

ARTICLE 1. Basic Provisions

Article 1: Basic Provisions

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Section 1.1. SHORT TITLE.

This ordinance shall be known and may be cited and referenced as the “Sutherland Zoning Ordinance to the same effect as if the full title were stated.

Section 1.2. JURISDICTION.

In accordance with the provisions of Chapter 414, Code of Iowa, and amendatory acts thereto, this ordinance is adopted by the City of Sutherland, Iowa, governing the zoning of all lands within the corporate limits of the city.

Section 1.3. REPEAL AND SAVINGS CLAUSE.

Effective on the effective date of this ordinance, the previous Sutherland Zoning Ordinance and amendments thereto are hereby repealed. The repeal of said ordinance shall not have the effect to release or relinquish any penalty, forfeiture or liability incurred under said ordinance or any part thereof; and such ordinance and all parts thereof shall be treated as remaining in force for instituting or sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability.

Section 1.4. VALIDITY AND SEVERABILITY CLAUSE.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such ruling shall not affect the validity of the ordinance in its entirety or any part thereof not specifically included in said ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this ordinance to a particular land, parcel, lot, district, use, building or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building or structure not specifically included in said ruling.

Section 1.5. INTERPRETATION OF REGULATIONS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Where this ordinance imposes a greater restriction than is imposed or required by other provisions of law or other rules or regulations or ordinances, the provisions of this ordinance shall govern. This ordinance is not intended to abrogate or annul any easement, covenant or other private agreement provided where any provision of this ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant or other

private agreement, the provision of this ordinance shall govern.

Section 1.6. GENERAL PURPOSE.

The various zoning districts, created by this ordinance and the various articles and sections of this ordinance, are adopted for the purpose among others to:

1. Promote public health, safety, morals, comfort, general welfare, and preserving the natural resources, and historically significant areas of the city.
2. Help achieve greater efficiency and economy of land development by promoting the grouping of those activities which are compatible.
3. Encourage classification of land use and distribution of land development within the city to facilitate adequate and economic provision of transportation, communication, water supply, drainage, sanitation, education, recreation, and other public requirements.
4. Ensure all residential, commercial, and industrial structures as well as other types of structures will be accessible to firefighting and other emergency equipment.
5. Promote the development of residential neighborhoods in which each dwelling is assured the provision of light, air, and open spaces.
6. Discourage nonconforming uses of land, buildings, and structures which negatively affect the character and value of development in each district.
7. Minimize the effects of nuisance producing activities.
8. Preserve the taxable value of the land and buildings throughout the city.
9. Define the powers and duties of city council, board of adjustment and zoning administrator.

Section 1.7. COMPREHENSIVE PLAN RELATIONSHIP.

These regulations are designed to implement and support various elements of the city's comprehensive land use plan as required by Iowa Code. Any amendment to the district regulations or map shall conform to the Sutherland Comprehensive Plan.

ARTICLE 2. DEFINITIONS

Article 2: Definitions

Section 2.1. General Zoning Definitions

Section 2.2. Specific Land Use Definitions

Section 2.1. GENERAL ZONING DEFINITIONS.

For interpreting this ordinance certain words, terms and expressions are hereby defined:

- Words used in the present tense shall include the future
 - Singular shall include the plural and the plural includes the singular
 - The word "may" is discretionary and the word "shall" is always mandatory
 - 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
 - The word "lot" includes the words plot or parcel and all other words or phrases used to denote an individual building site that complies with the minimum requirements of this ordinance
 - The word "includes" means including but is not limited to
1. ACCESSORY BUILDING (OR STRUCTURE): Any building or structure that is subordinate to the principal building or structures on the lot, not attached thereto and used for purposes customarily incidental to those of the principal building. Examples include antennas, solar collectors, wind generators, satellite dishes, gazebos, storage sheds, and detached garages.
 2. ACCESSORY USE: A use which is incidental to the principal use of the premises; subordinate in extent or purpose to the principal use served; contributes to the comfort, convenience, or necessity of occupants of the principal use; and is located on the same zoning lot as the principal building or use.
 3. ADDITION: Any construction that increases the site coverage, height, length, width, or gross floor area of a structure.
 4. ALLEY: A public way that affords only a secondary means of access to abutting property.
 5. ALTERATION (STRUCTURAL): Any replacement or change, except those required by law or ordinance, in the type of construction or the supporting members of a building, such as bearing walls, partitions, columns, beams, or girders beyond ordinary repairs and maintenance, but not including openings in bearing walls.
 6. APARTMENT: See Dwelling, Multi-Family. A room or set of rooms occupied as a dwelling unit, which is part of a multi-family structure containing cooking and housekeeping facilities for each dwelling unit.

7. ATTACHED: Having one or more walls in common with a principal building or joined to a principal building by a covered roof, porch, or passageway.
8. ATTIC: A space under any roof, the finished floor of which is at or entirely above the level of the wall plates of at least two (2) exterior walls.
9. BASEMENT: That portion of a building that is either partly or completely below grade. *(Building Officials and Code Administrators (BOCA) Basic/National Building Code).*
10. BLOCK: That property abutting on one side of a street and lying within the two nearest intercepting or intersecting streets or lying within the nearest intercepting or intersecting streets and unsubdivided acreage or railroad right-of-way.
11. BUILDABLE AREA: The portion of a lot remaining after required yard setbacks are provided.
12. BUILDING: Any roofed structure supported by posts, columns, supports, walls or other structure and intended for the shelter, support, enclosure, or housing of persons, animals, or property of any kind. When any portion thereof is separated by fire rated division walls from the ground up without openings, each portion of such structure is deemed a separate building. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such open structures with a roof shall make them one building.
13. BUILDING HEIGHT: The vertical distance in a straight line from the curb level to the highest point of the roof. Where a building is situated on ground above the curb level, or where no curb grade is established, such height shall be measured from the ground adjacent to the main door entrance (typically the side of the building that is addressed).
14. BUILDING LINE: A line established by setbacks from the front property line, rear lot line, and width of side lot lines in which buildings or structures may be built up to.
15. BUILDING, PRINCIPAL: A building in which the primary use of the lot or parcel, on which it is located, is conducted.
16. BUILDING WALL: The wall of the principal building forming a part of the main or primary structure. The foundation walls of uncovered porches, decks, steps, walks, and retaining walls or similar structures are not considered building walls under the provisions of this ordinance.
17. BUSINESS: The word “business” or “commercial” when used herein refers to the engaging in the purchase, sale or exchange of goods or services, or the operation for profit of offices or recreational amusement enterprises.
18. CARPORT: Space for the parking, housing, or storage of vehicles which is enclosed on not more than two (2) sides by affixed or semi-permanent walls. Those structures identified as hoop buildings, portable or foldable buildings, tent buildings or fully enclosed steel buildings

shall not be considered a carport for purposes of this ordinance. Carports attached to the principal building are considered a part of the principal building and shall be of similar appearance or materials to the principal building. Freestanding carports are considered an accessory building.

19. CITY: The City of Sutherland, Iowa.
20. COMMISSION (OR PLANNING COMMISSION): The Sutherland Planning and Zoning Commission.
21. CONTIGUOUS: Being in actual contact or touching along a boundary or at a single point. Contiguous properties are touching or connected along an unbroken sequence. Similar to the definition of “adjoining” which also means touching or bounding at a point or line. For purposes of this definition, contiguous shall also apply to two or more properties separated by an alley.
22. COUNCIL: The Sutherland City Council.
23. CURB LEVEL: The established curb grade adjacent to a lot.
24. DECK: A non-roofed structure open on two or more sides projecting from a wall of a building. Decks higher than 12” above the average grade of the adjoining ground are subject to required yard setbacks.
25. DETACHED: Fully separated from any other structure. Not attached.
26. DOMESTICATED ANIMALS: Those animals that are tamed and made fit to live in a human environment. Those animals considered pets such as dogs, cats, birds, or other tamed animals which serve a purpose for its owner or others.
27. DRIVEWAY: A surfaced area providing vehicular access between a street and an off-street parking area or parking structure (i.e. garage or carport). A driveway shall be of the same width or less as the designated parking area or building intended for parking or housing of vehicles.
28. DWELLING: Any building or portion thereof designed or used exclusively for residential purposes, but not including a tent, camper, camping trailer, or factory-built home not located within a manufactured home subdivision or mobile home park. However, a dwelling shall include any factory-built home constructed to comply with the Iowa State Building Code for modular factory built structures.
29. DWELLING, SINGLE FAMILY: A detached building that is arranged, designed for, or occupied exclusively by one (1) family.

30. DWELLING, TWO FAMILY: A detached building that is arranged, designed for, or occupied exclusively by two (2) families living independently of each other with separate living, cooking and bathroom facilities.
31. DWELLING, MULTIPLE-FAMILY: A building or group of buildings arranged, designed, or intended to be used or occupied as the residence of three (3) or more families living independently of each other with separate living, cooking and bathroom facilities.
32. DWELLING UNIT: A room or group of rooms arranged, designed, or used as living quarters for the occupancy of one (1) family and containing independent living, cooking and bathroom facilities.
33. EASEMENT: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.
34. ENCROACHMENT: Any obstruction of, or an illegal or unauthorized intrusion in a delineated floodway, right-of-way, adjacent lands, or designated yard setback area.
35. ENGINEER, CITY: A duly qualified licensed engineer or engineering firm designated by the city council.
36. ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance by developers, public or private utilities, or governmental agencies of underground or overhead electrical, telecommunication, water, wastewater, stormwater or gas transmission or distribution systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in conjunction with and necessary for the furnishing of adequate services by such public utilities, governmental agencies and/or for the public health, safety or general welfare, but not including buildings or conditional uses as established by this ordinance.
37. FAÇADE: The exterior walls of a building exposed to public view or a wall viewed by persons not within the building.
38. FACTORY-BUILT STRUCTURE: Any structure, building, component, assembly, or system that is made or assembled in manufacturing facilities for installation or assembly on the building site. Factory-built structures also mean, at the option of the manufacturer, any structure or building made or assembled in manufacturing facilities away from the building site, for installation, or assembly and installation, on the building site.
39. FACTORY-BUILT HOUSING: A factory-built structure designed for residential use. For purposes of these regulations, factory-built housing may consist of three types: modular homes, mobile homes, and manufactured homes.

40. FAMILY: A person living alone, or group of persons related to the second degree of collateral consanguinity by blood, marriage, adoption, guardianship, or otherwise duly authorized custodial relationship as verified by official public records such as drivers licenses, birth or marriage certificates living together on the premises as one housekeeping unit and sharing common living, sleeping, cooking, and eating facilities; but does not include more than five (5) unrelated persons living together by joint agreement and occupying a dwelling unit on a nonprofit cost sharing basis.
41. FENCE: Any artificially constructed barrier of approved fencing material or combination of materials erected to enclose or screen areas of land, constructed in accordance with the regulations identified in Section 12.7.
42. FLOOR AREA: The square feet of floor space within the outside line of walls and/or supports, including the total of all space on all floors of a building. Floor area shall not include porches, garages, or space in a basement.
43. FRONTAGE: The distance of a front lot line as measured along the public way or street.
44. GARAGE: A building or portion thereof in which one or more motor vehicles are owned and used by the occupants of the building or the renting or leasing of space as provided herein, but in which no business service or industry connected with the motor vehicles is carried on.
45. GARAGE, ATTACHED: A private garage attached to a main building by means of a common wall, breezeway, or roof.
46. GRADE: The lowest horizontal elevation of a finished surface of the ground, paving, or sidewalk at a point where the height is to be measured.
47. HOME OCCUPATION: An accessory business, occupation, profession, or activity conducted entirely within or carried on in a dwelling unit or accessory buildings by the inhabitants thereof; and such use is incidental and secondary to the residential use and complies with the provisions of Section 13.5 of this ordinance.
48. HOUSEHOLD: A family living together in a dwelling with common access to all living and eating areas and all facilities within the dwelling.
49. HOUSING UNIT: See Dwelling Unit.
50. IMPERVIOUS SURFACE: Any material preventing absorption of stormwater into the ground.
51. INCIDENTAL: Subordinate and minor in significance and bearing a reasonable relationship with the primary use.

