

Chapter 17.10

General Provisions and Definitions

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17.10.01 Purpose: The purpose of this Zoning Code 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, safety, morals, comfort, convenience and general welfare in the City of Burlington in conjunction with the current Comprehensive Plan for the City of Burlington and all other plans adopted by the Burlington City Council.

17.10.02 Application of District Regulations: The provisions of these regulations shall be construed to be the minimum requirements and shall apply uniformly to each class or kind of structure or land, except as herein provided.

1. No building, structure, or land shall hereafter be used or occupied, no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
2. No part of a yard, other open space, off-street parking or loading space required about or in connection with any building for the purpose of complying with this Zoning Code shall be included as part of a yard, open space, off-street parking or loading space similarly required for any other principal building except as herein provided.
3. No yard or lot existing at the time of adoption of the Zoning Code 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 Code shall meet at least the minimum requirements established herein.
4. Whenever the requirements of the Zoning Code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

17.10.03 Establishment of Zoning Districts; Official Zoning Map:

1. Official Zoning Map. The City shall be divided into districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, shall be adopted by ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested to by the City Clerk and bearing the Seal of the City, under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 17.10.03 of the Code of Ordinances of the City of Burlington, Iowa" together with the date of adoption shall be filed in the office of the City Clerk. If, in accordance with the provisions of this chapter and Chapter 414, Code of Iowa, 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.)
2. Unless the prior Official Zoning Map has been lost or 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.

17.10.04 Rules for Interpretation of District Boundaries: Where uncertainty exists as to the boundaries of the districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following the platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following the City limits shall be construed as following such City limits.
4. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, 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 3 above shall be so construed. Distances that are not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

Annexed territory. All territory, which may hereafter be annexed to the City, shall be in the R-1 single-family residential district unless otherwise specified by the adopting ordinance of the City Council, annexing the territory.

17.10.05 Definitions: For purposes of this chapter, certain terms or words used herein shall be interpreted as follows (definitions may also be included in other chapters):

1. Abandonment - The relinquishment of property or use of the property, by the owner or lessee without any intention, mental or physical, of transferring rights to the property to another owner or of resuming the use of the property.
2. Abutting - Having common property or district lines.
3. Access - A way of approaching or entering a property from a public or private street.
4. Accessory Structure - A structure detached from a principal building located on the same lot and customarily incidental and/or subordinate to the principal building or use. All setbacks and distances required for an accessory structure are measured from the furthest architectural projection.
5. Accessory Use - A use of land or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.
6. Adult Entertainment Facilities – See table 17.20.02
7. Airport - An area where aircraft can land and take off; usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers.
8. Airport Facilities – See table 17.20.02
9. Alley - A public way, other than a street, twenty (20) feet or less in width, affording secondary means of access to abutting property.

10. Alteration - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.
11. Annexation - The incorporation of a land area into an existing community with a resulting change in the boundaries of that community.
12. Architectural Projections – Sills, belt courses, cornices, window features, overhangs and/or other ornamental features, excluding rain gutters, that are not required for the structural support of the principal and accessory structures. See also Structural Projections.
13. Assisted Living Facilities - A residence for two (2) or more persons that provides rooms, meals, personal care and supervision of self-administered medication. These facilities may provide other services, such as recreational activities, financial services, and transportation.
14. Automotive and Marine Craft – See table 17.20.02
15. Bar - Premises used primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption not including a restaurant or similar establishment where the main purpose is to serve food.
16. Base Zone – The underlying zoning district for a property or area of land. The base (underlying) zoning district regulations shall apply unless expressly superseded by overlay district provisions.
17. Basic Utilities – See table 17.20.02
18. Basement – See adopted Building Code definition for the City of Burlington.
19. Bed and Breakfast Houses - A house or portion thereof where short-term lodging, rooms, and meals are provided. The owner shall live on the premises. (See section 17.30.305).
20. Board - The Zoning Board of Adjustment.
21. Boarding Houses - See “Lodging House.”
22. Building - Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind.
23. Building, Height of - The vertical distance from the average natural grade at the building line to the highest point of the roof.
24. Building, Principal - The building on a lot in which the Principal Use of the lot is conducted. All setbacks required for principal buildings are measured from the furthest structural projection. The ten-foot distance separation from accessory structures is measured from the furthest architectural projection on both structures.
25. Bulk Regulations - Standards and controls that establish the maximum size of buildings and structures on a lot; and the buildable area within which the building can be located, including coverage, setbacks, height, and yard requirements.

