

# ZONING ORDINANCE

Ordinance No. \_\_\_\_\_  
City of Neola, Iowa

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# ZONING ORDINANCE

Ordinance No. \_\_\_\_\_  
City of Neola, Iowa

This ordinance is intended to promote the health, safety and general welfare of the City of Neola, Iowa and to regulate and restrict the height, number of stories and size of buildings and other structures, and percentage of lot that may be occupied; the size of yards, courts and other open spaces; the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes; and for all such purposes to divide the City into districts; to prescribe penalties for the violation of its provisions; to provide for changes and amendments; to provide for its enforcement; to provide for a Board of Adjustment; and to prescribe its powers and duties.

## I. ZONING REGULATIONS

### A. Short Title

This ordinance shall be known and may be cited as "The City of Neola Zoning Ordinance."

### B. Authority and Jurisdiction

This ordinance is adopted pursuant to the authority granted by the State of Iowa in Chapter 414, City Zoning, of the Iowa Code, and all amendments. The zoning regulations shall be effective throughout the corporate limits of the City.

### C. Validity

If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional the same shall not affect the validity of this ordinance as a whole or any part of provisions thereof, other than the part so decided to be invalid or unconstitutional.

### D. Effective Date

This amended ordinance shall become effective from and after the date of its approval and adoption as provided by law.

PASSED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

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

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. \_\_\_ on the \_\_\_ day of \_\_\_\_\_, 2011.

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

## **E. Basis of Regulations**

This ordinance is adopted for the purpose of protecting the health, safety and general welfare of the residents, citizens and inhabitants of the City of Neola, Iowa. The regulations shall be designed to:

- Preserve the availability of agricultural land;
- Consider the protection of soil from wind and water erosion;
- Encourage efficient urban development patterns;
- Lessen congestion in the street;
- Secure safety from fire, flood, panic and other dangers;
- Promote health and general welfare;
- Provide adequate light and air;
- Prevent the overcrowding of land;
- Avoid undue concentration of population;
- Promote reasonable access to solar energy; and
- Facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements.

## **F. Relationship to other City ordinances**

If any provision of these zoning regulations imposes a higher standard than that required by any other City regulation not contained in these zoning regulations, the provisions of this ordinance shall govern. If any provision of any City regulation not contained in these zoning regulations imposes a higher standard, that regulation shall govern.

## **G. Relationship to Private Restrictions**

The provisions of this ordinance are not intended to nullify any deed restriction, covenant, easement nor any other private agreement or restriction on the use of land. Provided that where the provisions of this ordinance are more restrictive or impose higher standards than a private restriction, the requirements of this ordinance shall govern. The City shall not enforce private restrictions.

## **H. Violations and Penalties**

It is unlawful for any person to violate, cause or allow any other person to violate any provision or requirement of these zoning regulations. In particular, it is unlawful for any person:

- To make use of any premises for a purpose other than what is permitted in the zoning district in which the premises are located;
- To erect, construct, convert, enlarge, reconstruct, repair, structurally alter, maintain or use any building or structure for a purpose other than what is permitted in the zoning district in which the building or structure is located, subject to the provisions of section IX, Nonconforming Uses;
- To construct or locate more than one single family detached dwelling or more than one two family dwelling on one platted lot; or
- To own, occupy or control any premises containing a dwelling unit permanently occupied by more than one family at one time. For purposes of this provision a family is permanently occupying the premises if it continuously occupies the dwelling unit for more than thirty (30) days.

If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, maintained or if a building, other structure or land is used in violation of this ordinance; the City may institute appropriate action to:

- Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
- Restrain, correct or abate the violation;
- Prevent the occupancy of the building, structure or land; and/or
- Prevent any illegal act, conduct, business or use on or about the premises.

A violation of any provision of these zoning regulations is unlawful, a misdemeanor, and may be punished by a fine not to exceed two hundred dollars (\$200 USD) for each offense. Each day a violation occurs is a separate offense.

## **I. Vested Rights**

**Existing Permits and Private Agreements** – This ordinance is not intended to annul:

- Any permits issued before the effective date of this ordinance; or
- Any easement, covenant of any other private agreement.

**Preserving Rights in Pending Litigation and Violations Under Existing Ordinances** –

By the passage of this ordinance, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this ordinance that no offense committed and no liability, penalty, or forfeiture, either civil or criminal, shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending be proceeded within all respects as if such prior ordinance had not been repealed.

## **J. Completion of Existing Buildings**

1. Nothing in these regulations nor in any amendments hereto which change district boundaries shall require any change in the plans, construction or designated use of a building which shall be completed in its entirety within two (2) years from the date of the passage of this ordinance, provided such building either was actually under construction at the time of the passage of this ordinance or was authorized by building permit before the passage of this ordinance, and further provided construction shall have been started within ninety (90) days from passage of this ordinance.
2. Commitments with reference to construction of public utility buildings necessary for proposed expansion of the City made prior to the passage of this ordinance shall be observed.

## II. DEFINITIONS

This section contains definitions of words in the zoning regulations. Words not defined shall have the meaning as defined in the City's ordinances, if any. When a word is defined in a separate ordinance, the definition used therein shall govern over any conflicting definition of this section.

**Abandonment** means to cease or discontinue a use or activity without the intent to resume, but excluding temporary and short-term interruptions of use, i.e. the change of tenancy and ownership, or inactivity during periods of remodeling, maintaining or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure. A use is considered abandoned if the facts show the owner's intent to cease use or activity, and the discontinuance of use continues for two (2) or more consecutive years.

**Accessory building** means a subordinate building having a use customarily incident to and located on the lot occupied by the principal building. A building housing an accessory use is considered to be an integral part of the principal building when it has any part of a wall in common with the principal building, or is under an extension of the main roof and designed as an integral part of the principal building. Examples of accessory buildings include portable buildings for storage or other uses, gazebos, garages and other secondary buildings on the lot.

**Accessory use** means the use of a building or land, which serves an incidental function to the principal use of a building or land. An accessory use is a subordinate use customarily incident to and located on the same lot occupied by the main use.

**Agricultural use** refers to the use of land where such land is devoted to the production of plants, animals or horticultural products, including but not limited to forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle; sheep; swine and horses; bees and apiary products; trees and forest products fruits; nuts and berries; vegetables; or nursery, floral, ornamental and greenhouse products.

**Alteration, structural** means any change or rearrangement in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, as well as any change in doors or windows, or any enlargement or reduction of a building or structure, whether horizontally or vertically, or moving a building or structure from one location to another; provided, however, that applying exterior siding to an existing building for the purposes of beautifying and modernizing shall not be considered a structural alteration.

**Apartment** means a room or suite of rooms intended, designed or used as a residence by a single family.

**Bed and Breakfast** refers to a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the bed and breakfast shall live on the premises or in adjacent premises.

**Boarding house** means a building other than a hotel where, for compensation and by arrangement, meals or lodging and meals are provided for three (3) or more persons, but not to exceed twenty (20).

**Building** refers to any structure designed or built for support, enclosure, shelter or protection of persons, animals or property of any kind. When separated by a firewall, each

portion of such structure so separated shall be deemed a separate building. This definition shall include structures wholly or partially enclosed with an exterior wall.

**City Council** refers to the governing body, elected by the citizens, of the City of Neola, Iowa.

**Clinic, veterinary** means a building designed and used for the prevention, cure or alleviation of injury in domestic and other animals that may require overnight care.

**Commercial districts** refer to zoning districts "DC" Downtown Commercial and "CC" Corridor Commercial.

**Condominium** refers to a structure containing four or more apartments wherein the airspace within the apartment is individually owned by the occupant, together with the right of access and required automobile parking space and where the lot upon which the building is located, is under one ownership.

**Convalescent home/nursing and convalescent hospital** refers to any place or institution, which provides twenty-four (24)-hour care for one or more chronic or convalescent patients, who, by reason of illness or physical infirmity, are unable to properly or adequately care for themselves.

**Detached** means that a building does not share a common wall with another building.

**District** means a geographically defined area to which a uniform set of regulations applies, or a uniform set of regulations as described by a use, neighborhood, development or an optional special area designation.

**Drive-in facility** means any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with a customer located in a motor vehicle during business transaction(s), to include the following:

- **Restaurant, drive-in** means a retail outlet where food or beverages are sold for consumption by customers in parked motor vehicles; and
- **Restaurant, fast food** means any establishment whose principal business is the sale of foods, frozen deserts or beverages in ready-to-consume individual servings, for consumption either within the restaurant building or for carryout.

**Dwelling** means a building designed exclusively for residential occupancy, including single family (attached or detached), two family and multiple family dwellings, but not including motels or hotels, to include the following:

- **Dwelling, single family, attached** refers to one of two (2) or more residential buildings having a common wall separating the individual dwelling units;
- **Dwelling, single family, detached** means a residential building containing not more than one (1) dwelling unit surrounded entirely by open space on the same lot;
- **Dwelling, single family (duplex)** means a building arranged, intended or designed for two (2) dwelling units, commonly referred to as a duplex; and
- **Dwelling, multiple family** means a building arranged, intended or designed for three (3) or more dwelling units and commonly referred to as a triplex, four-plex, townhome or apartment building.

**Family** refers to:

- One (1) or more persons who are related by blood, marriage, adoption or guardianship, including foster children, exchange students and servants, together with

not more than two (2) additional persons not related by blood, marriage or adoption to the previously identified individuals or group, living together as a single housekeeping unit; or

- Persons living together in a dwelling unit that meet the definition, qualifications and restrictions of a “family home” as set forth in chapter 135C of the Iowa Code.

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

**Floor area** refers to the sum of the gross horizontal area of several floors of a building measured from the exterior face of the exterior walls, or from the centerline of walls separating two (2) buildings. The floor area of a building shall include basement floor area, but not cellar areas, penthouses for mechanical equipment, or attic space having headroom of seven (7) feet or less.

**Garage** refers to a building for private use of the owner or occupant of a principal building (situated on the same lot as the principal building) for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

**Grade**, refers to the average elevation of the highest and lowest elevations measured at the finished surface of the ground at any of the exterior corners of the building or structure.

**Height of a building or structure** means the vertical distance from the average ground level abutting a building or structure to the highest point of the coping of a flat roof, the deck line of a mansard roof, or the average height of the highest gable of a pitched or hipped roof. Height, where not regulated in feet, shall be regulated in stories, which shall equal twelve (12) feet for purposes of measuring.

**Home occupation** means an accessory used by the occupant(s) of a dwelling unit in which goods are produced or traded, or services are rendered, as economic enterprise. Such use shall be clearly incidental or subordinate to the residential use of the dwelling.

**Hotel or motel** refers to the use of property as a site of a building or a group of buildings to be used primarily for lodging, and secondarily for meeting areas, meals, entertainment and personal services for the public.

**Lot** refers to a platted parcel of land occupied or intended for occupancy by a use permitted in this ordinance, including one (1) main building together with its necessary buildings, the open spaces and parking spaces required by this ordinance, and having its principal frontage upon a street or upon an officially approved place.

**Lot area** is the total horizontal area within the lot lines of a given lot.

**Lot, corner** is a lot abutting two (2) or more streets at their intersection.

**Lot depth** means the mean horizontal distance from the front lot line to the rear lot line.

**Lot line** is a line dividing one (1) lot from another lot, street or alley.

**Lot width** means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

**Manufactured home** shall refer to single family detached housing that is built under the authority of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5403), which was constructed on or after June 15, 1976, and is required by Federal law to display a seal of approval from the United States Department of Housing and Urban Development. A manufactured home is transportable in one (1) or more sections, built on permanent chassis, and used as a place of human habitation. A manufactured home is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame. (See following insert: 414.28 Manufactured home.)

**414.28 Manufactured home.**

A city shall not adopt or enforce zoning regulations or other ordinances, which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a permanent foundation system, set-back and minimum square footage which would apply to a site-built, single family dwelling on the same lot, and shall require that the home is assessed and taxed as a site-built dwelling. A zoning ordinance or other regulation shall not require a perimeter foundation system for a manufactured home, which is incompatible with the structural design of the manufactured home structure. A city shall not require more than one permanent foundation system for a manufactured home. For purposes of this section, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site. When units are located outside the mobile home park, requirements may be imposed which ensure visual compatibility of the permanent foundation system with surrounding residential structures. As used in this section, "manufactured home" means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C § 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. This section shall not be constructed a abrogating a recorded restrictive covenant. A city shall not adopt or enforce construction, building or design ordinances, regulations, requirements or restrictions which would mandate width standards greater than twenty-four feet, roof pitch or other design standards for manufactured housing if the housing otherwise complies with 42 U.S.C. § 5403. However, this paragraph shall not prohibit a city from adopting and enforcing zoning regulations related to transportation, water, sewerage or other land development.

84 Acts, ch 1238, § 2; 93 Acts, ch 154, § 4; 94 Acts, ch 1110, § 2; 97 Acts, ch 86, § 3

**Manufactured home subdivision** shall mean a subdivision of land containing lots, which meet the requirements for single family residential use, and upon each lot not more than one (1) manufactured home may be placed and occupied.

**Mobile home** shall mean a transportable, factory-built home, designed for use as a year-round residential dwelling built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

**Mobile home Park** means any site, lot, field or tract of land upon which three (3) or more mobile homes, manufactured homes or any combination thereof, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic and electrical services available. The term “mobile home park” is not to be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. A mobile home park shall meet the requirements of any zoning regulations that are in effect.

**Modular home** means a dwelling that is constructed in one (1) or more modules at a location other than the home site and which is designed to be used as a permanent residence when the components are joined together on a permanent foundation system. The term modular home shall not mean nor apply to:

- Housing constructed of sectional or panelized systems not using modular components;
- Any ready-built home which is constructed so that the entire living area is contained in a single unit; or
- A dwelling constructed in modules incorporating concrete as the basic and predominant structural component.

