

CITY OF FAIRFAX

ZONING ORDINANCE

Official Copy of the City of Fairfax Zoning Ordinance

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**CITY OF FAIRFAX
ZONING ORDINANCE**

1.01 ADOPTION AND REPEAL

This is an Ordinance amending the Fairfax Zoning Ordinance by repealing all subsequent amendments thereto, and enacting this Ordinance in lieu of to establish comprehensive zoning regulations for the City of Fairfax, Iowa, and providing for the administrative enforcement, and amendment thereof; and to repeal all Ordinances or resolutions in conflict therewith. This Ordinance is adopted by authority of, and for the purpose set forth in the Code of Iowa and shall be codified as Chapter ____ of the Municipal Code, City of Fairfax, Iowa.

1.02 SHORT TITLE

This Ordinance shall be known, cited, and referred to as the Fairfax Zoning Ordinance of 2000.

1.03 INTENT AND PURPOSE

The Fairfax Zoning Ordinance, as set forth in the text and map which constitute this Ordinance, is adopted with the purpose of improving and protecting the public health, safety, comfort, convenience, and general welfare of the people and in accordance with the Code of Iowa Chapter 414.3 (1999). The fulfillment of this purpose is to be accomplished by seeking:

- A. To preserve the availability of agricultural land.
- B. To consider the protection of soil from wind and water erosion.
- C. To lessen congestion on the public streets.
- D. To avoid undue concentration of population.
- E. To prevent the overcrowding of land, thereby ensuring proper living and working conditions and preventing the development of blight and slums.
- F. To establish adequate standards for the provision of light, air, and open spaces.
- G. To facilitate the provision of adequate transportation, and of other public requirements and services such as water, sewerage, schools, and parks.
- H. To zone all properties with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.
- I. To protect residential, business, commercial, and industrial areas alike from harmful encroachment by incompatible uses and to ensure that land allocated to a class of uses shall not be usurped by other inappropriate uses.
- J. To fix reasonable standards to which buildings and structures shall conform.
- K. To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions or limitations imposed herein.
- L. To foster a more rational pattern of relationship between residential, business, commercial, and manufacturing uses for the mutual benefit of all.

- M. To isolate or control the location of unavoidable nuisance-producing uses.
- N. To prescribe penalties for any violation of the provisions of this Ordinance or of any amendment thereto.

1.04 COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The standards and requirements contained in this Ordinance and the district mapping reflected on the Zoning District Map have all been made in accordance with the officially adopted Comprehensive Plan of Fairfax, Iowa.

1.05 RULES AND DEFINITIONS

In the interpretation of this Ordinance the rules and definitions of this Section shall be observed and applied, except when the context clearly indicates otherwise.

A. Rules:

1. Words used or defined in one tense or form shall include other tenses and derivative forms.
2. The word "shall" is mandatory.
3. The word "may" is permissive.
4. The words "municipal code" means the Municipal Code of the City of Fairfax.
5. The word "person" includes individuals, firms, corporations, associations, and any other similar entities.
6. The word "county" means the County of Linn, Iowa.
7. The word "City" means the City of Fairfax.
8. The words "City Council" mean the City Council of the City of Fairfax, Iowa.
9. The word "state" means the State of Iowa.
10. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
11. The masculine gender shall include the feminine and the feminine gender shall include the masculine.

B. Definitions:

The following definitions are for the purpose of administering and enforcing the zoning ordinance:

Abutting--Having property of district lines in common.

Access--A way of approaching or entering a property from a public street.

Accessory Building, Structure, or Use--A use or structure subordinate to the principal use of a building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land.

Administrative Official--The local official responsible for the enforcement of this ordinance. Decisions of the official may be appealed to the Board of Adjustment.

Agriculture--The use of land for the purpose of raising and harvesting crops; or for the raising, breeding, or management of livestock, poultry, fish, or honeybees; or for dairying, truck gardening, forestry, nurseries, or orchards; for the noncommercial on-farm storage or processing of agricultural products; or for any similar agricultural, horticultural, silvacultural, or aquacultural use. For the purpose of this Ordinance, farms do not include operations for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals, except such animals as have been raised on the premises or have been maintained on the premises for the use and consumption of persons residing on the premises.

Alley--Any dedicated public way affording a secondary means of vehicular access to abutting property, and not intended for general traffic circulation with a width of twenty (20) feet or less.

Alterations, Structural--Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

Apartment--A room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there is a multiple of these units.

Balcony--An unroofed platform, unenclosed except by a railing, which projects from the outer wall of any building above ground level with or without support other than the building.

Basement--That portion of a building which is partly below grade but having more than one-half its height above the average grade of the adjoining ground. For the purpose of this Ordinance a basement shall not be considered a story unless designed or used for habitable space or business purposes.

Bed and Breakfast--Any single family or multi-family dwelling unit used for the purpose of overnight or temporary lodging wherein meals may also be provided and in which the operator lives.

Board--Board of Adjustment as described in Chapter 414.7 of the Code of Iowa (1999) and this Ordinance

Boarding House--A building other than a hotel or motel where, for compensation and by prearrangement for definite periods, meals, or lodging, are provided for four (4) or more persons.

Building--Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, or property of any kind.

Building Envelope--The area of lot which remains after the minimum yard setbacks, height requirements, and open space requirements of this Ordinance have been complied with.

Building, Height of--The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height level between eaves and ridge for gable, hip and gambrel roofs.

Building Line--A line formed by the face of the building, and for the purposes of this Chapter, a minimum building line is the same as a front set-back line.

Building, Main or Principal--A building in which is conducted the principal use of the lot on which it is situated.

Cellar--That portion of a building partially or wholly, underground, having half or more than half its clear height below the grade plane. A cellar may be habitable provided proper escape exits and egress windows exists. A cellar shall not be counted as a story.

Communication Tower--A metal structure that is used primarily as a communication antenna or as a communication antenna support structure; A structure for the commercial transmittal or broadcast of radio, television, radar, or microwaves.

Conditional Use--The use allowed in a zoning district after approval has been granted by the Zoning Board of Adjustment according to the provisions set forth in this Ordinance. A special exception is the same as a conditional use for the purposes of this Ordinance.

Child Day Care Facility-- A "Child Day Care Facility" is a facility in which six or more children are received for part or all of a day for care and/or instruction and approved and licensed by the State of Iowa. The term "Child Day Care Facility", includes but is not limited to the following: nursery schools, child care centers, day nurseries, kindergartens, preschools and play groups.

Deck--A covered or uncovered platform area projecting from the wall of a building, accessible at or from above grade, and attached to the ground.

District--A section of the City within which the regulations governing the use of buildings and property are uniform.

Detached Garage—A structure accessory to a primary structure, sharing a common parcel, that includes a concrete foundation and overhead door(s).

Driveway—A driveway shall be considered to be that designated area to provide access from the street to a parking area, an attached or basement garage, carport or detached garage, and shall be surfaced, free of grass and weeds and maintained with asphaltic concrete, brick, asphaltic macadam, crushed rock or similar method approved by the City Engineer.

Dwelling--Any building or portion thereof which is designed for and used exclusively for residential purposes.

Dwelling Attached -- A dwelling which is attached to another dwelling at one or more sides by a common wall or walls.

Dwelling, Single-Family--A building designed with accommodations for exclusive occupancy by one (1) family.

Dwelling, Multiple--A building designed with accommodations in order to be occupied exclusively by two (2) or more families living independently of each other.

Family--One or more persons related or non related occupying a dwelling unit as a single housekeeping organization.

Family Group Care Home--A community-based residential home which is licensed as a Residential Care Facility under Chapter 135C of the Iowa Code(1999) or as a child Foster Care Facility under Chapter 237 of the Iowa Code(1999) to provide room and board, personal care, rehabilitation services, and supervision in a family environment exclusively for not more than eight (8) developmentally disabled persons and any necessary support personnel. Family Home does not mean an individual foster care home licensed under Chapter 237 of the Iowa Code (1999).

Farm--An area of not less than ten (10) acres which is used for the growing of the usual farm products such as vegetables, fruits and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals.

Fence--A freestanding structure providing privacy, prevent escape or intrusion or to redirect a person's direction of travel. A fence may be constructed of posts, wire, boards, stone or any standard building materials.

Floodplain—Please refer to the City of Fairfax Floodplain Management Ordinance.

Floor Area-- The total area of all floors of a building as measured to the outside surfaces of exterior walls and not including halls, stairways, elevator shafts, attached garages, porches, and balconies when such area is used for storage or other such incidental use.

Frontage--All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

Garage, Private--A building, constructed according to the City of Fairfax's set-back regulations, that is subordinate or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory and in which no occupation or business for profit is carried on.

Garage, Public--A building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

Garage, Storage--A building or portion thereof designed or used exclusively for term storage by pre-arrangement of motor driven vehicles, as distinguished from daily storage furnished transients and personal belongings, and at which motor fuels and oils are not sold, and motor driven vehicles are not equipped, repaired, hired or sold.

Grade--The average level of the finished surface of the ground adjacent to the exterior walls of the main building. The purpose of defining grade is to regulate the number of stories and height of a structure.

Hedge--A boundary formed of a row of closely planted shrubs or bushes.

Home Occupation--Any occupation or activity carried on within a dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is

incidental and secondary to the residential occupancy and does not change the residential character thereof.

Hotel--A residential building licensed by the State and occupied and used principally as a place of lodging for guests.

Institution--An establishment occupied or operated by a private or public non-profit corporation, association, organization, or group for use or benefit of the general public.

Junk/Salvage Yard--Any enclosed or fenced in lot or portion thereof where waste, discarded, or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, or handled, including the dismantling or "wrecking" of automobiles or other machinery, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.

Kenel--An establishment where small animals are bred, raised, trained, groomed and boarded for compensation, sale or other commercial purposes.

