

TITLE V- PROPERTY AND LAND USE

CHAPTER 40

ZONING – GENERAL PROVISIONS AND REGULATIONS

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40.01 TITLE AND PURPOSE. The chapters numbered 40 through 44 of this Code of Ordinances shall be known and may be cited and referred to as the “Warren County, Iowa, Zoning Ordinance,” and is referred to herein as “the Zoning Ordinance.” The Zoning Ordinance is adopted for the purpose of promoting public health, safety, morals, comfort and general welfare; to conserve and protect property and property values, to secure and provide the social and economic advantages resulting from an orderly planned use of land resources; and to facilitate adequate, but economical provisions for public improvements, all in accordance with a comprehensive plan and as permitted by the provisions of Chapter 335, of the Code of Iowa, 2003.

40.02 INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of the Zoning Ordinance shall be held to be minimum requirements. Where the Zoning Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or resolutions, the provisions of the Zoning Ordinance shall control.

40.03 AGRICULTURAL EXEMPTION. In accordance with the provisions of Chapter 335, Code of Iowa, no regulation or restriction adopted under the provisions of the Zoning Ordinance shall be construed to apply to land, farm houses, farm barns, farm outbuildings or other buildings, structures, or erections which are primarily adapted by reason of nature and area, for use for agricultural purposes while so used, provided, however, that such regulations or restrictions which relate to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream shall apply thereto. It shall be the responsibility of any person or group claiming that certain property is entitled to exemption on the basis of this section to demonstrate that the property is used for agricultural purposes.

40.04 DEFINITIONS. For the purpose of the Zoning Ordinance certain terms and words are herein defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural number includes the singular; the word “shall” is mandatory, the word “may” is permissive; the word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied.

1. “Accessory Use or Structure” means a use or structure subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to the use of the principal building.
2. “Adult Amusement or Entertainment” means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”, is defined herein, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.
3. “Adult Book Store or Adult Gift Shop” an establishment having as a substantial and significant portion of its stock in trade books, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”, as defined herein.
4. “Adult Hotel or Motel” a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on matter depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”, as defined herein, for observation by the individuals therein.
5. “Adult Massage Parlor” means any building, room, place or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”, as defined herein, by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse and practical nurse operating under a physician’s direction, physical therapist, chiropodist, registered speech pathologist and physical or occupational therapist who treat only patients recommended by a licensed physician and operate only under such physician’s direction, whether with or without the use of mechanical, therapeutic or bathing devices, and shall include

Turkish bath houses. The term shall not include a regular licensed hospital, medical clinic or nursing home, duly licensed beauty parlors or barber shops.

6. “Adult Photo Studio” means an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing “Specified Anatomical Areas” or “Specified Sexual Activities”, as defined herein.
7. “Adult Theater” means a theater wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on acts or material depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”, as defined herein, for observation by patrons herein.
8. “Adult Uses” means adult uses include Adult Amusement or Entertainment, Adult Book Store or Adult Gift Shop, Adult Hotel or Motel, Adult Photo Studio, Adult Theater and Adult Massage Parlor.
9. “Agriculture” means the use of land for purposes of growing the usual agricultural or farm products, including vegetables, fruit, trees and grains, pasturage, dairying, animal and poultry husbandry, and the necessary accessory uses for treating or storing the produce, provided that the operation of such accessory uses shall be secondary to that of the regular agricultural activities. If the tract of land is less than 20 acres, it shall be presumed that the tract is not primarily used for agricultural purposes.
10. “Apartment” means a room or suite of rooms in a multiple dwelling intended for or designed for use as a residence by a single family.
11. “Automobile Salvage Yard” – See “Junk Yard”.
12. “Basement” means a story having a part but not more than one-half (1/2) of its height below grade. A basement is counted as a story for the purpose of height regulations.
13. “Bed and Breakfast Home” means a private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than two guest families are lodged at the same time and which, while it may advertise and accept reservations, does not hold itself out to the public to be a restaurant, hotel, or motel, does not require reservations and serves food only to overnight guests.
14. “Beginning of Construction” means the incorporation of labor and materials within the walls of the building or buildings.