52. **INSTITUTION:** A building or premises occupied by a nonprofit corporation or establishment for public use.
53. **JUNK (OR SALVAGE):** All old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery, or appliances; iron, steel, or other old scrap ferrous materials; old or discarded glass, tin ware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
54. **JUNK VEHICLE OR JUNK MACHINERY:** Any vehicle or other machines providing means of transportation or portions thereof not in running condition stored within the corporate limits of the city and/or not licensed for the current year as provided by law and not legally placed in storage with the Treasurer of O'Brien County, or any other non-operating vehicle or machinery situated within any yard of any lot or parcel and located in open view to the public for a period of more than thirty (30) days which, because of its defective or obsolete condition, or rotted, rusted or loose parts or in any other way constitutes a threat to the public health, welfare or safety.
55. **JUNK YARD (or SALVAGE YARD):** Any open area of any lot or parcel where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, kept, stored, or handled, including scrap metals or scrap materials, or the abandonment, or dismantling or "wrecking" of machinery, motor vehicles, or other vehicles, or parts thereof. Junkyards include but not limited to wrecking yards, used, or abandoned lumber yards, auto salvage yards and places utilized or intended for the storage of salvaged and structural steel materials and equipment; but not including those areas where such uses occur entirely within a completely enclosed building. A solid waste transfer station, recycling center or sanitary landfill is not considered a junk yard or salvage yard for purposes of this ordinance.
56. **LAND USE:** A description of how land is occupied or utilized.
57. **LANDSCAPED:** An area devoted to or developed predominantly with plant materials or natural features including lawn, gardens, trees, shrubs, and other plant materials; and also including accessory outdoor landscape elements such as pools, fountains, water features, paved or decorated surfaces of rock, stone, brick, block or similar material (excluding driveways, parking, or storage areas), provided that the use of brick, stone or other inorganic materials shall not predominate over the use of natural materials.
58. **LOADING SPACE:** An area used for loading or unloading of goods from a vehicle for the use of the site on which such space is located.
59. **LOT:** A parcel of land established by plat, subdivision or as otherwise permitted by law which may be owned, used, developed, or built upon and having at least thirty feet (30') of its principal frontage upon a public street.

60. LOT AREA: The horizontal area bounded by the front, side, and rear lot or property lines.

61. LOT COVERAGE: The area of a lot covered by roofed areas of buildings and ground level paving, but excluding incidental projecting eaves and gutters, balconies and similar features, landscaping, and open recreational facilities.

62. LOT, CORNER: A lot fronting on two (2) or more intersecting streets.

63. LOT, INTERIOR: A lot other than a corner lot.

64. LOT, THROUGH: An interior lot having frontage on two parallel, or approximately parallel streets, and known as a double frontage lot.

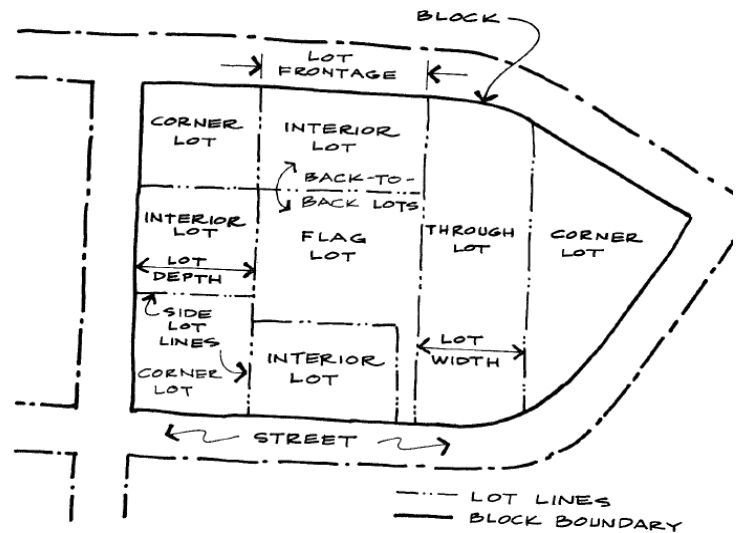


Image source: *The New Illustrated Book of Development Definitions*, Harvey S. Moskowitz & Carl G. Lindbloom

65. LOT DEPTH: The mean horizontal distance between the front and rear lot lines.

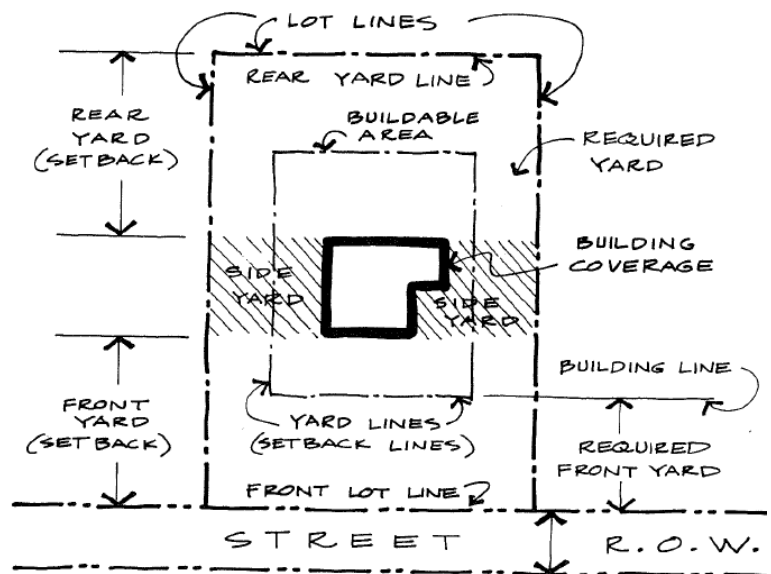
66. LOT LINES: The property lines bounding a lot.

67. LOT LINE, FRONT: The property line separating a lot from a street or road right-of-way or easement.

68. LOT LINE, REAR: A property line which is opposite and most distant from the front lot line.

69. LOT LINE, SIDE: Any boundary lines not a front lot line or a rear lot line.

70. LOT OF RECORD: A lot which is a part of a legal subdivision of the City of Sutherland, Iowa, the plat of which has been recorded in the office of the County Recorder of O'Brien County, Iowa; or a lot or parcel of land, the deed or valid contract of sale of which was recorded in the office of the County Recorder prior to the effective date of this ordinance.



Images Source: *The New Illustrated Book of Development Definitions*, Harvey S. Moskowitz & Carl G. Lindbloom

71. LOT WIDTH: The average horizontal distance between the side lot lines.
72. MANUFACTURED HOME: A factory-built structure built under authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, that is required by law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976 (*Code of Iowa, Sec. 435.1*). If a manufactured home is placed in a mobile home park, the home must be titled and is subject to the mobile home square foot tax. If a manufactured home is placed outside a mobile home park, the home is to be assessed and taxed as real estate.
73. MANUFACTURED HOME COMMUNITY: The same as land-leased community defined in Sections 335.30A and 414.28A Code of Iowa. (*Code of Iowa, Sec. 435.1*) Any site or tract of land upon which two (2) or more occupied manufactured homes are parked and connected to utilities, either free of charge or for revenue purposes, and shall include any building, structures, or enclosure used or intended for use as part of the equipment of such manufactured home community. A manufactured home community or mobile home park shall not be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or a mobile home park must be classified as to whether it is a "residential" or "recreational" manufactured home community or mobile home park or both. The manufactured home community or mobile home parks residential landlord and tenant Act, Chapter 562B, Code of Iowa, only applies to "residential" manufactured home community or mobile home park. (*Code of Iowa, Sec. 435.1*)
74. MOBILE HOME: Any vehicle without motive power used or so manufactured or constructed as to permit it 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; and also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976. (*Code of Iowa, Sec. 435.1*). All mobile homes shall be located only within a mobile home park, as herein defined in this ordinance.
75. MOBILE HOME PARK: Any site, lot, field, or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer, or septic, and electrical services available. (*Code of Iowa, Sec. 435.1*)
76. MOBILE OR MANUFACTURED HOME CONVERTED TO REAL ESTATE: An unencumbered mobile or manufactured home attached to a permanent foundation on real estate owned by the mobile or manufactured home owner, which has the vehicle frame destroyed, rendering it impossible to reconvert to a mobile structure. If a manufactured home is placed in a manufactured home community or a mobile home park, the home must be titled and is

subject to the manufactured or mobile home square foot tax. If a manufactured home is placed outside a manufactured home community or a mobile home park, the home must be titled and is to be assessed and taxed as real estate. (*Code of Iowa, Sec. 435.2*)

- 77. **MOBILE OR MANUFACTURED HOME SUBDIVISION:** A subdivision designed per the Sutherland Subdivision Regulations, and is designed only for the location of mobile or manufactured homes on lots owned by the mobile or manufactured home owner.
- 78. **MODULAR HOME:** A factory-built structure which is manufactured or constructed to be used as a place of human habitation, and is constructed to comply with the Iowa State Building Code for modular factory-built structures, as adopted pursuant to Section 103A.7, Code of Iowa; and must display the seal issued by the state building code commissioner. If a modular home is placed in a manufactured housing community or mobile home park, the home is subject to the annual tax as required by Section 435.22, Code of Iowa. If a modular home is placed outside a manufactured housing community or mobile home park, the home shall be considered real property and assessed and taxed as real estate. (*Code of Iowa, Sec. 435.1*)
- 79. **NONCONFORMING USE:** A lawful use of any land, building, or structure not conforming with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.
- 80. **NONCONFORMING STRUCTURE (OR BUILDING):** A structure or building in size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the zoning regulations codified in this chapter, but which fails to conform to present requirements of the zoning district.
- 81. **NUISANCE:** Anything considered to be unreasonably improper, offensive, or injurious.
- 82. **OCCUPANCY (or OCCUPIED):** The residing of an individual or individuals overnight in a dwelling unit or the storage or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.
- 83. **OPEN SPACE:** Any parcel or area of land essentially unimproved, designated or reserved for the use or enjoyment of the owners, occupants, neighbors or the public. Open spaces are not primarily occupied by structures or impervious surfaces.
- 84. **PARKING LOT:** A parcel of land devoted to unenclosed parking spaces.
- 85. **PARKING FACILITY:** A designated area on a lot or within an enclosed building, or both, including more than one parking space together with driveways, turning and maneuvering areas, clearances, and similar features while meeting the requirements of this ordinance. The term “parking facility” shall include parking lots, garages, and parking structures.

86. **PARKING SPACE:** An area, enclosed or unenclosed, having not less than two hundred (200) square feet plus necessary maneuvering space for the parking of a vehicle, and connected with a street or alley that affords satisfactory ingress and egress for vehicles. Space for maneuvering, incidental to parking or unparking, shall not encroach upon any public right-of-way. Driveways for one and two family structures may be considered as parking spaces to meet the requirements of this ordinance.
87. **PATIO:** An area covered with any material such as brick, stone, wood blocks, concrete, etc., with the material being placed directly on the ground and intended for an outdoor living space. A patio area may be built up with fill to provide for a level base. No vertical supports of any type are allowed.
88. **PERMANENT FOUNDATION:** A permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer (for mobile or manufactured home) or required by the State Building Code. The foundation system must be visually compatible with permanent foundations systems of surrounding residential structures. Any such mobile or manufactured home shall be installed in accordance with the requirements of the State Building Code. (*Code of Iowa, Sec. 103A.10 & 414.28*)
89. **PORCH, OPEN:** A roofed structure, open on two (2) or more sides, projecting from the front, side, or rear wall of the building.
90. **PROHIBITED USE:** Any use that is not permitted in a zoning district.
91. **PROPERTY:** A lot, parcel, or tract of land together with buildings and structures located thereon.
92. **PUBLIC NOTICE:** The publication of the time and place of any public hearing for zoning purposes not less than seven (7) days or not more than twenty (20) days prior to the date of said hearing in one newspaper of general circulation in the city.
93. **RECREATIONAL VEHICLE:** A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes; but not intended for permanent human occupancy. The term recreational vehicle shall include, but shall not be limited to travel trailers, campers, camping trailers, motor coach homes, converted trucks and buses, boats and boat trailers, snowmobiles, off-road vehicles, ATV's, jet skis, etc.
94. **RECREATIONAL VEHICLE PARK:** Any area providing developed spaces for three (3) or more recreational vehicles for temporary occupancy for revenue purposes.
95. **RESIDENTIAL PURPOSES:** The intent to use and/or the use of a room or group of rooms for the sleeping, living and housekeeping activities for the same person or the same group of persons on a permanent or semi-permanent bases of an intended tenure of one month or more.

