

CHAPTER 165

ZONING REGULATIONS

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165.01 SHORT TITLE. This chapter shall be known and may be cited as the City of Dakota City Zoning Ordinance.

165.02 PURPOSE. The purpose of this chapter is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land and to promote the health, morals, safety and general welfare of the City.

165.03 DEFINITIONS. For the purpose of this chapter, the following terms or words shall be interpreted or defined as follows:

1. " Dwelling " means a building used as the living quarters for one or more facilities, not including auto courts, rooming homes or tourist homes.
2. " Factory-built housing " means a factory-built structure designed for long-term residential use. For the purpose of this chapter, " factory-built housing " consists of three types: modular homes, mobile homes and manufactured homes.
3. " Factory-built structure " means any structure which is—wholly or in substantial part—made, fabricated, formed or assembled in manufacturing facilities for installation, or assembly and installation, on a building site.
4. " Lot " includes the words " plat or parcel. "
5. " Manufactured home " means a factory-built, single-family structure which is manufactured or constructed under the authority of 42 U.S.C. Section 5403, *Federal Manufactured Home Construction and Safety Standards*, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheel or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purpose of these regulations, a manufactured home shall be considered the same as any site-built, single-family detached dwelling.
6. " Mobile home " means any vehicle 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, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa.

A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. However, certain mobile homes may be classified as manufactured homes. Nothing in this chapter shall be construed as permitting the mobile home in other than an approved mobile home park, unless such mobile home is classified as a manufactured home.

7. "Mobile home park" means any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, tent, vehicle or enclosure used or intended for use as a part of equipment of such mobile home park. The term "mobile home park" shall not be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on said person's own premises and used exclusively to house such person's own labor or students.

8. "Modular home" means factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.

9. "Multiple-family dwelling" means a dwelling occupied by more than two families.

10. "Structure" means a combination of materials other than a building to form a construction that is safe and stable and includes, but is not limited to, stadiums, platforms, radio towers, sheds, storage bins, fences and signs.

11. "Used or occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

165.04 ESTABLISHMENT OF DISTRICTS. The City is hereby divided into the following types of districts and zones:

- A Residential District
- B Multiple Family Residential District
- R Retail Business District
- C Commercial District
- D Commercial and Light Industrial District
- E Heavy Industrial District

Such districts are bounded and defined on a map and plat of the City entitled "Q Zoning Map of the Town of Dakota City," adopted September 15, 1960, and certified by the Clerk, which map is hereby made a part of and incorporated into this chapter, together with any notes and explanatory matter. †

165.05 CLASSIFICATION OF NEWLY ANNEXED AREAS. Areas newly annexed to the City, by reason of such annexation, shall automatically be classified as Class A Residential District, subject to the continuation of any then-existing lawful use of a nonconforming use but subject to the provisions of Section 165.18 of this chapter.

165.06 APPLICATION OF REGULATIONS. Except as hereinafter provided:

† See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.

1. No building or land shall be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

2. No building shall be erected or altered:

- A. To exceed the height;
- B. To accommodate or house a greater number of families;
- C. To occupy a greater percentage of lot area; or
- D. To have a narrower or smaller rear yard, side yards, or inner or outer courts;

than are specified herein for the district in which such building is located.

3. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space similarly required for another building.

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165.07 CLASS A RESIDENTIAL DISTRICTS.

1. Permitted Uses. The following uses of land are permitted in all Class A Residential Districts:

- A. One- or two-family dwelling units.
- B. Single-family detached dwellings, provided that for all new single-family detached dwellings for which building permits have been issued on or after December, 1984, the minimum dimension of the main body of the dwelling unit shall not be less than 20 feet.
- C. Churches and places of worship and parochial schools.
- D. Public schools, public libraries, parks and playgrounds.
- E. Greenhouses and customary agricultural operations, but no livestock or fowl are to be raised in the district.
- F. Small home occupations, provided that there are no signs or other evidence of such use other than a small announcement or professional sign not over two square feet in size.
- G. Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity conducted as a business.
- H. Fraternity, sorority and lodge houses.

2. Height of Buildings. No dwelling or other structure shall be erected to a height in excess of 35 feet. The maximum sidewall height for any accessory building shall be nine feet. For purposes of this section, "accessory building" means a subordinate building, the use of which is incidental to that of a principal building on the lot, and "sidewall" means a wall forming the side of a building.

3. Density of Population. Lot area shall not be less than 7,500 square feet and lot width not less than 60 feet. There shall be no more than one dwelling place on each lot of the above size.