14. “Billboard” includes all structures, regardless of the material used in the construction of the same, that are erected, maintained, or used for public display of posters, painted signs, wall signs, whether the structure be placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.
15. “Boarding House” means a building, other than a hotel, where for compensation, meals or lodging and meals are provided for four (4) or more persons.
16. “Building” means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards. When a structure is divided in separate parts by un-pierced walls extending from the ground up, each part is deemed a separate building.
17. “Building, Height of” means the vertical distance from the average natural grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.
18. “Bulk Stations” means distributing stations commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids, or liquefied petroleum products where the aggregate capacity of all storage tanks is more than six thousand (6,000) gallons.
19. “Cellar” means that portion of a building having more than one-half (1/2) of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.
20. “Commission” means the Warren County Zoning Commission.
21. “Corn Suitability Rating” (CSR) provides an index for ranking the suitability for row-crop production in Iowa. Corn suitability ratings range from five (5) to one hundred (100), with one hundred (100) reserved for those soils (a) located in areas most favorable weather conditions for Iowa, (b) that have high yield potential, and (c) that can be continuously row-cropped. (A detailed description of the CSR system, including methodology and CSR estimates for various soil types, may be found in Special Report Number 66, “Productivity Levels of Some Iowa Soils”, April, 1971, published by the Agricultural and Home Economics Experiment Station and Cooperative Extension Service, Iowa State University).

22. “District” means a section or sections of the County within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
23. “Dwelling” means any building, or portion thereof, which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.
24. “Dwelling, Single-Family” means a building designed for or occupied exclusively for residence purposes by one family or housekeeping unit.
25. “Dwelling, Two-Family” (Duplex) means a building or buildings designed for or occupied exclusively by two-families or housekeeping units, living independently of each other.
26. “Dwelling, Multiple” means a residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.
27. “Dwelling, Condominium” means a multiple dwelling as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units, with each owner having an undivided interest in the common real estate.
28. “Dwelling, Row” means any one of three or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls. Also referred to as a “townhouse”.
29. “Dwelling Unit” means a room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.
30. “Family ”means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over four (4) persons.
31. “ Feed Lot” means any parcel of land or premises on which the principal use is the concentrated feeding within a confined area of cattle, hogs or sheep. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

32. “Garage, Private” means a garage intended for, and used by, the private motor vehicles of the families resident upon the premises, provided that not more than one-half (1/2) of the space may be rented for the private vehicles of persons not resident on the premises, except that all the space in a garage of one or two car capacity may be so rented, such garage shall not be used for more than one (1) small commercial vehicle per family resident upon the premises.
33. “Garage, Public” means any building or premises, except those used as private or storage garages, used for equipping, refueling, servicing, repairing, hiring, selling, or storing motor-driven vehicles.
34. “Garage, Storage” means any building or premises, used for housing only, of motor-driven vehicles pursuant to previous arrangements and not to transients, and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.
34. “Grade” means:
- A. For buildings having walls adjoining one street only, the elevation of the regularly established sidewalk grade at the center of the wall adjoining the street;
  - B. For buildings having walls adjoining more than one street, the average of the elevation of the regularly established sidewalk grades at the center of all walls adjoining the streets;
  - C. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street.
35. “Hotel” means a building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boarding house or lodging house.
36. “Junk Yard” means any area 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 vehicles or 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. The presence on any property of four (4) or more motor vehicles (as defined by Chapter 321.1 of the Code of Iowa) without current registration which for a period exceeding thirty (30) days have not been capable of operating under their own power, and/or from which parts have been removed for re-use, salvage, or sale, shall constitute prima facie evidence of a junk yard.

39. “Kennel” means any premises on which three (3) or more dogs, six months or older, are kept for board, breeding, or sales purposes.
40. “Lodging House” means a building where lodging only is provided for compensation for four (4) or more persons.
41. “Lot” means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open space as are herein required. Such lot shall have frontage on a public road or approved private Street may consist of:
  - A. A single lot of record;
  - B. A portion of a lot of record;
  - C. A combination of complete lots of record, of complete lots of record and portions of lots of, or of portions of lots of record; and
  - D. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of the Zoning Ordinance.
42. “Lot, Corner” means a lot abutting upon two (2) or more streets at their intersection.
43. “Lot, Depth of” means the mean horizontal distance between the front and rear lot lines.
44. “Lot, Double Frontage” means a lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.
45. “Lot, Interior” means a lot other than a corner lot.
46. “Lot Lines” means the lines bounding a lot, including the right-of-way line of any public road or highway acquired by easement.

