including traffic circulation, mixture of use types, and physical design.
- d. Any amendment not conforming to these provisions shall be submitted to the Planning Commission and City Council for action.

41.37 RESERVED.

ARTICLE 2: PUD PLANNED UNIT DEVELOPMENT DISTRICT

41.38 PURPOSE. The PUD Planned Unit Development Overlay District is intended to provide flexibility in the design of planned projects; to permit innovation in project design that incorporates open space and other amenities; and to insure compatibility of developments with the surrounding urban environment. The PUD District may be used in combination with any base district specified in this Zoning Code. The PUD District, which is adopted by the City Council with the recommendation of the Planning and Zoning Commission, assures specific development standards for each designated project.

41.39 PERMITTED USES. Uses permitted in a PUD Overlay District are those permitted in the underlying base district. A PUD also may be combined with an MU Mixed Use District to allow a combination of use types not anticipated by conventional base districts.

41.40 SITE DEVELOPMENT REGULATIONS. Site Development Regulations are developed individually for each Planned Unit Development District but must comply with minimum or maximum standards established for the base district, with the following exceptions:

- a. Lot area and lot width are not restricted, provided that the maximum density allowed for each base district is not exceeded.
- b. Maximum building coverage shall be the smaller of the allowed building coverage in the base district, or 60 percent.

41.41 ACCESS TO PUBLIC STREETS. Each PUD District must abut a public street for at least 50 feet and gain access from that street.

41.42 APPLICATION PROCESS.

- a. Development Plan. The application for a Planned Unit Development District shall include a Development Plan containing the following information:
 1. A tract map, showing site boundaries, street lines, lot lines, easements, and proposed dedications or vacations.
 2. A land use plan designating specific uses for the site and establishing site development regulations, including setbacks, height, building coverage, impervious coverage, density, and floor area ratios.
 3. A site development and landscaping plan, showing building locations, or building envelopes; site improvements; public or common open spaces; community facilities; significant visual features; and typical landscape plans.
 4. A circulation plan, including location of existing and proposed vehicular and pedestrian, facilities and location and general design of parking and loading facilities.
 5. Schematic architectural plans and elevations sufficient to indicate a building height, bulk, materials, and general architectural design.
 6. A statistical summary of the project, including gross site area, net site area, number of housing units by type, gross floor area of other uses, total amount of parking, and building and impervious surface percentages.

41.43 ADOPTION OF DISTRICT.

- a. The Planning and Zoning Commission and City Council shall review and evaluate each Planned Unit Development application. The City may impose reasonable conditions, as deemed necessary to ensure that a PUD shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare.
- b. The Planning and Zoning Commission, after proper notice, shall hold a public hearing and act upon each application.
- c. The Planning and Zoning Commission may recommend amendments to PUD district applications.
- d. The recommendation of the Planning and Zoning Commission shall be transmitted to the City Council for final action.
- e. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing a PUD Planned Unit Development Overlay District. Proper notice shall mean the same notice established for any other zoning amendment.
- f. An Ordinance adopting a Planned Unit Development Overlay Zoning District shall require a favorable simple majority of the City Council for approval.
- g. Upon approval by the City Council, the Development Plan shall become a part of the Ordinance creating or amending the PUD District. All approved plans shall be filed with the City Clerk.

41.44 AMENDMENT PROCEDURE. Major amendments to the Development Plan must be approved according to the same procedure set forth in Section 41.43.

41.45 BUILDING PERMITS. The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a PUD District unless it is in compliance with the approved Development Plan or any approved amendments.

41.46 TERMINATION OF PUD DISTRICT. If no substantial development has taken place in a Planned Unit Development District for three years following approval of the District, the Planning Commission shall reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property.

41.47 RESERVED

ARTICLE 3: FP/ FW FLOODPLAIN/ FLOODWAY OVERLAY DISTRICT

41.48 PURPOSE. The Floodway and Floodplain Overlay District is intended to promote the public health, safety and general welfare and to minimize those losses described in Section 41.49 by applying the provisions of this Code to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands which are unsuitable for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program when identified by the Federal Insurance Administration as a flood prone community.

41.49 FLOODPLAIN AND FLOODWAY OVERLAY DISTRICTS: FINDINGS OF FACT.

- a. Flood Losses Resulting from Periodic Inundation. Flood hazard areas of the City of Windsor Heights, Iowa, are subject to inundation which results in loss of life or property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
 1. General Causes of These Flood Losses. These flood losses are caused by (a) the cumulative effect of obstruction in floodways causing increases in flood heights and velocities, (b) the occupancy of flood areas by uses vulnerable to floods or hazardous to other which are inadequately elevated or otherwise protected from flood damages.

2. Methods Used to Analyze Flood Hazards. This Zoning Code uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

a) Selection of a base flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated and the depth of inundation. The base flood selected for this Zoning Code is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this Code. It is in the general order of a flood which could be expected to have a one (1 %) percent chance of occurrence in any one year, as delineated in the Flood Insurance Study dated ---, and the Federal Emergency Management Administration's Flood Insurance Rate Maps and Flood Boundary and Floodway Map dated ---, or any subsequent effective Flood Insurance Studies, Rate Maps, and Flood Boundary and Floodway Maps issued after the effective date of this Code and adopted by the City of Windsor Heights.

b) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.

c) Computation of the floodway required to convey this flood without increasing flood heights more than I foot at any point.

d) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.

e) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.

b. Land to Which Code Applies. This Zoning Code shall apply to all lands within the jurisdiction of the City of Windsor Heights identified on the Flood Insurance Rate Map (FIRM) as numbered and unnumbered A zone and/or within the Overlay Districts FP and FW established in this Zoning Code. In all areas covered by this Zoning Code, no development shall be permitted except upon a permit to develop granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community as contained in this Zoning Code.

- c. Enforcement Officer. The Zoning Administrator of the City of Windsor Heights is hereby designated as the City Council's duly designated Enforcement Officer under this Zoning Code. Unless otherwise provided by the City Council, the Floodplain Management Agency shall assist the City of Windsor Heights on interpretation of floodplain/floodway rules and regulations. The Enforcement Officer shall obtain comments from the Agency as part of his/her review of all proposed activity in this Overlay District.
- d. Rules for Interpretation of District Boundaries. The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The base flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.
- e. Compliance. No development located within known flood hazard areas of the City shall be located, extended, converted or structurally altered without full compliance with the terms of this Zoning Code or other applicable regulations.
- f. Abrogation and Greater Restrictions. It is not intended by this Zoning Code to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Code imposes greater restrictions, the provision of this Code shall prevail. All other ordinances inconsistent with this Code are hereby repealed to the extent of the inconsistency only.
- g. Interpretation. In their interpretation and application, the provisions of this Zoning Code shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by state statute.
- h. Warning and Disclaimer of Liability. The degree of flood protection required by this Zoning Code is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Code does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This Code shall not create liability on the part of the City of Windsor Heights or any officer or employee thereof for any flood damages that may result from reliance on this Code or any administrative decision lawfully made thereunder.

- i. Severability. If any section, clause, provision or portion of this Zoning Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby.
- j. Application for Appeal. Where a request for a permit to develop is denied by the Zoning Administrator, the applicant may apply for such permit or variance directly to the Board of Adjustment. The Board of Adjustment may grant or deny such request by appropriate resolution adopted within 10 days after the date of such application to the Board of Adjustment.

41.50 FLOODPLAIN AND FLOODWAY PERMITS AND ADMINISTRATION

- a. Permit Required. No person, firm, or corporation shall initiate any development or substantial improvement or cause the same to be done in any floodplain or floodway area without first obtaining a separate permit.
- b. Administration.
 - 1. The Zoning Administrator is hereby appointed to administer and implement the provisions of this Zoning Code.
 - 2. Duties of the Zoning Administrator shall include, but not be limited to:
 - a) Review of all development permits to assure that sites are reasonable, safe from flooding and that the permit requirements of this Code have been satisfied.
 - b) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or Local Governmental agencies from which prior approval is required.
 - c) Notify adjacent communities and the Iowa Natural Resources Commission Flood Plan Management Section prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration when participating in the National Flood Insurance Program.
 - d) Notify the Floodplain Management Agency of any proposed construction and development activity in floodplain areas, and/or upon land situated within the Floodplain/Floodway Overlay Zoning District.
 - e) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

- f) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 - g) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.
 - f) When floodproofing is utilized for a particular structure, the Zoning Administrator shall be presented certification from a registered professional engineer or architect.
- c. Application for Permit. To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
- 1. Identify and describe the work to be covered by the permit.
 - 2. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
 - 3. Indicate the use or occupancy for which the proposed work is intended.
 - 4. Be accompanied by plans for the proposed construction.
 - 5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
 - 6. Give such other information as reasonably may be required by the Building Official.

41.51 ESTABLISHMENT OF ZONING DISTRICTS. The mapped flood plain areas within the jurisdiction of this Zoning Code are hereby divided into the two following districts: A Floodway Overlay District (FW) and a Floodplain Overlay District (FP) as identified in the official Flood Plain Study. Within these districts, all uses not meeting the standards of this Code and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM when identified in the Flood Insurance Study provided by the Federal Insurance Administration.

41.52 STANDARDS FOR FLOODWAY OVERLAY DISTRICT AND FLOODPLAIN OVERLAY DISTRICT.

- a. No permit for development shall be granted for new construction, substantial improvement or other improvements including the placement of manufactured homes within the identified flood plain unless the conditions of this section are satisfied.
- b. All areas identified as unnumbered A Zones by the Federal Insurance Administration are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this Code. If Flood Insurance Study Data is not available, the community shall utilize any base flood elevation data currently available within its area of jurisdiction. Further, in cases of proposed development within unnumbered "A" zones, the developer's engineer shall be required to conduct the necessary studies to determine the 100 year flood elevation and its extent in relation to such development.
- c. New construction, subdivision proposals, substantial improvement, prefabricated buildings, placement of manufactured homes and other development shall require:
 1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effect of buoyancy.
 2. New or replacement water supply systems and/or sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
 3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 4. All utility and sanitary facilities be elevated or floodproofed one foot above the regulatory flood elevation. Such floodproofing is permitted only for non-residential properties.

5. That until a floodway has been designated, no development including landfill, may be permitted within the identified flood plain unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1') foot on the average cross-section of the reach in which the development or landfill is located as shown in the official flood plain study incorporated by reference herein.

6. Storage of Materials and Equipment

a) The storage of processing of materials that are in time of flooding buoyancy, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

b) Storage of other materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

7. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:

a) All such proposals are consistent with the need to minimize flood damage.

b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage.

c) Adequate drainage is provided so as to reduce exposure to flood hazards.

d) Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, include within such proposals the regulatory flood elevation.

41.53 FLOODPLAIN OVERLAY DISTRICT: REGULATIONS.

a. Permitted Uses. Any use permitted in the underlying base district shall be permitted in the Floodplain Overlay District. No use shall be permitted in the district unless the standards of this Section are met.

b. Standards for the Floodplain Overlay District

1. Any new construction or substantial improvements of residential structures shall have the lowest floor, including basement elevated one foot above the base flood elevation.

2. Any new construction or substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator. Such floodproofing is permitted only for non-residential properties.

3. All new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designated to automatically equalize hydro-static flood forces or exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by the registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Within AH zones, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

5. Manufactured Homes

a) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

(i) Over -the-top ties shall be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.

(ii) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.

(iii) All components of the anchoring system shall be capable of carrying a force of 4800 lbs.

(iv) Any additions to manufactured homes shall be similarly anchored.

b) All manufactured homes to be placed within Zones AL-30, AH and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of the Uniform Building Code.

c. AO Zones: Special Regulations. Located within the areas of special flood hazard are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. Therefore, the following provisions apply with AO Zones:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM.

2. All new construction and substantial improvements of nonresidential structures shall:

a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM; or

b) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. Such certification shall be provided to the Zoning Administrator.

c) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

41.54 FLOODWAY OVERLAY DISTRICTS

- a. Permitted Uses. Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other code, ordinance or regulation and provided that they do not require structures, fill or storage of materials or equipment. No use shall increase the flood levels of the base flood elevation. These uses are subject to the standards of Sections 41.51 and 41.52.
1. Agricultural uses such as general farming, pasture, nurseries, forestry.
 2. Accessory residential uses such as lawns, gardens, parking and play areas.
 3. Nonresidential areas such as loading areas, parking, and airport landing strips.
 4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves. New placement of residential structures including manufactured homes is prohibited within the identified floodway (FW) area.
 5. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or Local sources in meeting the standards of this section.

41.55 REQUEST FOR VARIANCES FROM DISTRICT REQUIREMENTS

- a. The Board of Adjustment, as established by the City of Windsor Heights, shall hear and decide appeals and requests for variances from the requirements of this Zoning Code.
- b. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this Zoning Code.
- c. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in the Iowa Code.
- d. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Zoning Code, and:
1. The danger that materials may be swept onto other lands to the injury of others.
 2. The danger of life and property due to flooding or erosion damage.
 3. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

4. The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a waterfront location, where applicable.
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area.
9. The safety of access to the property in time of flood for ordinary and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effect of wave action, if applicable, expected at the site.
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

e. Conditions for Variance

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level providing items 2. through 6. below have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

41.56 ZONING REGULATIONS FOR NONCONFORMING USES

a. Continuance of Nonconforming Uses. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Zoning Code but which is not in conformity with the provisions of this Code may be continued subject to the following conditions:

1. No such use or substantial improvement of that use shall be expended, changed, enlarged, or altered in a way which increases its nonconformity.

2. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Zoning Code. The utility provider shall notify the Building Inspector in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve (12) months.

3. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue a nonconforming uses.

b. Replacement of Residential Uses. If any residential nonconforming use of structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred within those areas identified as floodway (FW). This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

c. Replacement of Non-Residential Uses. If any non-residential nonconforming use of structure is destroyed by any means, including flood, it should not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Zoning Code. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

41.57 DEFINITIONS. Unless specifically defined below, words or phrases used in this Zoning Code shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Zoning Code its most reasonable application.

1. Actuarial Rates (or "risk premium rates"). Those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.

2. Appeal. A request for a review of the Building Official's interpretation of any provision of this Zoning Code or a request for a variance.

3. Area of Shallow Flooding. A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

4. Area of Special Flood Hazard. The land in the flood plain within a community subject to one percent or greater chance of flooding in any given year.

5. Base Flood Elevation. Elevation indicated in the official flood plain study as the elevation of the 100-year flood.

6. Base Flood Protection Elevation. An elevation one foot higher than the water surface elevation of the base flood.

7. Channel. A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of a defined channel.

8. Community. Any state or area or political subdivision thereof which has authority to adopt and enforce flood plain management regulations for the area within its jurisdiction.

9. Development. Any man-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.

10. Existing Construction (For the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing Construction" may also be referred to as □existing structures".

11. 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 of runoff of surface waters from any source.

12. Flood Insurance Rate Map (FIRM). An official map of the City, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the City.

13. Flood Insurance Study. The official report provided by the Federal Emergency.

14. Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

15. Flood Plain Management. The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to, emergency preparedness plan, flood control works, and flood plain management regulations.

16. Flood Protection System. Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard". Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound engineering standards.

17. Floodproofing. Any combination of structural and non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy.

18. Floodplain (FP). That area of the flood plain, outside of the floodway, that on an average is likely to be flooded once every 100 years (i.e. that has a one percent chance of flood occurrence in any one year.)

19. Floodway (FW). The channel of a river or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the flood plain.

20. Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the heights calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

21. Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

22. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

23. Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

24. Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

25. New Construction. Structures for which the "start of construction or substantial improvement" is commenced on or after the effective date of the FIRM.

26. 100-Year Flood. The base flood having a one percent chance of annual occurrence.

27. Overlay District. A district which acts in conjunction with the underlying zoning district or districts.

28. Start of Construction. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L97-348) includes substantial improvement, and means the date the building permit was issued, providing the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of street and/or walkways, nor does it include excavation for a basement, footings, or foundations or the erection of temporary forms, nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

29. Structure. A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

30. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

31. Variance. A grant of relief to a person from the requirements of this Zoning Code which permits construction in a manner otherwise prohibited by this Zoning Code where specific enforcement would result in unnecessary hardship.

SUBCHAPTER 6**SUPPLEMENTAL USE REGULATIONS**

41.58 PURPOSE. The Supplemental Use Regulations set forth additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Subchapter 4 of this Zoning Code.

41.59 SUPPLEMENTAL USE REGULATIONS: AGRICULTURAL USES. Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

41.60 SUPPLEMENTAL USE REGULATIONS: RESIDENTIAL USES

- a. Zero-Lot Line Single-Family Detached Residential. Within a common development, one interior side yard may be equal to zero for single-family detached residential use, subject to the following additional regulations:
1. The side yard opposite to the zero yard must equal at least twice the normal required side yard.
 2. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development; or not otherwise designated for zero lot line use.
 3. An easement for maintenance of the zero lot line facade is filed with the Polk County Register of Deeds and the City Clerk at the time of application for a building permit.
- b. Single-Family Attached. When permitted, the minimum side yard opposite the common wall shall be equal to twice the normal required side yard.
- c. Townhouse Residential. Where permitted, townhouse residential is subject to the following regulations:
1. The site area per unit must be 3,000 square feet in all districts where permitted.

2. The minimum width for any townhouse lot sold individually shall be 25 feet, except within an approved creative subdivision.

3. Coverage percentages are computed for the site of the entire townhouse common development.

d. Two-Family Residential.

1. The second dwelling unit shall be located to the rear of the site and shall be separated from the front dwelling unit by a minimum of 25 feet.

2. The second dwelling unit shall be served by a driveway at least ten feet in width, leading from a public street adjacent to the lot.

e. Downtown and Group Residential in TC District. Downtown and Group Residential uses are permitted in the TC District only on levels above street level. A unit or units specifically designed for occupancy by disabled residents may be developed at street level, subject to approval by the Board of Adjustment.

f. Mobile Home Parks in the MH District. Mobile Home Parks are permitted in the MH District as Conditional Uses, subject to approval by the Board of Adjustment. In the MH Mobile Home Residential District, which permits mobile home residential use, such use may be configured in a Mobile Home Park or Mobile Home Subdivision. Following the effective date of this Zoning Code, no mobile home shall be located outside of a Mobile Home Park or Mobile Home Subdivision. A Mobile Home Park is subject to approval of a Special Use Permit and compliance with the following regulations:

1. **Certification.** A certification of compliance with all ordinances and regulations regarding mobile home licensing, zoning, health, plumbing, electrical, building, fire protection and any other applicable requirements shall be required of all Mobile Home Parks.

2. **Minimum and Maximum Area.** A Mobile Home Park shall be considered to be one zoned lot. The minimum contiguous area of a Mobile Home Park shall be 100,000 square feet.

3. **Density Requirements.**

(a) The maximum gross density of a Mobile Home Park shall be 10 units per acre.

(b) The minimum size of an individual mobile home space shall be 3,500 square feet for single-wide mobile home units and 5,000 square feet for double-wide mobile home units.

(c) Each mobile home space shall have a width of at least 40 feet wide and a length of at least 75 feet.

4. Site Development Standards

(a) Setbacks: Each Mobile Home Park shall have a minimum perimeter setback of 35 feet from adjacent non-residential uses and 50 feet from adjacent residential uses. No space for a dwelling unit or any other structure shall be permitted in the required setback.

(b) Setback landscaping: All area contained within the required setbacks except sidewalks and private drives shall be landscaped and screened in conformance with Subchapter 8 of this Zoning Code. Screening shall be provided in conformance with Subchapter 8 for any common property line with another non-residential use.

(c) Impervious Coverage: Impervious coverage for a Mobile Home Park shall not exceed 50 percent of the total site area.

(d) Open Space: Each Mobile Home Park shall provide a minimum of 400 square feet of open recreational space per unit. Such space shall be provided at a central location accessible from all parts of the park by pedestrians. Required perimeter setbacks or buffers shall not be credited toward the fulfillment of this requirement.

(e) Separation Between Mobile Home Units: The minimum separation between a mobile home unit and attached accessory structure and any other mobile home units and/or accessory structure shall be 20 feet.

(f) Separation and Setbacks for Accessory Buildings: An accessory building on a mobile home space maintain a minimum rear and side yard setback of five feet. A minimum distance of ten feet shall be provided between any mobile home and an unattached accessory building.

4. Street Access and Circulation Requirements

(a) Access to Public Street: Each Mobile Home Park must abut and have access to a dedicated public street with a right-of-way of at least 60 feet. Direct access to a mobile home space from a public street is prohibited.

(b) Vehicular Circulation: The Mobile Home Park must provide interior vehicular circulation on a private internal street system. Minimum interior street width shall be 27 feet. The street system shall be continuous and connected with other internal and public streets; or shall have a cul-de-sac with a minimum diameter of 90 feet. No such cul-de-sacs may exceed 300 feet in length.

(c) Separation between Units and Circulation Areas: The minimum distance between a mobile home unit and any attached accessory structure and the pavement of an internal street or parking area shall be ten feet.

(d) Sidewalks: Each Mobile Home Park shall provide a sidewalk system to connect each mobile home space to common buildings or community facilities constructed for the use of its residents; and to the fronting public right of way. Sidewalk width shall be at least four feet.