4. Percentage of Lot Covered By Buildings, Dwellings and Other Structures. All dwellings or other structures, including accessory buildings, shall not cover more than 40 percent of the area of the lot. If more than one lot is used, the percentage shall be computed on the combined size of the lots; however, if a new structure is located in an area already improved, the front line or distance from the street shall be in conformity with the majority of the front line of the existing structures or the distance from the street of the majority of said existing improvements.

5. Yards, Courts and Open Spaces. Each lot shall have front, side and rear yards not less than the following depths and widths:

- A. Front yard depth – 25 feet.
- B. Each side yard width – 5 feet, except the side yard width on corner lots for all side yards abutting and adjacent to a street shall be 25 feet.
- C. Rear yard depth – 25 feet.

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165.08 CLASS B MULTIPLE-FAMILY RESIDENTIAL DISTRICTS.

1. Permitted Uses. The following uses of land are permitted in all Class B Multiple-Family Residential Districts:
 - A. All uses permitted in Class A Residential Districts, subject to all the restrictions specified in Class A Districts.
 - B. Multiple-family dwelling units.
 - C. Boarding and lodging houses.
 - D. Hospitals, day nurseries, nursing and convalescent homes and clinics.
2. Height of Buildings. No dwelling or other structure shall be erected to a height in excess of 40 feet or three stories, whichever is lower. The maximum sidewall height for any accessory building shall be nine feet. For purposes of this section, "accessory building" means a subordinate building, the use of which is incidental to that of a principal building on the lot, and "sidewall" means a wall forming the side of a building.
3. Density of Population. Lot area shall not be less than 8,000 square feet and lot width not less than 100 feet, plus an additional 850 square feet for each additional unit over two.
4. All dwellings or structures, including accessory buildings, shall not cover more than 40 percent of the area of the lot. If more than one lot is used, the percentage shall be computed on the combined size of the lots.
5. Yards, Courts and Open Spaces. Each lot shall have front, side and rear yards not less than the following depths and widths:
 - A. Front yard depth -- 25 feet.
 - B. Each side yard width -- 7 feet, except the side yard width on corner lots for all side yards abutting and adjacent to a street shall be 25 feet.
 - C. Rear yard depth -- 25 feet.

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165.09 USE REGULATIONS FOR R RETAIL BUSINESS DISTRICTS. Within any R District as indicated on the Zoning Map, the following uses of lands and buildings are permitted:

1. Any use permitted in a Class A or Class B Residential District.
2. Bakeries.
3. Banks.
4. Barber shops or beauty parlors.
5. Bus stations.
6. Electrical and shoe repair shops.
7. Heating, plumbing and tinsmithing, provided the display, service and storage of all products and items are conducted within a building.
8. Hotels.
9. Interior decorating shops.
10. Messenger or telegraph service station.
11. Printing shop.
12. Professional and business offices.
13. Photographic gallery.
14. Public garage, provided the display, repair, storage and equipping of both new and used cars and vehicles are conducted within a building.
15. Restaurants.
16. Sales and service of farm implements, provided the display, service and storage of same are conducted within a building.
17. Service establishments only when totally enclosed within a building and which are not objectionable due to emission of odor, smoke, dust, gas or noise.
18. Taverns.
19. Theaters.
20. Laundry cleaning establishments.
21. Conduct of retail business entirely within a building.

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165.10 USE REGULATIONS FOR C COMMERCIAL DISTRICTS. Within any C District, as indicated on the Zoning Map, only the following premises or building uses are permitted:

1. Any use permitted in the R District, except taverns and hotels.
2. Filling stations.
3. Hospitals and clinics for animals, but not open kennels or yards where animals are confined or exercised.
4. Milk collecting depots.
5. Motels and tourist courts.
6. Public garage, provided the repair, storage and equipping of both new and used cars and vehicles are conducted within a building. However, the display for sale purposes of new and used cars and vehicles need not be conducted within a building.
7. Sales and service of farm implements, provided the repair, storage and equipping of same are conducted within a building, however, the display for sale purposes of new and used farm implements need not be conducted within a building.
8. Advertising signs.