Loading Space--An off-street space within the main building or on the same lot providing for the standing, loading, or unloading of commercial vehicles, having a minimum dimension of twelve (12) by thirty-five (35) feet and a vertical clearance of at least fourteen (14) feet.

Lot--A parcel of land occupied or intended for occupancy by one main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.

Lot, Corner--A lot abutting upon two (2) or more streets at their intersections.

Lot, Depth of--The average horizontal distance between the front and rear lot lines.

Lot, Double Frontage--A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, Interior--A lot other than a corner lot.

Lot Lines--The lines bounding a lot as defined herein:

Front Lot Line--In the case of an interior lot, that line separating said lot from the street. In the case of a corner lot, or double frontage lot, "front lot line" shall mean that line separating said lot from that street which is designated as the front street in the plat.

Rear Lot Line--That lot line opposite and most distant from the front lot line. In the case of a lot pointed at the rear or triangular shaped, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet long farthest from the lot line and wholly within the lot.

Side Lot Line--Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot of Record--A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder.

Lot Width--The width of a lot measured at the building line and at right angles to its depth where the minimum building line or setback intersects the side lot lines.

Lot, Reversed Corner--A corner lot, the rear of which abuts the side of another lot.

Main Building--A building in which is conducted the principal use of the lot upon which it situated.

Main Floor Area – Useable floor area contained within the foundation, excluding the garage.

Main Use--The principal use to which the premises are devoted and the principal purpose for which the premises exists.

Manufactured Home--A factory-built dwelling, which is manufactured or constructed under the authority or 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, which is not constructed 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. A mobile home constructed to the Federal Manufactured Home Construction and Safety Standards is not a manufactured home unless it has been converted to real property and is taxed as a site built dwelling as is provided in Code of Iowa (1999), Section 435.26. For the purpose of any of these regulations, manufactured homes shall be considered the same as a single-family detached dwelling.

Mobile Home--A vehicle without motive power used, or so originally constructed as to permit being used, as a conveyance upon the public streets or highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof for human habitation, capable of dwellings, or sleeping quarters and which is being moved, towed, or transported by another vehicle. This definition shall also include and apply to such vehicles or structures that are located on a permanent or temporary foundation.

Mobile Home Park--Any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored whether free of charge or for revenue purposes and intended for such use and shall include any building, structure, tent, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.

Mobile Home Converted to Real Estate--A mobile home which has been attached to a permanent foundation on real estate owned by the mobile home owner, rendering it totally immobile, and which has been inspected by the assessor, the mobile home vehicle title, registration, and license plates collected from the owner, and the property entered upon the tax rolls of Linn County.

Motel--A building or group of buildings in which lodging is provided and offered primarily to transient occupancy and in which each unit has convenient access to a parking space for the use of the unit's occupants.

Nonconforming Building--A building or portion thereof which lawfully does not conform to the provisions of this Chapter relative to height, bulk, area or yard size requirements for the district in which it is located.

Nonconforming Use--A use which occupied a building or land but lawfully does not conform to the use regulations of the district in which it is located.

Nursing Home--An institution which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients who, on admission, are not as a rule, acutely ill and who do not usually require special facilities, such as an operating room, x-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments, for which continuing medical and skilled nursing care is indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. A major factor which distinguishes a nursing home is that the residents will require the individualization of medical care. For the purpose of this Ordinance, a "nursing home" shall also be considered a "convalescent home."

Open Space--The land area of a site not covered by buildings, rights-of-way, parking structures, or accessory buildings, except recreational structures, and which is available to all occupants of units for whose use the space is intended.

Parking Space--A surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than one hundred and eighty (180), permanently reserved for the temporary storage of vehicles and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for vehicles.

Plan--The Comprehensive Plan of the City of Fairfax.

Principal Use--The primary use of land or structures as distinguished from secondary or accessory use. For example, a house is a principal use in a residential area; a garage or pool is an accessory use.

Private--In reference to a building, structure, utility, facility, or use, "private" means owned by someone other than a unit of government, or an agency of government, unless the context clearly indicates that "private" is being used in a broader sense of something not open or available to the general populace.

Public--In reference to a building, structure, utility, facility, or use, "public" means owned and/or operated by a unit of government or an agency thereof, unless the context clearly indicates that "public" is being used in the broader sense of something available to the general populace.

Setback--The distance required to obtain the front, side or rear yard open space provisions of this Ordinance.

Shed--A structure accessory to a primary structure, sharing a common parcel, that does not have overhead doors, may or may not have a foundation, and does not exceed 192 square feet. A shipping container shall not be considered a shed.

Sign--Any structure or part thereof or device attached thereto or painted, or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction, or advertisement. The word "sign" includes the word "billboard".

Story--That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it then the space between the floor and the ceiling next above it.

Story, Half--A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story, except that any partial story used for residence purposes, other than for janitor or caretaker or his/her family, or by a family occupying the floor immediately below it, shall be deemed a full story.

Street--An approved public or private thoroughfare which provides the principal means of vehicular access to abutting property and/or for vehicular passage.

Structure--Anything constructed or erected, the use of which requires more or less permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, gazebos, fences, towers, ground-based satellite dishes, buildings and solar collectors.

Travel Trailer or Motor Home--A vehicle with or without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed to permit the vehicle to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight (8) feet in width and any length provided its length does not exceed 28 feet. Travel trailers or motor homes shall not include vehicles customarily or ordinarily used as a place of human habitation for more than 90 days in any 18 month period, regardless of the size and weight limitation provided herein.

Trailer Camp or Tourist Camp Ground--An area providing spaces for two or more travel trailers, camping trailers, or tent sites for temporary occupancy, with necessary incidental services, sanitation, and recreation facilities to serve the traveling public.

Variance--The term "Variance" shall mean a modification of the literal provisions of the Zoning Ordinance which would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The authority to grant variances is vested in the Board of Adjustment pursuant to Chapter 414 of the Code of Iowa (1999).

Yard--An area between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building line shall be used.

Yard, Front--A yard extending across the front of a lot and being the 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. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where owner shall elect to front his building on a street parallel to the lot line having the greater dimension.

Yard, Rear--A yard extending across the rear of a lot and being the minimum horizontal distance between the rear lot line and the rear of the main building line or any projections thereof other than the projections of uncovered steps. On all lots the rear yard shall be in the rear of the front yard.

Yard, Side--A yard between the main building line and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building line other than the projections of uncovered steps.

1.06 APPLICABILITY OF REGULATIONS AND THE OFFICIAL ZONING MAP

A. Applicability of Regulations:

1. Territorial application: This Ordinance shall apply to all structures, land, and uses within the corporate limits of Fairfax, Iowa as well as any part, zone, or geographic area within the city or under its extraterritorial jurisdiction within which certain zoning or development regulations apply.
2. Conversion of use or building: The conversion of any use or building either to another use or to increase the size or area of the existing use, including the conversion of any building or the conversion of any dwelling to accommodate an increased number of dwelling units, families, or residents, shall be permitted only within a district in which a new building for similar occupancy would be permitted in this Ordinance and only when the resulting occupancy will comply with the requirements in such districts, with respect to minimum lot size, lot area per dwelling unit, dimension of yards, height, off street parking and any other applicable requirements.
3. General Prohibition: No building or structure; no use of any building, structure or land; and no lot of record or zoning lot, hereafter existing, shall be established, altered, moved, divided, or maintained in any manner except in accord with the provisions of this Ordinance.
4. Interpretation of District Use Lists: The City Council shall determine whether a use not expressly identified in a district use list shall be allowed in such district as a permitted use or a special exception. Action by the City Council to either approve or disapprove such use shall be official resolution. In issuing such interpretation, the City Council shall be guided by the following standards:
 - (a). No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and would not be incompatible therewith.
 - (b). No use interpretation shall permit any use in a district as a permitted use if such use is already permitted as a special exception use.
 - (c). No use interpretation shall permit any use in any district unless it can comply with all regulations established for that particular district.
 - (d). If the proposed use is more similar to uses listed as special exception uses than it is to the listed permitted uses in the district for which it is proposed, then any interpretation permitting such use shall identify it as a special exception and specify that before such use may be established, the requirements of that district must be met.
5. Uses Permitted by District Use Interpretation: All uses permitted by the City Council through the use interpretation procedure, shall, by amendment, be added to the appropriate district use list at the next updating and revision of this Ordinance.

B. Official Zoning Map:

1. The locations and boundaries of the established districts are shown on the official zoning map which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.
2. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the Seal of the City under the following statement:

“This is to certify that this is the official Zoning Map referred to in Ordinance No. _____ of the City of Fairfax, Iowa.”

3. The Official Zoning Map, or a true copy of the same, shall be on file in the office of the City Clerk and shall be final authority as to the correct zoning status of the land, water areas, buildings, and other structures in the City.

C. Changes in Official Zoning Map:

1. If in accordance with the provisions of this Ordinance and Chapter 414.4 Code of Iowa (1999), changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows: "By official action of the City Council, the following changes were made on the Official Zoning Map." (Indicating the changes by ordinance numbers and date of publication.) No amendment of this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.
2. Replacement of the Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by Ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the Seal of the City under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of Ordinance No. _____ of the City of Fairfax, Iowa."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

3. Any unauthorized change, of any kind whatsoever, in the Official Zoning Map by any person or persons, shall constitute a violation of this Chapter and be punishable as provided this ordinance.

D. Interpretation of District Boundaries:

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as following corporate limits shall be construed as following corporate limits;
4. Boundaries indicated as following railroad lines shall be construed to be along the center line of the main right-of-way;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed to move with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by dimensions shown on the map, or in the absence of dimensions, by the scale of the map;
7. In the case of further uncertainty, and/or where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (1) through (6) above, the Board of Adjustment shall interpret the district boundaries.

E. Annexed Territory:

All territory which is annexed to the City shall automatically be zoned Agricultural, until otherwise rezoned according to State law and the Fairfax Zoning Ordinance.