**Nonconforming building or structure** shall mean a building or structure existing at the time this ordinance became effective whereby any portion of which does not comply with the provisions of this ordinance for the zone in which it is located.

**Nonconforming use** shall mean a use occupying a building or land at the time this ordinance became effective and which does not conform to the use regulations of the zone in which it is located.

**Official zoning district map** refers to the official, certified map or maps, upon which the boundaries of the various zones are shown, which form an integral part of this zoning ordinance, and together with this zoning text, make up the Zoning Ordinance for the City of Neola.

**Open Storage** means storage of any equipment for more than twenty-four (24) hours, including but not limited to: motorized or non-motorized equipment, machinery, commodities, raw or semi-finished materials and building materials, not accessory to residential use, which is visible from public street right-of-way.

**Overlay district** means a set of zoning requirements that is imposed in addition to those of the underlying district.

**Owner** shall mean, as to a particular property, any person, agent, firm, association or corporation having a legal or equitable interest therein.

**Parking space** refers to an all-weather surface built within the boundaries of the lot to which it pertains, of a sufficient size to store one automobile, and designed and constructed for vehicular storage and not as a street or vehicular way, which affords satisfactory ingress and egress for automobiles.

**Principal building** means a building in which the primary use of the lot on which the building is located is conducted.

**Principal use** means the primary use and chief purpose of a lot or structure.

**Residential districts** refers to zoning “R-1”, Single Family Residential; “R-2”, Two Family Residential; “R-3”, Multifamily Residential; and “R-1M”, Single Family Mobile/Manufactured Home Residential Districts.

**Retirement home, center or hospice** refers to a facility for the transitional residency of elderly and disabled persons, progressing from independent living to congregation apartment living where residents share common meals and culminating in a full health and continuing care nursing home facility.

**Rezoning** means an amendment of the zoning district classification applicable to one or more specific lots of tracts.

**Right-of-way** refers to a strip of land dedicated, designated, occupied or intended to be occupied by a public street, crosswalk, railroad, electric transmission line, water main, sanitary or storm sewer main, shade trees or other public use.

**Setback** refers to the required minimum horizontal distance between the building line and the front, side corner or rear property line. This area may also be defined as the horizontal distance between the legal lot boundaries (street right-of-way in the case of the front setback) and the building line, as required by this ordinance. The accurate measurement of setbacks is the responsibility of the property owner, proof of which must be provided on a drawing submitted with an application for a building permit.

**Story** shall mean the portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

**Street** shall mean any public or private roadway right-of-way, which affords a primary means of access to abutting property. A driveway or alley which provides only secondary vehicular access to a lot or to an accessory parking facility, or to allow vehicles to take on or discharge passengers at the entrance of a building, shall not be considered a street.

**Structure** shall mean anything constructed or erected below, at or above grade, which requires location on the ground or is attached to something having a location on the ground, and which, out of necessity or precaution, includes support, bracing, tying, anchoring or other protection against the pressure of the elements.

**Temporary use** refers to a prospective use, intended for limited duration.

**Townhome** – A structure on an individual lot, which is one (1) of a series of dwelling units designated for single family occupancy, in which dwelling units are structurally connected or immediately adjacent to and abutting each other, without side yards, between individual dwelling units.

**Use** means the purpose or activity for which the land or building is designed, arranged, intended or for which it is occupied or maintained.

**Variance** means the relaxation of the dimensional regulations where the action will not be contrary to the public interest and where, owing to conditions peculiar to the property and

not the result of actions or the situation of the applicant, a literal enforcement of these regulations would result in unnecessary and undue hardship.

**Yard** refers to an open space at grade between a building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard or depth of a front or rear yard, the least horizontal distance between a lot line and the building shall be used.

**Yard, corner** means that a portion of a yard, which abuts street right-of-way along the side of the lot extending from the front lot line to the rear lot line.

**Yard, front required** is a yard extending across the front of a lot between the side lot lines, and being the required minimum horizontal distance between the street or place line and the main building or any projections thereof, other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch, equal to the depth of the minimum front yard specified for the district in which the lot is located. The required front yard line represents the line in front of which no building or structure may be erected. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

**Yard, rear required** is a yard, excluding the accessory buildings as herein permitted, extending across the rear of a lot between the side lot lines, and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof, equal to the depth of the minimum rear yard specified for the district in which the lot is located.

**Yard, required** refers to the portion of any yard constituting the minimum area required in any zoning district, but excluding that portion of the yard in excess of the minimum required yard.

**Yard, side required** is a yard extending from the required front yard through the required side yard, and being required minimum horizontal distance between the side lot line and the side of the main building, accessory building and any projections thereto. Any lot line, which is not a rear or front lot line, shall be deemed a side lot line. Where a lot has only 3 lot lines, those lot lines, which do not front upon a street, shall be deemed side lot lines.

**Zone** refers to a classification within which the regulations specified herein are uniform and which is assigned to a particular area of the City upon the Zoning Map, which is a part of this ordinance.

**Zoning Official** shall mean the official of the City appointed by the City Council as such, and whose duties include administration and enforcement of these zoning regulations.

### **III. ADMINISTRATION/APPLICATIONS AND PROCEDURES**

#### **A. Administrative and Enforcement Official**

The Planning and Zoning Commission shall designate and City Council confirm a Zoning Official, or designee, whose duties and responsibilities shall include, but are not limited to:

- Initiate amendments to the zoning ordinance and official zoning district map, including zone changes, variances and vacations;
- Accept and process all submitted applications for text amendments to the zoning ordinance and official zoning district map, including zone changes, variances and vacations;
- Prepare staff comments for review by the Planning and Zoning Commission, City Council and findings of facts for the Board of Adjustment regarding the appropriateness and nonconformance of requested amendments or variances;
- Coordinate with the City Clerk to maintain all records, minutes and the official zoning district map, related to the enforcement officer to ensure compliance with this ordinance;
- Serve as the enforcement officer to ensure compliance with this ordinance;
- Serve as liaison between the Planning and Zoning Commission and City Council; and
- Perform other duties as necessary and appropriate to uphold the provisions of the Ordinance.

#### **B. City Council**

The City Council shall have the powers and duties to perform the following, in addition to those specified in the City Charter:

- Amend the zoning regulations of the City, in accordance with State Law;
- Initiate, on behalf of the City, any amendment in the zoning classification of any land within the City;
- Hear and decide on recommendations of the Planning and Zoning Commission, after receipt of a “final report” for applications relating to rezoning requests, text amendments and vacations; and
- Hear appeals related to rezoning decisions by the Planning and Zoning Commission.

#### **C. Planning and Zoning Commission**

The Planning and Zoning Commission (hereinafter referred to as the “Commission”) shall be appointed by the City Council. The Commission shall consist of five (5) members, who shall be citizens of Neola, Iowa, and qualified by knowledge and experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the municipal government, in accordance with the City Code. The members of the commission shall serve for five (5)-year terms. A quorum shall consist of three (3) members and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions, the Chairperson being entitled to vote upon any question. In the event that only three (3) members of the Commission are present and a vote is split two (2) votes to one (1), the motion will be considered failed. Three (3) affirmative votes shall be necessary to pass upon pending questions. Tenure, Vacancies, Powers and Duties are contained within the City Code. The Commission shall have the responsibility to perform the following, in addition to those specified in the City Code:

- Hear testimony on behalf of applicants and consider the facts, findings and recommendations of the Zoning Official;
- Consider the interests of the public relating to the public health, safety, morals and general welfare;
- Identify the appropriateness of requested zoning issues, text amendments and vacations considering conformance with the adopted zoning regulations and official zoning district map;
- Make recommendations to the City Council, in the form of a “final report,” related to approval or denial of an application in addition to stating the reasons for such approval or denial; and
- Perform other such duties and be vested with such powers, as the City Council shall from time to time prescribe.

#### **D. Application for Rezoning**

A rezoning may be initiated by the Zoning Official, Commission, City Council or by a landowner filing an application with the Zoning Official. If the applicant is not the owner of the property under consideration, a letter from the landowner authorizing the applicant to act as agent on behalf of the landowner is required. Landowners shall submit, but are not limited to, the following:

- Name, address and telephone number of applicant(s), owner(s) and agent(s);
- A statement of the reasons why the rezoning is being requested;
- Legal description of the property proposed for rezoning, including a copy of a plat or survey;
- Filing fee, as established by the City Council; and
- Other information or documentation necessary to process the application, as required by the Zoning Official, the Commission and/or the City Council.

**Publication** – Notice must be published at least once not less than four (4) nor more than twenty (20) days before the date of the public hearing, in accordance with Section 362.2, Publication of notices, in the Iowa Code. Publication of notices must be in the newspaper published at least once weekly and having general circulation in the City. Where the hearing is for consideration of changes in the text of the ordinance, or a revision of the boundaries of zoning districts, the notice shall contain a statement regarding the proposed changes. If the hearing is on an application regarding specific property, the property shall be designated by legal description and a general street location.

**Planning and Zoning Commission Hearing and Report** – The Commission will hold a public hearing on each proposed request for rezoning. After the public hearing, the Commission will send a report, this report shall be known as the “final report,” of meeting minutes to the City Council recommending denial or approval of the request. A tie vote on a request for a zoning change is deemed to be the Commission’s recommendation for denial. If the Commission recommends denial, an appeal may be substituted to the City Council, if the applicant files a written request for a public hearing with the Zoning Official within thirty (30) days of the date of denial.

**Criteria for Considering Rezoning Applications** – In considering any application for rezoning, the Commission and City Council may give consideration to the following criteria, to the extent pertinent to the application. In addition, other factors may be considered which may be relevant to the application:

- Conformance of the proposed zoning and use with the Neola Comprehensive Plan and other City policies;
- The character of the neighborhood;
- The zoning and use of nearby properties, and the extent to which the proposed zoning and use would be compatible;
- The suitability of the property for the uses permitted by right in the proposed zoning district;
- The extent to which approval of the application would detrimentally affect nearby properties;
- The extent to which proposed use would adversely affect the capacity of safety of that portion of the street network or present parking problems in the vicinity of the property;
- The extent to which approval of the application would harm the value of nearby properties; and
- The gain to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner as a result of denial of the application.

**City Council Hearing and Action** – After receiving the “final report” of meeting minutes of the Commission, the City Council must hold a public hearing on the rezoning request, for which notice of the time and place of the hearing has been published in the newspaper not less than four (4) nor more than twenty (20) days before the date of the hearing, as required by state law. After the close of the public hearing, the City Council may approve or deny the request, return it to the Commission for further consideration, or take whatever other action the Council deems appropriate. The affirmative vote of at least three-fourths (3/4) of all members of the Council is required to:

- Overrule the Commission’s recommendation that a proposed change to a zoning boundary (or regulation in the case of text amendments) be denied; or
- Approve a change to a boundary (or regulation in the case of a text amendment), if the City receives a written and signed petition from at least twenty (20) percent of the property located within two hundred (200) feet of the exterior boundaries of the property for which the change or repeal is proposed. The protest, if filed, must be filed before or at the public hearing. In computing the percentage of land area, the area of streets and alleys shall be included.

**Reconsideration** – An application for a change in zoning classification that is denied by the City Council or which is withdrawn by an applicant after the Commission makes a report recommending denial must not be again submitted for filing with the Zoning Official within six (6) months of the original date of filing, except upon the consent of the City Council.

**Application Fees** – The City of Neola, Iowa shall collect a fee in the amount of fifty dollars (\$50 USD) to each rezoning application submitted for consideration involving a public hearing.

## **E. Board of Adjustment**

- 1. Membership** – A Board of Adjustment is hereby created which shall consist of five (5) members appointed by the City Council. The term of the office of each member shall be five (5) years with staggered terms for each of its members. The Board shall

appoint its own chairperson. The Board shall not carry out its business without having three (3) members of the Board of Adjustment present.

- 2. Procedures** – The Board shall meet at the call of the Chairperson and at such other times as it may determine necessary to conduct business. All meetings of the Board shall be open to the public. The Chairperson, or acting chairperson in the chairperson’s absence, may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings, including findings of fact, all its determinations and decisions, the reasons therefore and the vote of each member upon every question, or if absent or failing to vote, indicating such fact, which minutes shall immediately be filled in the office of the Board and shall be public record.
- 3. Appeals** – Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the Zoning Official. Such appeal shall be taken within sixty (60) days by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds. The officer from whom the appeal is taken shall transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- 4. Effect of Appeals** – An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with the officer that by reasons of fact stated in the certificate a stay would in the officer’s opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the officer from whom the appeal is taken and due cause shown.
- 5. Powers** – The Board of Adjustment shall have the following powers:

  - To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of these regulations upon which the Board is required to pass under such regulations.
  - To hear and decide special exceptions to the terms of these regulations upon which the Board is required to pass under such regulations.
  - To authorize upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of these regulations will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.
- 6. Decision on Appeal** – In exercising the above mentioned powers the Board may, in conformance with the provisions of Chapter 414 of the Iowa Code, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant or any matter upon which it is required to pass under these regulations or to effect any variation in this ordinance; however, the Board shall not pass on zoning district changes.
- 7. Vote Required** – The concurring of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative

official, or to decide in favor of the applicant or any matter upon which it is required to pass under these regulations or to effect any variation in this ordinance; however, the Board shall not pass on zoning district changes.

**8. Hearing** – The Board of Adjustment shall fix a time for the hearing of the appeal within sixty (60) days and give due notice thereof to the parties and decide the appeal within sixty (60) days following the close of the hearing. The hearing shall be open to the public and any party at interest may appear in person or by agent or attorney.