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165.11 USE REGULATIONS FOR D COMMERCIAL AND LIGHT INDUSTRIAL DISTRICTS. Within any D District, as indicated on the Zoning Map, only the following premises or building uses are permitted:

1. Any use permitted in the C District.
2. Amusement enterprises such as dance halls and skating rinks.
3. Taverns.
4. Freight and passenger stations and grounds.
5. Hotels.
6. Manufacture or assembly of tools, dies, machinery, hardware products or sheet metal products.
7. Bottling plants.
8. Fuel and building material yards, but not including junk yards.
9. Ice cream and cheese factories and creameries.
10. Truck terminals.
11. Used car sales or storage lot and implement sales or storage lots.
12. Warehouses.
13. Wholesale establishments.
14. Mobile homes.
15. Mobile home parks.
16. Any other commercial enterprise which is not noxious or offensive due to the emission of odor, gas, dust, smoke or noise, and which will not substantially or permanently injure the appropriate use of neighboring property, provided that all raw materials and equipment utilized in such enterprise are maintained within an enclosed structure, except that the finished products of such enterprise may be stored or displayed outside of any structure.

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165.12 USE REGULATIONS FOR E HEAVY INDUSTRIAL DISTRICTS. Within any E District, as indicated on the Zoning Map, only the following premises or building uses are permitted:

1. Any use permitted in the D District.
2. Storage of junk or non-operable motor vehicles, but only within a painted tight fence or masonry wall not less than eight feet in height.
3. Any heavy industrial or manufacturing use, provided that any use that would be objectionable by reason of dust, gas, smoke, noise, fumes, odor, vibrations, soot or explosion requires a special use permit. Included among these uses are the following: cement, lime, gypsum or plaster of Paris manufacture; manufacture or storage of explosives; fertilizer or glue manufacture; garbage, offal or dead animal reduction or dumping; fat rendering or distillation of bones; petroleum refining, smelting of tin, copper, zinc or iron ores; stockyards or slaughter of animals. All such objectionable uses are subject to review by the Board of Adjustment and may be permitted if approved by the Board and subject to the securing of a special use permit therefor and to such conditions, restrictions and safeguards as may be deemed necessary for the purpose of protecting the health, safety, morals or general welfare of the community.

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165.13 FENCES.

1. Fences or walls not exceeding 30 inches in height may be erected on any part of a lot in any Class A Residential District or Class B Residential District between the front lot line and the front building line for structures, and on any other part of the lot may be erected to a height not exceeding six feet. The height of such walls or fences shall be determined by measurement of the ground level at the lowest grade level at the base of such structure.
2. Any fence or wall more than 30 inches in height shall be considered a structure. All structures, as defined in Section 165.03 of this chapter, shall require a building permit.
3. Nothing shall be erected, placed, planted or allowed to grow which shall impede vision between a height of two and one-half feet and 10 feet above the street in the area bounded by the street right-of-way line and a line joining points 30 feet from the right-of-way line intersection.

165.14 REGULATION OF DAY CARE SERVICES. "Day care" refers to any agency, institution, establishment or place that provides, for compensation, supplemental parental care and/or educational work other than overnight lodging for three or more unrelated children of any age. Day care services shall be an allowable use in residential and commercial zoning districts. The following regulations shall apply:

1. A sign shall be allowed to be placed on the exterior of the residence which acknowledges the activity conducted within, but which does not exceed one square foot in size.
2. The only equipment, mechanical or other, used is customary and incidental to the service being offered; this includes outdoor play equipment.
3. The activity is restricted to the structure and property.
4. Provisions shall be made to lessen the impact of outside play areas on surrounding property owners.
5. Off-street loading and unloading for a minimum of two vehicles shall be provided.
6. The registration is non-transferable.

Home day care services are permissible upon registration at the Clerk's office. This section shall not be interpreted to include or alter any regulations for the licensing of such facilities with the State, or requirements imposed by the State. Facilities operating within the City must comply with all federal, State and local statutes. Day care service provided in commercial zoning districts shall comply with the district's restrictions as well.

165.15 ADMINISTRATION AND ENFORCEMENT. This chapter shall be enforced by the building inspector. No building permit or certificate of occupancy shall be issued by the building inspector except where the provisions of this chapter have been complied with.

165.16 PERMITS AND INSPECTION. No land shall be used or occupied and no building erected or the exterior thereof altered unless a building permit shall have been issued by the City building inspector in accordance with the provisions of this chapter and of Chapter 155. Application for such permit and inspection shall be made to the Clerk and shall be accompanied by the appropriate fee therefor.

165.17 BOARD OF ADJUSTMENT CREATED. A Board of Adjustment is hereby created. The Board shall consist of five members, to be appointed to serve staggered terms of five years. The Board shall elect a Chairperson from its membership and appoint a Secretary. Matters of procedure, powers and judicial review relating to the Board are regulated by statute.