As an alternative to the Agricultural zoning designated by this section, the City Council may refer an annexation request to the Planning and Zoning Commission for consideration for the property to be recommended for a zoning classification which most closely matches the current use of the property. The City Council shall act upon the recommendation as provided in this ordinance.

1. Application Fee

Before any action is taken upon an application for voluntary annexation, the applicant shall pay to the Administrative Officer a non-refundable fee of fifty (50.00) dollars as established by ordinance of the City Council. The Administrative Officer shall forthwith pay over such fees to the credit of the General Fund of the City of Fairfax, Iowa. The failure to approve an application for voluntary annexation shall not be construed as any reason for refunding the fee to the applicant.

F. Vacated Streets:

Whenever any street, alley, or other public way is vacated by official action of the Council the district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulation of the extended districts.

1.07 SCHEDULES OF DISTRICT REGULATIONS

The following schedules of District Regulations are hereby adopted:

- AG: Agricultural
- RS: Single Family Residential
- RM: Multi-family Residential
- RH: Mobile Home Park
- C1: Central Business District
- C1A: Light commercial District
- C2: Highway Commercial
- M1: Light Industrial
- M2: Heavy Industrial
- CN: Conservation/Public Use

SECTION 1.07.A. AG: AGRICULTURAL

INTENT: AG Agricultural District zoning is intended to maintain and enhance agricultural operations and preserve agricultural lands utilized for crop production or the raising of livestock. The preservation of agricultural land is intended to prevent urban sprawl, control the public costs of providing urban services and reduce urban/rural conflicts which arise as a result of premature development of rural areas. The district is further intended to preserve open space and natural resource areas.

A. Permitted Principal Uses and Structures:

1. Agriculture, horticulture, dairy farming, poultry farming, livestock farming, general farming, and other agricultural activities.
2. Those structures essential to farming operations not otherwise restricted within this Ordinance.
3. Single family dwellings.
4. Parks, playgrounds, and recreation areas
5. Home occupations.

B. Permitted Accessory Uses and Structures:

1. Farm buildings incidental to agricultural uses.
2. Private garages.
3. Private swimming pools.
4. Private greenhouses or plant nurseries not operated for commercial purposes.
5. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.

C. Special Exceptions:

The following special exceptions may be permitted in the AG District subject to the approval of the Board of Adjustment and any specific conditions and requirements intended to make them compatible with and acceptable to adjacent use.

1. Public Utilities.
2. Recreational development for seasonal or temporary use.
3. Roadside stand for sale of produce raised on the premises.
4. Dog kennels and dog runs, and stables.
5. Greenhouses and plant nurseries operated for commercial purposes.
6. Churches, including cemeteries, crematories or mausoleums

7. Publicly operated sanitary landfills
8. Bed and Breakfast houses.
9. Publicly owned and operated buildings and facilities.

D. Bulk Regulations:

	Min. lot area (acres)	Min. lot width (feet)	Min. front yard (feet)	Min. interior side yard (feet)	Min. corner side yard (feet)	Min. rear yard (feet)	Max. height - The lesser of:
Dwelling	2	160	50	15	50	50	2 ½ stories or 35 feet
Other uses	5	200	50	30	50	50	2 ½ stories or 35 feet (excluding farm buildings)

E. Minimum Off-Street Parking Space:

1. Residential Dwellings: Two (2) spaces for each dwelling unit.
2. Churches: one (1) parking space for each five (5) seats in the main auditorium.
3. Public buildings: one (1) parking space for each 300 square feet of gross floor area or one (1) parking space for each five(5) seats in the main auditorium.
4. Greenhouses and nurseries: one (1) parking space per 1,000 square feet of enclosed floor area.

F. Off-Street Loading:

1. All activities allowed in the AG District shall be provided with adequate receiving facilities accessible by motor vehicle.
2. Loading shall not be permitted to block the public rights-of-way.

SECTION 1.07.B. RS: SINGLE-FAMILY RESIDENTIAL

INTENT: To establish and preserve quiet single family residential neighborhoods free from other uses except those which are both compatible with and convenient to the residents of such a district. This district is intended to provide a variety of single-family residential areas where public facilities and services are available. The RS District will encourage a suitable living environment with low and medium population densities. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public services shall be taken into consideration when the lot area requirement is established for the various single-family residential areas of the City.

A. Permitted Principal Uses and Structures:

1. Single-family dwellings.
2. Home occupations.
3. Public buildings, parks, playgrounds, community centers, libraries, and museums.
4. Family Group Care Homes.

B. Permitted Accessory Uses and Structures:

1. Private garages.
2. Private swimming pools.
3. Private greenhouses not operated for commercial purposes.
4. Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to the provisions of this ordinance
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed within thirty (30) days upon completion of the construction work.

C. Special Exceptions:

The following special exceptions may be permitted in the RS District subject to the approval of the Board of Adjustment and any specific conditions and requirements intended to make them compatible with and acceptable to adjacent use.

1. Public schools, elementary, middle, junior high, and high schools.
2. Parochial or private schools having no rooms used regularly for housing or sleeping purposes.
3. Public utilities.
4. Churches or temples and Cemetery or mausoleum.
5. Elder Family Home or Nursing homes.

6. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
7. Bed and Breakfast houses.
8. Child Day Care Facility.

D. Bulk Regulations:

Zoning Symbol	Min Main Floor Area (sq. ft.)	Min. lot area (sq. ft.)	Min. lot width (feet)	Min. front yard (feet)	Min. interior side yard (feet)	Min. corner side yard (feet)	Min. rear yard (feet)	Max. height The lesser of
9 RS	1,000	10,000	60	25	8	25	25	2 ½ stories or 35 feet
44 RS	1,000	43,560	150	50	15	50	35	2 ½ stories or 35 feet

Where public sewer facilities are not available, not less than 43,560 square feet of lot area is required.

E. Minimum Off-Street Parking Space:

1. Dwellings: Two (2) spaces for each dwelling unit.
2. Church or Temple: One (1) space for each five (5) seats of average seating in the main auditorium.
3. Schools and Public Buildings: One (1) space for each classroom or office room plus one (1) space for each ten (10) seats of average seating in the main auditorium, stadium, or place of public assembly.

F. Off-Street Loading:

1. All activities allowed in the RS District shall be provided with adequate receiving facilities accessible by motor vehicle.
2. Loading shall not be permitted to block the public rights-of-way.

SECTION 1.07.C. RM: MULTIPLE-FAMILY RESIDENTIAL

INTENT: The RM Multiple-Family Residential District is intended to establish and preserve areas containing single-family, two-family, and multiple-family dwellings. It is intended to provide a wide range of housing types while maintaining a moderate density residential character designed to exclude those uses which are not compatible with residential use but permit certain nonresidential uses which are of particular convenience to the residents of the district. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public services shall be taken into consideration when the lot area requirement is established for the various single-family residential areas of the City.

A. Permitted Principal Uses and Structures:

1. Two-family dwellings.
2. Multi-family dwellings.
3. All principal uses and structures permitted under the RS District.
4. Attached Single Family Dwelling.

B. Permitted Accessory Uses and Structures:

1. All accessory uses and structures permitted under the RS District.
2. Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to the provisions of this ordinance

C. Special Exceptions:

The following special exceptions may be permitted in the RM District subject to the approval of the Board of Adjustment and any specific conditions and requirements intended to make them compatible with and acceptable to adjacent use.

1. All special exceptions permitted under the RS District.
2. Approved day care providers.

D. Bulk Regulations:

Zoning Symbol	Min. lot Area per Dwelling (Sq. ft.)	Min. lot area (Sq. ft.)	Min. lot Width (feet)	Min. front yard (feet)	Min. interior side yard (feet)	Min. corner side yard (feet)	Min. side yard combined (feet)	Min. rear yard (feet)	Max. height (feet)
3 RM	3,500	10,000	60	20	6	20	0	20	35
4 RM	4,500	10,000	60	20	6	20	0	20	35
5 RM	5,500	10,000	60	20	6	20	0	20	35
Single-family dwellings	N/A	10,000	60	25	8	25	0	25	35
Attached Single-family dwelling	5,500	5,500	35	20	0	20	10	25	35

Where public sewer facilities are not available, not less than 43,560 square feet of lot area is required.

E. Minimum Off-Street Parking and Loading Space:

1. Dwellings: Two (2) spaces for each dwelling unit.
2. Other uses permitted: Same as the RS District.

SECTION 1.07.D. RH: MOBILE HOME PARK RESIDENTIAL

INTENT: The RH Mobile Home Park Residential District is intended to accommodate mobile home parks in those areas of the community where such a use will be compatible with existing and projected development. This district will generally be located as a transitional district between shopping areas and residential areas and is normally located along thoroughfares where direct access to the site is available. The site should be well served by adequate sewers, water service, police and fire protection, and similar public facilities and services.

A. Location of Mobile Homes:

It shall be unlawful for any person, corporation or firm to park or place any mobile home on the streets, alleys or highways, any public space or on any private land within this City except as provided by state law and this ordinance. This section will not apply to:

1. Mobile home parks
2. Dealer’s stock. Mobile homes parked upon private property as part of a dealer’s stock not used as a place for human habitation.
3. Manufactured housing as defined in the Code of Iowa.

B. Special Permits:

The Council, upon application of a mobile home owner, may issue special permits for the location of mobile homes outside mobile home parks. The Council shall issue such special permits only when it appears that location within local mobile home parks is impracticable and public health, safety and welfare will not be affected by granting the permit. Not more than one (1) mobile home shall be permitted on the same lot outside of any mobile home park.

C. Application for Special Permits:

Application for a special permit shall contain the following:

1. Description of mobile home and property where the mobile home will be located.
2. The name of the owner of the property on which the mobile home will be located with written approval from the owner to place the mobile home on the property.
3. Information on sanitation facilities of the mobile home and those available at the place of location.
4. A statement concerning the practicality of location within a local mobile home park.