47. “Lot of Record” means a lot which is a part of a subdivision recorded in the office of the County Recorder of Warren County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
48. “Lot Width” means the width of a lot measured at the building line and at right angles to its depth.
49. “Lot, Reversed Frontage” means a corner lot the side street line of which is substantially a continuation of the front lot line of the first platted lot to its rear.
50. “Lumber Yard” means a premise on which primarily new lumber and related building materials are sold.
51. “Manufactured Home” means a factory-built single-family structure, which is manufactured or constructed under the authority of 42 U.S.C. Sec. 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 wheels 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, manufactured home shall be considered the same as any site built single-family detached dwelling.
52. “Mobile Home” means any structure used for living, sleeping, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirtings, and which is, has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. This does not include any mobile home that has had the tongue, wheels and axles removed and placed on a permanent foundation of at least forty-two (42) inches deep, said foundation being constructed out of concrete block with mortar, or a poured concrete foundation used to support the mobile home, and said mobile home being converted to real estate.
53. “Mobile Home Park” means any lot or portion of a lot upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

54. “Modular Home” means a 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.
55. “Motel, Auto Court” means a building or group of attached or detached buildings containing individual sleeping or living units for overnight auto tourists, with garage attached or parking facilities conveniently located to each such unit.
56. “Nonconforming Use” means the lawful use of any building or land that was established prior to or at the time of passage of the ordinances codified herein, or amendments thereto, which does not conform, after the passage of said ordinances or amendments, with the use regulations of the district in which it is situated.
57. “Parking Space” means a permanently surfaced area of not less than two hundred fifty (250) square feet either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle.
58. “Quarter-Quarter Section” means the northeast, northwest, southwest or southeast quarter of a quarter section delineated by the United States Government system of land survey and which is approximately 40 acres in size.
59. “Sign” means any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:
- A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
  - B. Flags and insignia of any government except when displayed in connection with commercial promotion;
  - C. Legal notices; identification, informational or directional signs erected or required by governmental bodies;
  - D. Integral, decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;

- E. Signs directing and guiding traffic and parking on private property, and bearing no advertising matter; not exceeding two (2) square feet in area.
60. “Sign Area” means the surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area, except where such frames and structural members are used as an integral primary or subsidiary portion of the graphic, literal, or numerical display, such as forming a picture frame to facilitate continuity or providing contrasts to emphasize the intended purpose of the sign.
61. “Sign, Exterior” means a sign which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such a sign is located. An exterior sign may be a sign attached flat against a building or structure, or projecting out from a building or structure, or erected upon the roof of a building or structure. An exterior sign may include any of the following:
- A. Fascia Sign: A single-faced building or wall sign which is directly attached to and parallel to its supporting wall.
  - B. Projecting Sign: A double-faced building or wall sign projecting at right angles to its supporting wall.
  - C. Marquee Sign: A sign attached to and contained within the perimeter of the face or valance of a marquee.
  - D. Roof Sign: A sign attached upon or above a roof or parapet of a building.
62. “Sign, Free Standing or Post” means any sign erected or affixed in a rigid manner to one or more poles, posts or the ground, and which carries any advertisement strictly incidental and subordinate to a lawful use of the premises on which it is located, including signs, or sign devices indicating the business transacted, services rendered or goods sold or produced on the premises by an occupant thereof. A free standing or post sign may also include the following:

- A. Directory Sign: A sign containing the name of a building, complex or center and two or more identification signs or panels of the same size, color and general design, limited to one identification sign per occupant.
- B. Monument Sign: A structure, built on grade, that forms an integral part of the sign or its background.

(See Attachment A for illustrations of sign area and sign types).

- 63. “Sign, Institutional Bulletin Board” means an on-premises sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center or similar institution and the announcement of its services or activities.
- 64. “Sign, Temporary” means a temporary sign is any sign not permanently attached to the ground, wall or building, and intended to be displayed for a short and limited period of time.
- 65. “Specified Anatomical Areas” means less than completely and opaquely covered human genital, pubic region, buttocks; and a female breast below a point above the top of the areola; and human male genitals in a discernibly turgid state - even if completely and opaquely covered.
- 66. “Specified Sexual Activities” means patently offensive acts, exhibitions, representations, depictions or descriptions of:
  - A. Human genitals in a state of sexual stimulation or arousal;
  - B. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast;
  - C. Intrusion, however slight, actual or stimulated, by any object, any part of an animal’s body, or any part of a person’s body into the genital or anal openings of any person’s body;
  - D. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated;
  - E. Flagellation, mutilation or torture, actual or simulated, in a sexual context.
- 67. “Stable, Private” means a building or structure used or intended to be used for housing horses belonging to the owner of the property only for non-commercial purposes.