(e) Street and Sidewalk Standards: All internal streets and sidewalks shall be hard-surfaced. Electric street lighting is required along all internal streets.

(f) Parking Requirements: Each Mobile Home Park must provide at least two off-street parking stalls for each mobile home space.

5. Tornado Shelters: Underground or other approved tornado shelters shall be provided in the Mobile Home Park. Such shelter or shelters shall be built according to the recommendations of the Civil Defense authority and be large enough to meet the specific needs of the park and its residents.

6. Utilities

a) All Mobile Home Parks shall provide individual units and common facilities with an adequate, piped supply of hot and cold water for both drinking and domestic purposes; and standard electrical service, providing at least one 120-volt and one 240-volt electrical service outlet to each mobile home space.

(b) Complete sanitary and sewer service shall be provided within each Mobile Home Park in accordance with the City's Code of Ordinances.

(c) Properly spaced and operating fire hydrants shall be provided for proper fire protection within each Mobile Home Park in accordance with the City's Code of Ordinances.

(d) All electric, telephone, gas, and other utility lines shall be installed underground.

7. Financial Responsibility: Each application for a Mobile Home Park shall include a demonstration by the developer of financial capability to complete the project; and a construction schedule.

8. Completion Schedule: Construction must be begin on any approved Mobile Home Park within one year of the date of approval by the Planning and Zoning Commission. Such construction shall be completed within two years of approval, unless otherwise extended by the Planning Commission.

9. All other uses and provisions of the Windsor Heights Mobile Home Park regulations are incorporated herein by reference. These provisions include tie-down and other structural requirements included in the Windsor Heights Municipal Codes.

g. Mobile Home Subdivisions in the MH District

1. Mobile Home Subdivisions shall be developed in accordance with all standards and requirements set forth in the Subdivision Chapter of the Land Development Ordinance of Windsor Heights. Site development regulations shall be the same as those required in the R-2 Zoning District. Each mobile home shall be considered a single-family detached residential unit for the purpose of determining applicable development regulations.

2. Mobile home units within Mobile Home Subdivisions shall be built in accordance with the minimum design standards of the US Department of Housing and Urban Development and display a certification of such compliance.

3. Mobile Home Subdivisions shall provide tornado shelter facilities as required by Section 41.60(f)(5).

41.61 SUPPLEMENTAL USE REGULATIONS: CIVIC USES

a. Clubs. Clubs located adjacent to residential uses shall maintain a bufferyard of not less than fifteen feet along the common boundary with such residential use.

b. Day Care. Day care facilities are permitted as a Conditional Use in the LI Limited Industrial Zoning District only if incidental to a permitted primary use.

- c. Elder Family and Elder Group Homes. New Elder Family and Elder Group Homes shall not be located within a one mile radius of another Family Home, Elderly Family Home, or Elder Group Home.

d. Group Care Facilities and Group Homes

1. Each Group Care Facility or Group Home must be validly licensed by either the State of Iowa or the appropriate governmental subdivision.
2. Group Homes are permitted in the TC District only on levels above street level except that a facility specifically designed for occupancy by disabled residents may be developed at street level, subject to approval as a Conditional Use by the Board of Adjustment.
3. No Group Care Facility or Group Home shall be established within 300 feet of a previously existing and currently operating Group Care Facility, Family Home or Group Home.

41.62 SUPPLEMENTAL USE REGULATIONS: COMMERCIAL USES.

a. Auto Service, Repair, Equipment Repair, and Body Repair

1. Where permitted in commercial districts, all repair activities, including oil drainage, lifts, and other equipment, must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-ways. Screening is subject to provisions of Subchapter 8 of this Zoning Code.
2. Any spray painting must take place within structures designed for that purpose and approved by the Building Official.
3. All entrances and exits serving gasoline service station, convenience store offering gasoline sales, or automobile repair shop shall be at least 150 feet from a school, public park, religious assembly use, hospital, or residential use, as measured along any public street. Such access shall be at least 50 feet away from any intersection.
4. All gasoline pumps shall be set back at least 15 feet from any right-of-way line.

b. Auto Washing Facilities

1. Each conveyor operated auto washing facility shall provide 100 feet of stacking capacity per washing lane on the approach side of the washing structure and stacking space for two vehicles on the exit side.

2. Each self-service auto washing facility shall provide stacking space for three automobiles per bay on the approach side and one space per bay on the exit side of the building.

c. Automobile and Equipment Rental and Sales

1. All outdoor display areas for rental and sales facilities shall be hard-surfaced.

2. Body repair services are permitted as an accessory use to automobile rental and sales facilities, provided that such repair services shall not exceed 25% of the gross floor area of the building.

d. Bed and Breakfasts. Bed and Breakfasts permitted in the TC District must provide any sleeping facility only on levels above street level except that units specifically designed and reserved for occupancy by handicapped people may be located on the street level.

e. Campgrounds

1. Minimum Size: Each campground established after the effective date of this title shall have a minimum size of one acre.

2. Setbacks: All campgrounds shall maintain a 50-foot front yard setback and a 25-foot bufferyard from all other property lines.

3. Each campground must maintain water supply, sewage disposal, and water and toilet facilities in compliance with all City ordinances; or, alternately, be limited to use by self-contained campers, providing their own on-board water and disposal systems.

f. Convenience Storage. When permitted in the GC and LI Districts, convenience storage facilities shall be subject to the following additional requirements:

1. The minimum size of a convenience storage facility shall be two acres.

2. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.

3. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.

4. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.

5. No storage buildings may open into required front yards.

6. Facilities must maintain landscaped bufferyards of 35 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are required by Subchapter 8.
- g. Restaurants. Restaurants in the LC District that include the accessory sale of alcoholic beverages require approval of a Conditional Use Permit, as set forth in Section 41.112.
- h. Restricted Businesses. Restricted businesses shall not be permitted within the zoning jurisdiction of the City of Windsor Heights.

41.63 PERFORMANCE STANDARDS FOR INDUSTRIAL USES.

- a. Industrial Uses in the LI District: Performance Standards. The following performance standards apply to all industrial uses permitted within an LI Limited Industrial zoning district:
 1. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored outside. Normal daily inorganic wastes may be stored outside in containers, provided that such containers are not visible from the street.
 2. Fire Hazard: No operation shall involve the use of highly flammable gases, acid, liquids, or other inherent fire hazards. This prohibition shall not apply to the normal use of heating or motor fuels and welding gases when handled in accordance with the regulations of Polk County and the City of Windsor Heights.
 3. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts: No operation in the LI district shall generate sound levels in excess of those specified in Table 6-1 at the boundary of a residential district. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.
 4. Sewage and Wastes: No operation shall discharge into a sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.
 5. Air Contaminants: No material may be discharged into the air from any source in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of people or to the public in general; or to endanger the health, comfort, or safety of any considerable number of people or to the public in general; or to damage other businesses, vegetation, or property.

6. Odor: The emission of odors determined by the Planning and Zoning Commission to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.
7. Gases: No release of noxious or poisonous gases shall be permitted except as provided in this section. Measurements of sulfur dioxide, hydrogen sulfide, or carbon monoxide shall not exceed 5 parts per million taken at the property line of the operation.
8. Vibration: All machines shall be mounted to minimize vibration. No measurable vibration shall occur at the property line of the operation which exceeds a displacement of 0.003 inch.
9. Glare and Heat: All glare generated by a use shall be shielded or directed so as not to be visible at the property line of the operation. No heat may be generated from an operation that raises the air temperature at the property line of the operation by more than five degrees Fahrenheit above the ambient air temperature.
10. Storage of Chemical Products: If allowed by Special User Permit, any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on one lot less than one acre. Such storage shall not exceed 25,000 gallons in any one tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall be located at least 50 feet from any structure intended for human habitation and at least 200 feet from any Residential, Office, or Commercial zoning district.

41.64 MAXIMUM PERMITTED SOUND LEVELS ADJACENT TO RESIDENTIAL ZONING DISTRICTS. Table 6-1 displays the maximum permitted sound levels that may be generated by uses in the CC, GC, UC, TC, or LI zoning districts where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting ANSI specifications for a Type II or better general purpose sound level meter. The A-weighted response shall be used.

TABLE 6-1 MAXIMUM PERMITTED SOUND LEVELS AT RESIDENTIAL BOUNDARIES		
<u>Originating Zoning District</u>	<u>Time</u>	<u>Maximum One Hour Leq* (dbA)</u>
CC, GC, UC, TC	7:00 a.m. - 10:00 p.m.	60
	10:00 p.m. - 7:00 a.m.	55
LI	7:00 a.m. - 10:00 p.m.	65
	10:00 p.m. - 7:00 a.m.	55
* Leq is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. It is the average sound level and accurately portrays the sound the human ear actually hears.		

41.65 SUPPLEMENTAL USE REGULATIONS: ACCESSORY USES.

a. Home-Based Businesses/ Home Occupations. Each home-based business shall register with the City of Windsor Heights, on a form established by the Zoning Administrator. Home-based businesses and home occupations are permitted as an accessory use in residential units subject to the following conditions:

1. External Effects:
 - (a) There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.
 - (b) No noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.

(c) The home occupation shall be carried on entirely within the principal residential structure and/or within a detached accessory building approved by the Board of Adjustment in accordance with these zoning regulations. All "External Effects" criteria in items a. 1. (a), (b), (d), (e) and (f) of this subsection are applicable for the detached accessory building. Signage is not allowed upon the detached accessory building.

(d) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.

(e) No outdoor storage of materials or equipment used in the home occupation shall be permitted, other than motor vehicles used by the owner to conduct the occupation. Parking or storage of heavy commercial vehicles to conduct the home occupation is prohibited.

(f) No home occupation shall discharge into any sewer, drainageway, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.

2. Employees: The home occupation shall employ no more than one full time or part time employee on site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.

3. Extent of Use: For all residential zoning districts, a maximum of 30% of the floor area of the dwelling may be devoted or used for a home based business/home occupation, inclusive of any attached garage or detached accessory buildings used for the home occupation.

4. Signage: Signage designating the home occupation shall be consistent with regulations for zoning districts set forth in Subchapter 10.

5. Traffic Generation

(a) Home-based businesses may generate no more than the greater of 10 vehicle trips per day.

(b) Deliveries or service by commercial vehicles or trucks over ten tons gross empty weight is prohibited for any home-based business located on a local street.

6. Prohibited Home-Based Businesses/Home Occupations

(a) Beauty and Barber Shops: Barber and beauty shops are allowed only as a Conditional Use as home occupations in the AG, R-2, R-3, and R-4 zoning districts.

(b) Welding, vehicle body repair, or rebuilding or dismantling of vehicles are not permitted as home-based businesses.

b. Permitted Accessory Uses: Residential Uses. Residential uses may include the following accessory uses, activities, and structures on the same lot.

1. Private garages and parking for the residential use.
2. Recreational activities and uses by residents.
3. Home occupations, subject to Section 41.65(a) of these regulations.
4. Residential convenience services or common facilities for multi-family uses or mobile home parks.
5. Garage sales, provided that the frequency of such sales at any one location shall not exceed one sale with a maximum duration of two days during a continuous, two month period; or four sales with a maximum duration of two days each during any twelve month period.
6. Caretaker's residences.

c. Permitted Accessory Uses: Civic Use Types. Guidance Services and Health Care use types are permitted in the GI General Industrial zoning districts only as accessory uses to a primary industrial use, subject to approval by the Board of Adjustment.

d. Permitted Accessory Uses: Other Use Types. Other use types may include the following accessory uses, activities, and structures on the same lot:

1. Parking for the principal use.
2. Manufacturing or fabrication of products made for sale in a principal commercial use, provided such manufacturing is totally contained within the structure housing the principal use.
3. Services operated for the sole benefit of employees of the principal use.

e. Permitted Accessory Uses: Agricultural Use Types

1. Garden centers and roadside stands, subject to the regulations set forth in Section 602(a).
2. Other uses and activities necessarily and customarily associated with the purpose and functions of agricultural uses.

41.66 SUPPLEMENTAL USE REGULATIONS: OUTDOOR STORAGE. Outdoor storage is prohibited in all zoning district except the LI Limited Industrial zoning district, except as provided in this section.

a. Agricultural Use Types.

Outdoor storage is permitted only where incidental to agricultural uses.

b. Civic Use Types

Outdoor storage is permitted only where incidental to Maintenance Facilities.

c. Commercial Use Types

1. Outdoor storage is permitted where incidental to Agricultural Sales and Service; Auto Rentals and Sales; Construction Sales; Equipment Sales and Service; Stables and Kennels; and Surplus Sales.
2. Outdoor storage is permitted where incidental to Auto Services, Equipment Repair, and Body Repair, provided that such storage is completely screened at property lines by an opaque barrier, as set forth in Section 41.78. This provision shall apply to any Auto Services, Equipment Repair, or Body Repair use established after the effective date of this Zoning Code.

d. Industrial and Miscellaneous Use Types

1. Light Industry within the GC General Commercial zoning district may not include outdoor storage.
2. Outdoor storage is permitted where it is incidental to Light Industry in the LI District. Any such outdoor storage is subject to screening requirements set forth in Subchapter 8.
3. Outdoor storage is permitted where incidental to landfills.

41.67 SUPPLEMENTAL USE REGULATIONS: TEMPORARY USES.A. PURPOSE AND INTENT:

These regulations are intended to prescribe the conditions under which limited duration agricultural, commercial and civic activities (e.g., Christmas tree sales, pumpkin sales, landscape material sales, grand openings, and special events, etc.) may be conducted.

The intent is to allow the display and marketing of merchandise on a seasonal basis in an attractive manner to serve the desires of the general public, but prevent the creation of any nuisance or annoyance to the occupants of adjacent buildings, premises or property, and the general public. It is also the intent to establish minimum standards for the operation of temporary uses in a manner that will provide for the health, safety, and welfare of the patrons, employees, the general public, etc., that may utilize or be affected by the establishment of the temporary use.

B. USES PERMITTED WITH A TEMPORARY USE PERMIT:

1. The following uses are eligible for a temporary use permit, provided they meet the following criteria:
 - a. Retail sales of Christmas trees.
 - b. Retail sales of pumpkins.
 - c. Parking lot sales, sidewalk sales (private sidewalks only), clearance sales or other temporary uses which, in the opinion of the zoning administrator, are similar to the uses listed in this section. (Please note: for purposes of this section, the term "sidewalks" does not apply to outside areas adjacent to sidewalks that were specifically built for outside sales.)
 - d. Grand openings and special events.
 - e. Group assembly activities not sponsored by the City (e.g., carnivals, fairs, rodeos, sport events, concerts, shows).
 - f. Real estate sales offices and model homes.
 - g. Stands for the sale of agricultural products.
 - h. Retail sales of landscape nursery material, such as materials listed in Section C.1. of this ordinance.
 - i. Temporary food and beverage uses.

- j. Other temporary uses which, in the opinion of the zoning code administrator, are similar to the uses listed in this section.
2. Garage sales are exempt from these provisions, provided they do not occur any more frequently than one 3-day event per one hundred eighty (180) day period. Garage sales occurring more frequently shall be considered a commercial retail sales business in a residential zone which is prohibited.
3. A "temporary use" may be defined as short term or long term. A "short term" use shall be defined as those uses with a maximum duration of four (4) consecutive days or less. A "long term" use shall be defined as those uses with a duration of more than four (4) consecutive days.

C. PRIOR DETERMINATION FOR TEMPORARY USE PERMIT APPROVAL:

The zoning code administrator shall only approve an application for a temporary use permit if all of the following findings can be made:

1. The proposed temporary use will be compatible with adjacent uses and will not adversely affect the surrounding neighborhood by means of odor, noise, dust or other nuisance.
2. The additional parking required by the temporary use will be provided on site, if applicable, or adequate street parking is available in the immediate area.
3. Increased traffic caused by the temporary use will not adversely affect the surrounding neighborhood or city at large.
4. The proposed temporary use is consistent with all comprehensive plan, municipal code and city and state regulations.
5. Unless specifically exempted by the Zoning Administrator, the temporary use must involve sales compatible with merchandise sold within the main business structure.

D. GENERAL REGULATIONS:

Each temporary use shall:

1. Be described in a permit thereby issued by the zoning code administrator prior to commencement of the sale. This permit shall be in addition to all other licenses, permits or approvals otherwise required by any governmental entity.
2. Parking Spaces:
 - a. The number of additional parking spaces required, if any, and the location of such additional parking spaces, for the temporary activity shall be determined by the zoning code administrator. The number of permanent parking spaces

allowed to be used under the short term temporary use permit shall be reviewed and determined by the zoning code administrator.

- b. The maximum number of permanent parking spaces allowed to be used for the operation of a long term temporary use shall not exceed twenty percent (20%) of the parking on a site plan that was approved by the city to be counted toward the allowable size of the garden center or twenty percent (20%) of the site area, whichever is more restrictive.
3. All unimproved parking areas and main walk areas shall be kept damp or shall be covered with a material to prevent raising of dust.
4. All sites shall be completely cleaned of debris and temporary structures including, but not limited to: trash receptacles, signs, stands, poles, electric wiring or any other fixtures and appurtenances or equipment connected therewith, within five (5) days after the termination of the sale or special event.
5. A bond or cash deposit in the amount of five hundred dollars (\$500.00) shall be deposited with the city to assure adequate cleanup of activities that occur on vacant or undeveloped lots, and/or involving the construction or placement of temporary structures. The bond for long term temporary food and beverage uses shall be in the amount of seven hundred fifty dollars (\$750.00). Activities located in fully developed shopping centers will be exempt from bonding, with the exception of uses that involve construction or placement of a temporary structure, and any long term temporary food and beverage facilities shall be required to post a bond or cash deposit.
6. Sanitary facilities, either portable or permanent, shall be made available to all employees, attendants and participants of the activity during its operational hours, as approved by the zoning code administrator in concurrence with the city engineer and county health department, unless stipulated otherwise in this chapter. If the restroom facilities are located within an adjacent building, the written authorization of the owner of the adjacent building shall be required specifically stating that the restroom facilities will be made available to the employees, attendants and participants at all times during the hours of operation of the temporary use activity.
7. No area of public right of way may be used without obtaining approval from the zoning code administrator, chief of police, fire chief, director of public works and permission to encroach from the City/Zoning Administrator.
8. Proof of ownership, or a signed letter from either the property owner or their authorized representative, for the property on which the activity is to take place shall be presented at the time the temporary permit is requested.

9. All temporary structures including, but not limited to, greenhouses, trailers, mobile homes, etc., shall conform to the zoning setback requirements unless stated otherwise in this chapter. Temporary structures are also subject to permit requirements as set forth in Chapter 42 of the Windsor Heights Municipal Code.
10. Multiple concurrent temporary uses on the same property shall be prohibited.

E. SPECIFIC REQUIREMENTS:

1. Retail Sales Of Christmas Trees:
 - a. Permitted Zone Locations: All commercial districts.
 - b. Maximum Duration: Forty (40) calendar days prior to December 25.
2. Retail Sales Of Pumpkins:
 - a. Permitted Zone Locations: All commercial districts.
 - b. Maximum Duration: October 1 through November 1.
3. Lot And Sidewalk Commercial Activities:
 - a. Permitted Zone Locations: All commercial districts.
 - b. Maximum Duration: Four (4) consecutive days, not to exceed four (4) events in a twelve (12) month period.
 - c. Setbacks: All merchandise, trucks, trailers, etc., shall be set back a minimum of thirty five feet (35') from all property lines.
 - d. Area Of Operation: The area of the operation shall not exceed eight hundred (800) square feet and no dimension shall exceed forty (40) linear feet.
 - e. Transient Merchants: Transient merchants shall be subject to the licensing requirements of section 46 of this code. Said license shall be secured prior to issuance of a temporary use permit.
4. Grand Openings And Special Events:
 - a. Permitted Zone Locations: All zoning districts.
 - b. Maximum Duration: Four (4) consecutive days, not to exceed four (4) events in a twelve (12) month period.
 - c. Other: All such events shall be conducted by a business located on the property.
5. Group Assembly Activities:

- a. Permitted Zone Locations: Any zoning district.
 - b. Maximum Duration: Fourteen (14) consecutive days, not to exceed four (4) events in a twelve (12) month period.
 - c. Exception: Upon approval of the zoning code administrator, the number of events in the Town Center district may exceed four (4) in a twelve (12) month period.
 - d. Hours Of Operation: Residential zones, seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M. except on Fridays and Saturdays to twelve o'clock (12:00) midnight with approval of the chief of police; all other zones as determined by the zoning code administrator.
6. Real Estate Sales Offices And Model Homes:
- a. Permitted Zone Locations: All residential zones.
 - b. Maximum Duration: Twenty four (24) months.
 - c. On Site Sales Office: On site temporary real estate sales office or temporary model home complex may be established only within the boundaries of a residential subdivision, as an accessory facility, for the limited purpose of conducting sales of lots within the same division.
 - d. Off Site Sales Office: Off site sales or offers to sell off site lots or dwelling units, from any temporary office or trailer complex established pursuant to this section shall not be permitted unless a special use permit is approved by the city.
 - e. Definition Of Off Site Sales Office: "Off site lots" shall mean those lots outside the boundaries of a residential subdivision which subdivision contains an approved real estate sales office or model home complex, and which lots are not adjacent to or contiguous with that subdivision.
 - f. Requirements: Any temporary real estate sales office or model home established or maintained pursuant to this section shall meet all of the following requirements:
 1. Receipt by the city of an agreement and a cash deposit or surety bond in a form approved by the zoning code administrator in an amount sufficient to guarantee to the city the removal of the sales office or model home complex, or the restoration of the premises in conformity with the approved development plan and with the applicable provisions of this code within sixty (60) days after the last residence or lot within the subdivision has been sold and escrow closed. If after sixty (60) days, no action has been taken to restore the site or premises, the city may take action to restore the site by utilizing the bond or monies deposited or other methods at its disposal.