96. ROAD OR STREET LINE: The dividing line between a lot, tract, or parcel of land and a contiguous road, street, or alley.
97. ROADSIDE STAND: A temporary structure, unenclosed, and so designed and constructed that the structure is easily portable or can be readily moved, and which is adjacent to a road and used for a sale of farm products or other homemade goods or food products.
98. SETBACK: The required distance between any lot line and the supporting walls or structures of any building or deck.
99. SETBACK LINE: A line parallel to and measured from a corresponding lot line, forming the boundary of a required yard, and governing the placement of structures and uses on the lot.
100. SIGHT TRIANGLE: An area forming a triangle bounded by the street right-of-way lines or property lines of a corner lot and a straight line joining points twenty-five feet (25') from the point of intersection of the right-of-way or property lines. (See Section 12.5)
101. SITE DEVELOPMENT REGULATIONS: The combinations of controls that establish the maximum size of a building and its location on the lot. Components of site development regulations include: size and height of building; location of exterior walls at all levels with respect to lot lines, streets, or other buildings; building coverage; gross floor area of building in relation to the lot area; open space; and amount of lot area provided per dwelling unit.
102. SITE PLAN: A plan, prepared to scale, showing accurately and with complete dimensions, all the buildings, structures and uses, and principal site development features including parking, access, and landscaping and screening proposed for a specific parcel of land.
103. SPOT ZONING: Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the comprehensive plan.
104. STEPS: A projection from a structure to provide a transition between ground level and floor level used and intended for entering or exiting a structure.
105. STORY: That portion of a building contained between the surface of any floor and the surface of the next floor or a ceiling above.
106. STORY, HALF: A space under a sloping roof, which has the line of intersection of roof decking and exterior wall not more than four and one-half (4½') feet above the finished floor of the top floor level.
107. STREET: Any public thoroughfare other than an alley, which affords a principal means to abutting property.

108. **STREET LINE:** The dividing line between a lot, tract, or parcel of land and the right-of-way line of a road, street, or highway.
109. **STRUCTURE:** Anything built, constructed, moved, located, or erected the use of which requires a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things structures include buildings, mobile or manufactured homes not converted to real estate, billboards, decks, and carports.
110. **SUBSTANDARD LOT (or NONCONFORMING LOT):** A lot of record that does not comply with currently applicable minimum area, width, or depth requirements for the district in which it is located, but which complied with applicable requirements when it was placed on record prior to the enactment of this ordinance.
111. **SWIMMING POOL:** Any artificially constructed structure capable of being used for swimming or bathing, having a depth of more than two feet (2') at any point or a circumference of more than five feet (5') at its widest point. This includes in-ground and above-ground swimming pools, hot tubs, and spas. Portable wading pools having a depth of less than two feet (2') and a circumference of less than five feet (5') shall not be considered "swimming pools."
112. **TEMPORARY BUILDING OR STRUCTURE:** A building or structure without any foundation or footings, or not permanently attached to the ground; and is removed when the designated time, activity, or use has ceased.
113. **TOWNHOUSE:** A dwelling having a common wall with or abutting adjoining dwellings in a group of at least three (3) dwellings together.
114. **TRAVEL TRAILER:** See: Recreational Vehicle.
115. **USE:** The conduct of an activity or the performance of a function or operation, on a site or in a building or structure.
- a. Principal Use: The main use of land or structures of a lot or property as distinguished from an accessory use.
 - b. Permitted Use: Any use permitted as a matter of right when conducted in accordance with the regulations established by this ordinance; which fulfills the primary function of a household, establishment, institution, or other entity.
 - c. Conditional Use: A use allowable solely on a discretionary and conditional basis subject to a conditional use permit authorized by the board of adjustment, and to all other regulations established by this ordinance.
 - d. Accessory Use: A use or activity located on the same lot and of a nature customarily incidental and subordinate to the principal use or building on the same site.
116. **UTILITY:** A utility owned and operated by any governmental body or franchised by any governmental body.

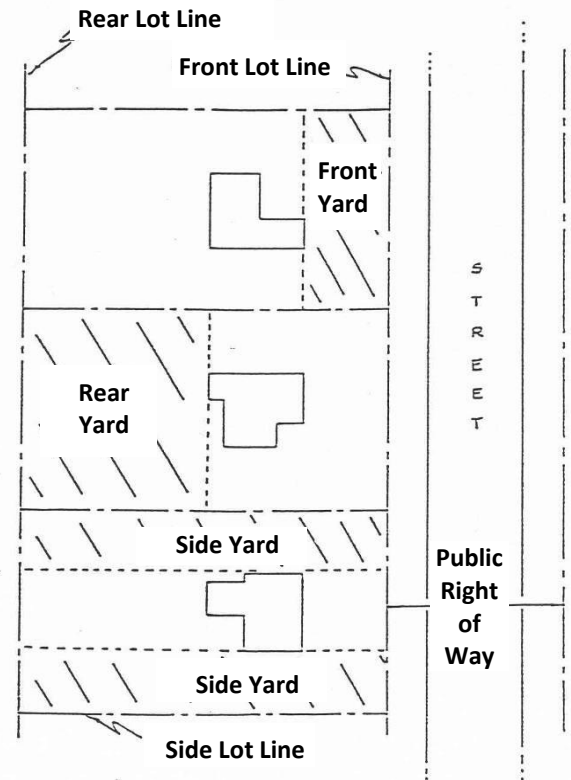
117. **VACANCY:** Any unoccupied land, structure, or part thereof available or suitable for occupancy.

118. **VALUATION:** The one hundred percent (100%) valuation of a building or structure, as determined by the O'Brien County Assessor.

119. **VARIANCE:** A relaxation of the terms of zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the zoning ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure, or size of yards and open spaces. Establishment or expansion of a use prohibited shall not be allowed by variance nor shall a variance be granted because of the presence of nonconformities in the zoning district.

120. **YARD:** An open space containing buildings, structures, landscaping, and other such uses, unobstructed by any portion of a structure from the ground upward, except as those provided for in this ordinance. In measuring a yard for determining the depth of a front yard or rear yard or the width of a side yard, the least distance between the lot line and the main building shall be used. A yard shall be measured exclusive of any public right-of-way.

- a. **FRONT YARD:** An area of yard extending across the full width of the lot and measured between the front lot line and the principal building, exclusive of typical eave projections of not more than two (2) feet.
- b. **REAR YARD:** An area of yard extending across the full width of a lot and measured between the rear lot line and the nearest point of the principal building other than steps. On both corner lots and interior lots the rear yard is considered the opposite end of the lot from the front yard.
- c. **SIDE YARD:** An area of yard extending the depth of a lot from the front yard to the rear yard and measured between the side lot line and the nearest point of the principal building, exclusive of typical eave projections not more than two (2) feet.
- d. **STREET SIDE YARD:** An area of yard extending between the principal dwelling and the lot line abutting a street (not designated as the front yard) on a corner lot.



121. **ZONING:** The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.

122. **ZONING ADMINISTRATOR:** The individual appointed by the city council of Sutherland, Iowa, and is responsible to administer and enforce compliance with the provisions of this ordinance; and to issue zoning permits.
123. **ZONING COMPLIANCE PERMIT:** A permit issued and enforced by the zoning administrator as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building; acknowledging the proposed use, building, or structure complies with the provisions of the zoning ordinance, conditional use, or authorized variance.
124. **ZONING DISTRICT:** A designated land classification, within which all lots and parcels are subject to a unified group of use and site development regulations set forth in this zoning ordinance.
125. **ZONING LOT:** A tract of land, parcel, or multiple contiguous parcels of land under single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.
126. **ZONING MAP:** A map delineating the boundaries of zoning districts.

SECTION 2.2. SPECIFIC LAND USE DEFINITIONS.

The purpose of specific land use definitions is to provide a consistent set of terms encompassing and defining land uses permitted by right or allowed by conditional use, and to provide a procedure for determination of the applicable land use definitions of any activity not clearly within any defined land use classification. In the event of any question as to the appropriate use definition of any existing or proposed use or activity, the zoning administrator shall have the authority to determine the definition, subject to the right of appeal pursuant to Section 17.9. In making such determinations, the zoning administrator shall consider the characteristics of the use in question, and consider any functional, product, service, or physical requirements common with or similar to uses cited as examples of land use definitions.

2.2.1. AGRICULTURAL LAND USE DEFINITIONS:

Agricultural use types may include, but are not limited to the following:

1. *Agriculture:* Any land, farm houses, farm barns, farm out-buildings, or other buildings or structures, which are primarily adapted, by reason of nature and area, for agricultural purposes, while so used.
2. *Animal Husbandry:* The care and breeding of domestic animals, cattle, swine, poultry, horses, sheep, goats, or other similar animals. Such uses conducted in confined animal feeding operations are not permitted within the city limits of Sutherland. Agricultural animals (not including usual domesticated pets) are only permitted within AG district in Sutherland.
3. *Crop Production:* The raising and harvesting of row crops or field crops on an agricultural or commercial basis, including incidental packing and processing.

4. *Farm*: An area used for the growing of usual farm products such as vegetables, fruit and grain and their storage; as well as for the raising of the usual farm poultry and farm animals. The term farming includes the operating of such area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided however, that the operation of any such accessory uses shall be secondary to that of the normal farming activity and such accessory uses do not include the feeding of garbage or offal to swine or other animals, or the commercial feeding of animals or poultry or confined animal operations.
5. *Farmstead*: A tract of land with a farm dwelling and/or related agricultural outbuildings, yards, windbreaks, wells, or other improvements which are held and operated in conjunction with agricultural purposes. An existing farmstead shall be defined as the combination of farm dwelling, support dwelling and any farm accessory buildings.
6. *Farm Dwelling*: A dwelling located on a farm and occupied by the owner, operator, or renter.
7. *Farm Dwelling, Support Housing*: The occupancy of living accommodations by one (1) agricultural employee and their family on the same property as the principal permitted residence, without regard to duration, which occurs in association with agricultural labor.
8. *Horticulture*: The growing of horticultural and floricultural, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes, but excluding retail sales.
9. *Stables*: Boarding, breeding or raising of horses not owned by the occupants of the premises or riding of horses by other than the occupants of the premises or their non-paying guests. Typical uses include but not limited to boarding stables or public stables.

2.2.2. RESIDENTIAL LAND USE DEFINITIONS:

Residential use types include the occupancy of living accommodations on primarily non-transient basis or institutional living arrangements, but excluding those providing forced residence such as prisons or detention centers.