**9. Variance Requirements** – No variance shall be granted by the Board unless it finds:

- Such variance will not be contrary to the public interest.
- Such variance will not authorize the operation of a use other than those specifically authorized for the district in which the property for which the variance sought is located.
- Such variance will not substantially or permanently injure the appropriate use of the adjacent conformity property in the same district.
- Such variance will not alter the essential character of the district in which it is located or the property for which the variance is sought.
- Such variance will be in harmony with the spirit and purposes of this ordinance.
- The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to, or the result of, general conditions in the district in which the property is located.
- The variance will not substantially weaken the general purposes of this ordinance or the regulations established for the specific district.
- The variance will not adversely affect the public health, safety or welfare of the public.

**10. Fees** – The City of Neola, Iowa shall collect a fee in the amount of fifty dollars (\$50 USD) for each appeal submitted for consideration of the Board involving a hearing.

#### **F. APPLICATION FOR PARCEL SPLIT**

A parcel split may be initiated by the Zoning Official, Commission, City Council or by a landowner filing an application with the Zoning Official. Landowners shall submit, but are not limited to, the following:

- Name, address and telephone number;
- A statement of the reasons why the parcel split is being requested;
- Current legal description of the property proposed for parcel split, including a copy of a plat or survey;
- Proposed legal description, including a copy of the proposed plat or survey (prepared by an Iowa registered land surveyor who shall be responsible for preparing such survey in full conformance with the requirement so the Iowa Code);
- Filing fee, as established by the City Council; and
- Other information or documentation necessary to process the application, as required by the Zoning Official, the Commission and/or the City Council.

**Publication** – Notice must be published at least once not less than four (4) nor more than twenty (20) days before the date of the public hearing, in accordance with Section 362.2, Publication of notices, in the Iowa Code. Publication of notices must be in the newspaper published at least once weekly and having general circulation in the City. Where the hearing is for consideration of a revision of parcel boundaries, the notice shall contain a statement regarding the proposed changes. The hearing will note the property by legal description and a general street location.

**Planning and Zoning Commission Hearing and Report** – The Commission will hold a public hearing on each proposed request for parcel split. After the public hearing, the Commission will send a report, this report shall be known as the “final report,” of meeting minutes to the City Council recommending denial or approval of the request. A tie vote on a request for a change is deemed to be the Commission’s recommendation for denial. If the Commission recommends denial, an appeal may be substituted to the City Council, if the applicant files a written request for a public hearing with the Zoning Official within thirty (30) days of the date of denial.

**Criteria for Considering Parcel Split Applications** – In considering any application for a parcel split, the Commission and City Council may give consideration to the following criteria, to the extent pertinent to the application. In addition, other factors may be considered which may be relevant to the application:

- Conformance of the proposed zoning and use with the Neola Comprehensive Plan and other City policies;
- Conformance with current zoning lot sizes;
- The character of the neighborhood;
- The zoning and use of nearby properties, and the extent to which the proposed use would be compatible;
- The suitability of the property for the uses permitted by right in the proposed zoning district;
- The extent to which approval of the application would detrimentally affect nearby properties;
- The extent to which proposed use would adversely affect the capacity of safety of that portion of the street network or present parking problems in the vicinity of the property;
- The extent to which approval of the application would harm the value of nearby properties; and
- The gain to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner as a result of denial of the application.

**City Council Hearing and Action** – After receiving the “final report” of meeting minutes of the Commission, the City Council must hold a public hearing on the parcel split request, for which notice of the time and place of the hearing has been published in the newspaper not less than four (4) nor more than twenty (20) days before the date of the hearing, as required by state law. After the close of the public hearing, the City Council may approve or deny the request, return it to the Commission for further consideration, or take whatever other action the Council deems appropriate. The affirmative vote of at least three-fourths (3/4) of all members of the Council is required to:

- Overrule the Commission’s recommendation that a proposed change to a parcel boundary (or regulation in the case of text amendments) be denied; or

- Approve a change to a boundary (or regulation in the case of a text amendment), if the City receives a written and signed petition from at least twenty (20) percent of the property located within two hundred (200) feet of the exterior boundaries of the property for which the change or repeal is proposed. The protest, if filed, must be filed before or at the public hearing. In computing the percentage of land area, the area of streets and alleys shall be included.

**Reconsideration** – An application for a parcel split that is denied by the Planning Commission or which is withdrawn by an applicant after the Commission makes a report recommending denial can be appealed by the applicant by filing a written appeal with the City Council within thirty (30) days of the date of said denial.

**Application Fees** – The City of Neola, Iowa shall collect a fee in the amount of fifty dollars (\$50 USD) for each parcel split application submitted for consideration involving a public hearing.

**City exemption from this section** - The city shall be exempt from the requirements of this section.

**Recording requirements** - The City Clerk shall record the approved parcel split with the Pottawattamie County recorder's office. The subdivider shall not convey, nor the Pottawattamie County auditor transfer, either of the resulting two parcels of land until the parcel split is recorded.

## **G. PROPERTY LINE ADJUSTMENT**

A property line adjustment may be initiated by the Zoning Official, Commission, City Council or by a landowner filing an application with the Zoning Official. Landowners shall submit, but are not limited to, the following:

- Name, address and telephone number;
- A statement of the reasons why the property line adjustment is being requested;
- Current legal description of the property proposed for parcel split, including a copy of a plat or survey;
- Proposed legal description, including a copy of the proposed plat or survey (prepared by an Iowa registered land surveyor who shall be responsible for preparing such survey in full conformance with the requirement so the Iowa Code);
- Filing fee, as established by the City Council; and
- Other information or documentation necessary to process the application, as required by the Zoning Official, the Commission and/or the City Council.

**Publication** – Notice must be published at least once not less than four (4) nor more than twenty (20) days before the date of the public hearing, in accordance with Section 362.2, Publication of notices, in the Iowa Code. Publication of notices must be in the newspaper published at least once weekly and having general circulation in the City. Where the hearing is for consideration of a revision of parcel boundaries, the notice shall contain a statement regarding the proposed changes. The hearing will note the property by legal description and a general street location.

**Planning and Zoning Commission Hearing and Report** – The Commission will hold a public hearing on each proposed request for property line adjustment. After the public

hearing, the Commission will send a report, this report shall be known as the “final report,” of meeting minutes to the City Council recommending denial or approval of the request. A tie vote on a request for a change is deemed to be the Commission’s recommendation for denial. If the Commission recommends denial, an appeal may be substituted to the City Council, if the applicant files a written request for a public hearing with the Zoning Official within thirty (30) days of the date of denial.

**Criteria for Considering Property Line Adjustment Applications** – In considering any application for property line adjustments, the Commission and City Council may give consideration to the following criteria, to the extent pertinent to the application. In addition, other factors may be considered which may be relevant to the application:

- That the land to be adjustment has previously been platted;
- That the land can only be legally transferred to an adjoining land owner;
- That the land proposed for adjustment is not of a size that could be construed as a buildable lot; and
- That the adjustment does not create any nonconformities.

**City Council Hearing and Action** – After receiving the “final report” of meeting minutes of the Commission, the City Council must hold a public hearing on the property line adjustment request, for which notice of the time and place of the hearing has been published in the newspaper not less than four (4) nor more than twenty (20) days before the date of the hearing, as required by state law. After the close of the public hearing, the City Council may approve or deny the request, return it to the Commission for further consideration, or take whatever other action the Council deems appropriate. The affirmative vote of at least three-fourths (3/4) of all members of the Council is required to:

- Overrule the Commission’s recommendation that a proposed change to a parcel boundary (or regulation in the case of text amendments) be denied; or
- Approve a change to a boundary (or regulation in the case of a text amendment), if the City receives a written and signed petition from at least twenty (20) percent of the property located within two hundred (200) feet of the exterior boundaries of the property for which the change or repeal is proposed. The protest, if filed, must be filed before or at the public hearing. In computing the percentage of land area, the area of streets and alleys shall be included.

**Reconsideration** – An application for a property line adjustment that is denied by the Planning Commission or which is withdrawn by an applicant after the Commission makes a report recommending denial can be appealed by the applicant by filing a written appeal with the City Council within thirty (30) days of the date of said denial.

**Application Fees** – The City of Neola, Iowa shall collect a fee in the amount of fifty dollars (\$50 USD) for each property line adjustment application submitted for consideration involving a public hearing.

**City exemption from this section** - The city shall be exempt from the requirements of this section.

**Recording requirements** - The City Clerk shall record the approved property line adjustment with the Pottawattamie County recorder's office. The subdivider shall not convey, nor the Pottawattamie County auditor transfer, either of the resulting two parcels of land until the property line adjustment split is recorded.

## IV. ZONING DISTRICTS

### A. Establishment of Zoning Districts and Boundaries

For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, alteration, moving or use of buildings and structures, the corporate area of the City of Neola is divided into zoning districts as follows:

#### **Agricultural/Open Space Districts:**

“OS-A” Open Space – Agriculture

#### **Residential Districts:**

“R-1” Single Family Residential District

“R-2” Two Family Residential District

“R-3” Multiple Family Residential District

“R-1M” Single Family Mobile/Manufactured Home Residential District

#### **Commercial Districts:**

“DC” Downtown Commercial District

“CC” Corridor Commercial District

#### **Industrial Districts:**

“M-1” Light Industrial District

“M-2” General Industrial District

#### **Special Overlay Districts:**

“FP” Flood Plain District

“FW” Flood Way District

### B. Official Zoning District Map

The location and boundaries of various zoning districts are shown on the Official Zoning District Map. The Zoning Official is responsible for custody of the map and will promptly make any changes approved by the City Council. The provisions of an ordinance establishing a district, amending a district classification, or amending a district boundary, controls over any conflicting information shown on the Official Zoning District Map. The Official Zoning District Map, together with all notations, references and other information shown thereon and all amendments thereto, shall be as much part of this ordinance as if fully set forth and described in these regulations. The Official Zoning District Map, properly attested, is on file in the office of the City Clerk.

**Interpretation of District Boundaries** - Where uncertainty exists with respect to the boundaries of any of the districts shown on the Official Zoning District Map, the following rules apply:

- The adopted ordinance with the surveyed legal description may be used for verification purposes of the district boundaries;
- Where the district boundaries are so indicated to approximately follow the center lines of streets or highways, the street center lines or highway right-of-way lines are construed to be the boundaries;
- Where district boundaries are so indicated to approximately follow lot lines, the lot lines are construed to be the boundaries;
- Where the district boundaries are so indicated to approximately parallel the centerlines or street lines of streets, or the centerlines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance

there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale on the zoning map;

- In subdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map;
- In the case of a district boundary line dividing a property into two parts, the district boundary line will be construed to be the property line nearest the less restricted district;
- Whenever any street, alley or other public way is vacated by official action of the City Council, the zoning district adjoining each side of the street, alley or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then be subject to all regulations of the extended districts; and
- Where streets or alleys on the ground differ from streets or alleys shown on the zoning map, the streets or alleys on the ground control.

### **C. New and Unlisted Uses**

If the Zoning Official determines that a proposed use is not listed as a use permitted by right, or if there is ambiguity of its proper classification within the respective zoning districts, the Zoning Official will request that the Planning and Zoning Commission, based upon the Zoning Official's report listing the nature of the use, consider the proposed use and its compatibility with other uses permitted in the various districts and make a determination as to the district or districts within which the use should be located. The Planning and Zoning Commission's determination must be sent to the City Council for its consideration and action. The City Council's determination must be enacted in accordance with the procedures for amending the text of these zoning regulations.

### **D. Zoning of Newly Annexed Areas and Unplatted Property**

**Proposed Annexation** – In the event that the Planning and Zoning Commission holds a hearing on proposed annexation, it may, at its discretion, at the same time hold a hearing upon the permanent zoning that is to be given to the area or tract to be annexed, and make a recommendation on both matters to the City Council so that the City Council can, if it desires, act on the matter of permanent zoning and annexation at the same time.

**Newly Annexed Areas** – Land annexed to the City will be permanently zoned promptly following annexation. The procedure for original permanent zoning is as follows:

- The Planning and Zoning Commission will make a report to the City Council recommending the zoning classification(s) for the land annexed. The report of the Planning and Zoning Commission shall consider the request for a particular zoning designation or designations of the property owner(s);
- The City Council will hold a public hearing on the proposed original permanent zoning, notice of the time and place of which have been published in the newspaper not less than four (4) nor more than twenty (20) days prior to the date of the hearing. After the hearing, the City Council may, by ordinance, permanently zone the property annexed.

A building permit will not be issued for land annexed into the City before the land is permanently zoned, other than for a use that is a permitted use in the Single Family Residential (R-1) District.

**Unplatted Property** – The Planning and Zoning Commission of the City of Neola shall not approve any plat or any subdivision within the corporate limits of Neola until the area covered by the proposed plat has been permanently zoned by the City Council.

## **E. Compliance With Regulations**

The following regulatory provisions shall require compliance:

- No land shall be used except for a purpose permitted in the district in which it is located;
- No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used, except for a use permitted in the district in which the building is located;
- No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height limit established for the district in which the building is located;
- No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered except in conformity with the area regulations of the district in which the building is located;
- No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to the extent specifically provided in this ordinance except in conformity with the off-street parking and loading regulations of the district in which the building is located;
- The minimum yards, parking spaces and open spaces required by this ordinance for each and every building shall not be encroached upon or considered a part of the yard, parking space or open space required for any other building, nor shall any lot area be reduced below the requirements of this ordinance for the district in which the lot is located; and
- Every building hereafter erected or structurally altered shall be located on a lot as defined in the ordinance; and, except as provided in this ordinance, there shall not be more than one (1) main building on one lot.

## **F. Zoning District Regulations**

### **“OS-A” Open Space Agricultural Zoning District**

The zoning of property as “OS-A, Open Space Agricultural Zoning District” is intended to maintain and enhance agricultural operations and preserve agricultural lands utilized for crop production and the raising of livestock. The OS-A zoning district allows for agriculture uses to continue within city limits until such time as the land is rezoned and developed. The OS-A is intended to provide protection for farmers from nuisance complaints, as well as reserve agricultural land that is not suitable for development in the short term but identified in the Comprehensive Plan as suitable for long-term development.