D. Regulations for Siting Mobile Homes Outside of a Mobile Home Park:

1. Mobile homes converted to real estate must be at least twenty-two (22) feet wide and must comply with the following bulk requirements:

	Min. lot area (sq. ft.)	Min. lot width (feet)	Min. front yard (feet)	Min. interior side yard (feet)	Min. corner side yard (feet)	Min. rear yard (feet)	Max. height - The lesser of:
Mobile home converted to real estate	9,000	60	25	8	25	25	2 ½ stories or 35 feet

2. The mobile home shall be located on and permanently attached to a cement slab which is a minimum length of the trailer itself, and of width of at least four (4) feet greater than the actual width of the trailer such that the slab extends four (4) feet or more beyond the side of the mobile home on the doorway side.
3. Each mobile home shall be permanently connected to the city sanitary sewer and city water service in accordance with the ordinances, rules, requirements, and regulations of the City of Fairfax, Iowa.
4. Each mobile home shall have separate and permanent connection to the electric service facilities in accordance with the ordinances, rules, requirements, and regulations of the City of Fairfax, Iowa.
5. Each mobile home shall comply with all the sanitary and health laws, rules, regulations, and requirements of the State of Iowa, Linn County, and the City of Fairfax, and further comply with all additional applicable laws, rules, regulations, and requirements of the State of Iowa, Linn County, and the City of Fairfax.
6. Prior to the mobile home being located outside of any existing mobile home park, it shall first be necessary to make an application to obtain a special permit for the location of said home. If the City Council finds the proposed location to be in compliance with all the terms and conditions of this ordinance and all the laws, rules, regulations, and requirements of the City of Fairfax, Linn County, and the State of Iowa, the Council shall issue a special permit.
7. No mobile home shall be located, occupied, or used as a temporary place of residence except in accordance with the provisions of this ordinance.
8. Not more than one (1) mobile home shall be permitted on the same premises outside of any mobile home park.

E. Regulations for Siting a Mobile Home Park:

Each petition for the siting of a mobile home park must be accompanied by a site plan of the proposed park. Said site plan should include each mobile home lot, water, sewer, and electrical lines, streets, drives, sidewalks, fire hydrants, service buildings, required yards, parking facilities, recreation areas, lighting and landscaping.

The site plan shall be considered by the Planning and Zoning Commission and the City Council, who may approve, disapprove or require changes thereto or set conditions, so as to effectuate the intent and purpose of this Ordinance.

The following standard shall be considered as minimums for the layout of mobile home parks.

Minimum Area: The minimum gross area for a park is ten (10) acres.

Maximum Density: Maximum density shall not exceed seven (7) factory-built homes per gross acre.

Clearance between Homes: No mobile home shall be located within eight (8) feet of the side yard lot line for the space. In determining the clearance requirements, an annex shall be considered an integral part of the mobile home. No mobile home shall be located closer than twenty (20) feet from the front yard lot line or twenty-five (25) feet from the rear yard lot line for the space.

Yards: Each mobile home park shall provide a yard not less than fifty-five (55) feet along each boundary abutting a public right-of-way. Such yard(s) shall be landscaped to screen the park from the right-of-way, except for those portions used for ingress and egress.

Unit Placement: All homes shall have a parallel orientation to the street

General Exemption: A general exception to parallel orientation will be provided to developers electing to provide a design alternative to parallel orientation that provides a street-front façade. Design alternatives must be submitted for review by the Planning and Zoning Commission.

Trees: Trees shall be provided along street frontages at a rate of two trees per lot.

Park Perimeter Buffering: Each yard area abutting on a perimeter public street or adjoining other property shall provide an appropriate width and screening to effectively buffer the park. Perimeter buffering will be reviewed during site plan review and may include a combination of screening trees, vertical berming, and/or screening fencing. A detail regarding the proposed screening combination shall be prepared by a Landscape Architect or other qualified professional and be included in the site plan reviewed by the Planning and Zoning Commission or City Council.

Access:

1. Entrance/Exit Roadways: Each mobile home park shall have at least two (2) separate entrance and exit roadways and shall connect to a dedicated public right-of-way not less than fifty (50) feet in width.
2. Private Streets: All mobile home park lots shall abut a private street of not less than twenty-four (24) feet in width and with a minimum right-of-way of forty (40) feet. Interior streets greater than 250 feet in length shall be of curvilinear design with curve radius to reduce the straight line appearance of the park. The actual curve radius to be determined based on the length of the street and site conditions, such as topography and shall provide an overall offset equal to the width of the street.
3. Cul-de-sac Requirements: All dead-end private streets over four hundred (400) feet shall include adequate space for a cul-de-sac with a diameter of one hundred (100) feet.
4. On-Street Parking: Parking shall only be allowed on one side of a private street, provided the street is a minimum width of twenty-nine (27) feet and provides a minimum of a forty-five (45) foot right-of-way. Parking shall be allowed on one side only and shall be marked accordingly with signs designating parking.
5. Off-Street Parking. Two (2) off-street-parking spaces shall be provided on each mobile home site and shall be located entirely on the mobile home lot. Each such parking space shall measure not less than nine by eighteen (9 x 18) feet.

Other Requirements:

1. Sidewalks: Sidewalks not less than four (4) feet in width shall be provided from mobile home lots to service buildings on both sides of all streets within a mobile home park. Sidewalks shall be located one (1) foot outside the lot line of the factory-built home space and shall be constructed of a thickness of no less than four (4) inch portland concrete cement, except six (6) inch is required through drives.
2. Storage Shed: A maximum of one storage shed per lot and no greater than twelve by twelve (12 x 12) feet may be located as an accessory use to the mobile home, provided the shed is located on the same lot as the mobile home. The storage shed shall not be located in the front yard of the mobile home space and shall be located no less than four (4) feet from the side or rear lot line of the mobile home space. The exterior wall and roof covering material shall match the wall and roof covering material of the dwelling unit for which it serves.

3. Recreation Area: A general area or areas amounting to not less than eight percent (8%) of the gross area of the mobile home park, excluding any area dedicated as public right-of-way, shall be provided for recreation use. Such area(s) shall not include any that are designated as a mobile home lot, storage area or required yard.
4. Fences: All fences erected or placed with a factory-built home park shall comply with requirements of this Ordinance.
5. Storm Shelters: There shall be one or more storm shelters provided and maintained for use by the residents. An architect or engineer, as defined in the Iowa Architectural and Engineering Laws, shall prepare the structural plans for the storm shelters with the following location and design criteria:
 - (a). Locations within 1,200 feet of all units.
 - (b). Shelter size to provide for seven (7) square feet per unit served by that shelter.
 - (c). Shelters to be provided with emergency lighting and battery operated AM radio.

SECTION 1.07.E. C1: CENTRAL BUSINESS DISTRICT COMMERCIAL

INTENT: To establish and preserve a central business district convenient and attractive for a wide range of retail uses and business, government and professional offices and places of amusement in a setting conducive to and safe for a high volume of pedestrian traffic. This district is intended to be the single central business district of Fairfax and no other use of this district shall be utilized other than contiguously with the currently established C1 district.

A. Permitted Principal Uses and Structures:

1. Apartments, provided that they are located on or above the second floor of the building in which they are located.
2. Bakery and catering service.
3. Business offices, professional offices, studios.
4. Business sales and services conducted entirely within the building, including those with incidental manufacturing or processing of goods or products, excluding garages for repair of motor vehicles.
5. Business and Vocational Schools.
6. Commercial storage garages.
7. Financial institutions.
8. Hotels and motels.
9. Laundries and dry cleaning establishments.
10. Medical and dental offices.
11. Music schools and dance studios.
12. Personal service and repair shops.
13. Printing, publishing and engraving businesses.
14. Private clubs and lodges.
15. Public Utilities.
16. Railroad and bus terminals.
17. Restaurants, taverns.
18. Retail business.
19. Temples, Churches, and Public Buildings.
20. Wholesale display and sales rooms and offices.

B. Permitted Accessory Uses and Structures:

1. Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to the provisions of this ordinance.
2. Outdoor sales and service.
3. Private garages.
4. Parking lots.
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed within thirty (30) days upon completion of the construction work.

C. Special Exceptions:

The following special exceptions may be permitted in the C1 District subject to the approval of the Board of Adjustment and any specific conditions and requirements intended to make them compatible with and acceptable to adjacent use.

1. Low intensity manufacturing and warehousing if entirely enclosed within a building.

D. Bulk Requirements:

Min. lot area (sq. ft.)	Min. lot width (feet)	Min. front yard (feet)	Min. interior side yard (feet)	Min. corner side yard (feet)	Min. rear yard (feet)	Max. height The lesser of
None, unless used for solely residential purposes, then 9,000	20	None	None, except if an interior side yard is provided, it shall be a minimum of 8 feet	None	None, except if a rear yard is provided, it shall be a minimum of 8 feet	3 stories or 45 feet

E. Minimum Off-Street Parking:

1. None required

F. Minimum Off-Street Loading:

1. All activities allowed in the C1 District shall be provided with adequate receiving facilities accessible by motor vehicle.
2. Loading shall not be permitted to block the public right-of-way.

SECTION 1.07.F. C1A: LIGHT COMMERCIAL DISTRICT

INTENT: To establish and preserve convenient shopping for persons residing in adjacent residential areas, and to permit only such uses as are necessary to satisfy those basic shopping needs which occur frequently and so require shopping facilities in relative proximity to places of residence.

A. Permitted Principal Uses and Structures:

1. Banks and financial institutions.
2. Barber and beauty shops.
3. Churches and temples.
4. Convenience stores.
5. Drugstores and pharmacies.
6. Gift shops.
7. Offices and clinics.
8. Restaurants and cafes.
9. Supermarkets and food stores.