26. Carport – A roofed structure for the shade and shelter of private vehicles, having one or more sides open. May be an accessory structure or attached to the main building. A carport must follow all applicable zoning and building regulations.
27. Cemetery - Property used for the interring of the dead.
28. Church - A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses as permitted in Section 17.30.202.
29. City – City of Burlington.
30. Clinic - A building designed and used for medical, osteopathic, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses, with no overnight boarding.
31. Clear Zone – An area at a street intersection in which nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision or exceed a height of 2 ½ feet above street grade, measured from the point of intersection of the public right-of-ways, 25 feet in either direction along the right-of-way lines (see Chart B).
32. Club - Any building, structure, portion thereof, or land used for social, educational, or recreational purposes, but not primarily for profit or to render a service that is customarily carried on as a business. "Club" shall include country club, civic club, social club and similar voluntary associations.
33. Community Outdoor Recreation – See table 17.20.02.
34. Community Facilities – See table 17.20.02.
35. Contiguous - Next to, abutting, or touching and having a boundary in common with one another.
36. Day Care Facilities – See table 17.20.02.
37. District – See “Zoning District.”
38. Dormitory - A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar institutional use.
39. Dwelling - Any building, or portion thereof, designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.
40. Dwelling, Multiple - A building or portion thereof designed for or occupied exclusively for residence purposed by three (3) or more families.
41. Dwelling, Single-family - A building designed for or occupied exclusively for residential purposes by one (1) family.
42. Dwelling, Two-Family - Any building consisting of 2 dwelling units, each designed for separate and independent occupancy.
43. Elder Home - Any residential facility that meets the definition of an elder home as defined in Section 414.29 and referenced sections of the Code of Iowa.

44. Enlargement - An increase in the size of an existing structure or use, including physical size of the property, building, parking, and other improvements.
45. Entertainment, Restaurant – See table 17.20.02.
46. Family - One or more persons related by blood, marriage or adoption occupying a single dwelling unit. A family may include four (4), but not more than four (4), persons not related by blood, marriage or adoption. Domestic employees employed on the premises may be housed on the premises without being counted as family or families. When facilities for dwelling purposes are rented to other occupants of a building, these occupants shall not be considered part of the same family under these regulations.
47. Family Home - A community-based residential home which is licensed as a residential care facility under Chapter 135C or as a child foster care facility under Chapter 237 of the Code of Iowa.
48. Fence - An artificially constructed barrier of any non-vegetative material or combination of materials erected to enclose, screen, or separate areas.
49. Funeral Facilities – See table 17.20.02.
50. Garage - A building or portion thereof in which a motor vehicle containing gasoline, distillate or other volatile, flammable liquid in its tank is stored, repaired, or kept.
51. Garage, Private - A building or part thereof accessory to a main building and providing for the storage of motor vehicles owned and used by the occupants of the residence to which it is an accessory. .
52. Garage, Public or Storage - A building or part thereof other than a private garage for the storage of motor vehicles and in which service station activities may be carried on.
53. Golf Course - A tract of land laid out for playing the game of golf and all incidental landscaping and structures associated with the game. Golf course shall not include miniature golf or driving ranges operated for commercial purposes.
54. Grade - The average elevation of the finished ground at the exterior walls of the main building.
55. Group Living – See table 17.20.02.
56. Heavy Industrial Use – See table 17.20.02.
57. Home Occupations - An occupation carried on in a dwelling unit provided that the use is limited in extent and compatible with the surrounding properties, and which meets the requirements for home occupations which are located in the Section 17.30.40 of this Zoning Code.
58. Hospital - A building or group of buildings having room facilities for one or more abiding patients, used for providing services for in-patient medical and surgical care of sick or injured humans and which may include related facilities such as laboratories, out-patient department, training facilities, central service facilities, and staff offices; provided, however, that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operations.