68. “Stable, Public and Riding Academy” means a building or structure used or intended to be used for the housing of horses on a fee basis. Riding instruction may be given in connection with a Public Stable or Riding Academy.
69. “Stable, Riding Club” means a building or structure used or intended to be used for the housing only of horses by a group of persons for non-commercial purposes.
70. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it.
71. “Story, Half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story.
72. “Street or Road Line” means a dividing line between a lot , tract, or parcel of land and a contiguous street or road.
73. “Street or Road, Public” means any thoroughfare or public way which has been dedicated to the public or deeded to the County for street or road purposes.
74. “Structural Alterations” means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.
75. “Structure” means anything constructed or erected, the sum of which requires permanent location on the ground or attached to something having a permanent location on the ground.
76. “Subterranean Home” means a home which has all but one wall completely covered and landscaped with earth including the roof.
77. “Tourist Home” means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers.
78. “Tower” means any supporting structure for microwave, radio, television, digital or cellular communication equipment.

79. “Trailer, House” – See “Mobile Home”.
80. “Trailer, Park” – See “Mobile Home Park”.
81. “Travel Trailer” means a recreational vehicle, with or without motive power; designed as a temporary dwelling, not exceeding eight (8) feet in width and forty (40) feet in length, exclusive of separate towing unit. Such vehicles are customarily and ordinarily used for travel or recreational purposes and not used for permanent habitation.
82. “Yard” means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used.
83. “Yard, Front” means a yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches; the narrow frontage on a corner lot.
84. “Yard, Rear” means a yard extending across the full width of the lot measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the opposite end of the lot from the front yard.
85. “Yard, Side” means a yard extending from the front yard to the rear yard and measured between the side lot line and the nearest building.
86. “Zoning Administrator” means the administrative officer designated or appointed by the Board of Supervisors to administer and enforce the regulations contained in the Zoning Ordinance.
87. “Zoning Certificate; Building Permit” means a written statement issued by the Zoning Administrator authorizing buildings, structures or uses consistent with the terms of the Zoning Ordinance and for the purpose of carrying out and enforcing its provisions.

40.04 OFFICIAL ZONING MAP. The boundaries of districts are indicated upon the Official Zoning Map of Warren County, Iowa, which map is made a part of the Zoning Ordinance by reference hereto. The official Zoning Map and all the notations, references and other matters shown thereon shall be as much a part of the Zoning Ordinance as if the notations, references and other matters set forth by said map were all fully described herein. The Official Zoning Map shall be on file in the office of the Warren County, Iowa, Zoning Administrator and shall bear the signature of the Chairperson of the Board of Supervisors attested by the County Auditor, under the certification that it is the Official Zoning Map referred to in Section 40.05 of the Zoning Ordinance. If in accordance with the provisions of the Zoning Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, the resolution number and date of said change shall be recorded by the County Auditor on the Official Zoning Map. The Board of Supervisors may from time to time adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map, in the event that the Official Zoning Map becomes damaged or destroyed; or for purposes of clarity due to a number of boundary changes, or to correct drafting errors or omissions; provided, however, that any such adoption shall not have the effect of amending the original zoning ordinance or any subsequent amendment thereof.

40.06 VACATED STREETS. Whenever any street, road, alley or other public way is vacated by official action as provided by law, the Zoning Districts adjoining the side of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way of the public way thus vacated, which shall thenceforth be subject to all regulations of the extended district of districts.

40.07 DIS-INCORPORATION. All territory which may hereafter become part of the unincorporated area of Warren County, Iowa, that is regulated by the Zoning Ordinance, by the Dis-incorporation of any city, or any part thereof, shall automatically be classed as lying and being in the A-1 Agricultural District until such classification shall have been changed by amendment to the Zoning Ordinance, as provided by law.