1. *Assisted Living Facility*: Residences for primarily senior or retired persons that provide dwelling units, housekeeping services, meals, personal care, and supervision of self-administered medication. Assisted living facilities may also provide other services such as recreational activities, financial services, and transportation and these facilities are sometimes combined with other types of housing such as congregate apartment housing, senior housing, or residential care services.
2. *Condominium*: The use of a site for three (3) or more dwelling units intended for separate ownership; whereas the units are held in common ownership by the owners of each unit having an undivided interest in the common real estate.
3. *Congregate or Senior Housing*: A residential facility for four (4) or more persons fifty-five (55) years or over providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational and social facilities for the exclusive use of all residents including resident staff who may occupy a room in the facility.
4. *Cottage or Vacation Home*: A small single unit dwelling used for seasonal purposes, vacations, or vacationers' occupancy, and not used as a residence for the entire year.
5. *Family Home (as per Chapter 414.22 Iowa Code)*: A community based residential home licensed as a residential care facility under Chapter 135C of the Iowa Code or as a child foster care facility under Chapter 237 of the Iowa Code to provide room and board, personal care,

habilitation services, and supervision in an environment exclusively for not more than eight (8) persons with developmental disabilities and any support personnel. However, family home does not mean an individual foster care family home licensed under Chapter 237.

6. *Group Residential*: The residential occupancy of living accommodations by groups of more than five (5) persons not defined as a family on a weekly or longer basis. Typical uses include but not limited to fraternity or sorority houses, dormitories, or residence halls.
7. *Mobile Home or Manufactured Housing*: The residential occupancy of mobile homes or manufactured housing by families on a weekly or longer basis. Uses only include mobile home parks or subdivisions and manufactured housing communities.
8. *Multiple Family Residential*: Three (3) or more dwelling units, within one or more buildings.
9. *Nursing Home*: A facility or unit equipped for the accommodation of individuals not requiring hospital care, but needing skilled nursing care, rehabilitative care, or related medical services prescribed by and performed under the direction of persons licensed to provide such care or services in accordance with the law.
10. *Relocated Residential*: An existing, previously built residential structure, intended for occupancy, which has been moved into the community from a location outside of Sutherland, or an existing residential structure that has been relocated from another location from within the community to a new residential site. A relocated residential structure does not include the moving of a new manufactured, modular, or mobile home into the city. Relocated residential properties shall submit a route plan, photographs of the building to be moved, and moving and zoning permits prior to moving a building or structure into Sutherland.
11. *Residential Healthcare Facilities or Services*: A use, other than a hospital or convalescent facility, providing care for ambulatory persons in a residential environment, including overnight occupancy or extended care.
12. *Single Family Residential*: The use of a site for only one (1) dwelling unit.
13. *Townhouse Residential*: The use of a site for three (3) or more dwelling units constructed with common party walls separating dwelling units.
14. *Two Family Residential (duplex or twin home)*: The use of a site for two (2) dwelling units on a single lot or parcel.

2.2.3. COMMERCIAL LAND USE DEFINITIONS:

Commercial land use types include the sale, rental, service, and distribution of goods; and the provision of services other than those classified as industrial or civic uses.

1. *Administrative and Business Offices*: Office of private firms or organizations, which are primarily used for the provision of executive, management, or administrative services. Typical uses include but not limited to administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telemarketing, photocopy and reproduction, and offices of public utilities or associations.
2. *Agricultural Sales and Services*: Establishments or businesses engaged in sale of feed, grain, fertilizers, pesticides, and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include but not limited to nurseries, hay, feed and grain stores, and tree service firms.

3. *Automotive Repair Services*: Repair of automobiles, noncommercial truck, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include but not limited to new and used car dealerships, motorcycle, boat, trailer, and recreational vehicle dealerships.
4. *Automotive Sales and Rental*: Sales or rental of automobiles, noncommercial trucks, motorcycles, motor homes, trailers, and recreational vehicles including boats. Typical uses include but not limited to new and used auto dealerships, motorcycle or recreational vehicle dealerships, auto rental agencies, or trailer sales and rental agencies.
5. *Automotive Washing*: Washing and cleaning of automobiles, related light equipment, and trucks. Typical uses include but not limited to auto laundries, car washes, or truck washes. Does not include large truck cleanouts or wash outs.
6. *Bar*: Any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. Such uses include, but not limited to taverns, night clubs, cocktail lounges, and other such similar uses.
7. *Building Maintenance/Support Services*: Establishments primarily engaged in the provision of maintenance and custodial services to other businesses, along with businesses engaged in the sale, rental or repair of equipment and supplies used by professional establishments. Typical uses include but not limited to janitorial, maintenance and cleaning services, office equipment supply, business machine repair, or hotel equipment and supply firms.
8. *Business or Trade School*: A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.
9. *Community Center*: A place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
10. *Commercial Auction Yards and Barns*: A place or structure where primarily, but not exclusively, livestock, fowl, poultry, or other animals are offered for sale for profit to persons who bid in competition with each other.
11. *Commercial Garage*: A building or portion thereof, other than a private or storage garage, designed or used for equipping, repairing, hiring, servicing, or storing motor vehicles, including incidentals.
12. *Commercial Off-Street Parking*: Parking of motor vehicles on a temporary basis within privately owned off-street parking facility, other than accessory to a principal use. Uses include commercial parking lots or parking garages.
13. *Commercial Recreation*: Establishments or places primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. The following are commercial recreation use types:
 - a) *Indoor Entertainment and Recreation*: Uses conducted within an enclosed building. Typical uses include but are not limited to bowling alleys, ice and roller skating rinks, arcades, motion picture theatres, dance halls.
 - b) *Outdoor Entertainment and Recreation*: Uses conducted in open or partially enclosed spaces. Typical uses include but are not limited to sporting venues, pools, aquatic centers, outdoor activity courts, racing facilities, go-kart track, amusement park or driving range.

14. *Communication Services*: Establishments primarily engaged in the provision of broadcasting and information relay services accomplished using electronic and telephonic mechanisms but exclude those classified as Major Utility Facilities. Typical uses include but not limited to telecommunication services; radio, television, cellular and other similar antennas, towers, or structures; and fiber optic lines and transmission facilities.
15. *Condominium or Business Storage Unit*: A building or series of buildings in which the storage units or floor area is owned independently; and whereas the structure and property is owned on a proportional basis or single ownership. These storage units are designed for individual storage of RVs, boats, watercrafts, snowmobiles, motorcycles, automobiles, antiques, toys, trailers, record storage or other similar uses. Condominium storage must be designed in a way that each unit maintains a separate entrance.
16. *Construction Sales and Services*: Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale of materials used in construction of building or other structures other than retail sale of paint, fixtures, and hardware; but excludes those classified as one of the Automotive and Equipment Services use types. Typical uses include but not limited to building materials stores, tool and equipment rental or sales, or building contractors.
17. *Consumer Repair Services*: Establishments primarily engaged in repair services to individuals, but excluding automotive and equipment uses. Typical uses include but not limited to appliance repair, watch/jewelry repair, or musical instrument repair.
18. *Convenience Storage*: Storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.
19. *Convenience Store*: An establishment engaged in the retail sale of food and household products, including gasoline. The repair, storage or servicing of vehicles shall be prohibited.
20. *Equipment Sales or Repair*: Sale or repair of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment. Typical uses include but not are limited to truck dealerships, construction or farm implement dealerships, truck or implement repair services, and machine shops, but exclude dismantling or salvage.
21. *Financial Services*: Establishments primarily engaged in the provision of financial and banking services. Typical uses include but not limited to banks, savings and loan institutions, loan and lending activities, and similar services.
22. *Funeral Services*: Establishments engaged in undertaking services such as preparing the human dead for burial, arranging, and managing funerals. Typical uses include but not limited to funeral homes, crematoriums, or mortuaries.
23. *General Retail Sales or Store*: An enterprise offering goods, products, or services for sale to the consumer for direct consumption and not for resale. Sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified more specifically in this section inclusive. Typical uses include but not limited to department stores, grocery stores, apparel stores, furniture stores, or establishments providing cleaning products; drugs, cards, stationery, books, tobacco, cosmetics, flowers, plants, hobby materials, toys, apparel, jewelry, fabrics, cameras, photography, electronics, sporting goods, kitchen supplies, home furnishing, appliances, art supplies, antiques, paint and wallpaper, floor coverings, decorating services, office supplies, bicycles, and automotive parts.

24. *Golf Course*: Land area and buildings containing golf course, club house, pro shop, restaurant and lounge, swimming pool and tennis courts and other services or buildings typically associated with a golf course.
25. *Health Recreation Facility*: An indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa or sauna, and athletic or recreation clubs.
26. *Hospital Services*: A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an inpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.
27. *Kennel, Commercial*: A commercial establishment in which more than four (4) dogs or cats, or other domesticated non-farm animals and/or pets over the age of six months are housed, groomed, bred, boarded, trained, or sold all for a fee or compensation. Typical uses include but not limited to boarding kennels, pet motels, or dog training centers.
28. *Laundry, Self-Service*: Establishments primarily engaged in the provision of home-type washing, drying, and or ironing facilities for customers on the premises.
29. *Liquor Sales*: Establishments or places of business engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include but not limited to liquor stores, bottle shops, or any licensed sales for off-site consumption.
30. *Maintenance and Service Facilities*: A facility supporting maintenance, repair, materials storage, and similar activities, including equipment service centers and similar uses having characteristics of commercial services, contracting or industrial activities.
31. *Medical Clinics/Offices*: A use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts licensed for practice by the State of Iowa.
32. *Personal Improvement Services*: Establishments primarily engaged in instructional, personal improvement and similar services of nonprofessional nature. Typical uses include but not limited to photography studios, reducing salons, dance studios, handicraft, or hobby stores.
33. *Personal Services*: Establishments or places of business primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include but not limited to beauty and barbershops, seamstress, tailor, shoe repair shops, or apparel cleaning.
34. *Pet Services*: Retail sales and grooming of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include but not limited to pet stores, animal bathing facilities, or pet grooming shops.
35. *Professional Office*: Any building or part thereof used by one (1) or more persons engaged in the practice of law, accounting, architecture, medicine, engineering, and other occupations customarily considered a profession.
36. *Restaurant*: A use engaged in the preparation and retail sales 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. A general restaurant may include live entertainment. Typical uses include but not limited to restaurants, lounges, bar & grills, and other similar establishments with incidental alcoholic service.
37. *Service Station*: Any building or premises used for the dispensing and retail sale of automotive fuels, oils, tires, accessories, and other items customarily associated with the sale of such products, but not for making other than minor repairs. When the dispensing, retail sale or

offering for retail sale is incidental to the conduct of a commercial garage, the premises is classified as an automotive repair service.

38. *Shopping Center*: A grouping of retail business and service uses on a single site with common parking facilities.
39. *Vehicle Storage*: Long term storage of operating or non-operating vehicles, including but not limited to automobiles, trucks, heavy equipment, motorcycles, boats, recreation vehicles and any other motor powered vehicles. Typical uses include but not limited to private parking lots, paid long term storage, lots marketing the sale of vehicles, but excludes dismantling or salvage.
40. *Veterinary Services*: Veterinary services for animals. Typical uses include but not limited to pet clinics, dog and cat hospitals, and veterinary hospitals.
41. *Visitor Habitation*: Establishments primarily engaged in the provision of lodging on a temporary basis with incidental food, drink and other sales and services intended for the convenience of guests. The following are visitor habitation use types:
 - a) *Campground*: Facilities or an area providing spaces for two (2) or more travel trailers, recreational vehicles, camping trailers, or tent sites for temporary occupancy with necessary incidental services, sanitation, and recreation facilities to serve the traveling public. Typical uses include but not limited to campgrounds or recreational vehicle parks.
 - b) *Hotel-Motel*: A building or group of buildings containing guest rooms primarily intended or used for temporary occupancy to transient guests for compensation and provides parking for the guests. Other such accessory uses associated with a hotel-motel may include a swimming pool, restaurant, meeting/conference rooms, management office and quarters for the use of operating personnel.
 - c) *Bed & Breakfast*: A private, owner-occupied dwelling, or portion thereof, providing sleeping rooms for rent to the public. In any residential district, meals shall only be served to those provided lodging and the owners or employees of the operation.
 - d) *Boarding or Lodging House*: A building, other than a hotel, motel, club, or fraternity house where for compensation, and by arrangement, lodging is provided for three (3) or more persons, not including family members.
42. *Wind Energy Devices*: Any wind energy conversion system or other similar wind machines including but not limited to wind charger, windmill, wind turbine or wind generators that converts wind energy to a form of usable energy.