2. Screening of parking areas by walls, fencing, landscaping or other methods shall be provided as approved by the zoning code administrator.
 - g. Conditions: A temporary real estate office or temporary model home complex may be constructed in advance of the filing of a final plat map, subject to the following requirements:
 1. The street plans for the entire plat shall be filed with the public works department.
 2. The director of public works shall have approved the engineering plans.
 3. Prior to the operation of such office or complex, all applicable requirements of the Iowa and city subdivision laws and real estate sales laws shall be fulfilled.
 - h. Maximum Duration: The temporary real estate sales office and temporary model home complex may be maintained until all of the on site lots in the subdivision have been sold and escrow closed.
7. Agricultural Produce Stands:
- a. Permitted Zone Locations: Any zoning district.
 - b. Termination: Stands and displays shall be removed when not used for a period of thirty (30) consecutive days.
8. Retail Sales Of Landscape Nursery Materials:
- a. Permitted Zone Locations: All commercial districts.
 - b. Maximum Duration:
 1. Spring sales: April 1 - July 15.
 2. Fall sales: September 1 - October 31.
 - c. Restrictions Of Merchandise And Products: This use is limited to the display of green goods, i.e., living plants, and associated garden products. Associated garden products may include:
 1. Bagged bulk materials such as topsoil, mulch, compost, peat, fertilizer, etc.
 2. Garden pavers, stone and prefabricated stepping stones.
 3. Bird baths or similar lawn ornaments as a minor portion of the products displayed.

4. Other products determined to be consistent with the intent of this subsection J with the approval of the zoning code administrator.
- d. Safety Standards: In order to promote the safety of the patrons of these facilities, the following shall be required:
1. Bulk material shall be neatly stacked no higher than forty eight inches (48") above the pavement.
 2. All sales areas shall be separated from vehicular uses by the placement of a fence, or barrier acceptable to the zoning administrator to prevent pedestrian and vehicular conflicts. If a barrier is of an open nature where patrons can reach through and obtain access to the merchandise, a four foot (4') walkway shall be located adjacent to the barrier to prevent patrons from standing outside the barrier in trafficways to shop.
 3. The door openings for any greenhouses, shade structures or similar enclosure shall have a minimum ten foot (10') setback from drive aisles where an opening in the barrier is provided aligned with the door of the structure.
 4. Where openings in the barriers occur for pedestrian access, sight visibility shall be maintained so that vehicles can clearly see pedestrians approaching the opening from a distance of no less than fifty feet (50').
 5. Temporary drive aisles shall be maintained at a minimum twenty four feet (24') width for two-way traffic and shall be delineated by the placement of traffic barriers, fencing, or some other physical marker that clearly informs drivers of the end of the parking area and the start of the drive aisle. A clear line of sight shall be maintained at the entrance and exit of the temporary drive aisles.
 6. Vehicle loading areas shall be located in an area that minimizes pedestrian and vehicle conflict and provides for the safe loading of merchandise and vehicle access to and from the traffic lanes to the loading area, preferably without backing movements.
- e. Application For Temporary Garden Center Permit: Application for a temporary garden center permit shall be made on the prescribed form(s) provided by the city. The application shall be accompanied by the prescribed number of copies of a project plan and such other detailed elevations, plans and other information as may be required to adequately evaluate the proposed use.

A plan of the layout of the proposed use shall be submitted to the city with the application on a base plan prepared in accordance with the site plan requirements of the city of Windsor Heights. The proposed layout of the garden center area may be drawn onto a copy of a previously approved site plan for the temporary use permit submittal. The layout plan shall identify the following:

1. The area on the site proposed to be utilized as part of the temporary garden center and associated sales areas.
 2. The areas dedicated to the display of green goods, i.e., flowers, trees, shrubs, etc., and the area of the site dedicated to bulk material storage.
 3. Proposed modifications to the traffic patterns and methods proposed to notify patrons and identify the temporary traffic pattern changes, i.e., signage, traffic cones, fencing and barriers, etc.
 4. Proposed vehicle loading zone.
 5. Proposed temporary barriers or corral with an architectural elevation, photo or sketch of the barriers' proposed construction.
 6. Location of electrical connection and water connection, if applicable.
- f. Waste Disposal: The applicant shall provide, as determined by the zoning code administrator, adequate facilities for disposal of trash, waste, pallets, dead plants, broken bags and empty plant transport and display racks.
- g. Restroom Facilities: Permanent restroom facilities shall be provided in an adjacent building at all times during the temporary use activity. No portable restroom facilities shall be allowed.
- h. Indemnification And Proof Of Insurance: The owner or operator of any long term temporary use shall provide evidence of comprehensive general liability coverage and contractual liability insurance by an insurance company licensed to do business in the state of Iowa in the limits of at least one million dollars (\$1,000,000.00) for each personal injury accident and/or death; one million dollars (\$1,000,000.00) for each aggregate personal injury and/or death; and one million dollars (\$1,000,000.00) for each property damage accident. The evidence shall name the city as a coinsured and shall state that it cannot be canceled or materially altered without giving the city at least thirty (30) days written notice by registered mail, return receipt requested.
- The owner or operator of a temporary garden center, or the property owner shall execute an agreement, acceptable to the city, which indemnifies and holds harmless the city from any and all liability, damages, claims, costs, expenses, interest, and reasonable attorney fees relating to the garden center and associated facilities on the property.
- i. Electrical Service: Any electrical service shall be provided as follows: a) overhead power connection with a minimum clearance above grade of fourteen feet (14'); b) installation of an underground conduit; or c) other method acceptable to the city. The use of an overhead connection shall only be allowed in those areas where

overhead electrical service currently exists in the area. Use of extension cords, cables or wires laying on the ground or otherwise connected to a power source is expressly prohibited for long term garden center uses. An electrical permit shall be obtained prior to any electrical installation or connection.

- j. Removal: At the expiration of the temporary use permit, any structures, barricades, shelving, pallets, leftover merchandise or other facilities associated with the temporary use shall be removed from the site in accordance with provisions stated in section D. "General Regulations", of this chapter.
9. Temporary Food And Beverage Facilities: Short term temporary food and beverage facilities shall comply with the regulations stated elsewhere in this chapter for lot and sidewalk commercial activities or grand openings and special events.

Long term temporary food and beverage facilities shall comply with the following standards:

- a. Permitted Zone Locations: All nonresidential zoning districts.
- b. Maximum Duration: May 1 through September 30 of a calendar year, inclusive.
- c. Maximum Square Footage Of Structure: One hundred sixty (160) square feet.
- d. Health Standards And Licensing: The applicant must obtain licensing, liquor permits, certificates of inspection, or any other documentation necessary to comply with all applicable requirements of the state, county or municipality regarding health standards and for seasonal liquor license, whenever applicable.
- e. Waste Disposal: The applicant shall provide, as determined by the zoning code administrator, adequate facilities for disposal of trash, waste, and grease.
- f. Water Service: The structure used for the dispensing of food and beverage shall provide self-contained hot and cold running water with appropriate holding facilities for wastewater.
- g. Wastewater Disposal: Any wastewater shall be collected and disposed in a manner acceptable to the city and shall be explained in the application for a permit.
- h. Restroom Facilities: Permanent restroom facilities shall be provided in an adjacent building at all times during the temporary use activity. No portable restroom facilities shall be allowed.
- i. Indemnification And Proof Of Insurance: The owner or operator of any long term temporary food and beverage facility shall provide evidence of comprehensive general liability coverage and contractual liability insurance by an insurance company licensed to do business in the state in the limits of at least one million

dollars (\$1,000,000.00) for each personal injury accident and/or death; one million dollars (\$1,000,000.00) for each aggregate personal injury and/or death; and one million dollars (\$1,000,000.00) for each property damage accident. The evidence shall name the city as a coinsured and shall state that it cannot be canceled or materially altered without giving the city at least thirty (30) days written notice by registered mail, return receipt requested.

The owner or operator of the long term temporary food and beverage facility, or the property owner shall execute an agreement, acceptable to the city, which indemnifies and holds harmless the city from any and all liability, damages, claims, costs, expenses, interest, and reasonable attorney fees relating to the long term temporary food and beverage facilities on their property.

- j. Electrical Service: Electrical service shall be provided as follows: a) overhead power connection with a minimum clearance above grade of fourteen feet (14'); b) installation of an underground conduit; or c) other method acceptable to the city. The use of an overhead connection shall only be allowed in those areas where overhead electrical service is existing. Use of an extension cord, cable or wire laying on the ground or otherwise connected to a power source is expressly prohibited for long term temporary food and beverage uses. An electrical permit shall be obtained prior to any electrical installation or connection.
- k. Screening Of Wheels And Axle: If a structure brought onto a site for dispensing food and beverages is a trailer, an apron or shroud, acceptable to the zoning code administrator, shall be placed around the base of the structure to screen the wheels and axle.
- l. Signage: No detached or freestanding signage shall be permitted. The maximum amount of allowed wall signage shall be based upon one foot (1') of sign for each foot of length on the longest side of the structure. All other provisions of the sign code shall apply.
- m. Removal: At the expiration of the annual temporary use permit, any structures, barricades, seating facilities, or other facilities associated with the temporary use shall be removed from the site in accordance with provisions stated in section D. of this chapter. No temporary food and beverage facilities shall be allowed to be stored on a site that is not zoned appropriately for storage and warehousing, screened in accordance with city code requirements, and/or having received prior city council approval through an entitlement process for storage and warehousing.

F. CONDITIONS OF APPROVAL:

The zoning code administrator may impose such conditions on a temporary use permit as is necessary to meet the purposes of this chapter and protect the public health, safety

and welfare and adjacent uses. Conditions which may be imposed may include, but are not limited to:

1. Yard setback and open space requirements.
2. Parking.
3. Fences, walls or other screening.
4. Signs.
5. Vehicular and pedestrian ingress and egress.
6. Property maintenance during the course of the activity.
7. Control of illumination, noise, odor, vibration or other nuisances.
8. Hours of operations.

G. APPLICATION AND PERMIT PROCESSING:

A temporary use permit shall be required for all temporary uses listed in this chapter. A temporary use permit must be issued prior to the commencement of any temporary use. The zoning code administrator may, from time to time, specify the form of the temporary use permit application. Applications for said temporary use permit shall be secured from the zoning code administrator in the manner prescribed by this chapter, who shall cause the application to be directed to all concerned city departments and divisions. Affected departments or divisions shall comment on the application. Temporary uses may be subject to additional permits or inspections as required by any applicable law or regulation.

H. USE OF TENTS AND CANOPIES:

Tents and canopies may be used for promotional and recreational functions, provided they comply with provisions in this municipal code, specifically provisions detailed in Chapter 28: Fire and Chapter 42: Temporary Structures.

I. FEES:

For uses other than long term temporary food and beverage uses, the application fee for a temporary use permit shall be twenty-five dollars (\$25.00). The application fee for a long term temporary food and beverage permit shall be two hundred fifty dollars (\$250.00) payable each year of operation.

J. VIOLATIONS AND PENALTIES:

The operation of a temporary use is a privilege allowed by this chapter. Failure to maintain a temporary use in compliance with the conditions of approval and the

regulations of this chapter shall constitute a nuisance and may be punished as set forth in section 31.02 of the Municipal Code.

A written notice of a violation of the temporary use permit shall be sent to the operator of the temporary use and the property owner, if different than the operator, and the operator shall have a maximum of five (5) days, as determined by the zoning code administrator, to bring the site into compliance. If the operator fails to correct the violation in the prescribed time, the city may revoke the temporary use permit and issue a cease and desist order for the temporary use. There shall also be a one year moratorium from that date on the issuance of any other temporary use permits on the property and a one year probationary period for the second year following the violation. During the probationary period, if the operator of a temporary use fails to maintain the premises and the use in conformance with the conditions of approval and this code, after the notification procedures noted above, the city may revoke the temporary use permit and no other temporary use permits shall be issued on the property for a period of two (2) years.

SUBCHAPTER 7**SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS**

41.68 PURPOSE. The Supplemental Site Development Regulations recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this title and provide for specific areas of exception.

41.69 SETBACK ADJUSTMENTS.

- a. **Lots Adjoining Alleys.** In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, one-half of the alley may be credited as a portion of the yard.
- b. **Exceptions to Openness of Required Yards.** Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.
 1. Architectural projections, including roofs which cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project three feet into a required yard.
 2. Terraces, patios, uncovered decks, and ornamental features which have no structural element more than two feet above or below the adjacent ground level may project ten feet into a required yard. However, all such projections must be set back at least three feet from an adjacent side lot line; or twenty feet from any street property line.
 3. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of 4.5 feet into a required rear or interior side yard, provided that they do not obstruct the light and ventilation of adjacent buildings.
 4. For buildings constructed upon a front property line, a cornice may project into public right-of-way. Maximum projection is the smaller of four feet or five percent of the right-of-way width.
 5. In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than fifteen percent of the area of the required front yard, and has a vertical clearance of at least eight feet six inches.

6. Accessory buildings are subject to all site development regulations of its zoning district, except as provided below:

(a) Side Yards: An accessory building may be located a minimum of three feet from the side lot line of the property if it is located between the rear building line of the principal building and the rear property line.

(b) Front Yards: No accessory building may be located between the front building line of the principal building and the front property line.

(c) Rear Yard: The minimum rear yard setback for accessory buildings shall be 5 feet. This minimum rear yard setback shall be increased to 15 feet if the accessory building requires vehicular access from an alley. Double-frontage lots shall require front-yard setbacks along both street frontages as set forth in Table 4-3. Easements may be incorporated into these required setbacks. No accessory building shall be located within any easement or right-of-way along the rear property line.

(d) Street Yards: No accessory building shall be located within a required front yard or street side yard.

(e) Maximum Size: With the exception of detached garages, no accessory building shall exceed 144 square feet, or 1.5% of the total lot area, whichever is larger, within a residential district. The maximum size of a detached garage for a single-family detached, single-family attached, or duplex residential uses shall not exceed 30% of the building coverage of the main residential structure. All buildings on a site, taken together, must comply with the building coverage requirements for the zoning district.

(f) Height: The maximum height for accessory buildings shall be:
12 feet in residential districts.
24 feet in commercial and industrial districts.

(g) Separation from Other Buildings: No accessory building shall be placed within ten feet of any other building on its own property or any adjacent properties unless it meets applicable separation requirements of the city's Fire Code.

(h) Attached Accessory Buildings: Any accessory building physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district.

(i) Effect on Adjacent Properties: If an adjacent lot is built upon, the accessory building must be entirely to the rear of the front building line of any principal building on such adjacent lot. No accessory building shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.

j) Hazards: Any accessory use which creates a potential fire hazard shall be located a minimum of ten feet from any residential structure. Such uses include but are not limited to detached fireplaces, barbecue ovens, or storage of flammable materials.

(k) No accessory building shall be built upon any lot until construction of the principal building has begun.

7. Lamp posts with a maximum height of ten (10) feet, and flag poles up to a maximum height of 25 feet may be located within required yards, provided they are set back at least five (5) feet from property lines.

c. Setback Adjustments

1. Setbacks on Built-Up Blockfaces

These provisions apply if forty percent or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.

(a) If a building is to be built on a parcel of land within 100 feet of existing buildings on both sides, the minimum front yard shall be the mean setbacks of the adjacent buildings.

(b) If a building is to be built on a parcel of land within 100 feet of an existing building on one side only, the minimum front yard shall be the setback of the adjacent building.

(c) If a building is to be built on a parcel of land not within 100 feet of an existing building on either side, then the minimum front yard shall be the mean setback of all existing buildings on the blockface.

(d) No setback adjustment pursuant to this section shall create a required front yard setback more than five feet greater than that otherwise required by the applicable zoning district.

2. Corner Lots. Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.
- d. Rear Yard Exceptions - Residential Uses. When an irregular lot is used for residential purposes, the rear yard may be measured as the average horizontal distance between the building and rear lot line, provided that the minimum setback shall not be less than sixty percent (60%) of the rear yard required by the zoning district.
- e. Double Frontage Lots. Residentially zoned double frontage lots on a major street, and with no access to that street may have a 25-foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.
- f. Satellite Antennas.
 1. Antennas with a surface area over 6.3 square feet which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.
 2. Such antennas shall be located no less than fifteen feet from the property line of an adjacent property within a residential zoning district.
- g. Vision Clearance Zones. No structure, including a fence, shall be built to a height of more than three feet above the established curb grade on the part of the lot bounded by the street lines of the streets which intersect and a line connecting a point on each of such lines forty feet from their point of intersection. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection.

41.70 HEIGHT EXCEPTIONS. These provisions allow exceptions to the height limit of any zoning district in certain situations.

- a. Vertical Projections. Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may be built to any height *in accordance with existing and future ordinances*. Such structures shall not extend into the approach zones, clear zones, or other restricted air space required for the protection of any public airport.

b. Amateur Radio Towers and Federal Communication Commission Pronouncements

1. Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.

2. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the City Council may grant a Special Use Permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the City Council shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985); codified at C.F.R. Section 97.15(e).

3. Such radio towers shall not be located within any front yard of the primary use.

c. Broadcast Towers. Broadcast towers, when operated by a federally-licensed commercial or non-profit organization, may be built *to any height in accordance with existing and future ordinances*, subject to approval of a Conditional Use Permit. This exception does not apply to radio towers, antennas and other appurtenances operated by licensed amateur radio operators.

d. Civic Buildings. Buildings housing civic use types may be built to a maximum height of 60 feet. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

e. Wind Energy Conservation Systems (WECS)

1. The distance from all lot lines or any building or power line to any tower support base of a WECS shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of a Special Permit approval if the Planning Commission finds that the reduction is consistent with public health, safety, and welfare.

2. The distance between the tower support bases of any two WECS shall be the minimum of five rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a Special Permit approval if the Planning Commission finds that the reduction does not impede the operation of either WECS.

3. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.

4. A fence six feet high with a locking gate shall be placed around any WECS tower base; or the tower climbing apparatus shall begin no lower than twelve feet above ground.
 5. The WECS is exempt from the height restrictions of the base district.
- f. Conditional Permit Uses. The Board of Adjustment may grant an exception from the height limit for a zoning district for a conditional use, as part of its approval of that use. The limit or extent of this exception shall be a specific part of the conditional use permit.
- g. Federal Aviation Administration Rules. No structure may be built in any zoning district which exceeds the maximum height permitted under the rules of the Federal Aviation Administration. These rules describe the glide angles and operational patterns for any airport within the planning jurisdiction of the City of Windsor Heights.

41.71 EXCEPTIONS TO SITE DEVELOPMENT REGULATIONS FOR CREATIVE SUBDIVISIONS.

- a. Purpose. In the instance that this Zoning Code provides for creative subdivisions, the City may authorize such subdivisions to allow for greater flexibility in the design and development of subdivisions, in order to produce innovative residential environments, to provide for more efficient use of land, to protect topographic and to encourage the preservation of common area and open space. These special regulations and design exceptions apply only to creative subdivisions.
- b. Site Area Per Unit
1. Unless otherwise provided, the site area per unit for a creative subdivision as a whole shall be that of the zoning district in which such subdivision is located. For the purpose of computing site area per unit, the area of public streets and private ways within the subdivision must be excluded. Residential use types may be combined within the creative subdivision provided that the subdivision as a whole complies with the required maximum density of the zoning district.
- c. Perimeter Yards
1. Structures must maintain normal street yard setbacks from any public streets that form the perimeter of the development.
 2. Structures must maintain a 20 foot minimum sideyard setback from any property line that forms the boundary of the development.

d. Area and Yards for Individual Lots

1. Individual lots within a creative subdivision are exempt from minimum lot area or yard setback requirements set forth elsewhere in this Zoning Code, unless provided for by the regulations for a specific zoning district. A creative subdivision must be planned and developed as a common development. A minimum separation of twenty (20) feet shall be established for all residential structures not attached to one another, unless the City Council grants a specific exception for developments proposing unique circumstances, only in as much as said development can be demonstrated to avoid detriment to Windsor Heights' efforts to protect public health, safety, welfare, community character, property values and aesthetics.

2. Any private garage oriented to or facing a public street or private way internal to the creative subdivision must be set back a minimum of 25 feet from that public street or private way.

e. Coverage and Landscaping Requirements. Individual lots in a creative subdivision are exempt from maximum building and impervious coverage limitations and street yard landscaping requirements established for the zoning district. However, the subdivision as a whole, including streets, walks, and access ways, must comply with the building and impervious coverage regulations for its zoning district.