#### **Uses permitted by right:**

No building, structure or land shall be used, and no building or structure shall be erected, constructed, reconstructed, moved or altered except for the uses identified below, subject to all applicable provisions of these zoning regulations:

- Accessory residential uses;
- Agricultural uses including production of crops, livestock and animal specialties;
- Agricultural services;

- Conventional detached single family residences if occupied by the farm owner, operator, or laborers;
- Churches and other religious organizations, including accessory facilities;
- Elementary and secondary schools;
- Golf courses, except miniature course or practice driving tee operated for commercial purposes;
- Greenhouses and nurseries;
- Home occupations incidental to a permitted use;
- Parks and recreation facilities; and
- Public uses, such as a library, fire station or community center.
- Family homes.

**Height and Area Regulations:**

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for yards and parking lots and the minimum lot area per dwelling unit shall be as follows, except as otherwise provided in section VI, Height and Area Regulations.

1. **Minimum lot area** – Five (5) acres.
2. **Maximum height of structures:**
  - Maximum thirty-five (35) feet from finished grade.
  - Agricultural structures – Maximum fifty (50) feet from finished grade.
3. **Minimum yards:**
  - Front: Fifty (50) feet from street right-of-way.
  - Side: Fifty (50) feet.
  - Rear: Fifty (50) feet.
4. **Minimum Lot Width** - Four Hundred Fifty (450) feet.

**Development and Performance Standards:**

1. There shall be no restrictions as to the operation of agricultural vehicles and machinery, or the sale or marketing of products raised on the premises.
2. All buildings, structures or yards used for the raising, feeding, housing or sale of livestock or poultry shall be located at least one hundred (100) feet from residentially zoned land.
3. There shall be no disposal of garbage or rubbish other than regular removal within three hundred (300) feet of residentially zoned land.

**“R-1” Single Family Residential District**

The zoning of property as “R-1”, Single Family Residential, is intended to provide for conventional detached single-family dwellings. The “R-1” district is considered to be appropriate for undeveloped areas as the predominant new land use in Neola is single family residential. District “R-1” may be used as a holding zone between the time of annexation and development only if a sketch plat was submitted prior to the annexation.

### **Uses Permitted by Right:**

No building, structure or land shall be used, and no building or structure shall be erected, constructed, reconstructed, moved or altered except for the uses identified below, subject to all applicable provisions of these zoning regulations:

- Accessory residential uses;
- Conventional detached single family residences;
- Churches and other religious organizations, including accessory facilities;
- Elementary and secondary schools;
- Family homes;
- Golf courses, except miniature course or practice driving tee operated for commercial purposes;
- Home occupations incidental to a permitted use;
- Parks and recreation facilities; and
- Public uses, such as a library, fire station or community center.

### **Height and Area Regulations:**

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for yards and parking lots and the minimum lot area per dwelling unit shall be as follows, except as otherwise provided in section VI, Height and Area Regulations.

#### **1. Minimum lot area:**

- Seven thousand five hundred (7,500) square feet per dwelling unit;
- Eight thousand (8,000) square feet per dwelling unit for corner lots.

#### **2. Maximum height of structures – Maximum thirty-five (35) feet from finished grade.**

#### **3. Minimum yards:**

- Front: Twenty-five (25) feet from street right-of-way.
- Side: Ten (10) feet from the property line.
- Street Side: Fifteen (15) feet from the property line.
- Rear: Twenty-five (25) feet

#### **4. Minimum lot width:**

- Sixty (60) feet standard;
- Seventy (70) feet for corner lots;
- Thirty-five (35) feet for cul-de-sac lots.

#### **5. Minimum lot depth:**

- One-hundred (100) feet

#### **6. Maximum Lot Coverage:**

- Forty (40) percent of the total lot area.

#### **7. Maximum Impervious Coverage:**

- Sixty (60) percent of the total lot area.

### **Development and Performance Standards:**

1. The roof must be covered with roofing material that is residential in appearance, including, but not limited to, wood or asphalt composition shingles or fiberglass, but excluding corrugated aluminum, corrugated fiberglass or corrugated metal roofs. Corrugated metal roofs using concealed fasteners are allowed. Tin roofing is allowed by conditional use permit if used in a historic renovation.
2. All roof structures shall provide eaves of no less than six (6) inches, which may include a gutter.
3. The exterior siding shall consist predominately of vinyl or metal horizontal lap siding (the reflectivity of which does not exceed that of gloss white paint), wood or hardboard, brick, stone or stucco comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
4. Must have a continuous permanent masonry foundation or masonry curtain wall slab, unpierced except for required ventilation and access. All dwelling units including attached garages shall be placed on permanent frost-free foundation. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures.
5. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the building codes adopted by the city, and attached firmly to the primary structure and anchored securely to the ground.
6. All fuel supply systems shall be constructed and installed with the foundation wall or underground within all applicable building and safety codes.
7. On all level sites the main floor shall be no greater than twenty (20) inches above finished grade at foundation. On sloping or irregular sites the side closest the grade level shall be no greater than twenty (20) inches above finished grade at the foundation.
8. The dwelling unit must have a minimum width of twenty-two (22) feet for at least sixty-five (65) percent of the length of the dwelling unit, said dimension to be exclusive of attached garages, porches or other accessory structures. All dwelling units shall provide for a minimum of nine hundred (900) square feet of floor space.

### **“R-2” Two Family Residential District**

The zoning of property as “R-2” Two Family Residential, is intended for single and two (2) family residential development, including conventional detached single family homes and two family duplexes, condominiums or townhomes. The purpose of the “R-2” district is to allow a blend of residential uses within a compatible, cohesive neighborhood environment. R-2 zoning districts provide for a greater mix of housing choices and are best located near service centers and major streets.

### **Uses Permitted by Right:**

No building, structure or land shall be used, and no building or structure shall be erected, constructed, reconstructed, moved or altered except for the uses identified below, subject to all applicable provisions of these zoning regulations:

- Accessory residential uses;
- Conventional detached single family residences;
- Churches and other religious organizations, including accessory facilities;
- Elementary and secondary schools;
- Family houses;
- Golf courses, except miniature course or practice driving tee operated for commercial purposes;
- Home occupations incidental to a permitted use;
- Parks and recreation facilities;
- Public uses, such as a library, fire station or community center; and
- Two family residences.

### **Height and Area Regulations:**

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for yards and parking lots and the minimum lot area per dwelling unit shall be as follows, except as otherwise provided in section VI, Height and Area Regulations.

#### **1. Minimum lot area:**

- Six thousand (6,000) square feet per dwelling unit;
- Three thousand (3,000) square feet per dwelling unit for two (2) family dwellings.

#### **2. Maximum height of structures:**

- Maximum thirty-five (35) feet from finished grade;

#### **3. Minimum yards:**

- Front: Twenty-five (25) feet from street right-of-way;
- Side: Five (5) feet from the property line;
- Street Side: Fifteen (15) feet from the street right-of-way;
- Rear: Twenty-five (25) feet from the property line.

#### **4. Minimum Lot Width:**

- Sixty (60) feet standard;
- Seventy (70) feet for corner lots;
- Thirty-five (35) feet for cul-de-sac lots.

#### **5. Minimum lot depth - One hundred (100) feet.**

#### **6. Minimum parking lot setback for nonresidential uses:**

- Twenty-five (25) feet from street right-of-way.
- Ten (10) feet from adjoining property lines.

#### **8. Maximum Lot Coverage:**

- Forty (40) percent of the total lot area.

**9. Maximum Impervious Coverage:**

- Sixty (60) percent of the total lot area.

**Development and Performance Standards:**

1. The roof must be covered with roofing material that is residential in appearance, including, but not limited to, approved wood, asphalt composition shingles or fiberglass, but excluding corrugated aluminum, corrugated fiberglass or corrugated metal roofs.
2. All roof structures shall provide eaves projection of no less than six (6) inches, which may include a gutter.
3. The exterior siding shall consist predominately of vinyl or metal horizontal lap siding (the reflectivity of which does not exceed that of gloss white paint), wood or hardboard, brick, stone or stucco comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
4. Must have a continuous permanent masonry foundation or masonry curtain wall slab, unpierced except for required ventilation and access. All dwelling units including attached garages shall be placed on permanent frost-free foundation. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures.
5. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the building codes adopted by the city, and attached firmly to the primary structure and anchored securely to the ground.
6. All fuel supply systems shall be constructed and installed with the foundation wall or underground within all applicable building and safety codes.
7. On all level sites the main floor shall be no greater than twenty (20) inches above finished grade at foundation. On sloping or irregular sites the side closest the grade level shall be no greater than twenty (20) inches above finished grade at the foundation.
8. The dwelling unit must have a minimum width of twenty-two (22) feet for at least sixty-five (65) percent of the length of the dwelling unit, said dimension to be exclusive of attached garages, porches or other accessory structures. Each dwelling unit shall provide for a minimum of nine hundred (900) square feet of floor space.

**“R-3” Multiple Family Residential District**

The zoning of property as “R-3”, Multiple Family Residential, is intended for various types of residential development, including conventional single and two (2) family residences and multiple family dwellings such as duplexes, triplexes, town homes, condominiums and apartments. The “R-3” district may be used to develop mixed residential use communities. R-3 zoning districts provide for a greater mix of housing choices and are best located near service centers and major streets.

### **Uses permitted by right:**

No building, structure or land shall be used, and no building or structure shall be erected, constructed, reconstructed, moved or altered except for one or more of the uses identified below, subject to all applicable provisions of these zoning regulations:

- Accessory residential uses;
- Boarding and lodging houses;
- Conventional detached single family residences;
- Churches and other religious organizations, including accessory facilities;
- Elementary and secondary schools;
- Family houses;
- Golf courses, except miniature course or practice driving tee operated for commercial purposes;
- Multiple family dwellings;
- Nursing, convalescent and retirement homes;
- Parks and recreation facilities;
- Public uses, such as a fire station or community center;
- Social club, private facility designed for specific use of the complex's tenants and their guests accompanying them; and
- Two family residences (duplexes).

### **Height and Area Regulations:**

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for yards and parking lots and the minimum lot area per dwelling unit shall be as follows, except as otherwise provided in section VI, Height and Area Regulations.

#### **1. Minimum lot area:**

- Six thousand (6,000) square feet;
- One thousand (1,000) square feet per dwelling unit;
- Single and two family residences and nonresidential uses - same as districts R-1 and R-2.

#### **2. Maximum height of structures:**

- Maximum forty-five (45) feet from finished grade;
- Single and two family residences and nonresidential uses – maximum thirty-five (35) feet from finished grade.

#### **3. Minimum yards:**

- Front: Twenty-five (25) feet from street right-of-way;
- Side: Five (5) feet from the property line.
- Street Side: Fifteen (15) feet from the property line.
- Rear: Twenty-five (25) feet;

#### **4. Minimum parking lot setback:**

- Twenty (20) feet from street right-of-way;
- Twenty (20) feet from adjoining property lines.

#### **5. Maximum Lot coverage** - Sixty (60) percent of lot area, including principal and accessory buildings.

**6. Maximum Impervious Coverage** – Seventy-five (75) percent of the lot area.

**Development and Performance Standards:**

1. Property zoned “R-3” shall have frontage and main access directly on a major or minor street.
2. Minimum ten (10) percent of the net site area shall be common area for use by all persons who reside on the premises, i.e. playground, tennis court, swimming pool, exercise path, natural preserve area, etc.
3. Nonresidential uses that are proposed as an amenity to a particular development and not for use by the general public, i.e. pools, clubhouses, etc, should be located within the interior of the development. Under certain circumstances, notification of the surrounding property owners may be required.

**“R-1M” Single Family Mobile/Manufactured Home Residential District**

The zoning of property as “R-1M”, Single Family Mobile/Manufactured Home Residential, is intended for mobile or manufactured home parks and subdivisions. Conventional single-family dwellings, two (2) family dwellings and multiple family dwellings are not permitted within the “R-1M” district.

**Uses Permitted by Right:**

No mobile/Manufactured home, house trailer, dwelling or other structures permitted in this zone may be erected, altered, placed, moved or converted on any lot or tract unless said lot or tract is in conformity with all minimum area regulations in this section. The building official may permit the parking, use and occupancy of a mobile/manufactured home outside of a duly authorized zone for a period not to exceed fifteen (15) days. No person shall park, place or locate any mobile/manufactured home upon any public street or public park within the City for a period of more that twenty-four (24) hours.

No mobile/manufactured home, building, structure or land shall be used, and no building or structure shall be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses identified below, subject to all applicable provisions of these zoning regulations:

- Accessory residential uses, including a manager’s dwelling and office, storage building, rest rooms, wash rooms, bath house in conjunction with a swimming pool, for the private use of the occupants of the park or subdivision, recreation building and similar uses;
- Auxiliary or incremental businesses operated for the convenience of the park residents;
- Boarding and lodging houses;
- Churches and other religious organizations, including accessory facilities;
- Elementary and secondary schools;
- Family homes;
- Golf courses, except miniature course or practice driving tee operated for commercial purposes;

- Home occupations incidental to a permitted use;
- Mobile/manufactured homes;
- Nursing, convalescent and retirement homes;
- Parks and recreation facilities;
- Public uses such as a fire station or community center; and
- Tornado shelter.

**Height and Area Regulations:**

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for yards and parking lots, and the minimum lot area per dwelling unit for mobile/manufactured homes shall be as follows, except as otherwise provided in section VI, Height and Area Regulations.

**1. Minimum lot area:**

- Five thousand two hundred (5,200) square feet per dwelling unit within a mobile/manufactured home park;
- Seven thousand five hundred (7,500) square feet per dwelling unit within a mobile/manufactured home subdivision.