2.2.4. INDUSTRIAL LAND USE DEFINITIONS:

Industrial use types include the on-site extraction or production of goods by methods not agricultural, and storage and distribution of products.

1. *Bulk Station/Fuel Storage*: The storage of any fuel source in above or below ground tanks for purposes of distribution, storage or for sale. Such uses may include, but are not limited to gasoline storage facilities, bulk storage, propane storage or natural gas storage sites.
2. *Custom Manufacturing*: Establishments engaged in on-site production of goods by hand manufacturing and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include but not limited to ceramics, candle making, custom gun or sporting goods assembly or custom jewelry.
3. *Fertilizer or Chemical Storage and/or Processing*: Those uses which promote the sale, storage,

transfer, or processing of agricultural, industrial, or other chemicals used primarily as fertilizers for agricultural purposes.

4. *Heavy Industry*: A use engaged in the processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes utilizing flammable or explosive materials; or manufacturing processes which involves hazardous or commonly recognized offensive conditions.
5. *Light Industry*: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
6. *Railroad Facilities*: Land, including the right-of-way, used by railroads for uses pertinent to the rail operations and maintenance. Includes but not limited to rail yards, equipment servicing facilities, loading, and unloading facilities and rail terminal facilities.
7. *Renewable Energy/Renewable Resources Industries*: Those industries or businesses engaged in use of products that are sustainable in the environment or in harnessing or capturing of renewable resources for energy purposes. Typical uses include but are not limited to biofuels, biomass, wind energy, solar energy, hydro power, and geothermal.
8. *Recycling Plant*: A facility, other than a junkyard, where recoverable resources such as paper products, glass, metal cans, and other products are recycled, reprocessed, and treated to return the products to a condition in which they may be reused for production.
9. *Research and Production Services*: Establishments primarily engaged in research of an industrial or scientific nature, including animal or human products testing. Typical uses include but are not limited to animal or human research laboratories, research and development firms, or animal or human pharmaceutical research labs.
10. *Resource Extraction*: A use involving the on-site extraction of surface mineral products or natural resources. Typical extractive uses are, but not limited to quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.
11. *Scrap and Salvage Services*: Places of business primarily engaged in the storage, sale or dismantling of used or waste materials not intended for reuse. Typical uses include but not limited to automotive scrap or storage yards, junkyards, or salvage yards.
12. *Stockyards*: Stockyard services involving the temporary keeping of livestock for slaughter, market, or shipping. Typical uses include but not limited to animal stockyards.
13. *Warehousing & Distribution (Limited)*: Wholesaling, storage, and warehousing services within enclosed structures. Typical uses include but not limited to wholesale distributors, storage warehouses or moving and storage firms.
14. *Warehousing & Distribution (General)*: Open-air storage, distribution and handling of materials and equipment. Typical uses include but not limited to grain elevators or open storage.

2.2.5. CIVIC & PUBLIC LAND USE DEFINITIONS:

Civic use types include the performance of educational, recreational, cultural, medical, safety, governmental, and other uses strongly vested with public or social importance.

1. *Cemetery*: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbiums, crematoriums, mausoleums, and mortuaries.

2. *Charitable Institution*: A public or semi-public institutional use of a charitable, philanthropic, benevolent, or religious character, but not including sheltering or caring of animals.
3. *Club or Lodge*: A use providing meeting, recreational, or social facilities for private or non-profit associations, primarily for use by members and guests.
4. *Cultural Services*: A library, museum, art gallery, or similar nonprofit use affording display, preservation, or exhibition of objects of permanent interest in the arts and sciences.
5. *Daycare Center*: A facility, or use of a building or portion thereof, for daytime care of seven (7) or more individuals, or as indicated by the State of Iowa. This term may include day care centers for children or adults, and similar uses.
6. *Educational Facilities*: A public, private, or parochial school, nonprofit institution or facility offering academic instruction at the elementary, secondary, and collegiate levels.
7. *Government/Public Services*: Offices, administrative, clerical, governmental, or public services that deal directly with the citizen. Typical uses include but not limited to federal, state, county, and city offices, postal facilities, or other public or non-profit organizations directly benefiting the public.
8. *Local Utility Services*: Essential services which are necessary to support principal development and involve only minor structures such as lines and poles.
9. *Major Utility Facilities*: Communication towers, antennas, generating plants, electrical switching facilities and primary substations, refuse collection or disposal facilities, water and wastewater treatment plants and similar facilities of public use, and firms having potentially significant impact upon surrounding uses.
10. *Park and Recreation Services*: Publicly or privately owned and operated parks, playgrounds, open spaces, swimming pools, and other related athletic fields or facilities.
11. *Pre-Kindergarten, Preschool, or Nursery School*: Any private agency, institution or place that provides, for compensation, supplemental parental care and/or educational work, other than overnight lodging, for six (6) or more unrelated children of pre-school age.
12. *Public Assembly*: Publicly owned or operated facilities for major public assembly, recreation, sports, amusement, or entertainment, including civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, and exhibition facilities.
13. *Religious Assembly*: A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto, excluding primary or secondary educational facilities.
14. *Safety Services*: Facilities for public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.
15. *Treatment Services*: A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance resulting from mental illness alcoholism, detention, drug addiction, or similar condition on a residential or daytime basis.

ARTICLE 3. Zoning Districts Established

Article 3: Zoning Districts Established

- Section 3.1. Zoning Districts
- Section 3.2. Boundaries and Official Map
- Section 3.3. Interpretations of Districts Boundaries
- Section 3.4. Road or Public Right-of-Way Vacation
- Section 3.5. Annexed Territory
- Section 3.6. General Regulations

SECTION 3.1. ZONING DISTRICTS.

The city council shall cause to be prepared and approved, an official zoning districts map showing the various districts, which may be changed or corrected from time to time as recommended by the planning commission and enacted by the city council. For the purpose and intent of this ordinance the City of Sutherland, Iowa is hereby divided into zoning districts as follows:

Agricultural District	AG
Single Family Residential District	R-1
Multi-Family Residential District	R-2
Downtown Commercial District	C-1
General Commercial District	C-2
General Industrial District	GI

SECTION 3.2. BOUNDARIES AND OFFICIAL ZONING MAP.

1. *Boundaries.* The boundaries of the districts are established as shown upon the map designated as the Official Zoning Map of Sutherland, Iowa. This map with all its notations, designations, references, and other information shown thereon, shall be as much a part of this zoning ordinance as if fully described and set forth herein.

2. *Zoning Map Amendments.* Amendments, supplements, or changes of the boundaries of districts as shown on the official zoning map shall be made by an ordinance amending the Sutherland Zoning Ordinance. The amending ordinance shall refer to the official zoning map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the city clerk as other ordinances and a certified copy thereof be attached to the official zoning map. Such amendatory ordinance shall, however, not repeal or reenact said map, but only amend it. The official zoning map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city.

3. *Replacement of Zoning Map.* The official zoning map shall be on file in the city clerk's office and made a part of this ordinance. In the event the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of use or the nature or number of changes and additions, the city council may, by resolution, adopt a new official zoning map to supersede the

prior official zoning map. The new map may correct drafting or other errors or omissions in the prior official zoning map, but no such corrections shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof.

SECTION 3.3. INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to a district's boundaries as shown on the official zoning map, the following rules shall apply:

1. Boundaries shown as approximately following the center lines of street, highway, alley, or other public rights-of-way lines shall be interpreted to be the boundaries.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lines.
3. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.
4. Boundaries indicated as approximately following city limits shall be construed as following such city limits.
5. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main set of tracks, or at the centerline of a single set of tracks.
6. Boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed as following such center lines.
7. Boundaries indicated as parallel to or extensions of features indicated in subsections 1-6 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 1-6 above, the board of adjustment makes the final decision on zoning district boundaries.

SECTION 3.4. ROAD OR PUBLIC RIGHT-OF-WAY VACATION.

Whenever the city council takes official action to vacate any road, street, or other public way, the zoning district(s) adjoining each side of such road or public right-of-way shall automatically extend to the center of such vacation and all area included in such vacation shall then and thereafter be subject to all appropriate regulations of the extended district.

SECTION 3.5. ANNEXED LANDS.

All land which is hereafter annexed into to the City of Sutherland after the effective date of this ordinance shall automatically be zoned (AG) Agricultural District, until a time the annexed land may be reviewed by the planning commission and recommended to the city council to approve a zoning classification based on the current use of the land.

SECTION 3.6. GENERAL REGULATIONS.

1. Buildings or structures, or parts of thereof, shall not be erected, constructed, reconstructed, remodeled, converted, structurally altered, enlarged, extended, raised, moved, or used; nor shall any land or building be used, which does not comply with the purpose or use, height

and site development regulations, yard area, density requirements and other provisions of this ordinance for the district in which the building or land is located.

2. Every yard or lot existing at the time of passage of this ordinance shall not be reduced in dimension or area below the minimum required by this ordinance, except for use for public or utility purposes. No part of a yard or other open space, for purposes of complying with the provisions of this ordinance shall be considered as providing a yard or open space required under this ordinance for another building, structure, or use.
3. Every building hereafter erected or structurally altered shall be located on a lot as herein defined, and there shall not be more than one principal building per one lot unless otherwise provided in this ordinance.
4. Every building hereafter erected or structurally altered shall be done in conformity with the off-street parking regulations of this ordinance.
5. Any portion of a building covered by a roof shall be considered a part of the building.
6. The principal building on all lots shall front on a street or public place.
7. Required yard areas shall not be considered as providing a yard or open space for a building on any other lot.

These regulations shall be required in addition to any applicable federal, state and city health and building regulations.

ARTICLE 4. Agricultural District

Article 4: Agriculture District

- Section 4.1. Intent
- Section 4.2. Principal Permitted Uses
- Section 4.3. Conditional Uses
- Section 4.4. Permitted Accessory Uses and Structures
- Section 4.5. Site Development Regulations
- Section 4.6. Off Street Parking
- Section 4.7. Sign Regulations
- Section 4.8. Additional District Regulations
- Section 4.9. Zoning Permit Required

SECTION 4.1. INTENT.

The intent of the Agricultural District (AG) is to preserve land best suited for agriculture from the encroachment of incompatible uses and to preserve, in agricultural use, land suited to eventual development in other uses pending proper timing for economical and practical provisions of streets, utilities, and other community facilities which may be provided or programmed as to ensure the orderly and beneficial conversion of these lands to nonagricultural use.

SECTION 4.2. PRINCIPAL PERMITTED USES.

In this district, unless otherwise specified in this ordinance, no building or premises shall be used and no building hereafter erected or structurally altered except for one or more of the permitted uses, and according to the stated regulations.

Agricultural Uses	Conservation Uses	Civic Uses
Agriculture Crop Production Farmstead Farm Dwelling Farm Dwelling, Support Housing Horticulture Farms, including usual farm buildings and structures, but excluding commercial auction yards and barns and animal confinement facilities	Critical Area Floodplain Undeveloped or unimproved lands Water control structures, irrigation, or retention basins Wetlands Wildlife refuge	Cemetery Local Utility Services Government/Public Services Parks & Recreation Services
		Industrial Uses
		Railroad Facilities

Section 4.3. CONDITIONAL USES.

Certain uses may be permitted in the (AG) Agricultural District subject to specific conditions and requirements as outlined and approved by the board of adjustment intending to make them compatible with and acceptable to adjacent uses.

Agriculture Uses	Residential Uses	Industrial Uses
Animal Husbandry - It is unlawful to keep livestock within the city except by written consent of the city council Stables	Relocated Residential - When it is the owner or renter of a farm or associated with agricultural purposes.	Fertilizer or Chemical Storage Fuel Storage Resource Extraction Scrap and Salvage Services
Commercial Uses		Civic Uses
Commercial Auction Yards and Barns Communication Services Golf Course Kennel, public Outdoor Entertainment and Recreation Wind Energy Device (<i>See Section 13.8</i>)		Aviation Facilities Major Utility Facilities Religious Assembly

Section 4.4. ACCESSORY USES AND STRUCTURES.