B. Permitted Accessory Uses and Structures:

1. Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to the provisions of this Ordinance.
2. Outdoor sales and service.
3. Private garages.
4. Parking lots.
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed within thirty (30) days upon completion of the construction work.

C. Special Exceptions:

The following special exceptions may be permitted in the C1A District subject to the approval of the Board of Adjustment and any specific conditions and requirements intended to make them compatible with and acceptable to adjacent use.

1. Night clubs and taverns.
2. Public utilities.
3. Approved day care providers.

D. Bulk Requirements:

Min. lot area (sq. ft.)	Min. lot width (feet)	Min. front yard (feet)	Min. interior side yard (feet)	Min. corner side yard (feet)	Min. rear yard (feet)	Max. height The lesser of
5,000	50	10	If adjacent to a residential district, the interior side yard shall be equal to the min. interior side yard required in the adjacent district, but in no instance less than 8 feet.	10	If adjacent to a residential district, the rear yard shall be equal to the min. yard required in the adjacent district, but in no instance less than 8 feet.	2 ½ stories or 35 feet

Where public sewer facilities are not available, not less than 43,560 square feet of lot area is required.

E. Minimum Off-Street Parking:

Parking in the C1A District shall be located in the rear of the principal permitted building with clear access to the entrance of the building.

1. Barber and beauty shops, convenience stores, gift shops and drugstores: One (1) space for each 300 sq. ft. of floor area.
2. Professional and Business Offices: One (1) space for each 300 sq. ft of floor area.
3. Restaurants, Private Clubs, Night Clubs, Cafes, and Taverns: One (1) space for each 300 sq. ft. of floor area.

F. Minimum Off-Street Loading:

1. All activities allowed in the C1A District shall be provided with adequate receiving facilities accessible by motor vehicle.
2. Loading shall not be permitted to block the public right-of-way.

SECTION 1.07.G. C2: HIGHWAY COMMERCIAL DISTRICT

INTENT: To establish and preserve general commercial areas consisting of shopping centers and commercial strips where customers reach individual business establishments primarily by automobile. These districts, because of certain locational requirements and operational characteristics, are usually located in close proximity to arterial and other main thoroughfares.

A. Permitted Principal Uses and Structures:

1. Banks and financial institutions.
2. Bowling alleys, skating rinks, dance halls, theaters, places of amusement, golf driving ranges and miniature golf.
3. Building materials dealers.
4. Bus and Railroad terminals.
5. Business offices.
6. Churches and temples.
7. Commercial storage garages.
8. Convenience stores.
9. Drive-in restaurants.
10. Farm implement displays and sales, service and repair.
11. Fruit, vegetable and produce stands.
12. Health clubs.
13. Mobile and Manufactured home sales.
14. Motels and hotels.
15. Motor vehicle sales, service and repair, service stations, and car washes.
16. Private clubs or lodges.
17. Restaurants, cafes, night clubs and taverns.
18. Shopping centers or malls.
19. Supermarkets and retail business.
20. Automobile body and paint shop.
21. Apartments, provided that they are located on or above the second floor of buildings in which they are located.

22. Commercial Condos

23. Veterinarian Clinics with cremation services

B. Permitted Accessory Uses and Structures:

1. Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to the provisions of this Ordinance.
2. Outdoor sales and service.
3. Parking lots.
4. Temporary buildings used in conjunction with construction work, provided that such buildings are removed within thirty (30) days upon completion of the construction work.

C. Special Exceptions:

The following special exceptions may be permitted in the C1 District subject to the approval of the Board of Adjustment and any specific conditions and requirements intended to make them compatible with and acceptable to adjacent use.

1. Low intensity manufacturing and warehousing if entirely enclosed within a building.
2. Public utilities.
3. Communication Towers.
4. Approved day care providers.

D. Bulk Requirements:

Min. lot area (sq. ft.)	Min. lot width (feet)	Min. front yard (feet)	Min. interior side yard (feet)	Min. corner side yard (feet)	Min. rear yard (feet)	Max. height The lesser of
9,000	60	25	If adjacent to a residential district, the interior side yard shall be equal to the min. interior side yard required in the adjacent district, but in no instance less than 8 feet.	25	If adjacent to a residential district, the rear yard shall be equal to the min. yard required in the adjacent district, but in no instance less than 8 feet.	3 stories or 45 feet

Where public sewer facilities are not available, not less than 43,560 square feet of lot area is required.

E. Outdoor Storage Requirements:

All storage, except for motor vehicles in operable condition, shall be located in the rear yard of the principal permitted building and effectively screened by a solid wall, fence or landscaping, not less than six (6) feet nor more than eight (8) feet in height.

F. Open Space Required:

The total land area devoted to open space and landscaping shall not be less than ten (10) percent of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings, except ornamental structures included as part of the landscaping theme.

G. Minimum Off-Street Parking:

1. Banks and Financial Institutions: One (1) space for each 300 sq. ft. of floor area.
2. Barber or other small Shop: One (1) space for each 300 sq. ft. of floor area.
3. Bowling Alley: Five (5) spaces for each lane or alley.
4. Dance Halls, Theaters, Places of Amusement, and Skating Rinks: One (1) space for each 300 sq. ft. of floor area.
5. Furniture, Appliance, Hardware, Building Supplies: One (1) space for each 300 sq. ft. of floor area.
6. Motels and Hotels: One (1) space for each unit or suite plus one (1) space for each 200 sq. ft. of commercial floor area.
7. Professional and Business Offices: One (1) space for each 300 sq. ft. of floor area.
8. Restaurants, Private Clubs, Night Clubs, Cafes, and Taverns: One (1) space for each 300 sq. ft. of floor area.
9. Supermarkets, Shopping Centers, Retail Stores, and Service Establishments: One (1) space for each 300 sq. ft. of floor area and outdoor sales space.
10. Vehicle and Farm Implement Sales, Service and Repair Establishments: One and a one half (1.5) parking spaces for each employee.
11. Storage Garages, accessory buildings of one thousand (1000) or less square feet, no off street parking required. A primary building one thousand one (1001) or more square feet shall have two (2) spaces. For each additional two thousand (2000) square feet of building, one (1) additional space shall be required. No handicapped spaces shall be required.

H. Minimum Off-Street Loading:

1. All activities allowed in the C2 District shall be provided with adequate receiving facilities accessible by motor vehicle.
2. Loading shall not be permitted to block the public right-of-way.

SECTION 1.07.H. M1: LIGHT INDUSTRIAL

INTENT: To establish and preserve areas for Industrial and related uses of such a nature that they do not create serious problems of compatibility with other land uses, and to make provision for certain kinds of commercial uses which are necessary to service the immediate needs of firms in these areas. This district is intended to provide areas for industrial firms that have high standards of performance and that can locate in close proximity to business uses and, in some cases, residential uses. The regulations are designed to permit manufacturing or industrial operations which on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic, physical appearance, or other similar factors. All industrial operations shall be in an enclosed building.

A. Permitted Principal Uses and Structures:

1. Any nonresidential building or use which would not be hazardous, obnoxious, offensive or unsightly by reason of noise, dust, smoke, odor, traffic, sound, glares, vibrations, electrical interference, radioactivity, or other pollutants.
2. Animal pound or kennel.
3. Assembly of equipment and appliances, including the manufacture of small parts.
4. Automobile body repair and paint shop.
5. Bottling works.
6. Building material sales and storage.
7. Commercial storage garages.
8. Dairy processing facility.
9. Farm implement sales, service, repair and assembly.
10. Freight terminal.
11. Frozen food lockers.
12. Grain elevator and feed mill.
13. High technology wholesaling and manufacturing to include electronics, medical and biogenetics, computers and software research, and related activities.
14. Personnel storage lockers and warehouses.
15. Railroads, railroad yards and public utilities.
16. Sheet metal products manufacture.

17. Recycling including storage, manufacture, compounding, assembly and/or treatment of materials or merchandise derived from previously prepared materials.
18. Truck or bus garage and repair shop.
19. Welding and blacksmith shop.
20. Wholesaling and warehousing but not including the storage of liquid fertilizers or flammable liquids.
21. Commercial Condos
22. Veterinarian Clinics with cremation services

B. Permitted Accessory Uses and Structures:

1. Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to the provisions of this Ordinance.
2. Living quarters for custodians of industrial properties.

C. Special Exceptions:

The following special exceptions may be permitted in the M1 District subject to the approval of the Board of Adjustment and any specific conditions and requirements intended to make them compatible with and acceptable to adjacent use.

1. Communication Towers.
2. Stock yards and/or sales barns and yards.

D. Outdoor Storage Requirements:

All storage, except for motor vehicles in operable condition, shall be located in the rear yard of the principal permitted building and effectively screened by a solid wall, fence or landscaping, not less than six (6) feet nor more than eight (8) feet in height.

E. Open Space Required:

The total land area devoted to open space and landscaping shall not be less than ten (10) percent of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings, except ornamental structures included as part of the landscaping theme.

F. Bulk Requirements:

Min. lot area (sq. ft.)	Min. lot width (feet)	Min. front yard (feet)	Min. interior side yard (feet)	Min. corner side yard (feet)	Min. rear yard (feet)	Max. height The lesser of
None	None	30	If adjacent to a residential or commercial district, the interior side yard shall be 25 feet, unless abutting a railroad right-of-way, then none	25	40, unless abutting a railroad right-of-way, then none	3 stories or 45 feet

Where public sewer facilities are not available, not less than 43,560 square feet of lot area is required.

The entire perimeter shall be screened and buffered at thirty (30) feet front and rear, and side yards at twenty-five (25) feet abutting all other districts except another industrial district and agricultural districts.

G. Minimum Off-Street Parking:

1. All commercial uses shall provide one (1) parking space on the lot for each 300 sq. ft. of floor area.
2. Warehousing, Storage and Manufacturing (all industrial uses) shall provide one (1) parking space for each two (2) employees.