40.08 INTERPRETATION OF DISTRICT BOUNDARIES. In cases where the exact location of a district boundary is unclear as shown on the Official Zoning Map in the office of the Zoning Administrator, the following rules shall be used in determining the location of said district boundary.

1. Boundaries indicated as approximately following the centerline 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 approximately following city limits shall be construed as following city limits.

4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
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 as moving 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 approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.
7. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
8. 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 7 above, the Board of Adjustment shall interpret the district boundaries.

40.09 APPLICATION OF DISTRICT REGULATIONS. The regulations set by the Zoning Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, 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 specified in the Zoning Ordinance for the district in which it is located.
2. No building or other structure shall hereafter 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 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 the Zoning Ordinance.

3. 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 purpose of complying with the Zoning Ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
4. No yard or lot existing at the time of passage of the ordinance codified herein shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the Zoning Ordinance shall meet at least the minimum requirements established by the Zoning Ordinance.

40.10 NONCONFORMING USES. Within the districts established by the Zoning Ordinance, or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before the Zoning Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of the Zoning Ordinance or future amendment. It is the intent of the Zoning Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of the Zoning Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. To avoid undue hardship, nothing in the Zoning Ordinance 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 the Zoning Ordinance 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 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 building involved.

1. Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of the Zoning Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record which was established prior to October 1, 2004. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district.

2. Nonconforming Use of Land. Where, at the effective date of adoption or amendment of the Zoning Ordinance, lawful use of land exists that is made no longer permissible under the terms of the Zoning Ordinance as enacted or amended, such use may be continued, subject to the following provisions:
  - A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the Zoning Ordinance.
  - B. No such nonconforming use shall be moved in whole or part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the Zoning Ordinance.
  - C. If any such nonconforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by the Zoning Ordinance for the district in which such land is located.
  
3. Nonconforming Use of Structures. If a lawful use of a structure, or of a structure and premises in combination, exists at the effective date of adoption or amendment of the Zoning Ordinance that would not be allowed in the district under the terms of the Zoning Ordinance, the lawful use may be continued, subject to the following provisions:
  - A. No existing structure devoted to a use not permitted by the Zoning Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
  - B. Any nonconforming 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 the Zoning Ordinance, but no such use shall be extended to occupy any land outside such building.
  - C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use of the same or of a more restricted classification.
  - D. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for two (2) years, the

structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

E. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

F. Any structure devoted to a use made nonconforming by the Zoning Ordinance that is destroyed by any means to an extent of sixty percent (60%) or more of its replacement cost at the time of destruction, exclusive of the foundations, shall not be reconstructed and used as before such happening. If the structure is less than sixty percent (60%) destroyed above the foundation, it may be reconstructed and used as before provided it is done within six (6) months of such happening, and is built of like or similar materials.

4. Nonconforming Structures. Where a structure exists at the effective date of adoption or amendment of the Zoning Ordinance that could not be built under the terms of the Zoning Ordinance 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 continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity.

B. Should such structure be destroyed by any means to an extent of sixty percent (60%) or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of the Zoning Ordinance.

5. Registration of Nonconforming Use. The owner of any use of land or use of land and structure in combination in existence at the time of passage of the Zoning Ordinance and made nonconforming by the provisions of the Zoning Ordinance shall apply for a Zoning Certificate from the Zoning Administrator within twelve (12) months after the effective date of the Zoning Ordinance.

6. Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage or amendment of the Zoning Ordinance shall not be increased. Nothing herein

shall be deemed to prevent the strengthening 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.

40.11 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS. On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by street lines of such corner lots and a line joining points along said street lines twenty-five (25) feet from the point of the intersection.

40.12 STREET FRONTAGE REQUIRED. No lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least forty (40) feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of way at least twenty (20) feet wide to a street, and there shall be not more than one (1) single-family dwelling for such frontage or easement.

40.13 ACCESSORY BUILDINGS. No accessory building shall be erected in any required court or yard other than a rear yard, except as provided hereinafter. Accessory buildings shall be distant at least four (4) feet from alley lines, and from lot lines or adjoining lots, which are in any R-2 or R-3 district, and on a corner lot they shall conform to the setback regulations on the side street. Accessory buildings, except buildings housing animals or fowl, may be erected as a part of the principal building, or may be connected thereto by a breeze way or similar structure, provided all yard requirements for a principal building are complied with. An accessory building which is not a part of the main building shall not exceed twelve (12) feet in height; however, this regulation shall not be interpreted to prohibit the construction of a four hundred forty (440) square foot garage on a minimum rear yard.