Permitted accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use. Accessory uses shall also comply the provisions of Section 13.1. The following accessory uses and structures shall be permitted.

1. Essential services
2. Private garage or carport
3. Barns and other agricultural related buildings
4. Private parking lots
5. Radio, television, satellite dish, and other similar receiving antennas for personal use. Communication services and other devices or structures intended for commercial use are considered a conditional use and shall comply with the provisions of Section 13.8.
6. Personal utility sheds, garden buildings or greenhouses not used for commercial purposes
7. Roadside stands for the sale of agricultural products or other products produced on the premises.
8. Kennel, intended for private and personal use.
9. Home occupations in compliance with Section 13.5.
10. Temporary buildings for uses incidental to construction, in which buildings shall be removed upon completion or abandonment of construction, and in compliance with Section 13.3.
11. Accessory uses and buildings customarily incidental and subordinate to the permitted uses and structures.

Section 4.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and conditional uses, buildings, and structures in the (AG) Agricultural District, and

subject to the Supplemental District Regulations.

Lot Area -	1 acre - minimum lot area for nonagricultural uses
Lot Width -	150 feet - minimum lot width for nonagricultural uses
Front Yard -	50 feet - minimum required setback
Rear Yard -	50 feet - minimum required setback
Side Yard -	20 feet - minimum required setback
Street Side Yard (Corner Lot) -	50 feet - minimum required setback
Height -	35 feet maximum height for dwellings and non-agricultural buildings and structures. No limitation for agricultural buildings provided no structure shall be permitted to extend into approach zones, clear zones or other restricted air space required for the protection of any public airport.
Residential Density -	Not more than one (1) principal dwelling per lot, and not more than one (1) agricultural support dwelling per lot.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements. All residential dwellings must be constructed in compliance with the Residential Dwelling Standards outlined in Section 13.6.

Section 4.6. OFF-STREET PARKING.

Off-street parking and loading requirements shall be required for activities in the (AG) Agricultural District in accordance with the provisions of Article 14 of this ordinance.

Section 4.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (AG) Agricultural District in accordance with the provisions of Article 15 of the ordinance.

Section 4.8. Supplemental DISTRICT REGULATIONS.

Certain uses, buildings, or structures in the (AG) Agriculture District may be subject to supplemental regulations identified in Article 12 of this ordinance.

Section 4.9. ZONING PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 17.3 of this ordinance.

ARTICLE 5. Single Family Residential District (R-1)

Article 5: Single Family Residential District

- Section 5.1. Intent
- Section 5.2. Principal Permitted Uses
- Section 5.3. Conditional Uses
- Section 5.4. Permitted Accessory Uses and Structures
- Section 5.5. Site Development Regulations
- Section 5.6. Off Street Parking
- Section 5.7. Sign Regulations
- Section 5.8. Additional District Regulations
- Section 5.9. Zoning Permit Required

SECTION 5.1. INTENT.

The intent of the Single Family Residential District (R-1) is to provide for low to medium density residential development with a limited number of civic, institutional, and recreational facilities permitted.

SECTION 5.2. PRINCIPAL PERMITTED USES.

Within the (R-1) Single Family Residential District, unless otherwise specified in this ordinance, only the following principal uses, buildings or structures shall be permitted by right.

Agricultural Uses	Residential Uses	Civic Uses
Critical Area Floodplain Horticulture Undeveloped or unimproved lands Water control structures, irrigation, or retention basins Wetlands	Single Family Residential	Educational Facilities Local Utility Services Government/Public Services Parks & Recreation Services Pre-Kindergarten, Preschool or Nursery School Religious Assembly

Section 5.3. CONDITIONAL USES.

Certain uses may be permitted in the (R-1) District subject to specific conditions and requirements as outlined and approved by the board of adjustment intending to make them compatible with and acceptable to adjacent uses.

Residential Uses	Civic Uses	Commercial Uses
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Nursing Home Two Family Residential (duplex) Relocated Residential Residential Healthcare Facility	Daycare Center Major Utility Facilities Safety Services	Bed & Breakfast Inn Communication Services (See Section 13.9) Funeral Services Golf Course
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Section 5.4. ACCESSORY USES AND STRUCTURES.

Permitted accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use. Accessory uses shall also comply the provisions of Section 13.1. The following accessory uses and structures shall be permitted.

1. Essential services
2. Private garage or carport
3. Private parking lots
4. Private swimming pools, tennis courts or other personal recreational facilities.
5. Radio, television, satellite dish, and other similar receiving antennas for personal use.
Communication services and other devices or structures intended for commercial use are considered a conditional use and shall comply with the provisions of Section 13.9.
6. Personal utility sheds, garden buildings or greenhouses not used for commercial purposes
7. Solar collectors intended for private residential use
8. Home occupations, in compliance with Section 13.5.
9. The keeping of dogs or other domesticated animals in a private kennel.
10. Temporary buildings for uses incidental to construction, in which buildings shall be removed upon completion or abandonment of construction, and in compliance with Section 13.3.
11. Accessory uses and buildings customarily incidental and subordinate to the permitted uses and structures.

Section 5.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and conditional uses, buildings, and structures in the (R-1) Single Family Residential District, and subject to the Supplemental District Regulations.

Lot Area -	8,000 sq.ft. - minimum lot area for single family residential 9,000 sq.ft. – minimum lot area for two family residential 10,000 sq.ft. – minimum lot area for all other uses
Lot Width -	80 feet - minimum lot width for all uses
Front Yard -	25 feet - minimum required setback
Rear Yard -	25 feet - minimum required setback
Side Yard -	7.5 feet - minimum required setback
Street Side Yard (Corner Lot) -	25 feet - minimum required setback

Height -	35 feet maximum height for all uses, unless otherwise provided in this ordinance.
Residential Density -	Not more than one (1) principal dwelling per lot, except for two family residential.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements. All residential dwellings must be constructed in compliance with the Residential Dwelling Standards outlined in Section 13.6. Manufactured or mobile homes placed in designated residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa

Section 5.6. OFF-STREET PARKING.

Off-street parking and loading requirements shall be required for activities in the (R-1) Single Family Residential District in accordance with the provisions of Article 14 of this ordinance.

Section 5.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (R-1) Single Family Residential District in accordance with the provisions of Article 15 of the ordinance.

Section 5.8. Supplemental DISTRICT REGULATIONS.

Certain uses, buildings, or structures in the (R-1) Single Family Residential District may be subject to supplemental regulations identified in Article 12 of this ordinance.

Section 5.9. ZONING PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 17.3 of this ordinance.

ARTICLE 6. Multiple Family Residential District (R-2)

Article 6: Multiple Family Residential District

- Section 6.1. Intent
- Section 6.2. Principal Permitted Uses
- Section 6.3. Conditional Uses
- Section 6.4. Permitted Accessory Uses and Structures
- Section 6.5. Site Development Regulations
- Section 6.6. Off Street Parking
- Section 6.7. Sign Regulations
- Section 6.8. Additional District Regulations
- Section 6.9. Zoning Permit Required

SECTION 6.1. INTENT.

The intent of the Multiple Family Residential District (R-2) is to provide for living areas within the city for development of multiple family dwellings and single family dwellings which are compatible in character and density with the multiple family residential environment.

SECTION 6.2. PRINCIPAL PERMITTED USES.

Within the (R-2) Multiple Family Residential District, unless otherwise specified in this ordinance, only the following principal uses, buildings or structures shall be permitted by right.

Residential Uses	Civic Uses	Commercial Uses
Assisted Living Facility Condominiums Congregate or Senior Housing Family Home Multiple Family Residential Nursing Home Residential Healthcare Facilities Single Family Residential Townhouse Residential Two Family Residential	Government/Public Services Local Utility Services Park & Recreation Services Religious Assembly	Bed & Breakfast Inn Hospital Services

Section 6.3. CONDITIONAL USES.

Certain uses may be permitted in the (R-2) District subject to specific conditions and requirements as outlined and approved by the board of adjustment intending to make them compatible with and acceptable to adjacent uses.

Residential Uses	Civic Uses	Commercial Uses
Group Residential Relocated Residential	Daycare Center Educational Facilities Major Utility Facilities Pre-Kindergarten, Preschool or Nursery School Safety Services	Boarding House Communication Services (See Section 13.9) Funeral Services

Section 6.4. ACCESSORY USES AND STRUCTURES.

Permitted accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use. Accessory uses shall also comply the provisions of Section 13.1. The following accessory uses and structures shall be permitted.

1. Essential services
2. Private garage or carport
3. Private parking lots
4. Private swimming pools, tennis courts or other personal recreational facilities.
5. Radio, television, satellite dish, and other similar receiving antennas for personal use.
Communication services and other devices or structures intended for commercial use are considered a conditional use and shall comply with the provisions of Section 13.9.
6. Personal utility sheds, garden buildings or greenhouses not used for commercial purposes
7. Solar collectors intended for private residential use
8. Home occupations, in compliance with Section 13.5.
9. The keeping of dogs or other domesticated animals in a private kennel.
10. Temporary buildings for uses incidental to construction, in which buildings shall be removed upon completion or abandonment of construction, and in compliance with Section 13.3.
11. Accessory uses and buildings customarily incidental and subordinate to the permitted uses and structures.

Section 6.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and conditional uses, buildings, and structures in the (R-2) Multiple Family Residential District, and subject to the Supplemental District Regulations.

Lot Area -	8,000 sq.ft. - minimum lot area for single family residential 9,000 sq.ft. – minimum lot area for two family residential 8,000 sq.ft. – minimum lot area for multiple family residential +1,500 sq.ft. for each additional dwelling unit above 1 dwelling 10,000 sq.ft. – minimum lot area for all other uses
Lot Width -	80 feet - minimum lot width for all uses

Front Yard -	35 25 feet - minimum required setback
Rear Yard -	25 feet - minimum required setback
Side Yard -	7.5 feet - minimum required setback
Street Side Yard (Corner Lot) -	25 feet - minimum required setback
Height -	35 feet maximum height for all uses, unless otherwise provided in this ordinance.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements. All residential dwellings must be constructed in compliance with the Residential Dwelling Standards outlined in Section 13.6. Manufactured or mobile homes placed in designated residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa

Section 6.6. OFF-STREET PARKING.

Off-street parking and loading requirements shall be required for activities in the (R-2) Multiple Family Residential District in accordance with the provisions of Article 14 of this ordinance.

Section 6.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (R-2) Multiple Family Residential District in accordance with the provisions of Article 15 of the ordinance.

Section 6.8. ADDITIONAL DISTRICT REGULATIONS.

Certain uses, buildings, or structures in the (R-2) Multiple Family Residential District may be subject to supplemental regulations identified in Article 12 of this ordinance.

Section 6.9. ZONING PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 17.3 of this ordinance.

ARTICLE 7. Downtown Commercial District (C-1)

Article 7: Downtown Commercial District

- Section 7.1. Intent
- Section 7.2. Principal Permitted Uses
- Section 7.3. Conditional Uses
- Section 7.4. Accessory Uses and Structures
- Section 7.5. Site Development Regulations
- Section 7.6. Off Street Parking
- Section 7.7. Sign Regulations
- Section 7.8. Additional District Regulations
- Section 7.9. Zoning Permit Required

SECTION 7.1. INTENT.

The intent of the Downtown Commercial District (C-1) is to provide for a commercial area to serve the general shopping needs of the trade area and to permit uses which will strengthen the central business area as the center of trade, service, governmental and cultural activities. This district is intended to include primarily those commercial, civic, or public uses operating within the city's downtown central business district.

SECTION 7.2. PRINCIPAL PERMITTED USES.

Within the (C-1) Downtown Commercial District, unless otherwise specified in this ordinance, only the following principal uses, buildings or structures shall be permitted by right.