41.72 FENCE REGULATIONS.

a. Location Restriction. Unless otherwise provided by this title or other sections of the Windsor Heights Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines.

b. Required Openings. Unless otherwise provided by this title or other sections of the Windsor Heights Municipal Code, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence.

c. Sight Obstruction. No solid fence permitted or required by this title or other sections of the Windsor Heights Municipal Code shall be built within a triangle formed by the adjacent side lines of two intersecting streets and a line connecting points 40 feet on each leg from their point of intersection; or otherwise in any manner create a traffic hazard or obstruction to visibility.

d. Facing. The finished surfaces of any fence shall face toward adjacent properties and street frontage.

e. Effect on Adjacent Properties. No fence shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.

f. Residential Fences. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.

1. Height: The maximum height of a fence within a required front yard or street side yard setback shall be four feet. The maximum height for any fence outside of a required front yard shall be six feet.
2. Exception for Street Side Yards: On corner lots, a fence built parallel to the street side yard line but set back in conformance with the required street yard setback may have a maximum height of six feet.
3. Exception to Openness Requirement: Fences built on residential property outside of required front or street side yards may exceed of 50 percent closed construction.
4. Exception for Front Yards of Double Frontage Lots: A fence built within the required front yard of a double frontage lot may be a maximum of six feet in height and may exceed 50 percent closed construction if such lot fronts an arterial street or expressway, as defined in the Comprehensive Development Plan of the City of Windsor Heights; and if such frontage does not provide primary access to the property.
5. Materials: Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted within Windsor Heights. No wire fences or livestock fences shall be permitted within any street yard.

f. Civic, Office, Commercial, and Industrial Fences. Fences constructed in commercial and industrial districts are subject to the following special provisions:

1. The maximum height of a fence for any permitted use in a commercial district shall be eight feet.
2. Civic Uses in Residential Districts: The maximum height of fences installed as part of Primary and Secondary Educational Facilities or Park and Recreation Use Types within Residential Zoning Districts shall be the same as those for residential uses.
3. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Windsor Heights.
4. Barbed wire or electrified fence above grade shall not be used in the construction of any fence within the corporate limits of Windsor Heights.

41.73 APPEALS. Denial, revocations, or cancellations of a building permit based on the provisions of this Section may be appealed to the Board of Adjustment, as set forth in Sections 41.119 through 41.121.

SUBCHAPTER 8**LANDSCAPING AND SCREENING STANDARDS**

41.74 PURPOSE. The Landscaping and Screening Regulations provide additional guidance on the development of sites within Windsor Heights by addressing landscaping and screening requirements. They are designed to improve the appearance of the community; buffer potentially incompatible land uses from one another; and conserve the value of properties within the City of Windsor Heights.

41.75 APPLICABILITY. The provisions of this section shall apply to all new development on each lot or site upon application for a building permit, except for the following:

- a. Reconstruction or replacement of a lawfully existing use or structure following a casualty loss.
- b. Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures, parking, or other site improvements.
- c. Additions or enlargements of existing uses or structures which increase floor area or impervious coverage area by less than 20 percent. Where such additions or enlargements are 20 percent or greater, these provisions shall apply only to that portion where the new development occurs.

41.76 LANDSCAPING PLAN REVIEW PROCEDURE.

- a. Administration and Enforcement. The Zoning Administrator shall administer and enforce this Zoning Code. The City Council may direct other persons to assist him/her.

If the Zoning Administrator, or his/her designee shall find that any of the provisions of this Zoning Code are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/ she shall take action authorized by this Zoning Code to ensure compliance with or to prevent violation of its provisions.

- b. Landscaping Plan Review Required. Landscaping Plan Review is required for all developments requesting actions regarding rezonings, building and grading permits, and minor and major subdivisions. The review will be performed by the Zoning Administrator, or his/her designee.

Landscaping plan review is initiated at the time of application for a plat or permit. Compliance with these landscape requirements must be complete prior to issuance of a certificate of Zoning Compliance or Certificate of Occupancy for the structure. No building or grading permit shall be issued by the Zoning Administrator, or his/her designee, except in conformity with the provisions of this Zoning Code, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this Zoning Code.

c. Submittal for Landscaping Plan Approval. Submittal shall include the following information:

1. Common and scientific names for all proposed plant material;
2. Quantity, height/caliper/gallon size (as applicable) of all proposed plant material;
3. Location of all proposed plant materials;
4. Number of ground cover plants per square foot to be planted, and/or pounds of seed per 1000 square feet and species/characteristics of grass in all areas to be seeded.
5. Location, size and species of all existing plant material to remain. This includes a diagram and/or tree survey noting the location, size and species of existing trees and shrubs;
6. Location of retaining walls, fences, utility easements, existing and proposed structures and parking areas;
7. Plant installation details;
8. Drainage areas;
9. North arrow and scale of drawing.

41.77 LANDSCAPING REQUIREMENTS. Landscaping shall be required adjacent to each street property line and within street yards as set forth in Table 8-1.

41.78 LANDSCAPING MATERIALS AND INSTALLATION STANDARDS.

a. Restricted List of Plant Material. No plant material contained on the Restricted List of Plant Material shall be used to fulfill landscape requirements. This list is provided through the office of the Zoning Administrator. These plants are restricted from use because of problems with disease, maintenance or suitability.

- b. Use of Inorganic Landscaping Materials. No artificial trees, shrubs, plants or turf shall be used to fulfill the minimum requirements for landscaping. Inorganic materials, such as stone or decorative pavers, may be used provided that such material does not comprise more than 35% of the minimum required landscaped area. Other concrete and/or asphalt pavement surfaces may not be used within the minimum required landscaped area, except for walkways less than 5 feet in width.
- c. Official List of Plant Materials. All plant material installed in landscaped areas or bufferyards shall be consistent with the Official List of Plant Materials provided through the office of the Zoning Administrator. All plant materials shall conform in size, species and spacing with this section of the Zoning Code.

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Table 8-1 Required Landscape Depth			
<u>Zoning District</u>	<u>Depth of Landscaping Adjacent to Street Property Line</u>	<u>% of first 80 feet of streetyard that must be landscaped</u>	<u>% of streetyard beyond first 80 feet that must be landscaped</u>
R-1	20 feet	65% of whole streetyard	NA
R-2	20 feet	55% of whole streetyard	NA
R-3	20 feet	50% of whole streetyard	NA
R-4	15 feet	45% of whole streetyard	NA
MH	35 feet	65% of whole streetyard	NA
LC	15 feet	20%	5%
CC	10 feet	10%	5%
GC	10 feet	10%	5%
UC	15 feet	20%	5%
TC	No requirement	10%	No requirement
GC	10 feet	10%	5%
LI	10 feet	15%	5%

d. Supplements to the Official List of Plant Materials. The list of Official List of Plant Materials has been compiled using the latest research data available. Plants other than those listed may be used to fulfill minimum landscaping requirements as approved by the Zoning Administrator. To be considered for approval, a proposed plant material must be submitted for review with the following information:

1. Common name and scientific name of plant material;
2. Habitat, geographic climate range and whether plant is native to this region;
3. Growing characteristics, including evergreen or deciduous, height and spread at maturity;

4. Suitability for different landscape uses and applications;
 5. Susceptibility to disease and tolerance of environment: heat, drought, pollution stress;
 6. Fruit bearing characteristics which may be hazardous in pedestrian and parking areas;
- e. Encouragement of Native Landscaping Materials. The use of suitable native plant materials is encouraged to fulfill landscaping requirements. Native plants, or those plants which occur naturally in this region, have shown greater adaptability to the seasonal and climate changes which occur in this region.
- f. Installation Standards for Required Landscaping
1. Basic plant materials standards shall include the following:
 - (a) Evergreen trees: Minimum height of 6 feet.
 - (b) Shrubs: Minimum two-gallon size container, or the equivalent height and/or spread.
 - (c) Groundcover shrubs: Minimum spacing upon installation of 18 inches on center.
 - (d) Deciduous shade trees: Minimum caliper (diameter) of 2 inches as measured 6 inches above the ground.
 - (e) Ornamental deciduous trees: Minimum caliper (diameter) of 2 inches as measured 6 inches above the ground.
 2. All other specifications shall conform with the American Standards for Nursery Stock, published by the American Association of Nurserymen for that type of tree or shrub at the time of installation.
 3. All plant material shall be installed free of disease and in a manner that ensures the availability of sufficient soil and water to sustain healthy growth.
- g. Minimum Spacing of Plant Materials
1. Tree spacing along streets: Minimum of one tree for every 50 feet of perimeter length.
 2. Spacing of trees: Spacing consistent with generally accepted species spread dimension at maturity defined by American Standards for Nursery Stock, or a minimum

of one tree for every 50 feet, whichever is less.

3. Groundcover shrubs: Minimum spacing upon installation of 18 inches on center.
4. Groundcover turf: Immediate and complete coverage of area within the season.
5. Groundcover, creeping: Spacing adequate to provide complete coverage in three years.

h. Supplemental Installation Requirements for Shrubs

1. Shrubs shall be installed in a manner that promotes ease of maintenance and quality appearance.
2. All shrubs shall be installed in designed beds or naturalized settings containing a minimum of 3 inches of organic or inorganic mulch, contained by some form of edging, with an underlayment of landscape fabric.
3. Shrub installations beyond mere shrub beds, such as may contain groundcovers, native perennials or seasonal annuals, may be approved without these features at the discretion of the Zoning Administrator, upon demonstration of quality design and a maintenance contract/ commitment.

41.79 BUFFERYARD PROVISIONS. These provisions apply when use is established in a more intensive zoning district (District A) which is adjacent to a less intensive zoning district (District B). The owner, developer, or operator of the use within District A shall install and maintain a landscaped bufferyard on his/her lot or site, as set forth in this section. Bufferyard requirements apply only to those districts indicated in Table 8-2. Bufferyards are not required of single-family, 2-family, duplex, or townhouse use types in the more intensive zoning district.

- a. The bufferyard dimensions set forth in Table 8-2 apply to zoning districts which share a common lot line or are adjacent but separated by an intervening alley.
- b. When a street separates adjacent zoning districts requiring a bufferyard, the size of the bufferyard shall be one-half the required bufferyard set forth in Table 8-2.
- c. Each required bufferyard must be entirely landscaped and free of paved areas, access ways, storage, or other disturbances.

Table 8-2 Bufferyard Requirements					
Less Intensive Adjacent District					
		R-1*	R-2*	R-3	R-4
	R-4	20	20	15	-----
	LC,UC	20	20	15	10
More Intensive District	CC, GC	30	30	20	20
	LI	40	40	40	30

* Applies to residential uses only

41.80 SCREENING STANDARDS

a. Application. Screening is required between adjacent zoning districts indicated in Table 8-2 when one or more of the following conditions in the more intensive zoning district is directly visible from and faces toward the boundary of the less intensive zoning district.

1. The rear elevation of buildings.
2. Outdoor storage areas or storage tanks, unless otherwise screened.
3. Loading docks, refuse collection points, and other service areas.
4. Major machinery or areas housing a manufacturing process.
5. Major on-site traffic circulation areas or truck and/or trailer parking.
6. Sources of glare, noise, or other environmental effects.

b. Opaque Barrier. A six foot opaque barrier shall be provided which visually screens the conditions listed in Section 41.80(a) from less intensive uses as follows:

1. A solid wood and/or masonry fence or wall at least six feet in height.

2. A landscaped screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting. Note: All planting materials shall conform to the minimum caliper/size requirements set in Section 41.76.

3. A landscaped earth berm with a maximum slope of three to one, rising no less than six feet above the existing grade of the lot line separating the zoning districts.

4. Any combination of these methods that achieves a cumulative height of six feet.

c. Location of Screening Wall

1. A screening wall or fence shall be installed no closer to the less intensive zoning district than one-half the width of the required bufferyard.

d. Screening: Effect on Drainage. Screening shall not adversely affect surface water drainage.

41.81 GENERAL PROVISIONS

a. Obstruction of View. Landscaping or screening installed in any landscaped area shall not obstruct the view from or to any driveway approach, street, alley, or sidewalk.

b. Earth Berm Locations

All earth berm locations shall be reviewed by the Public Works Director, or his/her designee to determine how the berms shall relate to drainage and public utilities.

c. Exceptions. A development may continue to comply with the bufferyard and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise require compliance with bufferyard or screening provisions.

SUBCHAPTER 9**OFF-STREET PARKING**

41.82 PURPOSE. The Off-Street Parking Regulations require that developments provide parking in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

41.83 GENERAL APPLICATIONS.

- a. Applicability. Off-street parking shall be provided for any new building constructed; for new uses or conversions of existing buildings; or for enlargements of existing structures.
- b. Exemptions. Any use within the TC Town Center District is exempt from the off-street parking requirements provided by Section 41.84. Any off-street parking facility constructed in the TC District after the effective date of this Zoning Code must comply with the design standards set forth in this Subchapter.

41.84 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS. Parking facilities for each use shall be provided in accord with the minimum requirements set forth in Table 9-1.

- a. Computation
 1. When a computation of required parking results in a fraction of 0.5 or greater, the requirement should be rounded up to the next whole number.
 2. Unless otherwise indicated, parking requirements are based on gross floor area. Gross floor areas for the purpose of this calculation exclude any interior space used for the parking or loading of vehicles.
 3. When parking requirements are computed on the basis of capacity, capacity shall be determined by the building code in effect for the City of Windsor Heights at the time the use is established.
- b. Multiple Use Sites and Adjustments
 1. For sites with more than one use, the parking requirement shall be the sum of spaces required for each use, except as provided below.

2. The Board of Adjustment may authorize an adjustment in the total parking requirement for separate uses located on the same site or for separate uses located on adjoining sites and served by the same parking facility. The Board shall consider at least the following criteria in determining approval of such an adjustment:

(a) The characteristics and time of operation of each use, and differences in projected peak parking demand.

(b) Potential reduction in total expected vehicle movements afforded by multiple uses of the parking facilities.

(c) Functional design of the development and its parking facilities.

(d) Evidence of a written agreement that provides for the joint use of parking facilities.

41.85 PARKING FACILITY LOCATION.

a. Residential Parking

1. Off-street parking for residential uses shall be located on the same lot or site as the use.

2. Off-street parking areas for multi-family residential uses shall be at least six feet from any residential building; and shall not be located within a required front yard or street side yard.

b. Non-residential Parking. Off-street parking for non-residential uses shall be located on the same lot or site as the use, or within 300 feet of that use if the parking site is within a zoning district that permits the Off- Street Parking use type. Control of ownership or use rights to the remote off-street parking must be demonstrated as a condition of permission.

Table 9-1: Minimum Off-Street Parking Requirements

Agricultural Use Types	
Horticulture	1 space per 1,000 square feet of sales area.
Crop Production	No requirement.
Residential Use Types	
Single-Family	2 spaces per dwelling unit + 1 space for each boarder, if any.
Duplex Residential	2 spaces per dwelling unit + 1 space for each boarder, if any.
Two-Family Residential	2 spaces per dwelling unit + 1 space for each boarder, if any.
Multi-Family Residential	1.5 spaces per efficiency or 1-BR unit; 2 spaces per other units
Group Residential	1 space for each two residents
Mobile Home Residential	2 spaces per dwelling unit.
Retirement Residential	1 space per each independent living unit and 1 space per each two assisted living units plus one space for each employee on largest shift
Civic Use Types	
Administration	1 space for 500 square feet.
Cemetery	No requirement.
Clubs	1 space per 4 person capacity.
Convalescent Services	1 space for 10 beds plus one space per each employee on largest shift
Cultural Services	1 space per 500 square feet of public area.
Day Care Services	1 space per 5 person capacity + 1 space per employee of largest shift.
Group Care Facility	1 space per 4 person capacity + 1 space per employee of largest shift.
Group Home	1 space per 4 person capacity + 1 space per employee of largest shift.
Guidance Services	1 space per 300 square feet.
Health Care	1 space per 300 square feet + 1 space per employee of largest shift.
Hospitals	1 space per 4 beds + 1 space per employee of largest shift.
Maintenance Facilities	See Schedule A.

Table 9-1: (continued) Minimum Off-Street Parking Requirements

Commercial Use Types	
Agricultural	See Schedule A.
Auto Rental and Sales	See Schedule A.
Auto Service *	4 times service capacity.
Body Repair *	5 spaces per repair stall.
Business Support	1 space per 500 square feet.
Campground	1 space per camping unit.
Cocktail Lounge	1 space per 150 square feet.
Commercial Recreation	1 space per 4 person capacity.
Communication Services	1 space per 500 square feet.
Construction Sales	See Schedule A.
Consumer Services	1 space per 200 square feet.
Convenience Storage	1 space per 20 storage units. **
Equipment Sales/Service	See Schedule A.
Food Sales (All Types)	1 space per 200 square feet.
Gaming Facilities	1 space per 100 square feet.
General Retail Services	1 space per 200 square feet.
Liquor Sales	1 space per 200 square feet.
Lodging	1 space per unit plus one space for each employee on duty.
Personal Improvement	1 space per 200 square feet.
Personal Services	1 space per 500 square feet.
Pet Services	1 space per 500 square feet.
Restaurants (Drive-in)	1 space per 50 square feet of customer service area.
Restaurants (General)	1 space per 3 person capacity in dining area plus 1 space per each 150 SF in cocktail lounge
Stables/Kennels	1 space per employee + 1 stall per 5,000 sq. ft. of site area.

* Auto Service and Body Repair subject to other restrictions applicable under this Zoning Code: See Subchapter 4: Use Types - Vehicle Storage and Subchapter 6: Supplemental Use Regulations, Outdoor Storage.

** This standard may be reduced by up to 20% at the discretion of the Zoning Administrator, if site plan review demonstrates that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during the peak hours of operation. Table 9-1 Minimum Off-Street Parking Requirements

Table 9-1 (continued) Minimum Off-Street Parking Requirements

Surplus Sales	See Schedule A.
Trade Services	1 space per 300 square feet.
Veterinary Services	1 space per 500 square feet.
Office Use Types	
General Offices	1 space per 250 square feet.
Medical Offices	3 spaces per staff doctor or dentist.
Miscellaneous Use Types	
Broadcasting Tower	No requirement.
Non-Putrescible Landfill	No requirement.
All Landfills	No requirement.
Industrial Use Types	
Agricultural Industries	See Schedule A.
Light Industry	See Schedule A.
General Industry	See Schedule A.
Heavy Industry	See Schedule A.
Railroad Facilities	See Schedule A.
Resource Extraction	1 space per employee on largest shift.
Salvage Services	See Schedule A.
Warehousing	See Schedule A.
Construction Yards	See Schedule A.

Schedule A	
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* Auto Service and Body Repair subject to other restrictions applicable under this Zoning Code: See Subchapter 4: Use Types - Vehicle Storage and Subchapter 6: Supplemental Use Regulations, Outdoor Storage.

** This standard may be reduced by up to 20% at the discretion of the Zoning Administrator, if site plan review demonstrates that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during the peak hours of operation. Table 9-1 Minimum Off-Street Parking Requirements

This schedule sets forth minimum off-street parking requirements for uses with elements that have different functions and operating characteristics	
Function of Element	Requirement
Office or Administration	1 space per 300 square feet.
Indoor Sales, Display or Service Area	1 space per 500 square feet.
Outdoor Sales, Display or Service Area	1 space per 2,000 square feet.
Equipment Servicing or Manufacturing	1 space per 1,000 square feet.
Indoor or Outdoor Storage or Warehousing	1 space per 5,000 square feet.

41.86 PARKING FOR PEOPLE WITH DISABILITIES. Each off-street parking facility shall provide the number of parking spaces set forth in Table 9-2 designed and designated for use by people with disabilities. Parking spaces shall be van-accessible. Design criteria and dimensions are set forth in the Off-Street Parking Design Standards and the requirements of the Americans with Disabilities Act. Parking facilities for single-family, duplex, two-family, and mobile home residential uses are exempt from this requirement.

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Table 9-2 Accessible Parking Requirements			
Number of Stalls	Number of Required Accessible Spaces	Number of Stalls	Number of Required Accessible Spaces
1-25	1	201-300	7
26-50	2	301-400	8
51-75	3	401-500	9
76-100	4	501-1,000	2% of total
101-150	5	1,001 and over	20, plus 1 for each 100
151-200	6		stalls over 1,000
Van Accessible Stalls: One in every eight accessible spaces, but not less than one, shall be served by an access aisle with a minimum width of 96 inches and shall be designated as <input type="checkbox"/> Van Accessible. <input type="checkbox"/>			

41.87 OFF-STREET PARKING DESIGN STANDARDS.

a. Dimensions

1. Standard parking stalls shall be 9 feet wide and 18 feet long.
2. Required drive aisle widths shall be as follows:
 - (a) For diagonal parking (15 to 75 degrees), 20 feet for one-way aisles and 24 feet for two way aisles.
 - (b) For perpendicular parking (75 to 90 degrees), 24 feet for all aisles.
3. Parking facilities may provide up to 40% of their total stalls as designated compact stalls. Compact parking stalls shall be a minimum of 8.5 feet wide and 16 feet long.
4. Spaces designated for the handicapped shall have a minimum width of 12

feet. Each handicapped space shall provide a barrier free route to an accessible building entrance, which shall not require users to walk or wheel behind parked cars. Such spaces shall be designated with an upright sign exhibiting the universal symbol for accessibility by the handicapped. All such spaces shall be designed in compliance with the standards of the Americans with Disabilities Act.

b. Pavement and Drainage

1. Off-street parking facilities shall be hard surfaced and maintained with materials sufficient to prevent mud, dust, or loose material. Acceptable hard surface materials shall include concrete, asphalt, or brick or concrete pavers.
2. Off-street parking facilities shall be designed and built to prevent the free flow of water onto adjacent properties or public rights-of-way.
3. Residential driveways which are not hard-surfaced at the effective date of this Zoning Code shall be required to come into compliance prior to a transfer of title following the earliest sale of such property.

c. Landscape and Screening Requirements

Unless otherwise noted, each unenclosed parking facility of over 3,000 square feet shall comply with the following regulations:

1. Each unenclosed parking facility shall provide a minimum landscaped buffer of ten feet along any street property line.
2. Each parking facility that abuts a residential district shall provide a ten foot landscaped buffer along its common property line with the residential district.
3. Any parking facility which abuts property in a residential district shall provide a fence, wall, landscape screen, or earth berm not less than four feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the Planning Director.
4. Each unenclosed parking facility of over 4,500 square feet within a street yard shall provide interior landscaped area equal to no less than 5 percent of the total paved area of the parking facility.
5. Interior landscaping shall be credited toward the satisfaction of overall landscaping requirements set forth in Subchapter 8.

d. Entrances and Exits

1. Adequate access to each parking facility shall be provided by means of clearly defined and limited driveways or access points. Such driveways shall be designed to direct non-residential traffic away from residential areas.