40.14 CORNER LOTS. For corner lots platted after the effective date of the Zoning Ordinance, the street side yard shall be equal in width to the setback regulation of the lots to the rear having frontage on the intersecting street. On corner lots platted and of record at the time of the effective date of the Zoning Ordinance, the side yard regulation shall apply to the longer street side of the lot except in the case of reverse frontage where the corner lot faces an intersecting street. In this case, there shall be a side yard on the longer street side of the corner lot of not less than fifty percent (50%) of the setback required on the lots to the rear of such corner lot, and no accessory building on said corner lot shall project beyond the setback line of the lots in the rear; provided further that this regulation shall not be interpreted as to reduce the buildable width of the corner lot facing an intersecting street and of record or as shown by existing contract of purchase at the time of the effective date of the Zoning Ordinance, to less than twenty-eight (28) feet nor to prohibit the erection of an accessory building.

40.15 BUILDING LINE ON APPROVED PLATS. Whenever the plat of a land subdivision approved by the Board of Supervisors and on record in the office of the County Recorder shows a building line along any street for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such street in place of any other yard line required in the Zoning Ordinance unless specific yard requirements herein require a greater setback.

40.16 ZONING DISTRICTS DIVIDING PROPERTY. Where one (1) parcel of property is divided into two (2) or more portions by reason of different zoning district classifications, each of these portions shall be used independently of the others in its respective zoning classification, and for the purpose of applying the regulations of the Zoning Ordinance, each portion shall be considered as if in separate and different ownership.

40.17 HOME OCCUPATIONS. Subject to the limitations of this section, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit. Any question of whether a particular use is permitted as a home occupation, as provided herein, shall be determined by the Zoning Administrator pursuant to the provisions of this ordinance. The regulations of this section are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in the home. This section recognizes that, when properly limited and regulated, such activities can take place in a residential structure without changing the character of either the neighborhood or the structure.

1. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:
  - A. No person who is not a resident on the premises shall be employed
  - B. No more than 25% or 400 square feet of the floor area of the dwelling unit, whichever is less, shall be devoted to the home occupation.
  - C. No alteration of the principal residential building shall be made which changes the character and appearance thereof as a dwelling.
  - D. No stock of goods shall be displayed or sold on the premises in excess of 30 cubic feet in volume.
  - E. The home occupation shall be conducted entirely within the principal dwelling unit or in a permitted building accessory thereto, and in no event shall such use be apparent from any public way.

- F. There shall be no outdoor storage of equipment or materials used in the home occupation.
  - G. Not more than one commercial vehicle used in connection with any home occupation shall be parked on the property.
  - H. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall be used.
  - I. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions.
  - J. No sign, other than one unlighted sign not over two (2) square foot in area attached flat against the dwelling and displaying only the occupant's name and occupation, shall advertise the presence or conduct of the home occupation.
  - K. There shall be no off-premise signs, radio, television, newspaper, handbill or similar types of advertising linking the premises with the home occupation.
2. Home Occupations Permitted. Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each such home occupation shall be subject to the use limitations set out in Section 40.17 (1.) above.
- A. Providing instruction to not more than four students at a time.
  - B. Office facilities for accountants, architects, brokers, doctors, dentists, engineers, lawyers, insurance agents and real estate agents.
  - C. Office facilities for ministers, priests and rabbis.
  - D. Office facilities for salesmen, sales representatives and manufacturer's representatives when no retail or wholesale sales are made or transacted on the premises.
  - E. Studio of an artist, photographer, craftsman, writer or composer.

- F. Homebound employment of a physically, mentally or emotionally handicapped person who is unable to work away from home by reason of his or her disability.
- G. Shop or a beautician, barber, hair stylist, dressmaker or tailor.
- H. Bed and Breakfast establishments limited to not more than three guest rooms.

40.18 PROHIBITED STORAGE OF MOTOR VEHICLES. Outdoor storage of not more than three motor vehicles with storage licenses or not currently licensed shall be prohibited in all zoning districts, except motor vehicles held for sale by a licensed motor vehicle dealer at his place of business in a zoning district where motor vehicle sales are permitted.