**2. Maximum height of structures** – One (1) story, maximum fifteen (15) feet from finished grade.

**3. Minimum yards:**

- Front: Twenty-five (25) feet from street right-of way; Twenty (25) feet from a private street easement.
- Side: Ten (10) feet on each side (measured horizontally from the nearest point of the rear line of the unit or lot to the nearest part of the mobile/manufactured home).
- Street Side: Fifteen (15) feet (measured horizontally from the nearest point of the side line of a unit or lot to the nearest part of the mobile/manufactured home).
- Rear: Twenty (20) feet (measured horizontally from the nearest point of a unit or lot line to the nearest part of the mobile/manufactured home).

**4. Minimum lot width:**

- Sixty (60) feet standard;
- Seventy (70) feet for corner lots;
- Thirty-five (35) feet for cul-de-sac lots.

**5. Minimum lot depth** - One hundred (100) feet.

**6. Minimum parking lot setback for nonresidential uses:**

- Twenty-five (25) feet from the street right-of-way;
- Ten (10) feet from adjoining property lines.

## **Development and Performance Standards:**

- 1. Compliance With Other Ordinances** - All applicable requirements of the City must be complied with and the necessary permits acquired prior to a mobile/manufactured home being placed within the City.
- 2. Plat Requirements** - No mobile/manufactured home park or subdivision shall be constructed or developed without following all platting procedures outlined in the subdivision ordinance.
- 3. Screening Requirements** - All mobile/manufactured homes located within the corporate limits shall be totally screened around the bottom.
- 4. Foundation Requirements** - A mobile/manufactured homes located outside of a mobile home park, within a mobile/manufactured home subdivision, shall be placed on a permanent frost-free foundation system, which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. Provided however, that these regulations shall not require a perimeter foundation system for a manufactured home, which is incompatible with the structural design of the manufactured home structure. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.
- 5. General Rules and Regulations for Mobile/Manufactured Home Parks** - The following rules and regulations shall be adhered to in regard to all mobile/manufactured home park developments:
  - All streets within the development shall be privately owned and maintained.
  - Proper easements shall be granted for access by police, fire, ambulance and sanitation vehicles;
  - A single master water meter shall service the domestic water supply and all lines within the development shall be privately owned and maintained;
  - In the event a fire hydrant is required within the park to provide fire protection, this main line shall be located within a dedicated easement and maintained by the City of Neola;
  - Sanitary sewer connections will be made at manholes at the main line and all lines within the development shall be privately owned and maintained;
  - The superintendent of sanitation will examine the garbage collection system and a decision will be made regarding collection; and
  - There shall be provided adequate shelter from tornados and other acts of nature within each mobile/manufactured home park development that is sufficient in size to provide shelter for all residents of the development. The storm shelter shall be constructed to meet national building code standards for such structures.

## **“CC” Corridor Commercial District**

It is intended to provide for a variety of commercial uses including wholesale sales and services, general retail, service businesses and office uses. This district is primarily intended for use in high traffic areas adjacent to major streets and is appropriate for high volume commercial centers. Outdoor storage and display of merchandise is permitted in this district, subject to development and performance standards.

### **Uses permitted by Right:**

No building, structure or land shall be used, and no building or structure shall be erected, constructed, reconstructed, moved or altered except for one or more of the uses identified below, subject to all applicable provisions of these zoning regulations:

- All uses permitted in "DC", Downtown Commercial district;
- Advertising, including equipment rental and leasing;
- Air courier and transportation services;
- Apparel and accessory stores;
- Appliance and home furnishing stores;
- Automotive sales, service and repair shops, including parts supply stores and auto bodywork;
- Banks, credit unions and other depository institutions;
- Bowling alleys and other entertainment centers;
- Commercial printing shops;
- Dance studios and gymnastics centers;
- Eating and drinking establishments, including drive-through or drive-in service and the sale of alcoholic liquor or cereal malt beverages for consumption on the premises;
- Farm implement display and sales;
- Food stores of all types;
- Funeral services, including mortuaries and crematories;
- Gasoline service stations, including mechanical repair;
- General merchandise stores, including department and variety stores;
- Government offices and similar public uses;
- Hardware stores and lumberyards, including outdoor display and storage;
- Hospital or sanitarium, except a criminal or mental hospital;
- Hotels, motels, rooming and boarding houses and other lodging places;
- Liquor stores;
- Lumber and building material yards;
- Motor vehicle (all types) sales, leasing and service;
- Office buildings of all types;
- Parks and recreational facilities, including assembly facilities and commercial parks;
- Plumbing shop, without outdoor storage;
- Radio or television broadcasting station or studio;
- Repair shops, miscellaneous;
- Retail nurseries;
- Retail stores, not elsewhere classified;
- Small animal hospitals and kennels;
- Social and family services;
- Sports and recreation clubs;
- Theatres;
- Upholstery shop, not including furniture manufacturing;
- Utilities;
- Warehouses and Wholesale clubs.

### **Height and Area Restrictions:**

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for yards and parking lots shall be as follows, except as otherwise provided in section VI, Height and Area Regulations.

1. **Minimum lot area** – Seven thousand five hundred (7,500) square feet.
2. **Maximum height of structures** – Maximum thirty-five (35) feet from finished grade.
3. **Minimum yards:**
  - Front: Twenty-five (25) feet from street right-of-way.
  - Side: Five (5) feet;  
Fifteen (15) feet, when adjacent to residential property.
  - Street Side: Fifteen (15) feet.
  - Rear: Ten (10) feet from the property line.  
Fifteen (15) feet, when adjacent to residential property.
4. **Minimum parking lot setback:**
  - Ten (10) feet;
  - Fifteen (15) feet, when adjacent to residential property.

### **Development and Performance Standards:**

1. When adjacent to any residentially zoned district or any residential use, even if separated by an alley, a six (6) foot solid screening fence of wood construction or another material acceptable to the City Council shall be erected and permanently maintained along the adjacent property line.
2. Business uses shall comply with the following conditions:
  - That it be conducted wholly within an enclosed building;
  - That required yards not be used for display, sale or storage of merchandise, or for the storage of vehicles, equipment, containers or waste material;
  - That such use not be objectionable because of odor, excessive light, smoke, dust, noise or a similar nuisance.

### **“DC” Downtown Commercial District**

The zoning of a property as “DC” General Commercial is meant to preserve the character of the current downtown district and encourage enhancement of existing features as well as allowing for new development which incorporates visually and physically to the existing surrounding district. The zoning of a property as “DC” is intended to provide for retail and office businesses adjacent to residential uses. The uses permitted within the “DC” district are meant to be compatible with nearby residential areas and serve the retail and personal service needs of nearby residents. Outdoor storage is not permitted in this district.

### **Uses Permitted by Right:**

No building, structure or land shall be used, and no building or structure shall be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses identified below, subject to all applicable provisions of these zoning regulations:

- Accounting and bookkeeping services, including tax preparation;
- Bakery;
- Barber and beauty shops;
- Child day care services;
- Coin operated laundries and dry cleaning services;
- Eating places, not including drive-through or drive-in service or the sale of alcoholic liquor or cereal malt beverages for consumption on the premises;
- Florist shops;
- Government offices and similar public uses;
- Health services, offices and clinics;
- Insurance agents and other carriers;
- Legal services;
- Libraries;
- Medical and dental offices;
- Membership organizations;
- Museums and galleries;
- Nursing, convalescent and retirement homes;
- Office buildings of all types;
- Parks and recreational facilities, public or private (noncommercial);
- Post offices;
- Real estate services;
- Religious organizations;
- Shoe repair shops;
- Studios – art, teaching, dance, music, drama, photography;
- Telephone and communication services, except satellite stations and towers;
- Travel agencies; and
- Veterinary clinics for small animals and pets, excluding outdoor runs.

### **Height and Area Restrictions:**

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for yards and parking lots shall be as follows, except as otherwise provided in section VI, Height and Area Regulations.

1. **Minimum lot area** – Two thousand (2,000) square feet.
2. **Maximum height of structures** – Maximum forty-five (45) feet from finished grade.
3. **Minimum yards:**
  - Front: None.
  - Side: None; Ten (10) feet when adjacent to residential property.
  - Street Side: None.
  - Rear: Twenty (15) feet;  
Twenty-five (25) feet when adjacent to residential property.

#### **4. Minimum parking lot setback:**

- Five (5) feet;
- Ten (10) feet when adjacent to residential property.

#### **Development and Performance Standards:**

1. Development in the “DC” zoning district should match the existing buildings to the greatest extent possible; this includes the use of masonry construction, or steel frame buildings with false fronts incorporated into the design; however, stick-built or balloon frame construction is not allowed in the downtown commercial district for fire safety purposes. All buildings in the DC zoning district utilizing the zero-side setback must construct a firewall along the common lot line. Street facing primary facades shall contain no less than 50% of the first floor in windows, awnings, doors or other similar treatments. Second floor primary facades must contain 20% windows. For corner lots or double frontage lots, structures are considered to have two facades, the primary and secondary. The first floor secondary façade of any structure in the DC zoning district must contain a door and at least 20% windows; second floor secondary facades must also have 20% windows. Primary and secondary façade entrances are allowed to construct awnings extending no more than four (4) feet into the public right-of-way, having a clearance of 7’6”. Such awnings must be supported from the building itself, guy wires or posts are not allowed to obstruct the public right-of-way.
2. Acceptable façade materials in the “DC” zoning district: brick masonry, vinyl or clapboard siding, board and batten; slip covers, vertical corrugated metal panels and plywood are not acceptable façade materials in the DC zone. False fronts must extend across the entire frontage of the lot and shall match up as closely as is feasible with the neighboring structures.
3. Parking facilities shall be located in the rear of all buildings and all buildings shall thus be required to contain a rear entrance as well. Landscaping standards are not applicable to the DC district, but the use of second story flower boxes, roadside trees, and rear-yard landscaping are encouraged.
4. Merchandise displayed outside a building shall be kept off the public sidewalks and streets, shall not be placed within a required parking/paving setback area, shall not reduce the capacity of a parking lot below that required by this ordinance for the use, and shall not occupy an area greater than twenty (20) percent of the ground floor area of the building or tenant space.
5. Landscaping materials may be displayed on an unlimited basis outside a building but shall be kept off public sidewalks and streets, shall not be placed within a required parking/paving setback area, and shall not reduce the capacity of a parking lot below that required by this ordinance for the use.
6. Customary passenger vehicles, trailers, recreational vehicles, motor vehicles and other motorized machinery and equipment for sale or lease may be displayed on an unlimited basis outside a building on a display area or lot, provided that the display area shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by this ordinance for the use.

#### **“M-1” Light Industrial District**

The zoning of property as “M-1”, Light Industrial District, is intended to provide for a variety of heavy general business and agricultural uses. The uses intended for the “M-1” district include office warehousing, wholesaling, entertainment and automotive services.

Most activities shall occur inside a building, however, outside storage of materials and displays may be permitted subject to performance standards.

### **Uses Permitted by Right:**

No building, structure or land shall be used, and no building or structure shall be erected, constructed, reconstructed, moved or altered except for one or more of the uses identified below, subject to all applicable provisions of these zoning regulations:

- Any use permitted in the “CC”, Corridor Commercial District
- Any business, commercial or industrial use which can meet the development and performance standards set forth for this zone but not specifically excluded or specifically mentioned as belonging in another less restrictive zone.
- Agriculture, including the raising of field crops, horticulture and animal husbandry. Feed lots, poultry farms and kennels shall be allowed when such activities shall meet the development and performance standards set forth for this district.

### **Height and Area Restrictions:**

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for yards and parking lots shall be as follows, except as otherwise provided in section VI, Height and Area Regulations.

1. **Minimum lot area** – Ten thousand (10,000) square feet.
2. **Maximum height of structures** – No restriction shall apply except as limited by gross floor area ratio and by any restrictions that may be imposed by virtue of aircraft approach and turning zone height restrictions.
3. **Minimum yards:**
  - Front: Twenty-five (25) feet from street right-of-way.
  - Side: None;  
Twenty (20) feet when adjacent to residential property.
  - Street Side: Fifteen (15) feet.
  - Rear: None;  
Twenty-five (25) feet when adjacent to residential property.
4. **Minimum parking lot setback:**
  - Ten (10) feet;
  - Twenty (20) feet when adjacent to residential property.

### **Development and Performance Standards:**

1. Materials and equipment not offered for sale or rent may be stored outside if they do not occupy a contiguous area greater than twenty (20) percent of the ground floor area of the building or tenant space.
2. Merchandise may be displayed or stored outside a building if not located on public property or within a required parking area or yard and the merchandise does not occupy a contiguous area in excess of ten (10) percent of the ground floor area of the building of tenant space.

3. Customary passenger vehicles, trailers, recreational vehicles, motor vehicles and other motorized and non-motorized machinery and equipment for sale or lease may be displayed on an unlimited basis outside a building on a display area or lot, provided that the display area shall not be placed within the required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by this ordinance for the use.
4. Storage of materials, products or equipment not for sale or lease shall be one hundred (100) percent screened from public view. Screened from public view means not visible at eye level from adjoining properties or any street right-of-way.
5. An opaque screen, fence or wall not less than six (6) feet in height shall be provided along all rear and side property lines, which are common to property, zoned or anticipated for residential use. Such screening shall not extend in front of the building line of adjacent dwellings.
6. Odors or fumes created by industrial processes must be contained so that no odors may be sensed at the lot line.

Uses emitting or likely to emit substantial amounts of dust, odor, gas smoke or noise shall receive the approval of the City Council after a review and report of the Planning and Zoning Commission, and subject to the imposed conditions as may be deemed necessary to protect adjacent property and to prevent objectionable or offensive conditions. Such uses shall be in compliance with the enacted laws of the State of Iowa and the City of Neola.