2. Parking facilities other than driveways for single-family, duplex, two-family, or mobile home residential uses must permit vehicles to enter streets in a forward position.

e. Safety Features

1. Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden, or hazardous areas.

2. Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.

f. Lighting. Any lighting used to illuminate any off-street parking area shall be arranged to direct light away from adjoining properties in any residential district.

g. Maintenance. All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, carts, and litter; maintaining parking surfaces in sound condition; maintaining aisle lines and the painted surfaces of signs; and providing proper care of landscaped areas.

h. Adjustment. For uses subject to Conditional Use Permit approval, the Board of Adjustment may adjust the minimum requirements of this section, in order to provide design, usability, attractiveness, or protection to adjoining uses in a manner equal to or greater than the minimum requirements of this Subchapter.

41.88 OFF-STREET LOADING.

a. Loading Requirement. Any use which involves the receipt or distribution of freight, merchandise, supplies, vehicles, or equipment as part of its typical operation shall provide and maintain adequate space for off-street loading and circulation. Loading areas shall be designed to avoid undue interference with the public use of streets and sidewalks.

b. Schedule of Loading Spaces. Loading spaces for each use requiring them shall be provided in accord with the minimum requirements set forth in Table 9-3.

Table 9-3 Off-Street Loading Requirements For Single Use Structures	
Gross Floor Area of Use (square feet)	Number of Required Loading Spaces
5,000 or less	None
5,001 - 25,000	1
25,001 - 75,000	2
Larger than 75,000	3

c. Design Standards

1. Each loading space shall be at least 10 feet wide by 50 feet long, with a vertical clearance of at least 14 feet.
2. Paving of loading spaces and access areas shall be permanent, durable, and free of dust.
3. Off-street loading areas are subject to the landscaping and buffering requirements for parking facilities set forth in this Subchapter.

41.89 PARKING FOR PERSONAL AND RECREATIONAL VEHICLES

a. Applicability. This section permits the parking of personal vehicles on a single lot in a residential district subject to specific conditions. Personal vehicles include: passenger cars; vans; pick-up trucks; camper shells, toppers, and other similar appurtenances intended for attachment to a personal vehicle; trailers under twenty feet in length, and boats. Trucks, tractor cab units, trailers, recreational vehicles, and vehicles over ten tons gross empty weight shall be defined as heavy commercial vehicles.

b. Location of Parking

1. Parking is permitted within any enclosed structure when such structure conforms to the regulations of its zoning district.
2. Parking of personal vehicles is permitted on a paved driveway (outside of an enclosed structure) within the front yard setback, but shall in no case encroach upon the public right-of-way.

3. Parking of personal vehicles may occur in the rear yard setback (outside of an enclosed structure and not on the front yard paved driveway) if the Zoning Administrator determines that such parking conforms to the provisions of the Zoning Code, meets the following conditions:

(a) The parking space is provided on a paved surface connected by a paved surface to a dedicated public right-of-way and/or alley.

(b) The paved parking does not exceed the maximum impervious coverage limit for the lot.

4. Heavy commercial vehicles, including tractor cab units weighing more than 10 tons gross empty weight, and recreational vehicles shall not be parked on any lot within the RI, R2, R3, R4 and MH residential zoning districts, except as provided below.

c. Special Provisions for Recreational Vehicles and Boats. Parking and storage of recreational vehicles and boats within residential districts is subject to the following additional conditions. These conditions are in addition to those requirements for the parking of Personal Vehicles.

1. Recreational vehicles and boats must be maintained in a clean, well-kept state.

2. Recreational vehicles and boats equipped with liquefied petroleum gas containers must ensure that such containers must meet the current standards of the Interstate Commerce Commission, the United States Department of Transportation, or the American Society of Mechanical Engineers. Any valves must be closed at all times that the vehicle is not in preparation for immediate use. Leaks in containers must be repaired immediately.

3. Recreational vehicles may be used as temporary housing by non-paying guests for a maximum of three consecutive days or fourteen days total during any calendar year. Cooking in the recreational vehicle is prohibited at all times.

4. Recreational vehicles and boats may not be permanently connected to utility lines.

5. Recreational vehicles and boats may not be used for the storage of goods, materials, or equipment other than those items which pertain to the use of the vehicle.

6. If at all physically feasible on a lot, recreational vehicles and boats shall be parked outside of required front yard and street side yard setbacks if the Zoning Administrator determines that such parking conforms to the provisions of this Zoning Code and if such parking meets the following conditions:

(a) For all boats equal to or exceeding sixteen (16) feet in length, the parking space is provided on a paved surface connected by a paved surface to a dedicated public right-of-way and/or alley.

(b) For all boats less than sixteen (16) feet in length, the parking space provided is either of the following:

(1) A separate or stand-alone paved surface with its width equal to or exceeding the width of the boat and with its length equal to or exceeding the length of the boat; or

(2) A paved surface connected by a paved surface to a dedicated public right-of-way and/or alley.

(c) For all other recreational vehicles, the parking space is provided on a paved surface connected by a paved surface to a dedicated public right-of-way and/or alley.

(d) The paved parking does not exceed the maximum impervious coverage limit for the lot.

7. No more than two (2) recreational vehicles and/or boats may be parked on a single property at any one time. Any recreational vehicle or boat parked on a property must be owned in whole or in part by the resident of the property.

41.90 SUPPLEMENTARY REGULATIONS: STORAGE AND PARKING OF UNLICENSED OR OTHER VEHICLES.

a. The storage or keeping of motor vehicles not having a properly issued current motor vehicle registration and current motor vehicle license plate properly displayed is prohibited on any lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Windsor Heights; provided that conformance with the following shall not constitute a violation of this section:

1. The storage of any unlicensed and/or unregistered motor vehicle in a fully-enclosed garage.

2. The storage of not more than one personal vehicle in good operable condition and shielded from view of the general public by a manufactured and fitted vehicle cover and located on a paved driveway pursuant to a permit to store obtained from the City of Windsor Heights. The permit shall be issued without cost to the applicant and shall:

- (a) Be issued for a period of not to exceed six months and shall be renewable upon application for like periods as long as such storage is in all respects in compliance with this section;
- (b) Identify the vehicle by make, year of manufacture, model and manufacturer's identification number;
- (c) State the reason the vehicle does not bear a current registration and license;
- (d) Require owner to prove continued operability of the vehicle within 72 hours upon request of the Police Department;
- (e) Contain the property owner's and vehicle owner's consent for the City and its agents to enter upon the premises and vehicle for purposes of identification and inspection of the vehicle.

2. The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, is prohibited on any lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Windsor Heights, except in enclosed buildings or garages or where otherwise permitted by this Zoning Code.

3. Parking, storage or keeping, other than in a fully enclosed garage of any non-operable motor vehicle is prohibited on any residential zoned lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Windsor Heights; provided, however, that automobiles that are non-operable by reasons of repair work being done thereon may be parked on the residential lot of the owner of said automobile within the Windsor Heights Zoning jurisdiction under the following conditions:

- (a) The automobile is owned by the occupier of the premises and registered to him/her at that address.
- (b) The period of said repair work does not exceed ten days in duration.
- (c) Repair work is at all times conducted on a paved driveway.

(d) No more than one automobile in need of repair is situated on the premises at the same time.

b. Before the City removes a vehicle suspected of being in violation of this section, by reason of it being inoperable, the City shall give the owner of the premises upon which the offending vehicle is situated a seventy-two hour warning notice. Notice shall be given by tagging the motor vehicle and by regular mail, postage pre-paid to the occupier of the premises on which the motor vehicle is situated. Any motor vehicle not removed from the premises within such seventy-two hour period shall be presumed to be inoperable and shall be subject to proceedings by the City as set forth according to the City's Nuisance Abatement ordinance. If he/she chooses, the owner may demonstrate operability of the vehicle by making special arrangements with the Windsor Heights Police Department to demonstrate operability of the vehicle within said seventy-two hour period. If operability of the vehicle is satisfactorily demonstrated, the automobile need not be removed.

SUBCHAPTER 10**SIGN REGULATIONS**

41.91 PURPOSE. The Sign Regulations provide standards for communicating information in the environment of the City of Windsor Heights and its jurisdiction. The regulations recognize the need to protect public health, safety, and welfare; to maintain the city's attractive appearance; to provide for adequate business identification, advertising, and communication of information; and to encourage the fair enforcement of sign regulations.

41.92 DEFINITION OF TERMS. The following definitions shall be used for terms contained in this Subchapter that are not otherwise defined in the Windsor Heights Municipal Code or in this Zoning Code.

1. **Abandoned Sign:** A sign, including sign face and supporting structure, which refers to a discontinued business, profession, commodity, service, or other activity or use formerly occupying the site; or which contains no sign copy on all sign faces for a continuous period of six months.
2. **Attached Sign:** A sign which is structurally connected to a building or depends upon that building for support
3. **Auxiliary Design Elements:** Terms which describe secondary characteristics of a sign, including its method of illumination and other features within the bounds of its basic shape.
4. **Awning and Awning Sign:** A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for a supporting framework. An awning sign is a message printed on such a shelter.
5. **Banner:** Material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.
6. **Building Marker:** An historic or commemorative plaque, or a building name or cornerstone carved into a masonry surface.
7. **Business Center Identification Sign:** A sign which identifies a building or group of commercial buildings in single ownership or control, sharing parking and access.
8. **Canopy:** A projecting non-movable structure cantilevered or suspended from a building, supported by the main structural members to which it is attached, and used only as a roof or fixed shelter.
9. **Canopy Sign:** A sign which is attached or made an integral part of a canopy.

10. Clearance: The distance from the bottom of a sign face elevated above grade and the grade below.
11. Detached Sign: A sign which is self-supporting and structurally independent from any building.
12. Directional Sign: A sign which serves only to designate the location or direction of any area or place.
13. Double-Faced Sign: A sign consisting of no more than two parallel faces supported by a single structure.
14. Frontage: The length of a property line of any one premises abutting and parallel to a public street, private way, or court.
15. Ground Sign: A detached on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance no greater than 3 feet.
16. Illumination: Lighting sources installed for the primary purpose of lighting a specific sign or group of signs.
17. Marquee: A permanent roofed structure attached to and supported by a building and extending over public right-of-way.
18. Maximum Permitted Sign Area: The maximum permitted combined area of all signs allowed on a specific property.
19. Monument Sign: An on-premise freestanding sign with the appearance of a solid base. The width of such base shall be at least 75 percent of the width of the sign.
20. Moving Sign: A sign which conveys its message through rotating, changing, or animated elements.
21. Nonconforming Sign: A sign that was legally erected prior to the adoption of this chapter but which violates the regulations of this chapter.
22. Pole Sign: An on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance greater than 3 feet, and where the support encompasses less than 75% of the width of the sign.

23. **Portable Sign:** Any sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place.
24. **Premise Identification Sign:** An sign which pertains to the use of a premises and which contains information about the owner or operator of that use; the type of business being conducted or the principal brand name of a commodity sold on the premises; and other information relative to the conduct of the use.
25. **Premises:** A tract of one or more lots or sites which are contiguous and under common ownership or control.
26. **Projecting Signs:** A sign other than a wall sign that is attached to and projects from a building face.
27. **Residential Sign:** A small detached or attached sign located on a residential premise, conveying a message communicated by the owner of the property.
28. **Roof Sign:** Any sign or part of sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.
- (a) **Integral Roof Sign:** A roof sign positioned between an eave line and the peak or highest point on a roof, substantially parallel to the face of a building.
- (b) **Above-peak Roof Sign:** A roof sign positioned above the peak of a roof or above a parapet or cornice.
29. **Sign:** A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
30. **Sign Type:** A functional description of the use of an individual sign. Includes owner identification, advertising, directional, electronic message, and temporary.
31. **Street Facade:** Any separate external face of a building, including parapet walls and omitted wall lines, oriented to and facing a public street, private way, or court. Separate faces oriented in the same direction or within 45 degrees of one another are considered part of the same street facade.
32. **Temporary Signs:** A sign, flag, banner, pennant, or valance constructed of light weight materials which is not permanently attached to building or land, and which is intended for display for a limited period of time.

33. Wall Sign: A sign attached to and parallel with the side of a building.
34. Window Sign: A sign painted on or installed inside a window for the purpose of viewing from outside the premises.
35. Zone Lot: A parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.

41.93 GENERAL SIGN AND STREET GRAPHICS REGULATIONS.

- a. Compliance. Each sign or part of a sign erected within the zoning jurisdiction of the City of Windsor Heights must comply with the provisions of this chapter and of other relevant provisions of the City of Windsor Heights's Municipal Code.
- b. Resolution of Conflicting Regulations. This chapter is not meant to repeal or interfere with enforcement of other sections of the City of Windsor Heights's Municipal Code. In cases of conflicts between Code sections, State or Federal Regulations, the more restrictive regulations shall apply.
- c. Prohibited Signs. The following signs are prohibited in all zoning districts.
 1. Signs painted on or attached to rocks, trees, or other natural objects which are not designed as integral parts of the sign.
 2. Signs or sign structures which resemble or conflict with traffic control signs or devices, which mislead or confuse persons traveling on public streets, or which create a traffic hazard.
 3. Signs on public property or public right-of-way, unless specifically authorized by the appropriate public agency.
 4. Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.
 5. Abandoned signs. Any abandoned sign must be removed within six months of date of abandonment.
 6. Portable signs, including signs painted, mounted, or printed on parked vehicles and trailers.

7. Signs that are not clean or in substantial good repair, or are not affixed to a sound structure.
 8. Signs advertising activities that are illegal under Federal, state, or local laws and regulations.
 9. Rolling LCD Signs. Signs which incorporate in any manner any rolling, flashing, pulsating, rotating, beacons or moving lights.
- d. Exempt Signs. The following signs are permitted in any zoning district and are exempt from other provisions of this chapter.
1. Bulletin boards for religious assembly or school uses, provided that they have a maximum sign area of 20 square feet and are not located in a required sign setback.
 2. Real estate signs under 6 square feet in area. Off-site signs directing people to real property for sale may be used only during the period of an open house of public display of such property.
 3. Official signs authorized by a government or governmental subdivision which give traffic, directional, or warning information.
 4. Seasonal decorations for display on private or public property.
 5. On-premise construction signs.
 6. One temporary sign per occupant for grand openings or special events, provided that such sign remains in place for a maximum of seven days and that the occupant has obtained a valid permit from the Zoning Administrator.
 7. Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
 8. Residential signs under 2 square feet in size.
 9. Neighborhood or subdivision identification signs under 50 square feet.
 10. Street numbers.
 11. Signs which are not visible from a public right-of-way, private way, or court or from a property other than that on which the sign is installed.

e. Temporary and Civic Signs

1. Temporary or portable signs for grand openings, sales, and special events are permitted in Commercial and Industrial zoning districts, subject to the following requirements:

- (a) Such signs are subject to the permit procedures set forth in this section.
- (b) The size of such signs does not exceed the limitations set forth in Table 10-3.
- (c) No more than one such sign is permitted for any single occupant.
- (d) Temporary or portable signs may be present at any single premises for a maximum of 30 days per year.

2. Temporary signs for non-profit civic campaigns or events, or other non-commercial events are permitted in any zoning district and are exempt from other provisions of this Subchapter, subject to the following requirements:

- (a) Such signs are installed no earlier than 30 days before the date of the event or election and removed no later than 7 days after the date of the event or election.
- (b) The maximum size of such signs is 10 square feet when located in any residential, and O Office/ Limited Commercial zoning district; and 100 square feet in any other zoning district.

f. Bufferyards. No sign other than on-premise directional signs shall be placed within any bufferyard required by Subchapter 8, Landscaping and Screening Regulations, except bufferyards adjacent to intervening major streets.

g. Vision-Clearance Area. No sign may project into or be placed within a vision-clearance area defined by a triangle with legs of 25 feet from the point at which the curbs or edges of two intersecting streets, private ways, or courts or an intersecting street, private way, or court and driveway, meet.

41.94 GENERAL REGULATIONS: BASIC DESIGN ELEMENTS FOR ON-PREMISE SIGNS

a. Wall Signs and Graphics. Wall signs and graphics are subject to the following general regulations.

1. A wall sign shall not extend more than 12 inches from the wall to which it is attached.
2. A wall sign must be parallel to the wall to which it is attached.
3. A wall sign may not extend beyond the corner of the wall to which it is attached, except where attached to another wall sign, it may extend to provide for the attachment.
4. A wall sign may not extend beyond its building's roof line.
5. A wall sign attached to a building on its front property line may encroach upon public right-of-way by no more than 12 inches. Such a wall sign shall provide minimum clearance of eight feet, six inches.
6. For the purpose of calculating permitted sign areas pursuant to this chapter, signs painted on the walls of buildings shall be considered wall signs.
7. Where permitted, canopy signs are counted as wall signs when calculating total permitted sign area.

b. Projecting Signs and Graphics. Projecting signs and graphics are subject to the following general regulations.

1. The maximum projection of any projecting sign shall be three feet.
2. A projecting sign may be no closer than two feet from the vertical plane of the inside curb line.

3. Each projecting sign must maintain at least the following vertical clearances:
 - (a) 8 feet, 6 inches over sidewalks; except that a canopy may reduce its vertical clearance to 7 feet, 6 inches;
 - (b) 10 feet outside of parking areas or driveways, but within three feet of such areas; or within 50 feet of the right-of-way lines formed by a street intersection;
 - (c) 14 feet over parking lots;
 - (d) 18 feet over alleys or driveways.
4. No projecting sign extending three feet from a property line may be located within 22 feet of any other projecting sign extending three feet from a property line.
5. Projecting signs must minimize visible support structure and may not expose guy wires, cables, turnbuckles, angle iron, or other similar external support structure.

c. Pole Signs. Pole signs are not permitted as new installations within the City of Windsor Heights. All pole signs that were in place on August 5, 1997, and remaining in place on December 21, 1998, shall be considered as legal nonconforming signs. The cover of such an existing sign may be changed from time to time, provided that no other changes or alterations are made to the sign's physical structure. Other than as provided in this section, a pole sign may not be modified or replaced.

d. Roof Signs. Roof signs are subject to the following regulations:

1. Where permitted, integral roof signs may be used interchangeably with wall signs.
2. An integral roof sign must be mounted parallel to the wall of the building that it faces.

41.95 GENERAL REGULATIONS: OTHER DESIGN ELEMENTS

- a. Illumination. Lighting, when installed, must be positioned in such a manner that light is not directed onto an adjoining property or onto a public street or highway.
- b. Marquees and Marquee Signs. Signs placed on, attached to, or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.

c. Banners

1. A banner sign projecting from a building may not exceed the wall height of the building.
2. Maximum projection for any banner is three feet with a minimum clearance of 8.5 feet.
3. Maximum size of a banner is the lesser of twice the permitted size of a projecting sign or 120 square feet.

d. Clocks. For the purposes of this chapter, clocks are not considered a moving sign.

41.96 SPECIFIC REGULATIONS FOR ZONING DISTRICTS. This Section sets forth regulations and design standards for signs and graphics for each zoning district.

1. All signs, excluding temporary signs, shall be constructed of materials that are similar to those used on the principal building. Such signage shall be dominated with materials of permanency and strength and shall be compatible with other structures and signs in the development.

41.97 METHOD OF MEASUREMENT FOR REGULATORS.

a. Maximum Permitted Sign Area. Maximum permitted sign area for a premises is set forth as a numerical limit or as a function of the frontage of the premises on a street or private way. For properties with frontage on more than one street or private way, the total frontage shall be calculated as the longest frontage plus one-half the length of all additional frontages.

b. Sign Area

1. Sign area includes the entire area within the perimeter enclosing the extreme limits of the sign, excluding any structure essential for support or service of the sign, or architectural elements of the building.
2. The area of double-faced signs is calculated on the largest face only.
3. The sign area for ground signs, monument signs, and architectural sign bands is calculated as the area enclosing the extreme limits of the copy only.
4. In the case of individual letters mounted to a wall, only the total area of the letters themselves is included within the sign area.