40.19 SIGNS PERMITTED IN ALL ZONING DISTRICTS. Signs hereinafter designated shall be permitted in all zoning districts.

1. Temporary Signs.

- A. Real Estate Signs. Signs advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed. One non-illuminated sign, not to exceed eight (8) square feet, shall be permitted on each premises. Such signs shall not extend higher than four (4) feet above grade level or be closer than ten (10) feet to any property line unless located on the wall of a building. Such signs shall be removed within seven (7) days after the disposition of the premises.
- B. Construction Signs. Signs identifying the architect, engineer, contractor or other individuals involved in the construction of a building and such signs announcing the character of the building enterprise or the purpose for which the building is intended but not including product advertising. One non-illuminated sign not to exceed fifty (50) square feet, shall be permitted per street frontage. Such sign shall not extend higher than ten (10) feet above grade level or be closer than ten (10) feet to any property line unless located on the wall of a building on the premises or on a protective barricade surrounding the construction. Such signs shall be removed within one week following completion of construction.
- C. Political Campaign Signs. Signs announcing candidates seeking public political office or pertinent political issues. Such signs shall be confined to private property and shall be removed within one week following the election to which they pertain.

- D. Street Banners. Signs advertising a public event providing that specific approval is granted under regulations established by the Board of Supervisors.
  - E. Seasonal Decorations. Signs pertaining to recognized national holidays and national observances.
2. Public Signs. Signs of a non-commercial nature and in the public interest, erected by or upon the order of a public officer in the performance of public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and other similar signs, including signs designating hospitals, libraries, schools and other institutions or places of public interest or concern.
  3. Integral Signs. Signs for churches or temples, or names of buildings, dates of erection, monumental citations, commemorative tablets and other similar signs when carved into stone, concrete or other building material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure to which they are attached.
  4. Window Signs. Such signs which are displayed inside of a window or within a building, provided however, that lighted window signs shall be permitted only in those districts where lighted signs are permitted.

40.20 PROHIBITED SIGNS. Signs hereinafter designated shall be prohibited in all zoning districts.

1. Obsolete Signs. Signs that advertise an activity, business, product or service no longer conducted on the premises on which the sign is located.
2. Banners, Balloons, Posters, etc.. Signs which contain or consist of banners, balloons, posters, pennants, ribbons, streamers, spinners, or other similarly moving devices, except as specifically provided in Section 40.19 (1.d.) hereof. These devices when not part of any sign shall also be prohibited.
3. Portable Signs. Signs that are not permanently anchored or secured to either a building or the ground.
4. Off-Premises Signs on Public Property. Off-premise signs located on public property which is being used for public purposes.
5. Flashing Signs. No flashing, blinking, or rotation lights shall be permitted for either permanent or temporary signs.
6. Moving Signs. No sign shall be permitted any part of which moves by any mechanical or electronic means.

7. Painted Wall Signs. Off-premise signs painted on building walls.
8. Semi-trailers. Semi-trailers and other vehicles used primarily for permanent signage shall be prohibited in all zoning districts.

#### 40.21 GENERAL SIGN REGULATIONS.

1. Conformance Required. Except as may be hereinafter specified, no sign shall be erected, placed, maintained, converted, enlarged, reconstructed or structurally altered which does not comply with all of the regulations established by this ordinance.
2. Maintenance. All signs shall be maintained in a good state of repair, including, but not limited to, the structural components, the lighting if any, the portion attaching the sign to the ground or structure, and the surface features.
3. Non-Conforming Signs. Where a sign exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, use, height, setback, or other characteristics of the sign or its location on the lot, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - A. No such sign may be enlarged or altered in a way which increases its non-conformity; however, reasonable repairs and alterations may be permitted.
  - B. Should such sign be destroyed by any means to an extent of fifty (50) percent or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
4. Permit Required. A sign permit, approved by the Zoning Administrator, shall be required before the erection, construction, alteration, placing, or locating of all signs conforming with this ordinance.
5. Permit Not Required. A permit shall not be required for temporary signs repainting without changing permanent wording, composition, or colors; or for non-structural repairs.
6. Plans. A copy of plans and specifications shall be submitted to the Zoning Administrator for each sign regulated by this ordinance. Such plans shall show sufficient details about size of the sign, location and materials to be

used and such other data as may be required for the Zoning Administrator to determine compliance with this ordinance.