59. Hotel - Any number of buildings or portions thereof providing lodging or rooming to transient members of the public. "Hotel" shall include any automobile courts, inns, motels, motor inns, motor lodges, tourist cabins, tourist courts, or similar uses.
60. Household Living – See table 17.20.02.
61. Incidental - Subordinate and minor in significance and bearing a reasonable relationship with the primary use.
62. Industrial Use – See table 17.20.02.
63. Institutional Use - A nonprofit, religious, or public use, such as a church, library, public or private school, hospital, or government owned or operated building, structure, or land used for public purpose.
64. Junk Yard - Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including 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 and not including the processing of used, discarded or salvaged materials as part of manufacturing operations. A junkyard shall also include auto wrecking and salvage operations.
65. kennel (Commercial) - An establishment in which dogs or domestic animals more than six (6) months old are housed, groomed, bred, boarded, trained, or sold for commercial purposes and where animals of any age are not owned by the owner or occupant of the premises. See Chapter 65, Animal Protection and Control.
66. Land Use Plan - The most recently adopted comprehensive (strategic) plan for the City of Burlington, Iowa.
67. Lodging House - A building that contains lodging rooms or rooming units, which accommodate persons and where lodging or meals, or both, are provided for compensation. The term "lodging house" shall be construed to include: boarding house, rooming house, fraternity house, sorority house, dormitories and other similar uses not otherwise defined as a bed and breakfast.
68. Lot - A parcel of land intended for separate ownership, development or other use and that is described or platted in a subdivision recorded pursuant to the Subdivision Regulations or otherwise recorded with the office of the Des Moines County Recorder.
69. Lot Coverage – Includes the perimeter area of all structures covered by a roof, including garages, sheds, carports, porches, and other primary and accessory buildings. This does not apply to paving or uncovered decks and patios.
70. Lot Frontage - The front of a lot shall be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section. The principal building on a lot shall front on a street or a public place.
71. Lot Width - The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the building line; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line or front property line) shall not be less than eighty percent (80%) of the required lot width except in

the case of lots on the turning circle of a cul-de-sac where eighty percent (80%) requirement shall not apply.

72. Lot Depth - The distance from the front lot line to the rear lot line. In the case of a lot of irregular shape, the mean depth shall be the lot depth.
73. Lot of Record - A lot which is part of a subdivision recorded in the office of the Des Moines County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
74. Lot Types - Chart A illustrates terminology used in this chapter with reference to "corner" lots, "interior" lots and "through" lots as follows:
 - a. "corner" lot - a lot located at the intersection of two (2) or more streets.
 - b. "interior" lot - a lot other than a corner lot with only one (1) frontage on a street other than an alley.
 - c. "through" lot - a lot other than a corner lot with frontage on more than one (1) street other than an alley. Lots with frontage on two (2) non-intersecting streets may be referred to as "through" lots. On through lots the required front yard shall be provided on both streets.
75. Major Event Entertainment – See table 17.20.02.
76. Manufactured Home - A factory built structure that is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, and is to be used as a place for human habitation; but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have, permanently attached to its body or frame, any wheels or axles.
77. Manufacturing - Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.
78. Medical Centers – See table 17.20.02.
79. Mobile Home - Any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting, 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.
80. Modular Home - A factory built structure which is manufactured or constructed to be used as a place for human habitation but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles, is constructed to comply with the Iowa state building code for modular factory built structures, and must display the seal issued by the State Building Code Commissioner.
81. Motel - See "Hotel."
82. Night Club - Premises established and operated for the sale and/or dispensing of alcoholic beverages by the drink for on-site consumption, and may include supplying entertainment, music and/or similar use.
83. Nonconformity - Lot, structure, use of land and structures, or characteristics of uses, which are prohibited under the terms of this chapter but were lawful prior to the date of enactment of these regulations.
84. Nursing Home - Any building or portion thereof used for providing residential care for two or more invalid, infirm, aged, convalescent, or physically disabled or injured persons, not

- including insane or other mental cases, inebriate, or contagious cases. These facilities shall not contain equipment for surgery or for the treatment of serious injury.
85. Nursery School - A private establishment enrolling children, where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed or approved to operate as a childcare center and which requires more than one attendant.
 86. Official Zoning Map - The Official Zoning Map for the City, as adopted June 2, 2003 and as subsequently amended.
 87. Office Commercial Use – See table 17.20.02.
 88. Owner – Any person, lien holder, mortgage holder or other entity that holds a legal or equitable interest of record in the property.
 89. Outdoor Storage - The keeping, in an unenclosed area, any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.
 90. Overlay Zone - A mapped area to which a uniform set of regulations serving a particular purpose applies as a supplement to Base Zone regulations.
 91. Parking Lot - An off-street, surfaced, open area used for the temporary storage of five (5) or more motor vehicles. Such lot is available to the public, whether residents, visitors or employees, for compensation or for free.
 92. Parking Space - Any area designed and used for temporary location of a vehicle. "Parking space" shall not include any vehicular storage areas. See Sec. 17.30.50 for parking regulations.
 93. Parks and Open Areas – See table 17.20.02.
 94. Permitted Use - A use by right, which is specifically authorized in a particular zoning district.
 95. Porch - A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building.
 96. Principal Use - The primary permitted use of land or structures on a lot, tract, or parcel.
 97. Projections (into yards) - Parts of buildings such as architectural features that extend beyond the building's exterior wall.
 98. Recreational Vehicle - A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes. This definition also includes boats and appurtenant trailers.
 99. Religious Institutions – See table 17.20.02.
 100. Restaurant - A use engaged in the preparation and retail sale of food and beverages, including sale of alcoholic beverages when conducted as an accessory or secondary feature and producing less than fifty percent (50%) of the gross income.
 101. Retail Sales and Service (general) – See table 17.20.02.
 102. Retail Personal, Business, and Repair – See “retail sales and service.”
 103. Rooming House - See “Lodging House.”
 104. Roadside Stand - A structure and/or use which is accessory to the principal use or structure for the purpose of selling products grown or raised on the premises.
 105. Schools – See table 17.20.02.