H. Minimum Off-Street Loading:

1. All activities allowed in the M1 District shall be provided with adequate receiving facilities accessible by motor vehicle.
2. Loading shall not be permitted to block the public right-of-way.

I. Building Requirements:

1. All primary and accessory structures in the M1, Light Industrial District, regardless of use, shall be type 1A structures per the International Building Code, Chapter 6, Types of Construction and Table 601, in which all structural elements are non-combustible.
2. All primary buildings, regardless of use, shall be equipped with fire protection systems that include automatic sprinkler systems and emergency alarm systems per the International Building Code, Chapter 9, Fire Protection Systems. Section 903.2 of the above referenced Chapter 9 shall not apply in the M1, Light Industrial District within the City Limits of Fairfax, Iowa.

SECTION 1.07.I. M2: HEAVY INDUSTRIAL

INTENT: To establish and preserve areas for necessary industrial and related uses of such a nature that they require isolation from other land uses, and to make provision for commercial uses which are necessary to service the immediate needs of firms in their areas. This district will provide areas for activities and uses of a heavy industrial character. In the best interest of the City, certain uses in the M2 District shall be subject to *final City Council Approval*, to insure proper safeguards are taken.

A. Permitted Principal Uses and Structures:

1. All uses permitted under M1.
2. Asbestos, brick and clay products manufacture.
3. Bulk storage of petroleum products and commercial fertilizers.
4. Concrete products and central mixing and proportioning plant.
5. Flour, feed and grain milling and storage.
6. Machinery manufacture.
7. Paint and varnish manufacture.
8. Sheet metal products manufacturer.
9. Structural iron and steel fabrication.

B. Permitted Accessory Uses and Structures:

1. Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to the provisions of this Ordinance.
2. Living quarters for custodians of industrial properties.

C. Special Exceptions:

The following special exceptions may be permitted in the M2 District subject to the approval of the Board of Adjustment and any specific conditions and requirements intended to make them compatible with and acceptable to adjacent use.

1. Communication Towers.
2. Stock yards and/or sales barns and yards.
3. Junk yards, including automobile wrecking and/or salvage.

D. Outdoor Storage Requirements:

All storage, except for motor vehicles in operable condition, shall be located in the rear yard of the principal permitted building and effectively screened by a solid wall, fence or landscaping, not less than six (6) feet nor more than eight (8) feet in height.

E. Open Space Required:

The total land area devoted to open space and landscaping shall not be less than ten (10) percent of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings, except ornamental structures included as part of the landscaping theme.

F. Bulk Requirements:

Min. lot area (sq. ft.)	Min. lot width (feet)	Min. front yard (feet)	Min. interior side yard (feet)	Min. corner side yard (feet)	Min. rear yard (feet)	Max. height The lesser of
None	None	30	If adjacent to a residential district, the interior side yard shall be 100 feet. If adjacent to a commercial district, the interior side yard shall be 50 feet, unless abutting a railroad right-of-way, then none	30	40, unless abutting a railroad right-of-way, then none	3 stories or 45 feet

Where public sewer facilities are not available, not less than 43,560 square feet of lot area is required.

The entire perimeter shall be screened and buffered at thirty (30) feet front and rear and side yards at twenty-five (25) feet abutting all other districts except another industrial district and agricultural districts.

G. Special Conditions:

The best practical means known for the disposal of refuse matter or water carried waste, and the abatement of obnoxious or offensive noise, vibration, smoke, dust, odors, toxic or noxious matter or glare or heat shall be employed and subject to all State and Federal regulations.

H. Minimum Off-Street Parking:

1. All commercial uses shall provide one (1) parking space on the lot for each 300 sq. ft. of floor area.
2. Warehousing, Storage and Manufacturing (all industrial uses) shall provide one (1) parking space for each two (2) employees.

I. Minimum Off-Street Loading:

1. All activities allowed in the M2 District shall be provided with adequate receiving facilities accessible by motor vehicle.
2. Loading shall not be permitted to block the public right-of-way.

SECTION 1.07.J. CN: CONSERVATION / PUBLIC USE

INTENT: It is intended that the Conservation / Public Use (CN) district provide reference on the zoning map to public uses of land. Thus only land owned by the City of Fairfax, United States Federal Government, the State of Iowa, or Linn County, will be designated Conservation/Public Use (CN). In addition, this district is intended to prevent, in those areas which are subject to flooding, such development as would result in a hazard to health or safety or be otherwise incompatible with the public welfare. This district is also intended to provide for water conservation, erosion control, protection of wildlife habitat, protection of natural drainage ways and to generally provide for ecologically sound land use of environmentally sensitive areas.

A. Permitted Principal Uses and Structures:

1. Agriculture.
2. Public parks and other recreational open space.
3. Undeveloped and unused land in natural condition.
4. Use of land, buildings or structures in any and all manners by the aforementioned governmental entities or political subdivisions thereof.

B. Permitted Accessory Uses and Structures:

Because only governmental entities and political subdivisions will own land in this district and because all uses of the land by governmental entities and political subdivisions are permitted in this district, there are no permitted accessory uses and structures.

C. Special Exceptions:

Because only governmental entities and political subdivisions will own land in this district and because all uses of the land by governmental entities and political subdivisions are permitted in this district, there are no special exceptions.

D. Bulk Requirements:

Because the uses of land in this district by governmental entities and political subdivisions are very unique and for the benefit of the general public, there are no bulk requirements.

E. Minimum Off-Street Parking:

1. Public building and facilities: One (1) parking space for each 300 sq. ft. of gross floor area or one (1) parking space for each five (5) seats in the main assembly area.

F. Minimum Off-Street Loading:

1. All activities allowed in the CN District shall be provided with adequate receiving facilities accessible by motor vehicle.
2. Loading shall not be permitted to block the public right-of-way.

SECTION 1.07.L **BAF: BELLON/AFRICA FARMS OVERLAY**

INTENT: In order to maintain character, continuity, and enhance physical appearance, the following minimum standards shall be applied through a Planned Development Overlay District to the Bellon/Africa Family Farm site. In the event that any of the standards below conflict with other standards, regulations or requirements of Federal, State, County laws or regulations, or as outlined elsewhere within this City Code, the more restrictive regulation shall apply. All plans in the BAF Overlay District shall be approved by the Planning and Zoning Commission prior to being submitted to the City Council for approval of the following design criteria.

ARCHITECTURAL DESIGN AND BUILDING SITE GUIDELINES

- A. **Facades and Modulation.** All primary and accessory structures must be constructed so that the Primary Building Face (easily visible from the street and planned public spaces) has a covering of natural materials, rather than simulated or synthetic materials. Natural materials include, but are not limited to, stone, stone facing, brick, wood, stucco, clay, ceramic tile, quarry tile, terra cotta, and cut stone. Rough-faces concrete block may be used for exterior surface where concrete is the only option because of existing structural conditions or requirements. Materials to be excluded include, but are not limited to, plain concrete block, plain precast, fiberglass, simulated brick and stone, vinyl siding, metal siding, and Masonite panels. If the underlying building is constructed using either metal or concrete form walls, the metal or concrete portion of the external Primary Building Face must be completely covered with natural materials. All buildings shall incorporate façade modulation in all building elevations in order to preserve building scale and reduce the aesthetic impact of long, large, expansive wall surfaces. The variation in wall surfaces can be accomplished either by physical offsets or by the use of color, pattern, or texture. It is the intention here to provide architectural interest and to evoke and demonstrate a look of permanence in materials and construction.
- B. **Exclusions.** This ordinance excludes that portion of the Primary Building Face that contains manufactured window frames, window glass, door frames, and doors.
- C. **Awnings.** Awnings are allowed on any building consistent with other city codes and requirements. Any awning extending over a public sidewalk or passageway shall require a building permit with a condition of issuance being the Zoning Administrator’s determination that the proposed awning complies with the appropriate snow loading standard determined to be appropriate by said administrator.
- D. **Buildings.** Buildings shall not be designed or oriented to expose loading docks, service areas, or overhead doors to the public right of way. Overhead doors for public service buildings that provide emergency services may be exempted from this restriction.
- E. **Parking.** Vehicular parking shall be located to the rear of buildings to minimize visual impact from public right of way. Vegetative screening shall be used to minimize visual impact to parkland. Parking in front of buildings in the city facilities area shall be permitted.
- F. **Trees.** A minimum of one tree of at least two-inch caliper and of a variety acceptable to the City Planning Commission shall be planted on each building site for each 800 square feet of building area or 40 lineal feet of street frontage, whichever is more. Such tree plantings, if

determined impractical for the site by the City Planning Commission, may be located on city property with locations determined by the City.

- G. **Structures.** No temporary structures or “pole”-type buildings shall be located on the site. Temporary structures may be allowed for short-term, city organized special events with approval from the City Council.
- H. **Roof.** Roof mounted mechanical units, satellite dishes, or other similar equipment shall be screened from public view by the extension of parapet wall or other roof mounted equipment, point-in-place screening shall be required. Such screening shall have similar design features as the building, including material, shape, and color considerations. Wooden fences shall not be considered appropriate.
- I. **Garbage.** Garbage receptacles and dumpsters shall be screened and located out of view from parkland and public right of ways.
- J. **Zoning.** Existing city zoning regulations (including but not limited to signage) shall also apply. If a conflict presents with the above standards, the more restrictive regulation shall apply.
- K. **Pedestrian Friendly Design.** The required pedestrian circulation provision shall be provided by a clearly identified path from the public sidewalk to any public entrances on the site. It is preferred that this path is a separated pedestrian sidewalk. To the extent feasible, the main entrance should be located close to the sidewalk. Development closer to the right of way with a visible entrance on the side of the building is preferred to development set further back from the public right of way with entrances facing the street. Bicycle parking racks are encouraged for all new development. Connection to existing or planned trail networks should be considered. For master planned sites, pedestrian connectivity to public entrances throughout the site should be provided.