**“M-2” General Industrial District**

The zoning of property as “M-2”, General Industrial District, is intended to provide for a variety of industrial uses. The uses intended for the “M-2” district include office warehousing, wholesaling, product assembly and manufacturing. Most activities shall occur inside a building, however, outside storage of materials and displays may be permitted subject to performance standards.

1. **Minimum lot area** – Ten thousand (10,000) square feet.
2. **Maximum height of structures** – No restriction shall apply except as limited by gross floor area ratio and by any restrictions that may be imposed by virtue of aircraft approach and turning zone height restrictions.
3. **Minimum yards:**
  - Front: Twenty-five (25) feet from street right-of-way.
  - Side: None;  
Twenty (20) feet when adjacent to residential property.
  - Street Side: Fifteen (15) feet.
  - Rear: None;  
Twenty-five (25) feet when adjacent to residential property.
4. **Minimum parking lot setback:**

- Ten (10) feet;
- Twenty (20) feet when adjacent to residential property.

**Uses Permitted by Right:**

No building, structure or land shall be used, and no building or structure shall be erected, constructed, reconstructed, moved or altered except for one or more of the uses identified below, subject to all applicable provisions of these zoning regulations:

- Advertising, not elsewhere classified;
- Apparel and other finished products – manufacturing;
- Automotive rental, leasing, repair and service;
- Drugs and pharmaceutical products manufacturing;
- Electrical appliances and equipment manufacturing;
- Electronic components and accessories manufacturing;
- Food and kindred product manufacturing;
- Furniture and fixtures manufacturing;
- General building contractors, including heavy construction contractors;
- General warehousing and storage;
- Government offices and similar public uses;
- Grain mill products – manufacturing;
- Industrial machinery and equipment, including transportation;
- Laboratories, medical and dental;
- Laundry, cleaning and garment services;
- Leather product manufacturing;
- Linen supply;
- Lumber and building material dealers – retail;
- Machinery, equipment and supplies – wholesale distribution;
- Mailing, reproduction, commercial art and photography services;
- Measuring, analyzing and controlling instruments; photographic, medical and optical goods; watches and clocks – manufacturing;
- Membership sports and recreational clubs;
- Miniature storage warehouses;
- Miscellaneous office warehousing;
- Motor freight transportation and warehousing;
- Motor vehicle parts and supplies – wholesale trade, but only when the premises upon which such activities are conducted are wholly enclosed within a building or by a wooden fence not less than eight (8) feet in height and in which the openings or cracks are less than fifteen (15) percent of the total area;
- Paper and allied paper products;
- Petroleum and petroleum products;
- Postal services;
- Printing and publishing industries, including commercial printing;
- Recreational vehicle and boat dealers;
- Research and testing services;
- Special trade contractors;
- Stone, clay and glass products;
- Telephone and other communication services, including satellite stations and towers;
- Textile mill products manufacturing;
- Transportation, freight and cargo;

- Trucking and other courier services;
- Wholesale trade – Durable goods: furniture, lumber and construction materials, commercial equipment and supplies, electrical goods, hardware and miscellaneous durable goods; and
- Wholesale trade – Non-durable goods: paper products; drugs, apparel; groceries and related products; beer, wine and distilled alcoholic beverages; and miscellaneous non-durable goods.

**Development and Performance Standards:**

1. Materials and equipment not offered for sale or rent may be stored outside if they do not occupy a contiguous area greater than twenty (20) percent of the ground floor area of the building or tenant space.
2. Merchandise may be displayed or stored outside a building if not located on public property or within a required parking area or yard and the merchandise does not occupy a contiguous area in excess of ten (10) percent of the ground floor area of the building or tenant space.
3. Customary passenger vehicles, trailers, recreational vehicles, motor vehicles and other motorized and non-motorized machinery and equipment for sale or lease may be displayed on an unlimited basis outside a building on a display area or lot, provided that the display area shall not be placed within the required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by this ordinance for the use.
4. Storage of materials, products or equipment not for sale or lease shall be one hundred (100) percent screened from public view. Screened from public view means not visible at eye level from adjoining properties or any street right-of-way.
5. An opaque screen, fence or wall not less than six (6) feet in height shall be provided along all rear and side property lines, which are common to property, zoned or anticipated for residential use. Such screening shall not extend in front of the building line of adjacent dwellings.
6. Odors or fumes created by industrial processes must be contained so that no odors may be sensed at the lot line.
7. Uses emitting or likely to emit substantial amounts of dust, odor, gas smoke or noise shall receive the approval of the City Council after a review and report of the Planning and Zoning Commission, and subject to the imposed conditions as may be deemed necessary to protect adjacent property and to prevent objectionable or offensive conditions. Such uses shall be in compliance with the enacted laws of the State of Iowa and the City of Neola.

**“FP” Floodplain Overlay District**

The Flood Plain (Overlay) District is intended and designed to manage the use and development of land in those areas which would be inundated during a 100-year flood to minimize damage to property and threats to personal safety by:

1. Protecting floodways from developmental encroachment which would increase flood levels or impede the free flow of flood waters, and by
2. Requiring special site planning and construction standards in the floodway fringe.

**Uses Permitted by Right:**

Uses permitted in the Floodplain (FP) Overlay District are the same as those allowed in the underlying base district.

**Height and Area Regulations:**

Height and area regulations for the Floodplain (FP) Overlay District are the same as those in the underlying base district.

**Supplemental Development Regulations for the Floodplain Overlay District:**

1. **Permit Required.** No person, firm or corporation shall initiate any development or cause the same to be done in any Flood Plain (Overlay) District without first obtaining a permit for such development. The Planning and Zoning Director shall review all permit applications to determine if the standards of the Flood Plain (Overlay) District will be met and to insure that all necessary permits will be obtained from federal, state and local governmental agencies.
2. **Application for Permit.** Application for a Flood Plain Development Permit shall be made on forms supplied by the Director and shall include the following information:
  - a. Description of the work to be covered by the permit for which application is to be made.
  - b. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
  - c. Identification of the use or occupancy for which the proposed work is intended.
  - d. Elevation of the 100-year flood.
  - e. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.
  - f. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
  - g. Such other information as the Director deems reasonably necessary for the purpose of this ordinance.
3. **Action on Permit Application.** The Director shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable provisions and standards of this ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Director shall not issue permits for variances except as directed by the Board of Adjustment.
4. **Construction and Use to Be as Provided in Application and Plans.** Flood Plain Development Permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved

plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of the structure.

5. **Notification of Alteration or Relocation of Watercourse.** The Planning and Zoning Director shall notify adjacent communities or counties and the Iowa Department of Natural Resources prior to any proposed alteration or relocation of a watercourse within a designated Floodway, Floodway Fringe, or General Flood Plain.
6. **Warning and Disclaimer of Liability.** The degree of protection required by the standards of the Flood Plain (Overlay) District 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 heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These standards and provisions do not imply that areas outside the Flood Plain will be free from flooding or flood damage. These provisions shall not create liability on the part of Story County or any officer or employee thereof for any flood damage that may result from reliance on these provisions or any administrative decisions lawfully made thereunder.
7. **Development Standards.** All uses in the "FP" Floodplain Overlay District shall comply with the underlying District requirements and the provisions of Chapter 15. In addition, the following standards shall be met:
  - a. **All structures shall be:**
    - i. adequately anchored to prevent flotation, collapse or lateral movement of the structure,
    - ii. constructed with materials and utility equipment resistant to flood damage, and
    - iii. constructed by methods and practices that minimize flood damage.
  - b. **Residential buildings.** All new or substantially improved residential structures shall have the lowest floor, including basements, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least eighteen (18) feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential buildings shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
  - c. **Non-residential buildings.** All new and substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year

flood; and that the structure, below the 100-year flood level, is water-tight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood proofed shall be maintained by the Planning and Zoning Director.

d. **All new and substantially improved structures:**

- i. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
  - 1) A minimum of two openings having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding shall be provided,
  - 2) The bottom of all openings shall be no higher than one (1) foot above grade,
  - 3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater. Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.
- ii. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- iii. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

e. **Factory-built homes:**

- i. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
- ii. All factory-built homes, including those places in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. The following specific requirements (or their equivalent) shall be met:
  - 1) Over-the-top ties shall be provided at each of the four corners of the factory-built home, with two (2) additional ties per side at intermediate locations and factory-built homes less than fifty (50) feet long requiring one (1) additional tie per side;
  - 2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points and factory-built homes less than fifty (50) feet long requiring four (4) additional per side;
  - 3) All components of the anchoring system shall be capable of carrying a force of 4800 pounds;
  - 4) Any additions to factory-built homes shall be similarly anchored.

f. **Utility and Sanitary Systems:**

- i. All new and replacement sanitary systems shall be designed to minimize and eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities shall be provided with

- a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
- ii. On-site wastewater disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
  - iii. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
  - iv. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
- g. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area with the time available after flood warning.
  - h. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of three (3) feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Iowa Department of Natural Resources.
  - i. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility or system.
  - j. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain dry during occurrence of the 100-year flood.
  - k. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:
    - i. The structure shall not be used for human habitation.
    - ii. The structure shall be designed to have low flood damage potential.
    - iii. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwater.
    - iv. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
    - v. The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the 100-year flood level.
    - vi. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
  - l. Recreational vehicles are exempt from the requirements of this Chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
    - i. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
    - ii. The recreational vehicle must be fully licensed and ready for highway use. A

recreational vehicle is ready for highway use if it has on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

8. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway must satisfy requirements of this Chapter regarding anchoring and elevation of factory-built homes.

### **"FW" Floodway Overlay District**

It is the intent of the "FW" Floodway District that the identified area is designed to carry floodwaters and should be protected from developmental encroachment which would increase the flood levels or cause unnecessary damage to personal property or pose unnecessary threats to personal safety. Buildings and structures which impede the free flow of floodwaters will not be allowed.

1. **Developmental Standards.** All uses in the "FW" Floodway shall comply with the underlying District requirements. In addition, the following standards shall be met:
  - a. No use shall cause any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands. Any development proposed in the Floodway shall be required to obtain a "no-rise" certificate from a registered professional engineer.
  - b. All uses shall:
    - i. Be consistent with the need to minimize flood damage.
    - ii. Use construction methods and practices that will minimize flood damage.
    - iii. Use construction materials and utility equipment that are resistant to flood damage.
  - c. No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.
  - d. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable development standards of the "FP" Floodplain Overlay District and shall be constructed or aligned to present the minimum possible resistance to flood flows.
  - e. Buildings, if permitted, shall have low flood damage potential and shall not be for human habitation.
  - f. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway within the time available after flood warning.
  - g. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Iowa Department of Natural Resources.
  - h. Any fill allowed in the "FW" Floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary. Any fill placed in the "FW" Floodway must be shown to not have an effect on the 100-year base flood elevation through certification by a registered professional engineer.
  - i. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and

- meandering or due to the action of flood flows.
- j. No factory-built home shall be permitted.

**G. Height and Area Matrix**

Provided in Table 1, Height and Area Matrix, are the height and area requirements for each zoning district. Where there are two (2) or more values shown, the first is for the permitted use in the district followed by supplemental requirements for other uses and site conditions. For example, in the R-1 District the minimum lot width is shown as 60/70/35, which means that sixty (60) feet is the minimum lot width for most lots, seventy (70) feet is the minimum lot width for corner lots, and thirty-five (35) feet is the minimum lot width (at the curb) for lots abutting a cul-de-sac. The second value shown for rear and side setbacks in the commercial and industrial zoning districts are for lots that are adjacent to residential areas.

**Table 1 - Height and Area Matrix**

District	Min. Lot Area (Sq. ft.)	Max. Height (feet)	Minimum Setbacks				Max. Lot Coverage	Min. Lot Width	Min. Lot Depth
			Front	Side	Street Side	Rear			
OS-A	217,800	35/50	50	50	50	50	--	450	--
R-1	7,500/8,000	35	25	10	15	25	40%	60/70/35	100
R-2	6,000/3,000	35	25	5	15	25	40%	60/70/35	100
R-3	6,000/1,000	45/35	25	5	15	25	60%	--	--
R-1M	5,200/7,500	15	25	10	15	20	--	60/70/35	100
CC	7,500	35	25	5/15	15	10/15	--	--	--
DC	2,000	45	--	0/10	--	15/25	--	--	--
M-1	10,000	--	25	0/20	15	0/25	--	--	--
M-2	10,000	--	25	0/20	15	0/25	--	--	--
FP and FW	Same as underlying base district								

## **V. SPECIAL USE REGULATIONS**

Certain uses of land, buildings or structures may not be appropriate under all circumstances in any given zoning district, but may be appropriate where adequate precautions can be taken to assure compatibility with the surrounding uses, public need and the City as a whole. It is the intent of this section to allow for such uses by the granting of special use permit, subject to the procedures, which are applicable to rezoning, as stated herein.

The Mayor and City Council by a simple majority vote may, by ordinance, grant a special permit for the following special uses in any district, except as herein qualified, for which they are otherwise prohibited by this ordinance, and may impose appropriate conditions and safeguards to protect property and property values in the neighborhood.

### **A. Permitted Special Uses**

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered, except for one or more of the special uses set forth below. Issuance of a special use permit is restricted to the zoning district and land where such permit is applied.