- c. Height. The height of a sign is measured from the average grade level below the sign to the topmost point of the sign or sign structure.
- d. Setback. The setback of a sign is measured from the property line to the supporting frame, mast, pole or base of the sign.

41.98 PERMITTED SIGN TYPES BY ZONING DISTRICTS. Table 10- 1 sets forth the sign types permitted within each zoning district of the City of Windsor Heights.

41.99 AUXILIARY DESIGN ELEMENTS. Table 10-2 sets forth auxiliary design elements permitted within each zoning district of the City of Windsor Heights.

41.100 MAXIMUM PERMITTED SIGN AREA. Table 10-3 sets forth the maximum sign area permitted within each zoning district of the City of Windsor Heights.

41.101 PERMITTED SIGNS BY NUMBERS, DIMENSIONS, AND LOCATION. Table 10-4 sets forth the maximum permitted numbers of signs per premise; the maximum permitted dimensions of each sign; and the required setbacks for detached signs.

41.102 GENERAL PERMIT PROCEDURES.

- a. Applicability. Any installation, modification, or expansion of any sign which is not exempt from the provisions of this Subchapter shall be subject to the following permit procedure prior to installation.
- b. Maintenance of Valid Sign Permit. The owner of a property containing signs requiring a permit under this Zoning Code shall at all times maintain in force a sign permit for such property. Sign permits may be issued for individual zoned lots, tenants, or sign owners. A sign permit may be revoked if the sign is not maintained in good condition.
- c. Sign Permit Applications. All applications for sign permits shall be submitted to the Zoning Administrator in accordance with application specifications established by the Zoning Administrator.
- d. Application Fees. Each application for a sign permit shall be accompanied by any applicable fees, which shall be established by the City Council from time to time by resolution.

- e. Action. Within ten working days of the submission of a complete application for a sign permit, the Zoning Administrator shall either:
1. Issue the sign permit, if the sign conforms to the provisions of this Subchapter.
 2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this Subchapter.
- f. Permit Expiration. If a sign is not constructed in accordance with an approved permit within six months of the date of approval, such permit shall lapse.
- g. Assignment of Sign Permits. A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises.

41.103 NONCONFORMING SIGNS.

- a. Any permanent sign that was in place and lawfully established on the effective date of this Zoning Code (August 5, 1997) and remaining in place on December 21, 1998, shall be considered as legal nonconforming signs to the extent that such a sign does not comply with the provisions of this Subchapter. The cover of such sign may be changed from time to time, provided that the sign area shall not be enlarged or reduced beyond the sign area in existence on December 21, 1998.
- b. Any nonconforming sign which presently is or becomes structurally damaged or deteriorated, or is altered by more than 50% of its replacement cost, shall be either removed or altered so as to comply with this Subchapter.
- c. For business centers pre-existing on the effective date of this Zoning Code which do not conform to the total permitted sign area provisions of this Subchapter, individual signs may be replaced, modified, or substituted prior to December 31, 2004. Each new sign shall conform to the applicable regulations of this Zoning Code for individual signs and shall be installed so as to reduce the total amount of the nonconformance on the site.

41.104 DISCONTINUANCE OF NONCONFORMING SIGNS. Within any zoning district, all on-premise signage must comply fully with the provisions of this Zoning Code, unless otherwise provided, within seven years of the effective date of this Zoning Code.

Table 10-2:
Auxiliary Design Elements by Zoning District

Sign Types	R-1	R-2	R-3	R-4	MH	O	CC	G C	UC	TC	LI
Illumination											
Indirect	P(C)	P(C)	P(C)	P(C)	P(C)	P	P	P	P	P	P
Direct	N	N	N	N	N	N	N	N	N	N	N
Internal	P(C)	P(C)	P(C)	P	P (C)	P	P	P	P	P	P
Neon	N	N	N	N	N	N	P	P	P	P	P
Flashing	N	N	N	N	N	N	N	N	N	N	N
Flame	N	N	N	N	N	N	N	N	N	N	N
Bare Bulb	N	N	N	N	N	N	N	N	N	N	N
Other											
Electronic Information	N	N	N	N	N	N	P	P	P	N	P
Moving	N	N	N	N	N	N	N	N	N	N	N
Rotating	N	N	N	N	N	N	N	N	N	N	N
Rolling LCD	N	N	N	N	N	N	N	N	N	N	N

P = Permitted for All Uses P(C) = Permitted for Civic Uses Only N = Not Permitted

Table 10-3:
Permitted Signs by Maximum Permitted Area and District

The Maximum Permitted Area for all signs on a premises excluding directional signs, building marker signs, and flags shall not exceed the lesser of the following:

Zoning District	R-1 R-2 MH	R-3 R-4	O	CC	GC	UC	TC	LI
Maximum Total Square Feet	Note 1	Note 2	75 Note 3	150 Note 4	150 Note 4	150 Notes 3,4	100	200

Note 1: 32 square feet for civic uses, 2 square feet for residential uses, including home occupations.

Note 2: 48 square feet for project identification signs for multi-family or mobile home developments and for non-residential uses when permitted; 2 square feet for residential uses, including home occupations.

Note 3: Maximum limits apply to non-residential premises only. On premises with a primary residential use, 75 square feet for project identification signs for multi-family developments, 2 square feet for residential uses, including home occupations.

Note 4: One additional Business Center Identification Sign with a maximum area of 150 square feet is permitted subject to the regulations set forth by Table 10-3.

TABLE 10-4: Permitted Signs by Numbers, Dimensions, and Location
Each individual sign shall comply with the regulations for maximum quantity, maximum size, minimum setbacks, and height limits shown in this table:

Zoning District	R-1 R-2 R-3 MH	R-4	O	CC Note 1 Note 3	GC Note 1 Note 3	UC Note 2 Note 3	TC Note 2 Note 3	LI
Detached Signs								
Number Permitted Per Premise	1	1	1	NA	NA	1	1	NA
Per Feet of Frontage	NA	NA	NA	1 per 300	1 per 200	NA	NA	1 per 200
Maximum Size* (sq. ft.)	32*	48*	75*	90	90	90	90	90
Maximum Height (feet) of Structure Above Ground	10	10	10	10	10	10	10	10
Front Yard Setback (feet)	5	10	10	10	5	10	10	0
Side Yard Setback (feet)	10	10	10	5	5	10	10	0
Attached Signs								
Maximum Size* (sq. ft.)	32*	48*	75	150	150	150	100	200
% of Street Facade	NA	NA	20%	20%	20%	20%	20%	25%

* For those uses only permitted a sufficient maximum sign area in Table 10-3.

Note 1: In addition to its total permitted sign area, each premises used for a business center may have one detached center identification sign, subject to the following conditions:

1. The maximum area for a center identification sign shall be 150 square feet.
2. No center identification sign shall be within 300 feet of any other center identification sign or within 150 feet of any other detached sign on the same or adjacent premises.
3. The sign shall display no more than the name and location of the business center.
4. Each sign shall be subject to all other regulations for detached signs or graphics set forth in this Subchapter.

Note 2: All monument signs must conform with these provisions by December 31, 2009 or will be subject to penalties for zoning code violation.

Note 3: The sign at 6601 University Avenue is a permanent, lawful, nonconforming sign as a result of a redevelopment agreement.

SUBCHAPTER 11**NONCONFORMING DEVELOPMENT**

41.105 PURPOSE. Subchapter Eleven shall be known as the Nonconforming Development Regulations. The purposes of these regulations are:

- a. To allow for reasonable use of legally created lots of record which do not meet current minimum requirements for their respective zoning districts.
- b. To provide for reasonable use of legally constructed structures which do not meet current site development regulations for their respective zoning districts.
- c. To allow for the reasonable continuation of legally established uses which do not meet current use regulations for their respective zoning districts.
- d. To allow for the reasonable continuation of legally established uses which do not meet current use regulations for their respective zoning districts.
- e. To limit the continuation and provide for the gradual replacement of nonconforming uses.

41.106 REGULATIONS ADDITIVE. Regulations for nonconforming uses are in addition to regulations for nonconforming structures. In the event of a conflict, the most restrictive regulation shall apply.

41.107 NONCONFORMING LOTS.

- a. Pre-Existing Lots of Record. Nonconforming lots of record existing at the time of the adoption of this chapter shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district. Such lots may be developed with any use allowed by the regulations for the district and must comply with all other site development regulations set forth by the Zoning Code.
- b. Reductions Due to Public Acquisition. If a portion of a legally existing lot in any district is acquired for public use, the remainder of this lot shall be considered a conforming lot.

41.108 NONCONFORMING STRUCTURES. These regulations apply to buildings and structures which were constructed legally under regulations in effect before the effective date of this Zoning Code.

- a. Continuation. A lawful nonconforming structure existing on the effective date of this Title may be continued, repaired, maintained, or altered, subject to the provisions of this Section.
- b. Additions or Enlargements to Nonconforming Structures
 1. A lawful nonconforming structure may be added to or enlarged if the addition satisfies one or more of the following conditions:
 - (a) The enlargement or addition, when considered independently of the existing building, complies with all applicable setback, height, off-street parking, and landscaping requirements.
 - (b) The nonconforming building and impervious surface coverages on the site are not increased and the building, after the addition, conforms to height and off-street parking regulations applicable to its zoning district.
 - (c) The addition projects no further into a required side yard setback than the existing building; the length of the side wall of the addition is the smaller of 25 feet or 50 percent of the length of the existing nonconforming side wall; and the enlarged building complies with building and impervious coverage, front and rear yard setbacks, and height regulations applicable to its zoning district.
 2. No permitted addition to a nonconforming structure may place a wall within ten feet of a window of an adjacent pre-existing residential structure.
 3. Nonconforming buildings shall be limited to one addition or enlargement pursuant to these regulations.
- c. Moving of Nonconforming Structures. A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to its zoning district.

- d. Repair of Nonconforming Structures. A lawful nonconforming building damaged by fire, explosion, storm or other calamity, except flood damages, may be repaired and reconstructed provided there is no increase in the degree of nonconformity. Repair and reconstruction within the designated floodplain shall be in conformance with Floodplain development regulations. Any repairs must be completed in compliance with all applicable building codes and regulations.
- e. Conversion of a Conforming Building. A conforming building shall not be changed in any way that will result in a nonconforming development.
- f. Applicability of Landscaping and Screening Regulations. A pre-existing structure, building, or development shall be exempt from Subchapter 8, Landscaping and Screening Regulations. However, any expansion of such structure, building, or development or any adjacent new development onto property that is or becomes vacant on or after the effective date of this Zoning Code shall be subject to Subchapter 8.

41.109 NONCONFORMING USES.

- a. Continuation of Nonconforming Uses. Any nonconforming use lawfully existing on the effective date of this Zoning Code may continue, subject to the limitations of this Section.
- b. Enlargement of Nonconforming Uses. A building or structure housing a lawful nonconforming use may not be added to or enlarged.
- c. Abandonment of Nonconforming Use. If any structure or property used as a lawful nonconforming use becomes vacant or unused for a continuous period of six months, any subsequent use must conform to all use regulations applicable to the property's zoning district.
- d. Change of Use. A lawful nonconforming use may be changed only to a use type permitted in a zoning district that is equal to or less intensive than that normally required for the previous use.
- e. Allowance for Repairs. Repairs and maintenance of a structure occupied by a nonconforming use may be made, provided that no structural alterations are made other than those required by law.
- f. Damage or Destruction of Structures. Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.

g. Nonconforming Uses and Conditional Use Permits. A lawful pre-existing use which would require a Conditional Use Permit in its zoning district shall be presumed to have the appropriate Permit and shall be considered a conforming use. The use shall be subject to the regulations governing lapses or revocation of Permits, set forth in Subchapter 12.

SUBCHAPTER 12**ADMINISTRATION AND PROCEDURES**

41.110 PURPOSE. The Administration and Procedures Provisions establish the methods for implementation of the Zoning Code. These provisions include procedures for reviewing specific uses within certain zoning districts; amending the Zoning Code; and granting variances.

41.111 SITE PLAN REVIEW PROCEDURE.

- a. Purpose. The Site Plan Review Procedure provides for special review in addition to plan review required by other sections of the Windsor Heights Municipal Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.
- b. Administration. The Zoning Administrator, or his/her designee(s) shall review, evaluate, and act on all site plans submitted pursuant to this procedure. The Planning and Zoning Commission shall review site plans and shall transmit its recommendation to the City Council for approval.
- c. Uses Requiring Site Plan Review. The following selected uses shall follow the Site Plan review procedure prior to the issuance of a building permit, unless they are otherwise subject to a Conditional Use Permit procedure for specific zoning districts.
 1. Multiple family developments with 4 or more dwelling units.
 2. Education Facilities
 3. Health Care Facilities
 4. Automotive Washing
 5. Automotive Sales
 6. Any use including drive-in services.
 7. Any commercial, industrial, or office building.

d. Application Requirements. An application for a Site Plan Review may be filed by the owner(s) of a property or the owners' authorized agent with the Zoning Administrator. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address, and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
 - a) The date, scale, north point, title, name of owner, and name of person preparing the site plan.
 - b) The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
 - c) The location, size, and use of proposed and existing structures on the site.
 - d) The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, signage, and lighting.
 - e) Location of any major site feature, including drainage and contours at no greater than five foot intervals.
 - f) Any other information that may be required for review by the Zoning Administrator, or his/her designee.

e. Administrative Action. The Zoning Administrator shall review each site plan and provide a written recommendation to the Planning and Zoning Commission and City Council. The Planning and Zoning Commission shall transmit its recommendation to the City Council, which will then act on the application.

f. Review and Evaluation

1. The Planning and Zoning Commission and City Council shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Code.

2. The Planning and Zoning Commission shall make the following findings before recommending approval of the site plan to the City Council:

- a) The proposed development, together with any necessary modifications, is compatible with the criteria established in Table 12-1.
- b) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
- c) The site plan conforms to the Zoning Code.

g. Modification of Site Plan. The Zoning Administrator, or his/her designee, Planning and Zoning Commission, and City Council may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, welfare, community character, property values, and/or aesthetics.

h. Term and Modification of Approval

1. A Site Plan Approval shall become void one year after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.

2. The Zoning Administrator, or his/her designee, may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the criteria set forth in Table 12-1.

3. The Zoning Administrator, or his/her designee may revoke a Site Plan Approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.

i. Approval to Run With Land. An approval pursuant to this section shall run with the land until the expiration date of such approval.

41.112. CONDITIONAL USE AND SPECIAL USE PERMIT PROCEDURES.

a. Purpose. The Conditional Use and Special Use Permit Procedures provides for Planning Commission review and discretionary Board of Adjustment action for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.

- b. Administration. The Planning Commission shall review and evaluate each application and transmit its recommendation to the Board of Adjustment. The Commission recommendation should include whether or not to approve or disallow the project and any suggested conditions if approval is recommended. The Board of Adjustment shall review, evaluate, and act upon all applications submitted pursuant to this procedure.
- c. Application Requirements. An application for a Permit may be filed with the Zoning Administrator by the owner(s) of a property or the owners' authorized agent. The application shall include the following information:
1. Name and address of the applicant.
 2. Owner, address and legal description of the property.
 3. A description of the nature and operating characteristics of the proposed use.
 4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.
 5. A written statement as to how the proposed project fits within the character of the neighborhood and the meets the intent of the City's comprehensive plan.
- d. Review Process
1. The Planning and Zoning Commission, following proper notice, shall hold a public hearing on each Permit and, following such public hearing, shall recommend action to the Board of Adjustment.
 2. The Board of Adjustment, after publication and public hearing, shall act on the Permit, choosing to approve or deny the project.
- e. Criteria for Review
1. The Planning Commission and the Board of Adjustment shall review the application based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Code.
- f. Scope of Planning and Zoning's Authority
- The Planning and Zoning Commission shall review and make recommendations to the Board of Adjustment based on the criteria established in Table 12-1 and based on compatibility with the surrounding neighborhood. The Commission shall forward

recommendations including whether or not to approve or deny the permit. If approval is recommended, the Commission shall include suggested conditions for the Conditional or Special Use Permit.

g. Scope of Board of Authority

1. The Board of Adjustment may, at its discretion, apply a Conditional Use Permit to a specific owner or applicant. The Board of Adjustment may establish special site development or operational regulations as a condition for approval of a Conditional or Special Use Permit. The Board of Adjustment may also choose to deny any application, based on the criteria established in Table 12-1 or determined incompatibility with the character of the surrounding neighborhood.

2. The Board of Adjustment shall not grant a Conditional Use Permit for any home occupation/home based business which is otherwise prohibited under Section 41.65(a) of this Zoning Code.

h. Lapse and Revocation of Permit

1. A Conditional Use Permit shall become void one year after its effective date if the applicant has not carried out development or occupancy during that period.

2. The Board of Adjustment may revoke a Conditional Use Permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.

3. A Special Use Permit is granted by the Board of Adjustment for a period not to exceed eighteen (18) months. The Permit can be revoked at any time for violation of any of the issuing criteria.

i. Previously Approved Permits. Any approved under regulations in effect before the effective date of this Zoning Code shall be considered to have a valid Permit, subject to requirements imposed at the time of its approval.

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Table 12-1: Criteria for Site Plan Review and Conditional Use and Special Use Permits

	CRITERIA	APPLICATIONS TO		
		Site Plan Review	Conditional Use Permit	Special Use Permit
Land Use Compatibility				
Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features.		X	
Height and Scale				
Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	X	X	X
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics.	X	X	X
Building Coverage	Building coverage should be similar to that of surrounding development of possible. higher coverage should be mitigated by landscaping or site amenities.	X	X	X
Site Development				
Frontage	Project frontage along a street should meet minimum frontage requirements and provide reasonable exposure for the development.	X	X	X
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles.	X	X	X
	All structures must be accessible to public safety vehicles.	X	X	X
	Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	X	X	X

Table 12-1: (continued) Criteria for Site Plan Review and Conditional Use Permits

Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainageways should be preserved.	X	X	X
Building Design	Architectural design and building materials should be compatible with surrounding areas or highly visible locations	X	X	
Operating Characteristics				
Traffic Capacity	Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	X	X	X
External Traffic Effects	Project design should direct non-residential traffic away from residential areas.	X	X	
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	X	X	
Operating Characteristics				X
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	X	X	
Public Facilities				
Sanitary Waste Disposal	Developments within 500 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare.	X	X	X
	Sanitary sewer must have adequate capacity to serve development.	X	X	

Table 12-1: (continued) Criteria for Site Plan Review and Conditional Use Permits

<p>Storm Water Management</p>	<p>Development should handle storm water adequately to prevent overloading of public storm water management system.</p> <p>Development should not inhibit development of other properties.</p> <p>Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.</p>	<p>X</p> <p>X</p> <p>X</p>	<p>X</p> <p>X</p> <p>X</p>	
<p>Utilities</p>	<p>Project must be served by utilities.</p>	<p>X</p>	<p>X</p>	
<p>Comprehensive Plan</p>	<p>Projects should be consistent with the City of Windsor Heights Comprehensive Development Plan.</p>		<p>X</p>	<p>X</p>
<p>Common Facilities</p>	<p>Property and properties are required to have tornado shelters. Underground or other approved tornado shelters shall be provided in the Mobile Home Park. Such shelter or shelters shall be built according to the recommendations of the Civil Defense authority and be large enough to meet the specific needs of the park and residents.</p>			<p>X</p>
<p>Certification</p>	<p>A certification of compliance with all ordinances and regulations regarding mobile home licensing, zoning, health, plumbing, electrical, building, fire protection and any other applicable requirements shall be required of all Mobile Home Parks.</p>	<p>X</p>	<p>X</p>	<p>X</p>

41.113 AMENDMENT PROCEDURE.

- a. Purpose. The Amendment Procedures describe the methods by which changes may be made in the text of the Zoning Code (text amendment) and/ or the official boundaries of zoning districts (rezoning).
- b. Initiation of Amendments
 1. Text amendments may be initiated by the Planning and Zoning Commission or City Council.
 2. Rezoning may be initiated by a property owner or authorized agent; the Planning and Zoning Commission; or the City Council.
- c. Rezoning Application Requirements. An application for a rezoning may be filed with the Zoning Administrator, or his/her designee. The application shall include the following information:
 1. Name and address of the applicant.
 2. Owner, address and legal description of the property.
 3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
 4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.
- d. Amendment Process
 1. The Planning Commission, following ten days notice and publication, shall hold a public hearing on each proposed text or rezoning and shall recommend action to the City Council.
 2. The City Council, after publication and public hearing, shall act on the proposed amendment. A majority vote of those members either elected or appointed to the City Council is required for approval. If the proposed amendment is recommended for disapproval by the Planning Commission, a majority vote plus one of the City Council shall be required for approval.

3. Protest: If a valid protest petition opposing an amendment is filed with the City Clerk by eligible property owners), a majority vote plus one of those members either elected or appointed to the City Council is required for approval. A valid protest petition must meet the following criteria:

a) Submission of the petition in the office of the City Clerk within fourteen (14) days after the conclusion of the public hearing on the amendment by the Planning Commission.

b) Notarized signatures by at least one of the following:

1) The owner or owners of at least 20% of the property proposed for rezoning.