7. Appeal. Any person or persons aggrieved by the decision of the Zoning Administrator to approve or disapprove a sign permit, as provided by this ordinance, may appeal such decision to the Board of Adjustment as provided by Chapter 43 of this ordinance.

40.22 OFF-STREET LOADING SPACES REQUIRED. In any district in connection with every building or part thereof hereafter erected, having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space plus one (1) additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof gross floor area so used in excess of ten thousand (10,000) square feet. Each loading space shall be not less than twelve (12) feet in width and forty (40) feet in length. Such space may occupy all or any part of any required yard or open space, except where adjoining an "R" district, it shall be set back at least twenty (20) feet and effectively screen planted.

40.23 OFF-STREET PARKING AREA REQUIRED.

1. In all districts, in connection with every industrial, commercial business, trade, institutional, recreational, or dwelling use, and similar uses, spaces for parking and storage of vehicles shall be provided in accordance with the following schedule. Required off-street parking facilities shall be primarily for the parking of private passenger automobiles of occupants, patrons or employees of the principal use served.
  - A. Automobile sales and service garages - fifty percent (50%) of gross floor area.
  - B. Banks, business and professional offices - fifty percent (50%) of gross floor area.
  - C. Bowling alleys - five (5) spaces for each alley.
  - D. Churches and schools - one (1) space for each five (5) seats in a principal auditorium. Where no auditorium is involved, one (1) space for each staff member.
  - E. Dance halls, assembly halls - two hundred percent (200%) of floor area used for dancing or assembly.

- F. Dwelling - two (2) parking spaces for each family or dwelling unit.
  - G. Funeral homes, mortuaries - one (1) parking space for each five (5) seats in the principal auditorium.
  - H. Furniture and appliance stores, household equipment or furniture repair shops - one hundred percent (100%) of floor area used for display.
  - I. Hospitals - one (1) space for each four (4) beds, plus one (1) space for each three (3) employees, plus one (1) space for each two (2) staff doctors.
  - J. Hotels, motels, lodging houses - one (1) space for each bedroom.
  - K. Manufacturing plants - one (1) space for each three (3) employees on the maximum working shift.
  - L. Restaurants, taverns, and nightclubs - two hundred percent (200%) of gross floor area.
  - M. Retail stores, shops, supermarkets, etc., over two thousand (2,000) square feet of floor area - two hundred fifty percent (250%) of gross floor area.
  - N. Retail stores, shops, supermarkets, etc., under two thousand (2,000) square feet of floor area - one hundred percent (100%) of gross floor area.
  - O. Sports arenas, auditoriums other than in schools - one (1) parking space for each five (5) seats.
  - P. Theaters, assembly halls with fixed seats - one (1) parking space for each five (5) seats.
  - Q. Wholesale establishments or warehouses - one (1) space for each two (2) employees.
2. In the case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar shall apply.
  3. Where a lot does not abut on a public or private street, road, alley or easement of access, there shall be provided an access drive of not less than ten (10) feet in width in the case of a dwelling, and not less than twenty (20) feet in width in all other cases, leading to the loading or unloading

spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question. Except where provided in connection with a use permitted in a residence district, such easement of access or access drive shall not be located in any residence district.

4. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements.
  - A. No part of any parking space shall be closer than five (5) feet to any established highway, street right-of-way or alley line. In case the parking lot adjoins an "R" district, it shall be set back at least five (5) feet from the "R" district boundary and shall be effectively screen-planted.
  - B. Any off-street parking area, including any commercial parking lot for more than five (5) vehicles, shall be surfaced with an asphaltic or portland cement binder pavement or such other surface as shall be approved by the County Engineer, so as to provide a durable and dustless surface; shall be so graded and drained as to dispose of all surface water accumulation within the area, and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self propelled vehicles.
  - C. Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any "R" district.
5. Off-street parking areas in agricultural and residential districts shall be provided on the same lot with the principal use. Off-street parking and loading areas may occupy all or part of any required yard or open space, subject to the provisions of this section, except that no required off-street parking or loading areas shall be located in any required front yard in an agricultural or residence district.

40.24 TOWERS. Tower permit fee is \$1,000.00 per tower paid to the Warren County Treasurer.