SECTION 1.08 SUPPLEMENTARY DISTRICT REGULATIONS

A. Visibility at Intersection:

Visibility at intersection with one through street: on a corner lot adjacent to intersecting streets that are at or near right angles with one another, and with one of the streets being an uncontrolled through street, no fence, wall, hedge or other planting, signs or structure that will obstruct vision between a height of three (3) and ten (10) feet above the centerline grades of the intersecting street shall be erected, placed or maintained within the triangle formed as follows: Within twenty-five (25) feet of the adjacent edge of pavement/back of curb of the uncontrolled through street and within forty (40) feet of the edge of pavement/back of curb of the side street with a stop or yield condition. This triangle area shall be completed with a diagonal line between the intersections of these off-sets and opposing right-of-ways.

B. Accessory Buildings and Structures:

No accessory building, structure or part thereof shall be erected more than one hundred and twenty (120) days prior to the time of completion of the construction or establishment of the primary structure or use to which it is accessory. Accessory buildings and structures shall be limited to fifteen (15) feet in height, and accessory buildings shall be at a distance at least ten (10) feet from any primary structure.

No accessory building or structure shall be erected in any yard other than a rear yard and it shall occupy less than thirty percent (30) of the required rear yard nor be less than four (4) feet from the rear yard lot line, except for detached garages which shall be no less than ten (10) feet from the rear yard lot line.

Accessory structures that are portable storage sheds shall comply with the City of Fairfax's set-back regulations and be constructed to have an appearance to resemble the primary structure on the property. Shipping containers shall not be considered a shed and are not allowed in any residential district. Moving containers or pods shall be allowed for a maximum of fourteen (14) days and may not be placed in the street for any length of time.

Detached garages shall be allowed in a side yard only if they conform to all the following requirements.

1. Accessory structure must meet all front and side set-back measurements for a primary structure.
2. Structure must be a minimum of 12'x16' and a maximum of 24'x25'.
3. Structure shall match primary structure in color of siding and roof. Driveway and approach shall match the existing driveway and approach servicing the property.
4. Structure shall be provided with a foundation and be properly attached to said foundation.
5. No portable shed type structures shall be allowed, only standard framed buildings.
6. Structure shall occupy less than thirty (30) percent of the required yard.

C. More than one Principal Structure on a Lot:

In any district, more than one (1) principal structure housing a permitted principal residential use shall not may be erected on a single lot regardless of area, yard, and other requirements.

In any commercial or industrial district, no more than two (2) primary structures shall be

erected on any one (1) parcel that houses a different or separate use than the original or primary structure or business.

D. Height Regulation Exception:

The height limitations contained in the Schedules of District Regulations do not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing, or other structures placed above the roof level and not intended for human use or occupancy.

E. Use of Public Right of Way:

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

F. Building to Have Access:

Every building hereafter erected or structurally altered shall be on a lot having frontage on a public street. Additionally, shared driveways and ingress/egress agreements and/or easements shall not be considered in 9RS and 44RS Districts. Each lot shall have right-of-way street frontage in order to provide ingress/egress to each lot privately and individually.

G. Fences:

No fence or hedge more than 30 percent solid or more than three feet high may be located within 30 feet of an intersection. Fences or hedges less than four feet high may be located on any remaining part of the lot. Fences or hedges less than seven feet high may be erected on those parts of a lot that are as far back or further back from a street than the main building.

H. Projections Into a Required Yard:

Sills, belt courses, cornices, and ornamental features shall project no more than two feet into a required yard. Open, unenclosed porches shall extend no more than 10 feet into a front yard. Open, unenclosed decks shall extend no more than 10 feet into a required rear yard.

Open fire escapes, outside stairways, balconies, and the ordinary projections of chimneys and flues into a rear yard shall project not more than 3 ½ feet so not to obstruct light and ventilation.

Terraces which do not extend above the level of the ground floor (first floor) may project into a required yard, provided these projections be at least two feet from the adjacent lot line.

I. Depth of Required Yards:

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point on the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear lot lines shall, whenever possible, be parallel.

J. Home Occupations:

Home occupations shall comply with the following:

1. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its residential use and not more than twenty-five (25) percent of the gross floor area of the dwelling unit shall be used for the home occupation.
2. There shall be no change to the outside appearance of the building or premises, or visible evidence of the conduct of such home occupation other than one sign, non-illuminated, not exceeding one (1) square foot in area, and mounted flat against the wall of the principle building.
3. No home occupation shall be conducted in an accessory building except by special exception of the Board of Adjustment.
4. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by providing off-street parking and shall not be in a required front yard.
5. No equipment or process shall be used in such home occupation which creates noise, vibration, smoke, dust, odor, electrical interference, heat or glare beyond the confines of the dwelling unit or accessory building.

SECTION 1.09 APPLICATION OF DISTRICT REGULATIONS

A. Regulations to be Uniformly Applied:

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

B. All Uses and Structures to Conform:

No building, structure, or land shall hereafter be used, occupied or maintained, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

C. Height, Density, or Yards Shall Not be Violated:

No building, or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required or in any other manner contrary to the provisions of this code.

D. Separate Yards, Open Space, and Parking Required:

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purposes of complying with this code, shall be included as a part of a yard, open space, or off-street parking, or loading space similarly required for any other building.

E. Minimum Yards and Lot Areas Shall Not be Reduced:

No yard or lot existing at the time of passage of this code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this code shall meet at least the minimum requirements established by this code.

SECTION 1.10 NON-CONFORMING USES

A. Intent:

1. If within the districts established by this Chapter or amendments that may later be adopted there exist lots, structures, and use of land and structures which were lawful before this code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this code or future amendments, it is the intent of this code to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this code to be incompatible with permitted uses in the districts involved.
2. It is further the intent of the code that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures, signs or uses prohibited elsewhere in the same district.
3. To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this code and upon which actual building construction has been

diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where the demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the re-building.

B. Non-Conforming Lots of Record:

A lot of record as of the effective date of this Ordinance that has less area or width than herein required may be used for any purpose permitted in the district in which it is located, provided all other provisions of this Ordinance are met.

C. Non-Conforming Uses of Land:

Where, at the effective date of adoption or amendment of this code, lawful use of land exists that is made no longer permissible under the terms of this code as enacted and amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater use of land than was occupied at the effective date of adoption or amendment of this code.
2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this code.
3. If any such non-conforming use of land ceases for any reason for a period of more than one hundred eighty (180) consecutive days, or twelve (12) months in any eighteen (18) month period, any subsequent use of such land shall conform to the regulations specified by this Code for the district in which such land is located.

D. Non-Conforming Structures:

Where a lawful structure exists at the effective date of adoption or amendment of this code that could not be built under the terms of this code by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be maintained so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its non-conformity.
2. Should such structure be destroyed by any means to an extent of more than 65 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this code. The determination of the replacement cost must be determined by a licensed property appraiser.

E. Non-Conforming Uses of Structures:

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this code, that would not be allowed in the district under the terms of this code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this code, but no such use shall be extended to occupy any land outside such building;
3. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed in whole or part;
4. When a non-conforming use of a structure, land, or structure and land in combination, is discontinued or abandoned for six (6) consecutive months, or twelve (12) months in any eighteen (18) month period, the structure thereafter shall not be used except in conformance with regulations of the district in which it is located;
5. Where non-conforming use status applied to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

F. Repairs or Maintenance

1. On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this code shall not be increased.
2. Nothing in this code shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

G. Uses Under Special Exceptions Not Deemed Non-Conforming:

Any use for which a special exception is permitted as provided in this Chapter shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

SECTION 1.11 ADMINISTRATION AND ENFORCEMENT

A. Administration and Enforcement:

1. An administrative officer designated by the City Council shall administer and enforce this ordinance. He or she may be provided with the assistance of such other persons as the City Council may direct. The City Council may act as the administrative officer.
2. If the administrative officer shall find that any of the provisions of this ordinance are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Code to insure compliance with or to prevent violation of its provisions.

B. Appeals of the Decision of the Administrative Officer

Appeals from any decision of the administrative officer may be taken to the Board of Adjustment as provided in this Ordinance.

SECTION 1.12 PERMITS AND FEES

A. Building Permit:

No buildings shall hereafter be erected, reconstructed or structurally altered nor shall any work be started upon same until a construction permit for same has been issued by the Administrative Officer, which permit shall state that the proposed building complies with all provisions of this Code. The permit applicant will be responsible for supplying a site plan that displays the conformance of the structure with all requirements set forth in this ordinance. The permit is valid for one (1) year following issuance for single-family, multi-family, commercial and industrial structures. At the end of the one (1) year period, the applicant may purchase a one-time, three (3) month extension on the permit for a fee that will be established from time to time by resolution of the City Council.

B. Fees:

1. The Administrative Officer is directed to issue permits, under the Zoning Ordinance, for the construction or alteration of residential, commercial or industrial buildings, and to charge fees therefore in such amounts as may be established from time to time by resolution of the City Council. Such fees as are required shall be credited to the General Fund of the City of Fairfax, Iowa.

SECTION 1.13 BOARD OF ADJUSTMENT; SPECIAL EXCEPTIONS; VARIANCES

A. Creation and Membership:

A Board of Adjustment is hereby established. The Board shall consist of five (5) members to be appointed for a term of five (5) years excepting that when the Board shall first be created one member shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three (3) years, one for a term of two (2) years, and one for a term of one (1) year.

Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by the City Council for the unexpired term of the member affected.

B. Proceedings of the Board of Adjustment:

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this code. Meetings shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact along with any findings made, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Administrative Officer and shall be a public record.