- Cemetery or Mausoleum;
- Extremely hazardous materials in the “AG” Agricultural District, “M-1” Light Industrial District or the “M-2” General Industrial District, subject to all State and Federal laws;
- Feedlots and stockyards in the M-1 Light Industrial District;
- Greenhouse or a nursery, not less than one hundred feet from all property lines;
- Landing field or strip for aircraft;
- Livestock facilities and operations in the “M-2” General Industrial District;
- Radio tower or broadcasting station;
- Removal of gravel, topsoil or similar natural material, with safeguards for the protection of adjoining property and the community as a whole;
- Riding stable;
- Roadside stand, commercial amusement or recreational development for temporary or seasonal periods;
- Sanitary fill for the disposal of garbage or trash;
- Trailer camp observing all appropriate State and County regulations, provided there is at least two thousand (2,000) square feet of lot area per trailer, no trailer or service building is closer than twenty-five (25) feet to any side or rear lot line, and such hard surfaced drives, landscaping and similar improvements as may be deemed necessary for its proper development and for the protection of the surrounding area are provided; and
- Others as determined necessary by the City Council.

Any proposed special use shall otherwise comply with all of the regulations set forth in the ordinance for the district in which such use is located.

### **B. Criteria for Considering Special Uses**

In considering any application for a special use permit, the Planning and Zoning Commission and City Council shall make findings based on the criteria stated in section

III, Administration/Applications and Procedures, but shall not be precluded from consideration of other factors which may be relevant to a particular application.

Where a special use of a commercial or industrial nature is proposed to be located in any residential district, the special use permit shall not be approved unless it is determined that the proposed use would be of limited duration or compatible with the proposed uses in the area as depicted in the Neola Land Use Plan.

### **C. Time Limits for Special Uses**

1. Special uses shall commence within one (1) year from the date of approval, unless extended by action of the City Council.
2. Commencement of a special use occurs upon the issuance of a building permit, or upon the initiation of significant action to satisfy requirements for improvements required as part of the special use permit.
3. The Zoning Official shall review a proposed time extension to determine if any modifications are proposed to be made to the site, and if changes have occurred to the zoning ordinance or other development regulations that would affect the extension request.
4. If the zoning official finds that no substantial modifications are proposed, the time extension shall be forwarded to the Planning and Zoning Commission and City Council for final action.

### **D. Revocation of Special Use Permits**

1. **Basis for revocation:** Any special use permit granted under the authority of this section is subject to revocation for any of the following reasons:
  - Noncompliance with any applicable requirement set forth in this section;
  - Noncompliance with any special conditions imposed at the time of approval of the special use permit;
  - Violation of any provisions of the City's ordinances pertaining to the use of the land, construction or uses of buildings, structures or activities conducted on the premises; and
  - Where conditions in the neighborhood or surrounding property have changed to the extent that approval of the permit would be clearly unwarranted if being applied for at the time of revocation.
2. **Procedure for revocation:**
  - Revocation proceedings may be initiated by a majority vote of the City Council or the Planning and Zoning Commission; and
  - An appeal of any decision of the City Council to revoke a special use is filed in the District Court of Pottawattamie County. Any appeal taken shall not suspend the order of revocation during the pendency of the appeal unless so ordered by the District Court.

## **VI. HEIGHT AND AREA REGULATIONS**

### **A. Height**

The height regulations prescribed herein shall not apply to chimneys, cupolas, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, flagpoles, radio and television towers, masts, aerials, cooling towers, water towers, elevator shafts, windmills, conveyors and other similar projections.

### **B. Lot Size**

If, at the time of passage of this resolution, a lot, or the aggregate of contiguous lots or land parcels held in a single ownership has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district and providing, if there is any area deficiency, residential use shall be limited to a single family.

### **C. Front Yards**

1. Where thirty (30) percent or more of a block front is improved with buildings, no part of any new building shall project beyond the average front line of the two (2) nearest buildings, except that no building shall be required to provide a front yard greater than fifty (50) feet. A corner lot shall have a front yard on each street, except that on a lot of record the building width shall not be reduced to less than forty (40) feet and no accessory building shall project beyond either required front yards.
2. On lots having double frontage the required front yard shall be provided on both streets.
3. Landscaping, fountains, sculptures, lighting fixtures, flagpoles, mailboxes, overhead utility lines and poles and fences, which are situated and constructed in compliance with all other ordinances may be located in any required yard setback provided, however when this required yard is contiguous to a street such features or structures shall not exceed four (4) feet in height above the existing grade and fencing shall not obstruct the view of traffic.
4. An open, uncovered porch or paved terrace may project into a required front yard for a distance of not more than ten feet, but this shall not be interpreted to include or permit fixed canopies.
5. Every part of a required front yard must be open and unobstructed from ground level of the graded lot to the sky, except as follows:
  - Bay windows projecting not more than three (3) feet;
  - Steps that are necessary for access to a permitted building or for access to a lot from a street or public way; and
  - Access ramps for the disabled.

#### **D. Side and Rear Yards**

1. On a residential corner lot the width of the yard along the side street shall not be less than any required front yard on such street.
2. No accessory building shall project beyond a required yard setback along any street.
3. Where a side yard or rear yard in the Commercial and Industrial Districts abuts a Residential District, the side or rear yard shall not be less than ten feet.
4. Every part of a required side yard, that is not a corner yard, must be open and unobstructed from ground level of the graded lot to the sky, except as follows:
  - Central air conditioning units, heat pumps and solar collecting equipment, extending not more than ten (10) feet from the principal structure;
  - Balconies and eaves projecting not more than three (3) feet and in no case projecting within four (4) feet from any property line;
  - Off-street parking spaces and loading areas; and
  - Swimming pools not located within three (3) feet of a lot line.

## **VII. ACCESSORY AND TEMPORARY USES**

### **A. General Provisions**

1. Principal uses authorized as permitted uses are deemed to include accessory uses. Accessory uses are subject to the same regulations as apply to principal uses in each district, except as otherwise specified in these regulations.
2. Detached accessory buildings shall conform to all yard setback requirements except it may be located not less than five (5) feet from the rear property line. Detached accessory buildings shall not occupy more than thirty-five (35) percent of the required rear yard. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used unless the main building on the lot is being used.
3. An accessory use must not be established prior to the establishment of the principal use.

### **B. Home Occupations**

1. Home occupations are permitted as an accessory use within the R-1 and R-2 Districts, subject to the following limitations of use:
  - Accountant;
  - Architect;
  - Author;
  - Clergyman;
  - Computer programmer or analyst;
  - Consultant;
  - Cosmetologist;
  - Craftsmen, including artist;
  - Family day care;
  - Lawyer;
  - Photographer;
  - Real estate broker;
  - Salesperson;
  - Seamstress or tailor;
  - Secretary or bookkeeper; and
  - Teacher.
2. A home occupation is only permitted as an accessory use in a residential dwelling if it meets the following conditions:
  - Conducted within the principal building, provided that the home occupation use does not exceed more than fifty (50) percent of the gross floor area of the principal building;
  - A separate entrance is not provided for the conduct of the occupation, except for cosmetologists and barbers;
  - An alteration is not made that changes the character of the dwelling;
  - It does not use outdoor storage;

- A sign may be utilized to advertise the home occupation provided it is non-illuminated, displayed in a window or securely attached to the principal building, and is of a size not to exceed two (2) feet by four (4) feet for a total of eight (8) square feet in size;
- It does not require the delivery or shipment of merchandise, goods or equipment by other than passenger motor vehicles, one (1) ton step up van or similar sized trucks;
- It does not create or cause any perceptible noise, odor, smoke, electrical interference or vibrations to emanate from the premises; and
- It is conducted so that it does not create parking or traffic congestion or otherwise place an undue burden on the abutting or adjoining neighbors or the immediate neighborhood.

### **C. Garages, Carports and Sheds**

A detached garage, carport or shed may be constructed on any residential lot as an accessory use if it meets the following requirements:

- It is not located within a required front or side yard, public right-of-way, or easement;
- It is not located within five (5) feet of a rear lot line; and
- It has a maximum height of twenty (20) feet.

### **D. Fences and Retaining Walls**

Fences and walls may be constructed to a height of six (6) feet in residential areas and eight (8) feet in commercial and industrial areas, as measured above the average grade level above the property line, and subject to the following restrictions:

- In residential districts, fences and walls in front and corner side yards (beyond the front of the house) shall not exceed four (4) feet in height, and in the case of fences shall be at least fifty (50) percent open;
- In commercial and industrial areas, fences and/or walls shall not be placed in the setback area from street rights-of-way; and
- Retaining walls shall be placed no closer than one (1) foot of a sidewalk or any property line and shall be constructed in a permanent fashion.

### **E. Temporary Uses**

Temporary buildings used in conjunction with construction work only may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work.

## **VIII. PARKING REGULATIONS**

### **A. General Requirements**

In all districts there shall be provided at the time any building or structure is erected or structurally altered; or at the time of enlargement; or change in use of the structure, building or land; off-street parking spaces in accordance with the following requirements and with Table 2 – Off-street Parking Schedule. No off-street parking is required for any use located in the Downtown Commercial District, as defined by this ordinance.

Where off-street parking facilities are provided in excess of the minimum quantity herein specified, or when off-street parking facilities are provided but not required by this ordinance, said off-street parking facilities shall comply with the minimum requirements for parking and maneuvering space specified in this ordinance.

### **B. Parking for Single and Two Family Dwellings**

1. Parking in residential districts shall be restricted to customary passenger cars and motor vehicles less than twenty (20) feet in length and having gross vehicle weight of less than twelve thousand (12,000) pounds. Skid-loaders, tractors and other machinery not commonly associated with residential uses but being less than twenty (20) feet in length and having gross vehicle weight of less than twelve thousand (12,000) pounds shall not be considered “customary passengers or motor vehicles” and are not allowed in residential areas unless parked within a completely enclosed structure. Parking of semi-tractor cabs or trailers and in residential districts is prohibited.
2. All passenger cars shall be parked on paved driveways or parking areas relating to the garage or carport. In areas where there are no garages or carports, passenger cars and motor vehicles may be parked on paved driveways constructed perpendicular to the street. No parking shall be allowed in that portion of the street right-of-way not used for traffic movement, i.e. between the curb and the sidewalk, and between the curb and the front lot line.
3. Travel trailers, mobile homes and other recreational vehicles may be stored on paved driveways or parking areas providing that they shall not be located within two (2) feet of an adjoining lot line. Furthermore, the full length of the travel trailer, mobile home or other recreational vehicle shall be parked fully within the property and shall not overhang any portion of street right-of-way or a sidewalk. Travel trailers, mobile homes and other recreational vehicles shall not be parked for more than twelve (12) hours within any street right-of-way. Access to the parking areas for such vehicles shall have the same restrictions as pertain to passenger cars and motor vehicles.

### **C. Construction Standards**

All off-street parking and loading area, maneuvering aisles and access ways to any required off-street parking or loading areas must be constructed of an all-weather surface. Residential driveways shall extend from the curb, pavement edge or surface edge of the street to the front building line of a garage, carport or dwelling.

#### **D. Computing Number of Parking Spaces**

In computing the number of parking spaces required, the following rules govern:

- Service areas such as mechanical rooms, attics and closets are excluded from the calculation of “floor area” for determining required parking spaces;
- Where fractional spaces result in computing required parking spaces, the required number of spaces must be increased to the nearest whole number;
- The parking space requirement for a use not specifically mentioned will be determined by the Zoning Official based on the most comparable use;
- Whenever a building or use constructed or established after the effective date of this ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of fifty (50) percent or more in floor area or in the area used, the building or use shall then and thereafter comply with the parking requirements set forth herein; and
- In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

#### **E. Change or Enlargement**

All parking spaces shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located not to exceed three hundred (300) feet from an institutional building served and not to exceed five hundred (500) feet from any other non-residential building served.

#### **F. Joint Use of Parking**

Not more than fifty (50) percent of the parking spaces required for theatres, bowling alleys, dance halls, night clubs or cafes, and up to one hundred (100) percent of the parking spaces required for a church or school auditorium may be provided and used jointly by two (2) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours; provided, however, that written agreement is properly executed and filed as specified below.

In any case, where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form by the City attorney and shall be filed with the application for a building permit.

#### **G. Minimum Dimensions for Off-Street Parking**

1. **Ninety (90) degree angle parking** – Each parking space shall be not less than eight (8) feet wide nor less than seventeen (17) feet in length. Maneuvering space shall be not less than twenty-three (23) feet in length.

2. **Sixty (60) degree angle parking** – Each parking space shall be not less than eight (8) feet wide perpendicular to the parking angle nor less than eighteen (18) feet in length when measured at right angles to the building or parking line. Maneuvering space shall be not less than eighteen (18) feet perpendicular to the building or parking line.
3. **Forty-five (45) degree angle parking** – Each parking space shall be not less than eight (8) feet wide perpendicular to the parking angle nor less than seventeen (17) feet in length when measured at right angles to the building or parking line. Maneuvering space shall be not less than fifteen (15) feet perpendicular to the building or parking line.
4. **Off-street parking facilities located adjacent to a public alley** – The width of said alley may be assumed to be a portion of the maneuvering space requirement.

**H. Accessible Parking Spaces for Disabled People**

Parking lots must designate accessible spaces for use of persons with disabilities (Handicap Accessible Spaces) as follows:

<u>Parking Spaces</u>			<u>Accessible Spaces</u>
1	to	25	1
26	to	50	2
51	+		3

\* A minimum of one (1) van accessible space measuring ninety-six (96) inches wide is required.

Handicap accessible spaces must be marked and designated in accordance with the standards and specifications adopted by the Commissioner of licensing and regulation of the Iowa Department of Transportation. Relating to the identification and dimensions of parking spaces for persons with disabilities, as amended, or as otherwise required by federal or state law.

**I. Loading**

Every building (or part thereof) erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, mortuary or any other use similarly involving the receipt or distribution by vehicles, materials or merchandise, shall provide and maintain on the same premises loading space in accordance with the following requirements:

- In the CC and DC Commercial Districts and in the M-1 and M-2 Industrial Districts, one (1) loading space for each ten thousand (10,000) square feet (or fraction thereof) of floor area in the buildings is required; and
- Loading spaces are required in the commercial districts at a rate of one loading space for the first five thousand (5,000) to fifteen thousand (15,000) square feet of floor area in the building and one (1) additional loading space for each fifteen thousand (15,000) square feet or fraction thereof, of floor area in excess of fifteen thousand (15,000) square feet.