1. Meetings. The meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine. Such Chairperson, or in the Chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. The meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, the minutes shall indicate such fact. The Board shall keep records of its examinations and other official actions, which shall be immediately filed in the office of the Board as a public record. The presence of three members shall be necessary to constitute a quorum.

2. Appeals. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, or board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within 10 days by filing with the administrative officer and with the Board written notice of appeal specifying the grounds thereof. The administrative officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative officer certifies to the Board after the notice of the appeal shall have been filed with the administrative officer, that by reason of facts stated in the appeal a stay would in his or her opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice to the administrative officer and on due cause shown. Appeals to the Board from the decision of the administrative officer shall not be considered by the Board until a fee of \$100.00 for each such appeal is deposited by the appellant with the Clerk. Such fee shall be paid at the same time as the notice to the Board that is herein delineated is given. The City may, from time to time, apply such fees as it deems necessary to defray administration and expenses in processing the appeal. The appellant is required to set stakes showing the boundaries of the proposed construction at least one week prior to the hearing date.

3. Hearings; Notice. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

4. Powers; Administrative Review. The Board shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the administrative officer in the enforcement of the provisions of this chapter.

5. Special Exceptions. The Board shall permit the following exceptions to the district regulations set forth in this chapter subject to the requirements of this section:

A. To permit erection and use of a building or the use of premises or vary the height and the regulations in any location for a public service corporation for public utility purposes or for purposes of public communication, which the Board determines is reasonably necessary for the public convenience or welfare.

B. To permit the extension of a use into a district where it would be otherwise prohibited, in a case where a district boundary line is so located that a lot or plat is in more than one district.

6. Other Special Exceptions. The Board shall have the authority to hear and decide only such other special exceptions as the Board 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 chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board unless and until:

A. A written application for 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. Notice of public hearing shall be given at least 10 days in advance of public hearing. The owner of the property for which special exception is sought or any agent and any other affected property owners shall be notified by mail. Notice of hearing shall also be posted on the property for which special exception is sought. Any party may appear in person, or by agent, or attorney.

C. Requests for variances to permit a nonconforming use in addition to being made to the Board of Adjustment shall also be automatically forwarded by the Clerk to the City Planning and Zoning Commission which shall thereafter have the right to make recommendations for or against the proposed special exception, and shall have the right to appear before the Board of Adjustment. No request for exception shall be passed upon by the Board of Adjustment without first being referred to and a report on recommendations received from the Zoning Board.

7. Variances. The Board shall have the authority to authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of the Zoning Ordinance shall not be granted by the Board unless and until:

A. A written application for a variance is submitted demonstrating that:

(1) 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) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(3) The special conditions and circumstances do not result from the actions of the applicant.

(4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

No nonconforming 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.

B. Notice of public hearing shall be given at least 10 days in advance of public hearing. The owner of the property for which special exception is sought or an agent of said owner and any other affected property owners shall be notified by mail. Notice of hearing shall also be posted on the property for which special exception is sought. Any party may appear in person, or by agent, or by attorney.

C. Requests for variances to permit a nonconforming use in addition to being made to the Board of Adjustment shall also be automatically forwarded by the Clerk to the City Planning and Zoning Commission which shall thereafter have the right to make recommendations for or against the proposed special exception, and shall have the right to appear before the Board of Adjustment. No request for exception shall be passed upon by the Board of Adjustment without first being referred to and a report on recommendations received from the Zoning Board.

8. Decisions of the Board of Adjustment. The concurring vote of three members of the Board is necessary to reverse any order, requirement, decision, or determination of the administrative officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

9. Appeals from the Decision of the Board of Adjustment. Any taxpayer, or any officer, department, board or bureau of the City, or any person or persons jointly or severally aggrieved by a decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

10. Duties on Matters of Appeal. It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the administrative officer, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the administrative officer, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by statute. It is further the intent of this chapter that the duties of the Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this chapter. Under this chapter, the Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of the ordinance codified by this chapter, as provided by law and of establishing a schedule of fees and charges.

11. Complaints Regarding Violations. Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrative officer. The administrative officer shall record properly such complaint, immediately investigate and take action thereof as provided by this chapter.

165.18 NONCONFORMING BUILDINGS AND USES. The lawful use of any building or land existing at the time of the enactment of the Zoning Ordinance may be continued although such use does not conform with the provisions of this chapter.

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