106. Service Station (Gas Station) - A building or premises used for dispensing or offering for sale at retail any automotive fuels, oils, or having pumps and storage tanks, or where batteries, tires or any similar services are rendered, and where vehicles are not parked for purposes of inspection or sale, and where no major repair work is conducted on site.
107. Setback - The distance that is required by this Zoning Code to be maintained in an unobstructed state between a structure and the property line of the lot on which the structure is located.
108. Short-Term Lodging – See table 17.20.02.
109. Signs - See Chapter 17.75.
110. Site Plan - A plan showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land in such detail as may be required by the applicable provisions of this Zoning Code. (See Section 17.40.103.)
111. Social Service Providers – See table 17.20.02.
112. Specified Anatomical Area - (1) less than completely and opaquely covered human genitals, pubic regions, buttocks, anus, or female breasts below a point above the top of the areola; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
113. Specified Sexual Activities - (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast, (2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth in (1) through (3) of this definition.
114. Sports and Recreation Arena - A large enclosed or unenclosed building and/or structure with tiers of seats for spectators at sporting or other recreational events.
115. Story – See adopted Building Code definition for the City of Burlington.
116. Story, Half - see adopted Building Code definition for the City of Burlington.
117. Street - All property dedicated or intended for public or private use designed and used for the passage of vehicles.
118. Street Line - The right-of-way line of a street.
119. Structure - Anything constructed or erected which requires location on the ground or attached to something having a location on the ground, including signs and billboards, but not including fences or walls used as fences.
120. Structural Projections – Any portion of a building or of the supporting members of a building or structure containing walls, columns, beams, arches, girders, floor joists, roof joists or roof trusses required for the structural support of the principal and accessory structures. See also Architectural Projections.
121. Transitional Living Facilities - Residences for the physically disabled, mentally retarded, or emotionally disturbed which do not meet the definition of “family home.”
122. Terrace - A level, landscaped, and/or surfaced area, also referred to as a deck or patio, directly adjacent to a principal building at or within three (3) feet of the finished grade and not covered by a permanent roof.
123. Title – Refers to “Title 17” Zoning and Subdivision Regulations of the City of Burlington.
124. Unenclosed – Refers to a structure that may or may not be covered, but is not surrounded by or covered by walls or other material on more than three sides.

125. Use - The purpose or activity for which a piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained.
126. Vehicle Service Facilities – See table 17.20.02.
127. Warehousing - Establishments or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment other than live animals and plants.
128. Wholesale Trade – See table 17.20.02.
129. Yard - An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, excepting as otherwise provided herein.
130. Yard, Front – An open space on a yard across the full width of the lot, extending from the front line of any building , except as herein provided, to the front property line of the lot. On corner lots, the front yard shall be observed on all of the yards having street frontage, provided that the front yard that is parallel to the street in which the lot has its greatest dimension may be allowed to decrease to a distance no less than ten (10) feet. (See Chart A)
131. Yard, Rear – An open space on a yard extending the full width of the lot between a principal building and/or structure and the rear lot line. For the purpose of determining the rear yard on corner lots; the rear yard shall be the opposite end of the front yard that is parallel to the street in which the lot has its least dimension. (See Chart A)
132. Yard, Side - A yard extending from the front yard to the rear yard and measured between the side lot lines and the building. (See Chart A)
133. Zero Lot Line - The location of a building on a lot in such a manner that one (1) or more of the building's sides rest directly on a lot line.
134. Zoning District - A section the City designated in the text of the zoning regulations and delineated on the Zoning Map in which requirements for the use of land, the building, and development standards are prescribed. Within each district, all requirements are uniform.