C. Powers and Duties of the Board of Adjustment:

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

1. Administrative Review: To hear and decide appeals where it is alleged there was error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this code.
2. Appeals to the Board of Adjustment: Appeals to the Board of Adjustment concerning the interpretation or administration of this Chapter may be taken to the Board of Adjustment by any person aggrieved or by any officer, department, board or bureau of the governing body affected by any decision of the Administrative Officer.
 - (a) Such appeals shall be taken within a reasonable time, not to exceed ten (10) days by filing with the Administrative Officer and with the Secretary of the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all paper constituting the record.

- (b) The Board of Adjustment shall fix a hearing date to be held within a reasonable time not exceeding 30 days from the date on which a matter of appeal is received by the Administrative Officer, give public notice thereof as well as notice by certified mail to the parties in interest at the address shown on the appeals form, and decide the same within a reasonable time, not exceeding 15 days from the date of the hearing. At the hearing any party may appear in person or by agent or attorney.
- 3. Stay of Proceedings: An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrative Officer from whom the appeal is taken and on due cause shown.
- 4. Special Exceptions - Conditions Governing Applications; Procedures: To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this code, or to deny special exceptions when not in harmony with the purpose and intent of this code. A special exception shall not be granted by the Board of Adjustment unless and until:
 - (a) A written application for a special exception is submitted indicating the section of this Chapter under which the special exception is sought and stating the grounds on which it is requested.
 - (b) The Board of Adjustment shall fix a hearing date to be held within a reasonable time not exceeding 30 days from the date on which a matter of appeal is received by the Administrative Officer, give public notice thereof as well as notice by certified mail to the parties in interest at the address shown on the appeals form, and decide the same within a reasonable time, not exceeding 15 days from the date of the hearing. At the hearing any party may appear in person or by agent or attorney.
 - (c) Notice shall be given at least seven (7) and not more than twenty (20) days in advance of the public hearing in the manner required for a public hearing by the Iowa Code for Cities the size of Fairfax. Notice shall also be mailed to all property owners within a distance of two hundred feet (200') of the affected property.
 - (d) The public hearing shall be held. Any party may appear in person, or by agent or attorney.
 - (e) The Board of Adjustment shall make a written finding that it is empowered under the section of this code described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Chapter.

Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Chapter punishable under this Code thereby revoking any applicable permits. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

In granting or denying any special exception, the Board of Adjustment must make a written finding.

5. Variances - conditions governing application: To authorize upon appeal in specific cases such variance from the terms of this code as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this code would result in unnecessary hardship. A variance from the terms of this code shall not be granted by the Board of Adjustment unless and until:
 - (a) A written application for a variance is submitted demonstrating:
 - (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - (2) That literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter;
 - (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other lands, structures, or buildings in the same district. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance; and
 - (4) That the special conditions and circumstances do not result from the actions of the applicant.
 - (b) The Board of Adjustment shall fix a hearing date to be held within a reasonable time not exceeding 30 days from the date on which a matter of appeal is received by the Administrative Officer, give public notice thereof as well as notice by certified mail to the parties in interest at the address shown on the appeals form, and decide the same within a reasonable time, not exceeding 15 days from the date of the hearing.
 - (c) The public hearing shall be held. Any party may appear in person, or by agent or by attorney.
 - (d) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

- (e) The Board of Adjustment shall make findings that the requirements of this Chapter have been met by the applicant for a variance.
- (f) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this code, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- (g) The decision of the Board shall be recorded in the official minutes of the Board of Adjustment meeting.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted shall be deemed a violation of this code and punishable as per regulations of this code.

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

D. Finality of Decisions and Necessary Vote:

All decisions and findings of the Board on any appeal or upon any application for a variance or conditional use, after a public hearing, shall, in all instances, be the final administrative decision and shall be subject to judicial review as by law may be provided.

1. A quorum for a meeting of the Board of Adjustment shall consist of at least three (3) of the (5) members being present. A quorum shall be necessary for a meeting to be considered an official meeting which allows the Board to take action on any issue before it.
2. The concurring vote of three (3) members of the Board shall be necessary to reverse an order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this chapter.
3. Any issue that receives less than three (3) concurring votes of the members present at an official meeting shall be considered defeated.

E. Appeals From the Board of Adjustment:

Any person or persons, or any board, taxpayer, department, board or bureau of the town aggrieved by any decision of the Board of Adjustment may seek review by a court of record within 30 days of such decision, by filing a petition for certiorari, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality, as provided by the laws of the State and particularly by Chapter 414.15 (1999), Code of Iowa.

F. Fee:

Before any action is taken upon an application of an appeal, variance, conditional use or revised site plan is filed, as provided in this Ordinance, the applicant shall pay to the Administrative Officer a non-refundable fee of fifty (50) dollars as established by ordinance of the City Council. The Administrative Officer shall forthwith pay over such fees to the credit of the General Fund of the City of Fairfax, Iowa. The failure to approve an application shall not be construed as any reason for refunding the fee to the applicant.

SECTION 1.14 INTERPRETATION OF PROVISIONS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing higher standards, shall govern.

SECTION 1.15 VIOLATIONS AND PENALTIES

- A. Any person, firm, or corporation who shall violate, or fail to comply with the provisions of this code shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100.00) or imprisoned not more than thirty (30) days and may be required to pay all costs and expenses involved in the prosecution of the violation. Alternatively, any person, firm or corporation who shall violate or fail to comply with the provisions of this Code shall be guilty of a municipal infraction pursuant to Section 364.22 Code of Iowa (1999). Each day such violation continues shall constitute a separate offense.
- B. The owners, or tenant of any building, structure, land or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation or fails to comply with any provision of this Code may each be charged with a misdemeanor or municipal infraction and upon conviction suffer the penalties provided herein in the event a misdemeanor is charged and the penalties contained in Section 364.22, Code of Iowa (1999) if a municipal infraction is charged. Each day such violation continues shall constitute a separate offense.
- C. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure or land is used in violation of this Chapter, the City of Fairfax may, in addition to other remedies, institute an injunction, mandamus, or other appropriate lawful action necessary to prevent, correct or abate such violation.

SECTION 1.16 REZONINGS AND AMENDMENTS

A. Procedure:

The regulations imposed and the districts created by this Ordinance may be amended from time to time by the City Council, but no such amendments shall be made without public hearing before the City Council and, in the case of rezoning amendments, after a report upon the rezoning amendment from the Planning and Zoning Commission. If the Planning and Zoning Commission makes no report within thirty (30) days from the date of passage of the Council's motion referring the matter to the Planning and Zoning Commission, the City Council may proceed with a public hearing without such report or recommendation. At least seven (7) days but not more than twenty (20) days notice of the time and place of such hearing shall be given according to the requirements for public hearings in the Iowa Code for cities the size of Fairfax.

In the event that one or more of the following events should occur, such amendment shall not be passed except by the favorable vote of at least three-fourths (3/4) of all members of the City Council:

1. The Planning and Zoning Commission recommends disapproval of the change or,
2. A protest against such change is filed with the City Council and signed by the owners of twenty (20) percent or more of the area of the lots included in the proposed change or,
3. In the case of rezonings, a protest against such change is filed with the City Council and signed by the owners of twenty (20) percent or more of the lots immediately adjacent to the lots to be rezoned extending a depth which is not to exceed two hundred (200) feet there from.

B. Form of Application:

An application for rezoning shall contain the following items. The Planning and Zoning Commission may waive the need for certain items in the application if deemed appropriate.

1. The legal description and local address of the property.
2. The present zoning classification and the zoning classification requested for the property.
3. The existing use and proposed use of the property.
4. The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.
5. A statement of the reasons why the present zoning classification is no longer valid.

6. A Plat or Site Plan showing the locations, dimensions, and use of the applicant's property and all property within two hundred (200) feet thereof, including streets, alleys, railroads, and other physical features including:
 - (a) North arrow and scale.
 - (b) Size and location of existing and proposed structures and drives on the subject property, and existing structures and drives on surrounding properties.
 - (c) Name and address of landowner.
 - (d) Date of preparation of the plan.

C. Application Fee:

Before any action is taken upon an application as provided in this Ordinance, the applicant shall pay to the Administrative Officer a non-refundable fee of fifty (50) dollars plus the cost of signs as established by ordinance of the City Council. The Administrative Officer shall forthwith pay over such fees to the credit of the General Fund of the City of Fairfax, Iowa. The failure to approve an application for rezoning shall not be construed as any reason for refunding the fee to the applicant.

D. Rezoning Signs:

The Clerk shall provide each applicant for rezoning with two (2) rezoning notification signs, which shall be clearly posted by the applicant on the property for which a rezoning request has been made. The applicant shall pay the clerk such costs at the time the signs are received as may be prescribed by the council. The signs shall be placed so that they may be seen from the street and, in cases of through lots and on corner lots, a sign shall be posted on both frontages. Said signs shall be posted at least ten (10) days prior to the commission meeting date which said date shall be noted by the clerk on the signs. It shall be the applicant's responsibility to see that said signs remain posted during the entire period. If the signs are not posted in accordance with the preceding requirements, no action shall be taken on the petition by the commission. The signs shall be removed no later than five (5) days after denial by the City council or the date of posting of the ordinance granting the rezoning by the City Council.

SECTION 1.17 SEVERABILITY

This Ordinance and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid as applied to a particular property, building or other structure, it is hereby provided that the application of such portion of the Ordinance to other property, buildings or structures shall not be affected thereby.

Whenever any condition or limitation is included in an official city decision authorizing any conditional use permit, variance, grading permit, zoning compliance permit, certificate of occupancy, site plan approval or designation of nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision hereof, and to protect the public health, safety and welfare, and that the officer or Board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

SECTION 1.18 REPEAL

The existing zoning regulations of the City of Fairfax being Chapter ____ of the Fairfax City Code, as amended, are hereby repealed. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any existing violation of said Chapter____ , as amended, if the violation is also a violation of the provisions of this Ordinance.

SECTION 1.19 EFFECTIVE DATE

This Ordinance shall take effect and be in force after its final passage and approval and publication, as by law provided.

Last updated February 13, 2024.