2) The owners of 20% of the total area, excepting public rights-of-way and public property, within the zoning jurisdiction of the city and within 200 feet of the proposed rezoning.

e. Required Notice and Publication. Prior to consideration of amending, supplementing, changing, modifying, or repealing this Zoning Code by the governing body, notice of public hearings shall be provided by two of the three following methods, as determined by the City:

1. Notice By Posted Sign: A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than eighteen inches in height and twenty-four inches in width with a white background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.

2. Publication: At least ten days before the date of hearing, the City Clerk shall have published in a newspaper published at least once weekly and having a general circulation in the City of Windsor Heights a Notice of the time, place and subject matter of such hearing.

3. Notification by Mail: At least ten days prior to the date of hearing, the party initiating the rezoning request shall present the City Clerk a certified address list of those persons who own property within 200 feet of the subject site. The City Clerk shall mail notice of the time, place and subject matter of the hearing to such property owners at least ten days prior to the date of the hearing.

41.114 EXTENSION OF THE EXTRA-TERRITORIAL JURISDICTION. Upon the automatic extension of the two-mile Extra-Territorial Jurisdiction due to annexation, the City Council with the recommendation of the Planning Commission shall zone properties within the newly established Jurisdiction concurrent with adoption of the annexation ordinance. The zoning shall consider the Comprehensive Development Plan of the City of Windsor Heights and the present use of the land.

41.117 BUILDING PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.

a. Administration and Enforcement. The Zoning Administrator shall administer and enforce this Zoning Code. The Board of Adjustment may direct other persons to assist him/her.

If the Zoning Administrator, or his/her designee shall find that any of the provisions of this Zoning Code are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/ she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Zoning Code to ensure compliance with or to prevent violation of its provisions.

b. Building Permits Required. Except as provided by Section 301(b) of the Uniform Building Code, 1991 Edition, no building or other structure regulated by this Zoning Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate permit for each building or structure has first been obtained from the building official. No building permit shall be issued by the building official except in conformity with the provisions of this Zoning Code, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this Zoning Code.

c. Application for Building Permit. All applications for building permits shall include plans if applicable in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration.

The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Zoning Code.

One copy of the plans shall be returned to the applicant by the administrative official, after he/ she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the administrative official.

d. Certificates of Zoning Compliance for New, Altered or Non-Conforming Uses. No building or other structure regulated by this Zoning Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a certificate of zoning compliance for each building or structure has first been obtained from the building official. No building permit shall be issued by the building official except in conformity with the provisions of this Zoning Code, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this Zoning Code.

e. Expiration of Building Permit

1. If the work described in any building permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be canceled by the administrative official; and written notice thereof shall be given to the persons affected.

2. If the work described in any building permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

3. The expiration date of a building permit may be established for a period longer than one year if established at the time that such permit is issued by the City. The Zoning Administrator, or his/her designee may, at his/her discretion extend the expiration period of the building permit.

f. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance. Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this Zoning Code, and punishable as provided by Section hereof.

41.118 SCHEDULE OF FEES, CHARGES AND EXPENSES. The City Council shall establish by Resolution a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, site plan reviews, appeals, and other matters pertaining to this Zoning Code.

The schedule of fees shall be posted in the office of the City Clerk, and may be altered or amended only by the City Council.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

41.119 BOARD OF ADJUSTMENT.

a. Establishment

1. A Board of Adjustment is hereby established according to the Code of Iowa.
2. Each member shall be appointed by the City Council for a five-year term and is removable for cause by the City Council upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
3. The Board of Adjustment shall adopt rules and regulations in accordance with this Zoning Code and the Code of Iowa. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The Board shall keep a record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. A majority of the Board shall constitute a quorum for the transaction of business.

b. Procedure for Appeals

1. Appeals shall be made to the Board of Adjustment through the office of the Zoning Administrator in written form as determined by the Zoning Administrator. The Board shall fix a reasonable time for the hearing of the appeal and shall decide the appeal within 30 days of the date of the public hearing. An appeal stays all proceedings in furtherance of the action, unless the Zoning Administrator certifies to the Board that by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property.

2. The Board shall provide a minimum of ten days notice of a public hearing on any question before it. Notice of the hearing shall be posted in a conspicuous place on or near the property on which the application has been made; and provided by publication in a newspaper of general circulation in the City of Windsor Heights; mailed notice to property owners within 200 feet of the subject property; and by written notice to the appealing party.

3. Upon the public hearing, any party may appear in person or by agent or attorney. The concurring vote of four out of five members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such ordinance.

41.120 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall have only the following powers and duties:

a. Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Zoning Administrator, or his/her designee in the enforcement of this Zoning Code or any regulation relating to the location or soundness of structures

b. Conditional Use Permits: To hear and decide the approval of applications for Conditional Use permits, as provided by this Zoning Code. Procedures for Conditional Use Permits are established in Section 41.112.

c. Interpretation of Zoning Map: To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map.

d. Variances to Relieve Hardships Relating to Property: To authorize, upon appeal, variances from the strict application of this Zoning Code where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations; or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, such strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property.

1. Requirements for Grant of a Variance. No such variance shall be authorized by the Board unless it makes the following findings:

- (a) Strict application of the zoning ordinance will produce undue hardship and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Code.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
- (d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this Zoning Code.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

2. Findings by Board. The Board of Adjustment shall make findings that the requirements of Section 41.120(c)(1) have been met by the applicant for a variance.

3. Conditions for Grant of Variance.

- (a) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violation 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 Zoning Code and punishable under Section 41.124(b) of this Zoning Code.
- (b) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Zoning Code in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Code in said district.
- (c) No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

e. Board has Powers of Zoning Administrator on Appeals: Reversing Decisions of Zoning Administrator. In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Zoning Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Zoning Code, or to effect any variation in the application of this Zoning Code.

41.121 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, or any board, taxpayer, officer, department, board or bureau of the city aggrieved by any decision of the Board of Adjustment may seek review of such decision by a court of record in the manner provided by the laws of the State and particularly by Chapter 414, Code of Iowa.

41.122 SEVERABILITY CLAUSE. Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

41.123 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this resolution occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint immediately, investigate, and take action thereon as provided by this resolution.

41.124 PENALTIES FOR VIOLATION.

- a. Violation and Penalty. Violation of the provisions of this Zoning Code or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a municipal infraction, subject to the penalties and alternative relief authorized by this Zoning Code and by Section 364.22 of the Code of Iowa.
- b. Restraining Order. In case any building is built, developed, altered, or otherwise used in violation of this Zoning Code, the City Attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City of Windsor Heights, to prevent such unlawful action; to restrain, correct, or abate such violation; or to prevent any illegal act, conduct, business, or use in or about said premises.
- c. The owner or tenant of any building, structure, premises, or part thereof, any

architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

- d. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

Subchapter 13: Hickman Corridor Overlay District41.125 Introduction

- a) Title: This chapter shall be known and may be cited and referred to as the Hickman Corridor Overlay District.
- b) Interpretation of Standards: The Hickman Corridor Standards contained herein constitute an overlay zoning district. They shall operate in conjunction with any underlying zoning district, and all other applicable regulations, remain in effect. If provisions of the Hickman Corridor Overlay District Standards conflict with the underlying zoning, the Hickman Overlay District Standards shall prevail.
- c) Overall Objective: To have an atmosphere that is safe, convenient, energetic, and attractive through the integration of uses and eclectic architecture and to creatively handle storm water drainage issues in an environmentally sound manner.
- d) Intent: The intent of the Hickman Corridor Overlay District is:
 - 1. Public Space – To preserve, enhance, or create a variety of forms of publicly-accessible open space, such as parks, plazas, tree-lines streets, and community gathering area.
 - 2. Compact Mixed Use – To create a compact concentration of land uses within each development through multiple uses in a single building, or in the same general area.
 - 3. Street Aesthetics – To encourage an attractive and aesthetically pleasing environment, which will draw customers and residents and will help enhance and maintain the City’s safe and superior quality of life.
 - 4. “Green” Friendly – To reduce the amount of impervious parking in general and the amount of visible impervious parking specifically by utilizing shared parking, pedestrian pathways, permeable paving alternatives and creative, attractive landscaping.
 - 5. Design – To achieve a unique aesthetic design through high quality architecture and construction with attention to placement, relationship and orientation of structures to provide a greater compatibility with surrounding land uses
- e) Definitions.

BIG BOX RETAIL: A structure exceeding 75,000 square feet.

BUFFER: A combination of horizontal space (land) and vertical elements (plants, berm, fences, and walls), used physically separate or visually screen incompatible adjacent land use.

COMMUNITY DEVELOPMENT COMMITTEE: A committee made up of two Council Members, the Mayor, the Director of Community Development, and a citizen representative.

COMMUNITY USE: Administrative and legislative government offices, schools, postal facilities (such as libraries and museums), meeting halls, clubhouses, amphitheaters, band shells, and pavilions.

DIRECTOR OF COMMUNITY DEVELOPMENT: The Windsor Heights Director of Community Development or appropriate designee.

ECLECTIC: Composed of elements from a variety of sources, systems, materials, or styles.

FACADE ARTICULATION: The interruption of the building façade through the use of awnings, arches, display windows, or other elements.

LANDSCAPE AMENITIES: Living or non-living materials used to augment the beauty of usability of a landscaped area. Amenities may include, but are not limited to: additional vegetation, flower gardens, tables, sculptures, monuments, benches, gardens, banners, enhanced pavement, pedestrian plaza areas, fountains, and planters.

LANDSCAPE ISLANDS: A raised unpaved area located within or protruding into a parking lot or the center unpaved area of a cul-de-sac or traffic circle. The area of a landscape island is measured from the back of the inside curb to the back of inside curb.

LANDSCAPE POD: A small individual unpaved area within a parking lot incorporated to provide locations for vegetation, thus increasing the aesthetic quality of the parking lot.

LANDSCAPE UNIT: A calculation or measurement tool used to break a specific landscape area into smaller increments based upon a pre-determined number of square or linear feet.

LARGE RETAIL STRIP ESTABLISHMENTS: A structure or structures when combined exceed 75,000 square feet and is a largely non-residential development, which is shallow in depth and lies along a length of roadway. Buildings organized in a linear pattern or in isolated “islands” characterize a large retail establishment.

LIVE/WORK UNITS: A unit, which offers both a studio work environment and a living environment. The work environment must be primarily involved in the artistic crafts, offices, or service uses with minimum impacts on surrounding neighborhood, such as self-employed consultants, researchers, or artists.

MAIN ENTRANCE: That entrance of the building, which is most architecturally prominent and contains operable doors.

MIXED-USE: A single building containing two or more types of land use; or a single development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas.

NEO-TRADITIONAL: Developments that favor the return of pre-World War II patterns of development with such traditional features as grid-street patterns, reduced setbacks, prominent front porches, multi-use buildings, and housing clustered near commercial service areas.

OPEN SPACE: That portion of a site required by the zoning regulation to be maintained as open or 'green space'. Open space areas shall be free of any structures and off-street parking areas.

OPACITY: The degree to which something is opaque or see-thru.

OPACITY DEGREE: An imaginary vertical plane extending from the established grade to a required heights, which will be visually obscured to deferring levels of opaqueness through the position of obstructions between the viewing point and the viewed object.

OVERLAY DISTRICT: Districts, which are placed "over" the base zoning to modify the development guidelines and to achieve a specific purpose for that area. The regulations of the underlying zoning district and all other regulations remain in effect. If any regulations conflict with the underlying zoning, the Overlay guidelines prevail.

PARAPET: A low, solid, protective screening or decorative wall; often used around a balcony, or along the edge of a roof to screen roof equipment.

PEDESTRIAN-STYLE/SCALE OR PEOPLE-SCALED: The establishment of appropriate proportions for building mass and features in relation to pedestrians and the surrounding context.

PLACE-MAKING: Distinct features, such as parks, plazas, or civic areas which connect residents with a community and promote positive user interaction.

PLANNED UNIT DEVELOPMENT: A planned combination of diverse land uses, such as housing, recreation and shopping, in one contained development or subdivision.

PLANNING UNITS: Parcels of land uses, such as mixed use of single family that are determined during the review of the Area Development Plan and further defined during the review of the Specific Plan.

PLAZA: A public square or an open space.

SNOUT HOUSES: Houses designed with the garages closest to the street, which presents them as the dominant façade.

STREETSCAPE: A combination of vegetation, amenities, and special visual features along either side of vehicular travel lanes for the purpose of aesthetics or shade.

STREETSCAPE FURNITURE: Amenities, such as benches, lighting, and trash receptacles, which help to carry out the developments chosen theme.

TRAVEL WAY: A pedestrian or automotive path.

USEABLE OPEN SPACE: Areas, which serve the need for leisure, recreation, or pedestrian interaction. Spaced may include, but are not limited to, plaza areas, open lawn areas, trails, recreation facilities, gardens, and pedestrian walkways.

VEHICLE USE AREA: The area of a development subject to vehicle traffic, including access ways, loading and service areas, areas used for parking or storage of vehicles, boats, or portable construction equipment and all land which vehicles cross over as a function of the primary use.

41.126 Development Review Process

1. A site plan shall be required for each project within the overlay district.
2. The applicant for a permitted use (site plan) submittal is required to schedule a predevelopment meeting with City staff to review the proposal prior to submittal of the site plan. Following the predevelopment meeting, the applicant shall submit a site plan in accordance with the requirements of the site plan checklist and any other information determined to be necessary for the review at the development meeting.
3. The site plan shall be distributed to various City departments to ensure the site plan meets the intent of the specific plan. If the site plan is determined by the City Staff to be in compliance with the specific plan, the site plan will be subject to administrative review and approval by the Director of Community Development and the Community Development Committee. If the site is deemed not to be in compliance, the site plan will be subject to review by the appropriate viewing body.
4. Propose architectural colors and materials examples shall be submitted with the site plan application for all developments within the Overlay District.
5. The site plan process will be for permitted uses and permitted conditional uses as detailed in the City's zoning ordinance.

41.127 Architectural Requirements and Site Design

a) Intent and general provisions:

1. Buildings shall be placed to provide a strong street orientation to create a pleasing pedestrian environment.
2. The Hickman Corridor Overlay District shall contain uses and buildings with greater intensity and height to produce a concentration of jobs, shops, meeting facilities, residential units, entertainment, and restaurants within close proximity to each other.
3. To create small, shared, aesthetically landscaped and screened parking lots, which are designed to function not only in the interest of accommodating automobiles, but also in the interest of the pedestrian.
4. To allow for the creative design of plazas, green spaces, and focal elements for retail, office, or mixed use developments.

5. Building facades shall be varied and articulated to provide visual interest. Buildings shall be proportioned and defined by clear façade elements such as a base, middle, and top.
6. To encourage the design of mixed use structures to provide an environment that offers office, retail, and residential opportunities. Mixed use buildings or developments shall be designed to limit the impacts of traffic, noise, and safety to the surrounding neighborhood.
7. Compact Mixed Use – To create a compact concentration of land uses within each development through multiple uses in a single building, or in the same general area.

b) Buildings:

1. Buildings are required to have architectural interest by achieving the following:
 - i. Using heavier building materials at the bottom of the building,
 - ii. Using roof details such as cornices, caps, or parapets at the top of the building (Note: no flat roofs are permitted),
 - iii. Alternating roof styles, heights, and elements; including pitch or hip roofs,
 - iv. Dormers,
 - v. Varying window heights and styles,
 - vi. Façade modulation such as window bays,
 - vii. Mix of architectural materials and styles,
2. Fenestration (door and window openings) shall be sized to the scale of the building and detailed appropriately. Use of repeating window patterns and details are encouraged to unify the design.
3. Entrances into buildings shall be easily identified through the use of building design and detailing. Projected or recessed entryways, higher rooflines, awnings, or changes in building material are examples that can create this effect.
4. Buildings shall provide a unifying theme while maintaining each building's individual character.
5. Materials shall change with the change in building plans, however, all materials shall keep within the chosen theme.

6. Reflective glass or mirrored glass is prohibited. Clear glass should be used on storefronts, windows, and doors to promote the linkage of the interior and exterior buildings.
7. All sides of all buildings open to public view shall be treated with the same level of architectural style.
8. Trim and structural elements such as posts or columns shall be sized to the scale of the building and detailed appropriately to the theme. When used, masonry materials shall have the appearance of 3-dimensional elements.
9. Corporate franchise design where the building functions as a trademark shall be permissible only if it incorporates architectural elements, which are compatible with the overall theme and uniqueness of the development.
10. Outbuildings on commercial lots are also required to use attractive architectural elements as outlines above.
11. In the case of petroleum stations, pump islands will be required to contain interesting architectural elements and masonry construction.

c) General Parking Lot Design and Landscaping Standards:

1. Parking is strongly encouraged to be located in the back of the development.
2. Parking lot/vehicle use area landscaping: The intent of this Section is to encourage extensive landscaping in parking lot areas which tend to have the greatest negative impact on developments and that will provide breaks in what could be viewed as a sea of asphalt parking. All parking areas shall be designed to create small, shared, aesthetically landscaped and screened parking lots that are designed to function not only in the interest of accommodating automobiles, but also in the interest of the pedestrian. The following standards are in addition to the required buffer park and plaza landscaping requirements:
 - i. Landscape islands shall be spaced no greater than twelve (12) parking stalls apart within a single row of parking. Islands shall be ten feet (10') in width by thirty-eight feet (38') in length for dual row parking rows and ten feet (10' in width by nineteen feet (19') in length for single rows.
 - ii. No Parking space, within a single row of parking, shall be greater than six stalls from a landscape island or pod.
 - iii. Landscape islands shall be located at the terminus end of parking rows.

- iv. A landscape pod shall be spaced no greater than six (6) parking stalls apart from another landscape pod or island within a single row of parking. Landscape pods shall measure a minimum of six feet (6') back-of-curb to back-of-curb in each direction.
- v. A minimum of one (1) tree and two (2) densiformus yews should be installed in each landscape pod; one (1) tree and three (3) densiformus yews 10' x 19' island; two (2) trees and five (5) densiformus yews shall be installed in each 10' by 38' island. In addition to the shrubs, a variety of perennials may be required. In all events, the landscape pods and islands shall be sodded or mulched. If mulched, mulch shall be replenished annually.
- vi. The developer and/or successors shall maintain landscaped medians.
- vii. Areas where parking lots or drive lanes are visible from the public street shall provide a significant level of screening through the use of any of the following:
 - Earthen berms;
 - Three feet or higher in conjunction with vegetation;
 - Landscaped walls;
 - Walls constructed for the retainment of soil which are greater than four feet (4') in height must be designed by an individual knowledgeable and certified in structural engineering;
 - Walls may be brick, individual decorative modular wall stone, or natural stacked wall or filed stone. Walls composed of landscape timbers or other wood products are not desired due to the deterioration potential of the material. Wood walls may be used, with approval by the Community Development Director, in areas where views of the wall are minimal.
 - Vegetation shall be planted along all types of walls to soften the visual impact, visually break up long expanses of the wall and to visually anchor it to the site. Vegetation screening of evergreen materials.

d) Commercial and Mixed Use:

1. General Requirements:

- i. Developments shall provide buffering for street frontage through enhances vegetation, berming, or landscape features that are sufficient to attractively enhance the project, as set forth in Section 4.
- ii. Locate buildings close to the street, with off-street parking behind or besides the building.

- iii. Buildings shall be arranged to create view corridors between pedestrian destinations within and adjacent to the site including building entrances or open spaces.
- iv. Each development shall provide outdoor lighting fixtures, integrated street pavers or patterns, and landscaping that reinforces the neighborhood theme and identity.
- v. Developments may be required to offer exterior and/or interior public spaces, and, if possible, a space appropriate for public gatherings and seasonal events, as determined by the Community Development Committee and the Director of Community Development.
- vi. Developments that abut existing developments, which are not a part of the Hickman Corridor Overlay District, shall be designed to respect the surrounding developments in order to provide for a transition from the typical development patterns to the new district.
- vii. Corners of street intersections, shall be distinguished by special landscape or architectural treatments such as:
 - Flower displays,
 - Accent rocks,
 - Decorative Lighting,
 - Outdoor art,
 - Vertical architectural elements,
 - Special paving,
- viii. Developments shall be constructed of masonry materials; masonry-like materials or other materials that may be approved by the Community Development Committee and the Director of Community Development.

2. Sidewalks/Pedestrian Elements:

- i. Sidewalks in designated areas shall be of a sufficient width to accommodate outdoor seating areas for cafes, pedestrian street furniture, walkways, and street trees. Sidewalks shall be a minimum of six (6) feet unless specifically exempted by the Director of Community Development for extenuating circumstances.
- ii. Developments shall provide breaks between buildings at mid-block and shall have pedestrian amenities such as walkways, benches, etc.
- iii. Any pedestrian paths, which cross internal drives, shall be constructed to visually contrast to provide a highly visible crosswalk.

- iv. Enhanced pedestrian elements at the sidewalk level including decorative lighting, seating or low sitting walls, planters, enhanced paving techniques, etc, shall be incorporated into the theme.
- v. To promote a higher level of pedestrian awareness, the use of alternate paving materials to designate pedestrian traffic areas from vehicular use areas and travel lanes is required.
- vi. Common walls between residential and non-residential uses shall be constructed to minimize the transmission of noise and vibration.
- vii. Pedestrian circulation shall be an integral part of the initial site layout. Organize the site so that the buildings frame and reinforce pedestrian circulation between lots.
- viii. Parking and refuse containers must be placed in a convenient location for the residential units of mixed-use buildings and must be enclosed with wooden or masonry structure.
- ix. Live/work units are encouraged within this district. The unit must provide a storefront.