Commercial Uses		Civic Uses
Administrative/Business Offices	Hotel or Motel	Club or Lodge
Automotive Sales and Services	Indoor Entertainment and	Cultural Services
Automotive Repair Services	Recreation	Government/Public Services
Automotive Washing	Laundry Services	Local Utility Services
Building Maintenance Services	Liquor Sales	Park and Recreation Services
Business Support Services	Medical Clinics/Offices	Public Assembly
Bar	Personal Improvement	Religious Assembly
Commercial Off-Street Parking	Services	Safety Services
Consumer Repair Services	Personal Services	
Convenience Store	Pet Services	
Financial Services	Professional Offices	
Funeral Services	Restaurant (includes	
General Retail Sales	catering)	
Hospital Services	Service Station	

Section 7.3. CONDITIONAL USES.

The following uses and structures may be permitted in the (C-1) Downtown Commercial District subject to this ordinance intending to make them compatible with and acceptable to adjacent uses, and upon approval of the board of adjustment.

Commercial Uses	Civic Uses	Industrial Uses
Bed & Breakfast Inn Communication Services (See Section 13.9) Construction Sales and Services Vehicle Storage Veterinary Services	Daycare Center Educational Facilities Major Utility Facilities	Custom Manufacturing Limited Warehousing and Distribution

Section 7.4. ACCESSORY USES AND STRUCTURES.

Permitted accessory uses and structures shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use. Accessory uses shall also comply the provisions of Section 13.1. The following accessory uses and structures shall be permitted.

1. Private garages or carports.
2. Parking lots
3. Any other commercial use type that is not listed as a permitted use in the same district, and complies with all the following criteria.
 - a. Operated primarily for convenience of employees, clients, or customers of the principal use.
 - b. Occupies less than 10 percent of the total floor area of the principal use.
 - c. Located and operated as an integral part of the principal use, not a separate business use.
4. Temporary buildings for uses incidental to construction, in which buildings shall be removed upon the completion or abandonment of construction, and in compliance with Section 13.3.
5. Accessory buildings and structures normally incidental and subordinate to the principal permitted uses or conditional uses.

Section 7.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and conditional uses, buildings, and structures in the (C-1) Downtown Commercial district, and subject to the Supplemental District Regulations.

Lot Area -	No minimum required for all uses
Lot Width -	No minimum required for all uses
Front Yard -	No minimum required setback

Rear Yard -	No minimum required setback, except 25 feet minimum setback if a rear yard is abutting a lot used for residential purposes or abuts a residential district.
Side Yard -	No minimum, except 7½ feet minimum setback if a side yard is abutting a lot used for residential purposes or abuts a residential district.
Street Side Yard (Corner Lot) -	No minimum required setback
Height -	35 feet maximum height unless otherwise provided.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

Section 7.6. OFF-STREET PARKING.

Off-street parking and loading requirements shall be required for activities in the (C-1) Downtown Commercial district in accordance with the provisions of Article 14 of this ordinance.

Section 7.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (C-1) Downtown Commercial district in accordance with the provisions of Article 15 of the ordinance.

Section 7.8. Supplemental DISTRICT REGULATIONS.

Certain uses, buildings, or structures in the (C-1) Downtown Commercial district may be subject to supplemental regulations identified in Article 12 of this ordinance.

Section 7.9. ZONING PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 17.3 of this ordinance.

ARTICLE 8. General Commercial District (C-2)

Article 8: General Commercial District

- Section 8.1. Intent
- Section 8.2. Principal Permitted Uses
- Section 8.3. Conditional Uses
- Section 8.4. Accessory Uses and Structures
- Section 8.5. Site Development Regulations
- Section 8.6. Off Street Parking
- Section 8.7. Sign Regulations
- Section 8.8. Additional District Regulations
- Section 8.9. Zoning Permit Required

SECTION 8.1. INTENT.

The intent of the (C-2) General Commercial district is predominately for service, retail, and other non-residential uses which because of certain locational requirements and operational characteristics are appropriately located near major traffic routes or highways. Site development regulations are characterized by the need for larger lot sizes, off-street parking, adequate setbacks, clear vision, safe ingress and egress, and access to adjacent thoroughfares.

Section 8.2. PRINCIPAL PERMITTED USES.

Within the (C-2) General Commercial district, unless otherwise provided, only the following uses, buildings or structures shall be permitted by right.

Commercial Uses		Civic Uses
Administrative/Business Offices	Financial Services	Club or Lodge Cultural Services Government/Public Services Local Utility Services Park and Recreation Services Public Assembly Religious Assembly Safety Services Treatment Services
Automotive Rentals	Funeral Services	
Automotive Repair Services	General Retail Sales	
Automotive Sales	Hospital Services	
Automotive Washing	Hotel or Motel	
Bed & Breakfast Inn	Indoor Entertainment/Recreation	
Building Maintenance Services	Laundry Services	
Business Support Services	Liquor Sales	
Business or Trade School	Medical Clinics/Offices	
Bar	Personal Improvement Services	
Commercial Off-Street Parking	Personal Services	
Consumer Repair Services	Pet Services	
Convenience Store	Professional Offices	
Convenience Storage	Restaurant (includes catering)	
Condominium/Business Storage	Service Station	
Construction Sales & Service	Veterinary Services	

Section 8.3. CONDITIONAL USES.

The following uses and structures may be permitted in the (C-2) General Commercial district subject to this ordinance intending to make them compatible with and acceptable to adjacent uses, and upon approval of the board of adjustment.

Commercial Uses	Civic Uses	Industrial Uses
Agricultural Sales and Services Commercial Auction Yards/Barns Communication Services <i>(See Section 13.9)</i> Equipment Repair Services Equipment Sales Vehicle Storage Wind Energy Devices <i>(See Section 13.8)</i>	Cemetery Daycare Center Educational Facilities Major Utility Facility	Custom Manufacturing Limited Warehousing and Distribution Research & Production Services
		Residential Uses
		Assisted Living Facility Nursing or Convalescent Facility Residential Care Services

Section 8.4. ACCESSORY USES AND STRUCTURES.

Permitted accessory uses and structures shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use. Accessory uses shall also comply the provisions of Section 13.1. The following accessory uses and structures shall be permitted.

1. Essential services
2. Private garages or carports.
3. Parking lots
4. Any other commercial use type that is not listed as a permitted use in the same district, and complies with all the following criteria.
 - a. Operated primarily for convenience of employees, clients, or customers of the principal use.
 - b. Occupies less than 10 percent of the total floor area of the principal use.
 - c. Located and operated as an integral part of the principal use, not a separate business use.
5. Temporary buildings for uses incidental to construction, in which buildings shall be removed upon the completion or abandonment of construction, and in compliance with Section 13.3.
6. Accessory buildings and structures normally incidental and subordinate to the principal permitted uses or conditional uses.

Section 8.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around

permitted and conditional uses, buildings, and structures in the (C-2) General Commercial district, and subject to the Supplemental District Regulations.

Lot Area -	10,000 square feet – minimum lot area
Lot Width -	80 feet - minimum lot width
Front Yard -	35 feet - minimum required setback
Rear Yard -	25 feet - minimum required setback
Side Yard -	10 feet - minimum required setback
Street Side Yard (Corner Lot) -	35 feet - minimum required setback
Height -	35 feet maximum height unless otherwise provided.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

Section 8.6. OFF-STREET PARKING.

Off-street parking and loading requirements shall be required for activities in the (C-2) General Commercial district in accordance with the provisions of Article 14 of this ordinance.

Section 8.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (C-2) General Commercial district in accordance with the provisions of Article 15 of the ordinance.

Section 8.8. Supplemental DISTRICT REGULATIONS.

Certain uses, buildings, or structures in the (C-2) General Commercial district may be subject to supplemental regulations identified in Article 12 of this ordinance.

Section 8.9. ZONING PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 17.3 of this ordinance.

ARTICLE 9. General Industrial District (GI)

Article 9: General Industrial District

- Section 9.1. Intent
- Section 9.2. Principal Permitted Uses
- Section 9.3. Conditional Uses
- Section 9.4. Accessory Uses and Structures
- Section 9.5. Site Development Regulations
- Section 9.6. Off Street Parking
- Section 9.7. Sign Regulations
- Section 9.8. Additional District Regulations
- Section 9.9. Zoning Permit Required

SECTION 9.1. INTENT.

The intent of the (GI) General Industrial district is to provide for certain commercial and a wide range of industrial uses and structures that have high standards of performance to protect non-commercial and non-industrial uses from undesirable environmental and man-made conditions. The district regulations are designed to permit the development of certain manufacturing or industrial operations which because of actual physical and operational characteristics, are not be detrimental to the surrounding area or to the community by reasons of noise, dust, smoke, odor, traffic, physical appearance, or other similar factors. No residential uses are permitted in this district.

Section 9.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right in the (GI) General Industrial district, except those uses which due to the emission of odor, dust, fumes, smoke, noise, or obnoxious characteristics are injurious to the public health, safety, and general welfare of the city.

Commercial Uses		Industrial Uses
Administrative/Business Offices	Consumer Repair Services	Custom Manufacturing Light Industry Warehousing and Distribution (Limited)
Agricultural Sales & Services	Convenience Store	
Automotive Rentals	Convenience Storage	
Automotive Repair Services	Condominium/Business Storage	
Automotive Sales	Construction Sales & Service	Civic Uses
Automotive Washing	Equipment Sales	
Building Maintenance Services	Equipment Repair Services	Government/Public Services Local Utility Services Park and Recreation Services Public Assembly Safety Services
Business Support Services	Indoor	
Business or Trade School	Entertainment/Recreation	
Commercial Auction Yards and Barns	Laundry Services	
	Service Station	
Commercial Off-Street Parking	Veterinary Services	

Section 9.3. CONDITIONAL USES.

The following uses and structures may be permitted in the (GI) General Industrial district subject to this ordinance intending to make them compatible with and acceptable to adjacent uses, and upon approval of the board of adjustment.

Industrial Uses	Commercial Uses	Civic Uses
Bulk Station/Fuel Storage Fertilizer or Chemical Storage and/or Processing Heavy Industry Railroad Facilities Renewable Energy/Renewable Resources Industries Recycling Plant Research and Production Services Resource Extraction Scrap and Salvage Services Stockyards	Adult Entertainment <i>(See Section 13.7)</i> Communication Services <i>(See Section 13.9)</i> Kennels, public Outdoor Entertainment or Recreation Wind Energy Devices <i>(See Section 13.8)</i> Vehicle Storage	Aviation Facilities Club or Lodge Major Utility Services Treatment Services

Limited commercial or retail uses may be permitted by conditional use within the (GI) General Industrial district when intended to serve the needs of a business' tenants or employees only. Such special exception commercial or retail uses may include, but not limited to: eatery, café, health club, convenience store, bakery shop, gift shop, or other appropriate use as determined by the board of adjustment.

Section 9.4. ACCESSORY USES AND STRUCTURES.

Permitted accessory uses and structures shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use. Accessory uses shall also comply the provisions of Section 13.1. The following accessory uses and structures shall be permitted.

1. Essential services
2. Private garages or carports.
3. Parking lots
4. Any other commercial or industrial use type that is not listed as a permitted use in the same district, and complies with all the following criteria.
 - a. Operated primarily for convenience of employees, clients, or customers of the principal use.
 - b. Occupies less than 25 percent of the total floor area of the principal use.
 - c. Located and operated as an integral part of the principal use, not a separate business use.
5. Temporary buildings for uses incidental to construction, in which buildings shall be removed

- upon the completion or abandonment of construction, and in compliance with Section 13.3.
6. Accessory buildings and structures normally incidental and subordinate to the principal permitted uses or conditional uses.

Section 9.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and conditional uses, buildings, and structures in the (GI) General Industrial district, and subject to the Supplemental District Regulations.