## J. Off-Street Parking Schedule

The minimum number of parking spaces required is as follows:

**Table 2 - Off-Street Parking Schedule**

Use	Spaces	Unit
Single and Two Family Dwellings	2	Dwelling Unit
Multi Family Dwellings and Townhomes:	1:5 plus	Dwelling Unit
One Bedroom	1.5:1	Dwelling Unit
Two or more Bedrooms	2:1	Dwelling Unit
Restaurants	1:100 plus 1:2	Square Feet Employees
Club or Lodge	1:4 (With Seats) 1:100 (Without Seats)	Seats Square Feet
Hospital	1:4	Beds
Country Club or Golf Club	1:5	Members
Banks, Clinics and Offices	1:200	Square Feet
Retail Stores	1:200	Square Feet
Shopping Centers	1:200	Square Feet
Industrial Buildings	1:500	Square Feet
Churches, Theaters, Auditoriums, Stadiums, Gymnasiums and Other Assembly Halls	1:4 (With Seats) 1:100 (Without Seats)	Seats Square Feet
Mortuaries or Funeral Homes	1:4 plus	Seats
Elementary and Middle Schools	1:20	Students
High Schools	1:4	Students
Nursing Homes	0.8	Unit
Hotels and Motels	1:1 plus	Guest Room
Community Center, Library and Museum	1:100 (10 min)	Square Feet

## **IX. SIGN REGULATIONS**

### **A. Purpose**

This article is established to protect and promote health, safety, general welfare and order within the City of Neola through the establishment of comprehensive and uniform standards, regulations and procedures governing the type, number, size, structure, location, height, lighting, erection, use or display of devices, signs or symbols serving as a visual communications media to persons situated within or upon public rights-of-way or private properties. The provisions of this article are intended to encourage opportunity for effective, aesthetically compatible and orderly communications by reducing confusion and hazards resulting from unnecessary or indiscriminate use of communications facilities. Hereafter no sign shall be erected, constructed, altered or modified except as regulated by the provisions of this article.

### **B. Requirements**

Billboards and signs in conjunction with principal permitted uses are allowed subject to the following regulations.

#### **1. Residential Districts (R-1, R-2, R-3, R-1M):**

- Signs shall be limited to no more than twelve (12) square feet in size appurtenant to a permitted use of the property on which displayed. No part of such sign shall project into any part of the front yard.
- One on-site sign, not exceeding six (6) square feet in size pertaining only to the sale or lease of the land or building upon which displayed, shall be allowed. Such sign shall comply with one-half (1/2) of the minimum setback required in the district in which the sign is erected.

#### **2. Commercial Districts (CC, DC):**

- Signs shall be limited to those (a) identifying uses conducted within the building; (b) necessary for directional purposes; (c) used to advertise the sale or lease or real property on buildings on which displayed; or (d) identifying the commercial enterprise by name or symbol.
- The total allowable area of all use identification signs on any building of a business establishment shall be determined by permitting two (2) square feet of sign area for each horizontal foot of the building wall displaying such sign or signs.
- The total aggregate area of all signs shall not exceed one hundred fifty (150) square feet.
- For the purposes of this section, the sign area allowed shall:
  - For freestanding letters, be computed by taking the area enclosed with the smaller rectangle needed to completely encompass each word or insignia of the sign.
  - For signs other than freestanding letters, be computed by taking the total area of the facing or the total area within the outer edge of any existent border of the sign.
- All signs shall be fixed and shall not be audible. No illumination shall be intermittent, flashing or scintillating, nor shall any sign or illumination be revolving or animated. No signs shall have moving parts including devices set in motion by movement of the atmosphere.

- No wall mounted sign shall project out from a wall or face of a building more than two (2) feet nor project above the roof line more than four (4) feet.
- Service stations located in a commercial district shall be limited to three (3) square feet of sign area for each lineal foot of street frontage occupied by such use. Where a service station located in a commercial district has frontage on more than one street, only one street frontage may be used to compute the allowable sign area. In no case however, shall the total of all signs for anyone service station exceed two hundred fifty (250) square feet.
- Advertising signs and billboards shall be set back from the right-of-way line of any state, federal, county or local thoroughfare at least as far as the required front yard depth for a principal building.
- Murals are allowed on structures in the DC zoning district with a conditional use permit. Signage integrated into the building design is allowed but counts against the total square footage allowance for signage.

### **3. Industrial Districts (M-1, M-2):**

- Signs shall be limited to those identifying uses conducted in the industrial district or necessary for directional purposes.
- The total allowable area of all use identification signs on any building or structure of a business establishment, shall be determined by permitting two square feet of sign area for each horizontal lineal foot of building wall or walls of the elevation upon which the sign or signs are to be located.
- The total aggregate area of all signs shall not exceed one hundred fifty (150 feet.)
- For the purposes of this section, the sign area allowed for the signs described above shall:
  - For freestanding letters to be computed by taking the area enclosed within the smallest rectangle needed to be completely encompass each word or insignia of the sign.
  - For signs other than freestanding letters, be computed by taking the total area of the facing or the total area within the outer edge of any existent border of the sign.
- All signs shall be fixed and shall not be audible. No illumination shall be intermittent, flashing or scintillating, nor shall any sign or illumination be revolving or animated. No signs shall have moving parts including devices set in motion by movement of the atmosphere.
- No wall-mounted sign shall project out from a wall or face of a building more than two (2) feet nor project above the roofline more than five (5) feet nor project above the roof of a building or structure.

### **C. Special Exceptions**

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

### **D. Additional Regulations**

In all districts, signs and billboards shall adhere to pertinent state regulations and other local ordinances.

## E. General Sign Provisions

1. **Hazardous Signs** – No sign permitted by this ordinance shall, by reason of its location, lighting, size, color or intensity, create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as “stop”, “caution”, “warning”, etc., unless such sign is intended to direct traffic within the premises.
2. **Sign Maintenance** – All signs and sign structures shall be properly maintained and kept in a safe, orderly condition. In addition, all parts and supports shall be properly painted. Any sign or sign structure which is rotted, rusted, unsafe, deteriorated, defaced or otherwise altered, shall be repainted, repaired or replaced by the property owner or agent of the owner of the property upon which the sign is located, after written notice by the City of Neola.
3. **Interference** – No sign, nor any guy, stay or attachment thereto shall be erected, placed or maintained by any person on rocks, fences or trees; nor in such a manner as to interfere with the effective use of fire fighting equipment or personnel, or any electric light, power, telephone, telegraph or TV cable wires or supports thereof.
4. **Signs in Right-of-Way** – No sign other than government signs shall be erected or temporarily placed within any public rights-of-way except as may be specifically provided herein.
5. **Clearance** – All signs located over public rights-of-way or any public or private access route (sidewalk, mall, etc.) shall be located a minimum of twelve (12) feet above grade level.
6. **Safe Ingress and Egress** – No sign or part thereof shall be erected or maintained so as to prevent or deter free ingress and egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
7. **Signs required by law** – All signs required by law shall be permitted in all districts.
8. **Back to back signs** – If a free standing sign or sign structure is constructed so that the faces are not back to back, the angle shall not exceed thirty (30) degrees. If the angle is greater than thirty (30) degrees, the total area of both sides added together shall be considered as one sign when debited against the total number of signs permitted on one zoning lot.
9. **Obsolete signs** – Obsolete signs, which advertise an activity, business product or service, which is no longer produced or conducted on the premises, shall be removed within ninety (90) days from date of notice provided by the City of Neola. The owner of the property on which the sign is located shall have ninety (90) days from date of notice to remove any such sign. If after the expiration of the ninety (90) day period, the sign has not been removed, the City may cause the sign to be removed and any expenses may be charged back to the property owner.
10. **Illumination** – All externally illuminated signs shall be constructed so as to direct the source of light away from adjacent properties or public streets.

11. **Animated signs** – Animated signs may be allowed as a special exception requiring a hearing before the Board of Adjustment.
12. **Double frontage** – Lots having frontage on two streets or on a street and an alley shall be permitted to provide the maximum number and square footage of signs on each of the opposite ends of said lot, provided however, that not more than the maximum number of square feet of signs per frontage may be viewed simultaneously.
13. **Permit required** – No sign except permitted signs as identified herein shall be erected, altered, constructed or modified without first receiving a valid sign permit from the City.
14. **Sign permit application** – The application for a sign permit shall contain such information as may be deemed necessary for the proper enforcement of this ordinance.
15. **Permit fees** – To defray administrative costs of processing requests for sign permits, the applicant for a sign permit shall pay to the City Clerk, a fee in the amount established by the City Council.

#### F. Permitted Signs

The following signs are allowed without a permit but shall comply with all other applicable provisions of this ordinance.

1. **Government signs** – Signs of a public, non-commercial nature to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty.
2. **Directory signs** – A wall sign, which identifies the business, owners, manager or resident occupant and sets forth the occupation or other address information but contains no advertising. There may be one directory sign per zoning lot not to exceed two (2) square feet of area per business or resident occupant.
3. **Parking signs (on-site)** – On site directional and parking signs intended to facilitate the movement of vehicles and pedestrians upon which the sign is located. Such signs shall not exceed six (6) square feet of area.
4. **Integral signs** – Name of buildings, date of construction, commemorative tablets and the like. Which are of the building or structure.
5. **Campaign signs** – Signs or posters announcing the candidate seeking political office, advertising political issues or the data pertinent thereto. These signs shall remain for no longer than forty-five (45) days prior and one (1) day after the election for which they were intended and shall be removed by the owner of the property on which they are located. All signs shall be confined to private property and shall not be attached to trees, utilities or rocks.
6. **Construction signs** – A non-illuminated sign announcing the names of architects, engineers, contractors, future use and other individuals or firms involved with the

construction, alteration or repair of such building (but not including any advertisement of any product). Such signs shall be confined to the site of the construction, alteration or repair and shall be removed within two (2) years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner. One (1) sign shall be permitted for each major street the project abuts.

7. **Real estate signs** – Any on-site sign announcing the owner, manager, realtor or other person directly involved in the sale or rental of the property. Signs shall not measure more than six (6) square feet in the residential districts nor twenty-four (24) square feet in the other districts. Only one (1) real estate sign may be allowed per zoning lot. Such signs shall not be allowed to be placed within the street right-of-way and must be within the lot lines of the property to being offered for sale or rent.

## **X. NONCONFORMING USES**

### **A. Alteration of Nonconforming Uses**

1. A nonconforming use must not be enlarged, changed, altered or repaired, except as provided in this section. This section does not prohibit any change or alteration that would bring a nonconforming use into compliance with the zoning regulations.
2. Normal maintenance of a building or structure containing a nonconforming use is permitted, including necessary non-structural repairs and incidental alterations not extending the nonconforming use.
3. A nonconforming use of a building may be extended throughout a completed building that, when the use became nonconforming, was designated or arranged to accommodate the use, but the use may not be extended to additional buildings or to land outside the building.
4. A single family detached dwelling, which is a nonconforming use, may be enlarged or replaced with a larger dwelling if the enlargement or replacement does not violate other zoning regulations applicable to the premises.
5. If a lot does not conform to the lot dimensions applicable to that zoning district, the lot may be used for any permitted use in that zoning district if all other zoning regulations are met, unless the nonconforming lot adjoins and has continuous frontage with one (1) or more other undeveloped lots under the same ownership, so that the lots could be replatted to conform to the requirements of the district.

### **B. Changing Nonconforming Uses**

A nonconforming use may be changed to any use that is in conformance with the uses permitted by right in the district in which it is located. A nonconforming use shall not be changed to any other type of nonconforming use without the prior approval of the Board of Adjustment, which may grant a change of occupancy from one (1) nonconforming use to another, provided the use is within the same or higher classification as the original nonconforming use, provided, however that such nonconforming use and occupancy will not tend to prolong and continue the nonconformity of the use. A nonconforming use once changed from a lower to a higher classification use shall not be changed thereafter to a lower classification use, and such prior lower classification use shall be considered abandoned.

### **C. Repairs**

A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire, explosion, natural disaster, act of nature or other cause. In the case of partial destruction by fire or other causes not exceeding fifty (50) percent of its value, the building inspector shall issue a permit for reconstruction or replacement providing that the reconstruction or replacement does not violate the zoning regulations applicable to the premises, including the provisions of this Section, other than the violations, if any, existing on the premises, including the building or property, prior to reconstruction or replacement. If greater than fifty (50) percent and less than the total value, the Board of Adjustment may grant a permit for repair after a public hearing and having due regard for the property

rights of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated nonconforming use and the purposes of this ordinance as stated herein.

#### **D. Abandonment**

When a nonconforming use is abandoned, without the intent to resume, the property must only be used thereafter in compliance with these zoning regulations. This section does not apply to properties actively seeking use through transfer of ownership (sale) or use (lease).

#### **E. Continuance of Use**

Any non-conforming use of land or structures may be continued for definite periods of time, subject to such regulations as the Board of Adjustment may require for immediate preservation of the adjoining property and the ultimate removal of the nonconforming use. If however, a continuous operation is not carried on in such nonconforming use during a continuous period of one year, the building, other structure or tract of land where a nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operation shall not affect the foregoing.

Provided, however, in the event an existing building has been in a nonconforming status because of being constructed or utilized prior to the adoption of the Zoning Ordinance, the Board of Adjustment shall have the authority to grant a variance for such use as requested, regardless of the time involved or the last occupancy, with such restrictions as necessary in order to accomplish the two-fold objective of utilizing existing structures and property while at the same time providing safeguards for the surrounding neighborhood.