3. Parking:

- i. Parking areas shall consist of separated parking fields that are aesthetically pleasing, landscaped to screen the public views and located so as not be the dominant feature along any street or intersection, with appropriate landscaping and landscaping pods and units as set out in section 41.130.
- ii. Parking structures and lots shall be designed to contribute to an attractive appearance of the streetscape and not deter from the pedestrian access.
- iii. Structured parking may be allowed in front of the building provided that retail, office, or residential uses are located on the ground floor abutting all streets and sidewalks.
- iv. Structured parking shall provide pedestrian access to both the street level and multi-story residential or retail.
- v. Parking requirements will be established at the review of the site plan.
- vi. Consideration will be given for the reduction of parking requirements if the applicant can provide data that indicates potential parking demand that is less than the current code. The applicant may use shared parking to reduce the number of required stalls.
- vii. Parking shall be located to utilize natural landscape and topography.

- viii. The design of all parking lots shall permit the travel of the fire department's vehicle access requirements.
- ix. Pedestrian travel ways shall be separated from vehicular traffic with landscaping, bollards made of materials complimenting the architectural style of the project, special paving, or nay other feature, which identifies the pedestrian space.
- x. Developers shall give special consideration to parking lots using permeable paving alternatives such as those paving systems designed to infiltrate and capture storm water. Such alternatives may be required as part of the site plan approval.

e) Residential Standards:

1. General:

- i. Garage doors shall NOT be the predominate features of a home. Garage doors facing the public street shall be setback so as to minimize the dominance of their appearance and provide adequate space between the street or sidewalk and the garage to accommodate additional parking. Garages or accessory structures shall incorporate architecture details with the use of windows, doors and other façade detailing.
- ii. Single family homes in a neighborhood shall have a varying front setback. For example, homes may have a range of front setbacks.
- iii. Porches are strongly encouraged to be a part of the front façade of single and multi family homes to provide an outdoor space and promote "eyes on the street".
- iv. Dwelling units are encouraged on the second or higher story of structures when possible.
- v. A publicly accessible outdoor space such as a private park, plaza, pavilion, or courtyard shall be included within each residential development to provide a focal point for such activities as outdoor gathering, neighborhood events, picnicking, sitting, and passive and active recreation.
- vi. Multi-density homes and high density apartment complexes shall have a street orientation through the use of small setbacks, balconies, and porches.
- vii. High and medium density residential buildings are strongly encouraged to be multi-story.
- viii. 80% of multi-family units within a development must provide a balcony of at least five (5) feet deep, which may extend into the setback, yet may be no closer than five (5) feet to the property line.

2. Buildings:

- i. Fenestration (door and window openings) shall be sized to the scale of the building and detailed appropriately to the pedestrian theme. Use of repeating window patterns and details are encouraged to unify design.
- ii. Entrances into buildings shall be easily identified through the use of build design and detailing. Projected or recessed entryways, higher rooflines, awnings or changes in building material are examples that can create this effect.
- iii. Buildings shall provide a unifying theme while maintaining each building's individual character.
- iv. Materials shall change with the change in building planes; however, all material shall keep within the chose theme.
- v. All sides of all buildings open to public view shall be treated with the same level of architectural style. Parking shall be located to utilize natural landscape and topography.

f) Big Box/Large Retail Strip Establishments Requirements:

1. It is the intent of the Hickman Corridor Overlay District to create a unique environment through mixed uses and interesting design. Each large retail establishment is required to provide pedestrian scaled through the incorporation of several of the following suggested elements:
 - i. Arcades,
 - ii. Arches or recessed archways,
 - iii. Architectural details such as tile work and moldings, which are integrated into the building structure and design,
 - iv. Awnings, canopies, or porticos,
 - v. Changes in massing,
 - vi. Changes in material,
 - vii. Clearly defined, highly visible, multiple customer entrances,
 - viii. Display windows,
 - ix. Dormers,

- x. Peaked roof forms,
- xi. Planters, outdoor patios or wing walls that incorporate landscape areas and/or places for sitting.
- xii. Raised corniced parapets over the door(s)
- xiii. Separate shops (or the appearance of separate shops) with separate entrances placed in front of the larger building
- xiv. Varying plate heights

41.128 Open Space/Landscaping

a) General Provisions:

1. Developments within the Hickman Corridor District shall adhere to the Landscape Ordinance. However, the following guidelines shall be followed when providing open space. All developments shall provide useable open space, or spaces, which allow for the interaction among pedestrians and with the surrounding environment.
2. Useable open spaces shall be designed to encourage the interaction and presence of people throughout the day and evening.
3. Useable outdoor spaces shall provide as many seating opportunities as possible through the placement of moveable chairs, sidewalks cafes, and planter walls.
4. Usable outdoor space shall be privately owned and maintained by the developer or property owner's association. However, if the determination has been made by the City Council that a particular useable open space serves not only the patrons of the development but the greater community as a whole, the City may provide assistance to aid in the development of the public space.
5. The integration of storm drainage and detention shall be designed to enhance the public space, which could include the creation of ponds, rain gardens, permeable paving alternatives, etc.
6. Usable space shall be designed to create an outdoor room, by limiting the interaction with moving vehicles and partially surrounding the spaces by buildings, landscaping elements and architectural features.
7. All utility boxes shall be screened with evergreen trees or shrubs proportional to the heights of the utility box with enough clearance to allow service on the boxes if necessary.
8. Irrigation sufficient to sustain plant life enabling it to flourish is required.

b) Landscaping materials:

1. Landscaping materials are restricted in this overlay district. The following materials are permitted/encouraged, or prohibited, based on categories.

The following are the suggested plant lists for special uses:

Partial Listing of Large Shade Trees for Planting on Public & Private Property

1. *Acer x freemanii*
2. *Acer platanoides* (Norway Maple cv.)
3. *Acer rubrum* (Red Maple cv.)
4. *Acer saccharum* (Sugar Maple cv.)
5. *Betula nigra* (River Birch)
6. *Celtis occidentalis* (Hackberry)
7. *Gleditsia triacanthos* i. (Honeylocust cv.)
8. *Gymnocladus dioicus* (Kentucky Coffeetree) – Male only
9. *Ginkgo biloba* (Ginkgo, Maidenhair Tree) – Male only
10. *Quercus* sp. (Oaks)
11. *Tilia* sp. (Lindens)

Evergreens for Planting on Public & Private Property

1. *Densiformis* Yews
2. *Juniperus virginiana* (Eastern Red Cedar)
3. *Picea glauca densata* (Blackhills Spruce)
4. *Picea pungens glauca* (Colorado Blue Spruce)
5. *Pinus banksiana* (Jack Pine)
6. *Pinus ponderosa* (Ponderosa Pine)
7. *Pinus mughho mughus* (Swiss Mountain Pine)
8. Eastern White Pine
9. *Abies concolor* White Fir
10. *Pinus strobes* White Pine
11. *Thuja occidentalis* (Arborvitae)

Tree Planting Prohibited on Street Right-of-Way (ROW) and not Recommended for Private Property

1. *Acer negundo* (Box Elder)
2. *Acer saccharinum* (Silver Maple)
3. *Betula papyrifera* (White Birch – ROW only)
4. *Gleditsia tricanthos* (Thorny Honeylocust)
5. *Robinia pseudocacia* (Black Locust)
6. *Quercus palustris* (Pin Oak – ROW only)
7. Oriental Elms
8. All Evergreens (ROW only)
9. Trees bearing fruits and nuts over 1' diameter (ROW only)

Dense Deciduous Shrub List for Screening Large

1. *Acer ginnala* 'Bailey Compact' (Bailey Compact Amur Maple, 8 x 8)
2. *Cotoneaster lucida* (Hedge Cotoneaster, 8-10' x 4-5')
3. *Elaeagnus umbellata* (Autumn Olive, 10-12' x 6-10')
4. *Ligustrum vulgare* 'Cheyenne' (Cheyenne Privet, 10' x 6')
5. *Physocarpus opulifolius* 'Diablo' (Ninebark, 8-10' x 8-10')
6. *Prunus tomentosa* (Nanking Cherry, 8-10')
7. *Syringa x prestoniae* (Donald Wyman, James MacFarlane, Agnes Smith, 8' x 8')
8. *Viburnum dentatum* (Arrowwood Viburnum, 8' x 8')
9. *Viburnum opulus* (European Cranberry Viburnum, 8-12' x 10-12')
10. *Viburnum trilobum* (American Cranberrybush Viburnum, 10' x 8')
11. *Arborvitae* – any species not prone to splitting

Medium

1. *Euonymus alatus compacta* (Dwarf Burning Bush, 6 x 6)
2. *Rhus aromatica* (Fragrant Sumac, 6' x 5')
3. *Ribes alpinum* (Alpine Current, 5' x 8')
4. *Spirea vanhouttii* (Bridal Wreath Spirea 6' x 6')
5. *Syringa meyeri palibin* (Dwarf Korean Lilac), 6' x 10')
6. *Viburnum trilobum Compact cv.*(Compact American Cranberry Viburnum, 6' x 6')

Small

1. *Physocarpus opulifolius nanus* (Dwarf Ninbark, 3 x 3)
2. *Potentilla fruticosa cv.* (Potentilla varieties, usually 3' x 3')
3. *Rhus aromatica Gro-Low* (Gro-Low Sumac, 2 x 4-5')
4. *Ribes alpinum Green Mound* (Green Mound Alpine Current, 3-4' x 2-3')
5. *Salix purpurea nana* (Dwarf Blue Leaf Arctic Willow, 4 x 4)
6. *Spirea bumalda cv.* (Spirea varieties, 2' x 2' – 4' x 4' – varies with cultivar)
7. *Spirea japonica cv.* (Japanese Spirea varieties, 2 x 2 – 4 x 4 – varies with cultivar)
8. *Viburnum opulus nanum* (Dwarf Cranberry Viburnum, 3' x 3')
9. Boxwood Koreanus
10. *Densiflorus Yews*
11. Hearty Shrub roses

Evergreen Shrubs

1. Chinese Junipers *Juniperus chinensis*
2. Blue holly – *ilex meserveae*
3. Sea Green Juniper *Juniperus chinensis* 'Sea Green'
4. Japanese Garden Juniper *Juniperus chinensis procumbens*
5. Dwarf Creeping Juniper *Juniperus horizontalis*
6. Spreading Japanese Yew *Taxus cuspidate*
7. Hicks upright Yew *Taxus media* 'Hicks'
8. Taunton Yew *Taxus media* 'Taunton'

Small Trees for Under High Wires (with upright branching to avoid pedestrians on sidewalks)

1. *Acer platanoides* 'Crimson Sentry' (Crimson Sentry Maple, 25' x 15')
2. *Amelanchier x grandiflora* "Robin Hill" (Robin Hill Serviceberry)
3. *Fraxinus p.* 'Johnson' (Leprechaun Ash, 18' x 16')
4. *Maackia amurensis* (Amur Maackia, 25' x 20')
5. *Malus Adirondack* (Adirondack Flowering Crabapple, white, 20' x 10')
6. *Malus Centurion* (Centurion Flowering Crab, rose-red, 20' x 12')
7. *Malus Red Barron* (Red Barron Flowering Crab, rose, 18' x 8')
8. *Malus Sentinel* (Sentinel Flowering Crab, white, 20' x 12')
9. *Prunus nigra* 'Princess Kay' (15' x 8-10')
10. *Syringa reticulata* 'Ivory Silk' (Ivory Silk Japanese Tree Lilac, 20' x 15')

Small Trees for Under High Wires (where sidewalk clearance is not an issue)

1. *Acer ginnala* (Amur Maple, 20' x 20')
2. *Acer tatarica* (Tatarian Maple, 25' x 15')
3. *Amelanchier canadensis* (Shadblow Serviceberry, tree form, 25' x 15')
4. *Amelanchier g.* Autumn Brilliance (Autumn Brilliance Serviceberry, 20' x 25')
5. *Carpinus caroliniana* (American Hornbeam, 25' x 20')
6. *Cercis canadensis* (Eastern Redbud, 25' x 20')
7. *Chionanthus virginicus* (Fringetree, 18' x 20')
8. *Cornus alternifolia* (Pagoda Dogwood, 20' x 15')
9. *Crataegus intricata* (Thicket Hawthorn, 20 x 15)
10. *Crataegus phaenopyrum* (Washington Hawthorn, 20 x 20)
11. *Crataegus v.* Winter King (Winter King Hawthorn, 20' x 20')
12. *Hamamelis virginiana* (Common Witch-hazel, 12-15' x 12')
13. *Ostrya virginiana* (American Hophornbeam, 35' x 25')
14. *Prunus maackia* (25' x 25')
15. *Pyrus c.* Chanticleer (Chanticleer Flowering Pear, 35' x 15')

Permitted Disease Resistant Flowering Crabapples

(This is not a comprehensive list)

1. Adams (red to pink flowers, red persistent fruit, 15' x 20')
2. baccata Jackii (white flowers, red fruit, 20' x 20')
3. Beverly (white flowers, red fruit, 20' x 20')
4. Candied Apple (pink flowers, red persistent fruit, 15' x 15')
5. Calloway (20' x 20')
6. Cardinal (16' x 20')
7. David (white flowers, red persistent fruit, 12' x 12')
8. Donald Wyman (white flowers, red persistent fruit, 20' x 24')
9. Golden Raindrops (white flowers, yellow persistent fruit, 20' x 15')
10. Jewelberry (white flowers, red fruit, 8' x 12')
11. Liset (dark red flowers, maroon fruit, 15' x 15')
12. Louisa (pink flowers, yellow fruit, 15' x 15')
13. Ormiston Roy (white flowers, amber persistent fruit, 20' x 25')
14. Pink Princess (pink flowers, deep red fruit, 8' x 12')
15. Prairiefire (rose-red flowers, dark red persistent fruit, 20' x 20')
16. Professor Sprenger (white flowers, orange-red persistent fruit, 20' x 20')
17. Robinson (deep pink flowers, red fruit, 25' x 20')
18. Sargent (white flowers, red persistent fruit, 8' x 12')
19. Strawberry Parfait (18' x 22')
20. Sugar Tyme (white flowers, red fruit, 18' x 15')
21. Zumi Calocarpa (white flowers, red fruit, 15' x 15')

Plants with Good to Moderate Salt Tolerance

Deciduous Shrubs

1. Caragana arborescens (Siberian Pea Shrub, 20 x 10)
2. Hypericum prolificum (St. John's Wort, 4 x 4)
3. Myrica pennsylvanica (Northern Bayberry, 9 x 6)
4. Philadelphus spp. & cvs. (Mockorange, size varies with species)
5. Potentilla spp. & cvs. (Cinquefoil, 3 x 3)
6. Rhus glabra (Smooth Sumac, 10 x 5)
7. Rhus typhina (Staghorn Sumac, 24 x 12)
8. Shepherdia argentea (Silver Buffalo Berry, 20 x 15)
9. Spirea vanhouttei (Bridalwreath Spirea, 6' x 6')
10. Symphoricarpos albus (Snowberry 3x3)
11. Syringa vulgaris (Common Lilac, 12'x10')
12. Viburnum dentatum (Arrowwood Viburnum 6 x 6)

Deciduous Trees

1. *Acer ginnala* (Amur Maple)
2. *Acer platanoides* (Norway Maple)
3. *Aesculus hippocastanum* (Common Horsechestnut)
4. *Amelanchier Canadensis* (Shadblow Serviceberry)
5. *Catalpa speciosa* (Northern Catalpa)
6. *Celtis occidentalis* (Hackberry)
7. *Cataegus crusgali* (Cockspur Hawthorn)
8. *Elaeagnus angustifolia* (Russian Olive)
9. *Ginkgo biloba* - Male only
10. *Gleditsia tricanthos* (Honeylocust)
11. *Gymnocladus dioicus* (Kentucky Coffeetree) – Male only
12. *Populus alba* (White Poplar)
13. *Populus deltoides* (Cottonwood)
14. *Populus tremuloides* (Quaking Aspen)
15. *Prunus serotina* (Black Cherry)
16. *Prunus virginiana* (Choke Cherry)
17. *Quercus alba* (White Oak)
18. *Quercus macrocarpa* (Burr Oak)
19. *Quercus rubra* (Red Oak)
20. *Tamarix ramosissima* (Five Stamen Tamarisk)

Groundcovers:

1. Bugleweed *Ajuga reptans*
2. Goutweed *Aegopodium podagraria*
3. Creeping Cotoneaster *Cotoneaster adpressa*
4. Bearberry Cotoneaster *Cotoneaster dammeri*
5. Rockspray Cotoneaster *Cotoneaster horizontalis*
6. Hesse Cotoneaster *Cotoneaster horizontalis* ‘Hessei’
7. Wintercreeper *Euonymus fortunei* cultivars
8. English Ivy *Hedera helix*
9. Plantain Lily Cultivars *Hosta* cultivars
10. Japanese Garden Juniper *Juniperus chinensis procumbens*
11. Sargent Juniper *Juniperus chinensis sargentii*
12. Japanese pachysandra *Pachysandra terminalis*
13. Gro-low sumac *Rhus aromatica* ‘Gro-low’
14. Periwinkle *Vinca minor*

LOW MAINTENANCE PERENNIALS

Full Sun (Includes sun from 12-5 pm)

1. *Artemisia camphorata* (Southernwood)
2. *Aster Alma Potschke*,
3. *Aster Purple Dome*
4. *Baptisia australis* (False Indigo)
5. *Boltonia a. Snowbank* (White Boltonia)
6. *Chelone lyonii* (Turtlehead)
7. *Coreopsis Zagreb* (Tickseed)
8. *Echinacea purpurea* (Coneflower)
9. *Euphorbia polychroma* (Cushion Spurge)
10. *Geranium c. Biokova*
11. *Geranium sanguinum* Max Frei
12. *Heliopsis* (False Sunflower)
13. *Hemerocalis* (Daylily)
14. *Hosta Royal Standard*
15. *Iris sibirica* (Siberian Iris)
16. *Liatris* (Blazing Star)
17. *Origanum l. Herrenhausen* (Ornamental Oregano)
18. *Peony*
19. *Perovskia* (Russian Sage)
20. *Rudbeckia Goldsturm* (Black-Eyed Susan)
21. *Ruta graveolens* (Rue)
22. *Salvia May Night/East Friesland/Blue Hills etc.* (Meadow Sage)
23. *Sedum kamtschaticum* (Stonecrop)
24. *Sedum spectabile Autumn Joy/Brilliant/Matrona etc.*
25. *Stachys Helene von Stein* (Lamb's Ears)
26. *Tanacetum* (Fern Leaf Tansy)
27. *Waldsteinia ternata* (Barren Strawberry)
28. *Yucca filamentosa*

Full Sun Grasses

1. *Calamagrostis Karl Foerster* (Feather Reed Grass)
2. *Miscanthus s. purpureus*
3. *Miscanthus s. Sarabende*
4. *Deschampsia caespitosa* (Tufted Hair Grass)
5. *Schizachyrium scoparium* (Little Bluestem)
6. *Sporobolus heterolepis* (Prairie Dropseed)
7. *Sorghastrum nutans* (Indiangrass)

Partial Shade (morning sun, afternoon shade)

1. Alchemilla (Lady's Mantle)
2. Aruncus (Goatsbeard)
3. Astilbe varieties
4. Carex s. Variegata (Variegated Sedge)
5. Chelone lyonii (Turtlehead)
6. Deschampsia caespitosa (Tufted Hair Grass)
7. Fern varieties
8. Heuchera varieties
9. Hosta varieties
10. Iris siberica (Siberian Iris)
11. Lamiastrum g. Herman's Pride
12. Lamium m. Chequers
13. Ligularia The Rocket
14. Thalictrum aquilegifolium (Meadow Rue)
15. Waldsteinia ternata (Barren Strawberry)

Shade (filtered light or direct sun only in early morning or late evening)

1. Alchemilla (Lady's Mantle)
2. Aruncus (Goatsbeard)
3. Asarum canadense (Wild Ginger)
4. Carex s. Variegata (Variegated Sedge)
5. Cimicifuga racemosa (Cohosh)
6. Epimedium (Barrenwort)
7. Fern varieties
8. Hosta varieties
9. Pulmonaria (Lungwort)

Prohibited Landscaping material

1. Berberis thunbergii (Japanese Barberry 6 x 6)
2. Berberis thunbergii cv. ('Crimson Pygmy' - 2' x 2', 'Globe' - 2' x 2', 'minor' - 3' x 3', etc.)

41.129 Appendix

- a) The Hickman Corridor Overlay District encompasses the properties highlighted in yellow on the attached map.
- b) Activating Criteria
 - 1. The following are the criteria, which subject a property or a business to the standards prescribed in the Hickman Road Overlay District.
 - i. New Construction;
 - ii. Major reconstruction (more than 30% of the structure if affected);
 - iii. Major renovation (more than 30% of the assessed value of the structure is affected); or change of property ownership.



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