Lot Area -	20,000 square feet - minimum lot area
Lot Width -	100 feet - minimum lot width
Front Yard -	35 feet - minimum required setback
Rear Yard -	25 feet - minimum required setback, except 50 feet setback if the rear yard is adjacent to a residential district.
Side Yard -	10 feet – minimum required setback, except 25 feet setback if a side yard is adjacent to a residential district.
Street Side Yard (Corner Lot) -	35 feet - minimum required setback
Height -	35 feet maximum height unless other provided.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

Section 9.6. OFF-STREET PARKING.

Off-street parking and loading requirements shall be required for activities in the (GI) General Industrial district in accordance with the provisions of Article 14 of this ordinance.

Section 9.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (GI) General Industrial district in accordance with the provisions of Article 15 of the ordinance.

Section 9.8. Supplemental DISTRICT REGULATIONS.

Certain uses, buildings, or structures in the (GI) General Industrial district may be subject to supplemental regulations identified in Article 12 of this ordinance.

Section 9.9. ZONING PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 17.3 of this ordinance.

SUTHERLAND, IOWA “QUICK REFERENCE GUIDE”
ZONING DISTRICT SITE DEVELOPMENT REGULATIONS

Zoning District	Maximum Height	Minimum Lot Area	Minimum Lot Width	Required Front Yard	Required Rear Yard	Required Side Yard	Street Side Yard (corner lot)
AG Agriculture	35 ft. (dwellings) None for ag uses	1 acre	150 ft.	50 ft.	50 ft.	20 ft.	50 ft.
R-1 Single Family Residential	35 ft.	8,000 SF 9,000 TF 10,000 OU	80 ft.	25 ft.	25 ft.	7.5 ft.	25 ft.
R-2 Multiple Family Residential	35 ft.	8,000 SF 9,000 TF +1,500/DU 10,000 OU	80 ft.	25 ft.	25 ft.	7.5 ft.	25 ft.
C-1 Downtown Commercial	35 ft.	No Minimum	No Minimum	none	none 25 ft. if next to res.	none 7.5 ft. if next to res.	none
C-2 General Commercial	35 ft.	10,000 sq.ft.	80 ft.	35 ft.	25 ft.	10 ft.	35 ft.
GI General Industrial	35 ft.	20,000 sq.ft.	100 ft.	35 ft.	25 ft. 50 ft. if next to res.	10 ft. 25 ft. if next to res.	35 ft.

ARTICLE 10. Site Plans

Article 10: Site Plans

Section 10.1	Intent
Section 10.2.	Scale
Section 10.3.	Legal Information
Section 10.4.	Site Plan

Section 10.1. INTENT.

Site plans are required for review and approval for construction of new permitted or conditional uses and structures in any district, and shall comply with and illustrate the following. Accessory uses and structures, interior remodeling projects, and small exterior remodeling or addition projects to an existing permitted or conditional uses are exempt from these site plan requirements. Although site plans, in accordance with this Article, are not required for such accessory uses, remodeling or interior projects it does not imply such uses are exempt from the zoning permit process and any site drawings or sketches required of the zoning application.

Section 10.2. SCALE.

All site plans shall be drawn at a scale that is legible and easily defines all of the proposed improvements to the members of the planning and zoning commission and board of adjustment. Two (2) copies of the site plan shall be submitted with a zoning permit application on paper no less than 8½" x 11".

Section 10.3. LEGAL INFORMATION.

The site plan shall include the following legal information:

1. Legal property owners name and description of property.
2. Applicant, subdivider or developer's name, requested land use, and zoning.
3. If the appellant is other than the legal owner, the applicant's interest shall be indicated.

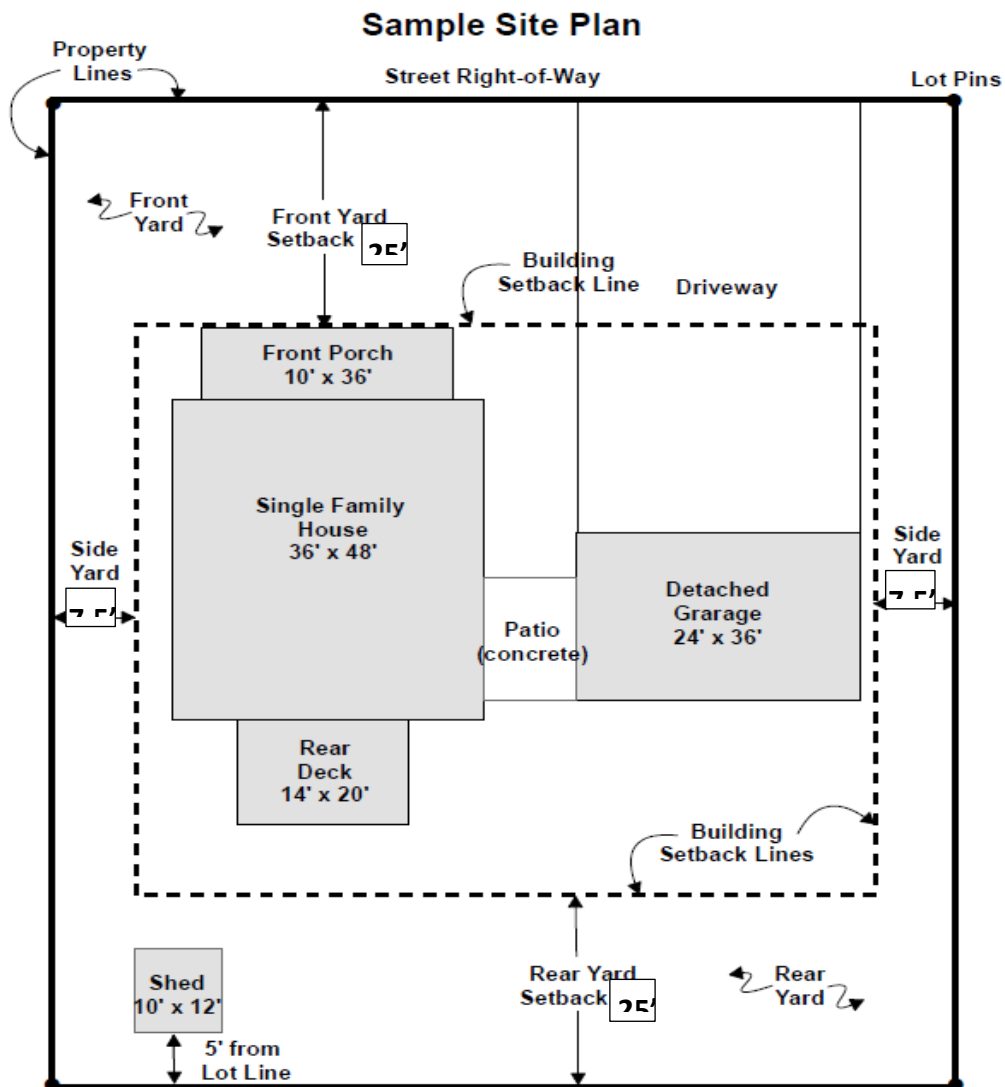
Section 10.4. SITE PLAN.

The final site plan shall clearly illustrate the following information:

1. Property boundary lines, dimensions, and total area.
2. If substantial topographic change is proposed, contour lines at intervals of not more than one foot (1') may be requested by the zoning administrator.
3. The availability and location of existing utilities, if requested by the zoning administrator.
4. The proposed location, size, shape and type of all buildings or structures.
5. The total square feet of all proposed buildings.
6. The number and size of dwelling units, if applicable.
7. Parking areas, number of parking spaces proposed, and type of surfacing to be used, etc.
8. Walkways, driveways, lighting, walls, fences, signs, and other man-made structures.

9. Buffers, landscaping, permanent retaining walls, and other materials used for screening purposes shall be illustrated.
10. Erosion or sediment control plan, and proposed storm water management to be used, if any.
11. Traffic considerations, architectural themes, and any other considerations pertinent to the proposed use may be requested by the zoning administrator.

A preliminary site plan may be submitted for preliminary or tentative land use approval, providing, however, that a final site plan shall be submitted, reviewed, and approved in compliance with this ordinance. Such separate plans shall agree with one another as to both design and quantities. A survey of property may be ordered by the zoning administrator if the current lot lines are in question or in doubt of location. In the event of an ordered survey, such survey shall be at the expense of the property owner and all lot pins required to identify a lot must be located and marked by a certified land surveyor. No zoning permit will be issued until all required action has been taken.



ARTICLE 11. Supplemental District Regulations

Article 11: Supplemental District Regulations

- Section 11.1. Intent
- Section 11.2. Lot of Record
- Section 11.3. Relocated Residential Dwellings
- Section 11.4. Multiple Principal Structures per Lot
- Section 11.5. Yard Regulations
- Section 11.6. Steps, Decks, and Patios
- Section 11.7. Fences, Hedges, and Retaining Walls
- Section 11.8. Buildings to Have Access
- Section 11.9. Use of Public Right-of-Way
- Section 11.10. Lot Frontage Continuity
- Section 11.11. Height Exemptions

Section 11.1. INTENT.

The regulations set forth in this article qualify, supplement, or modify the area and height regulations set forth elsewhere in this ordinance.

Section 11.2. LOT OF RECORD.

Any lot of record at the time of passage of this ordinance having less lot area or lot width than herein required may be used for any use where such uses are permitted as provided in this ordinance. Only one principal building shall be permitted on one lot of record. Any lot of record at the time of passage of this ordinance shall maintain the required front, side, and rear yards on each side of the principal building or structure. However, where two (2) or more contiguous and adjoining substandard or nonconforming lots are held in common ownership, they can be combined into one (1) zoning lot and thereafter maintained in common ownership; and be considered by the city joined together to form an effective and conforming zoning lot. The combining of contiguous substandard lots for purposes of zoning conformance does not automatically mean the property is rezoned. If two or more contiguous lots are within different zoning districts, a rezoning request may be necessary to accommodate proposed uses.

Section 11.3. RELOCATED RESIDENTIAL DWELLINGS.

Relocated residential dwellings shall submit a route plan and photographs of the building to be moved with a conditional use application. All relocated residential dwellings shall be permitted as conditional use issued by the board of adjustment. Upon review of the information submitted, the board shall consider the aesthetic appearance of such relocated dwelling and how the residence fits into the character and appearance of the existing dwellings and neighborhood. A conditional use permit must be obtained prior to moving a building or structure into Sutherland.

Section 11.4. MULTIPLE PRINCIPAL STRUCTURES PER LOT.

More than one principal structure not intended to be a single family residential structure may be erected on a single lot, except within the R-1 and R-2 districts. Multiple principal structures per lot are subject to the following conditions.

1. No principal building shall be located closer than twenty-five feet (25') in relation to another

principal building on the same lot, or on an adjacent lot, to cause danger from fire.

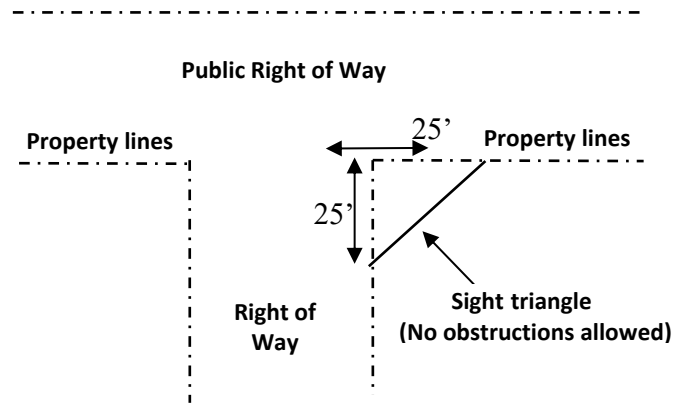
2. All principal buildings on the lot shall be served by access ways suitable for police, fire, and emergency vehicles, upon review and approval of Sutherland public safety officials.
3. All the multiple principal buildings on the same lot shall be accessible to pedestrians via required parking and emergency accesses to each building.

Section 11.5. YARD REGULATIONS.

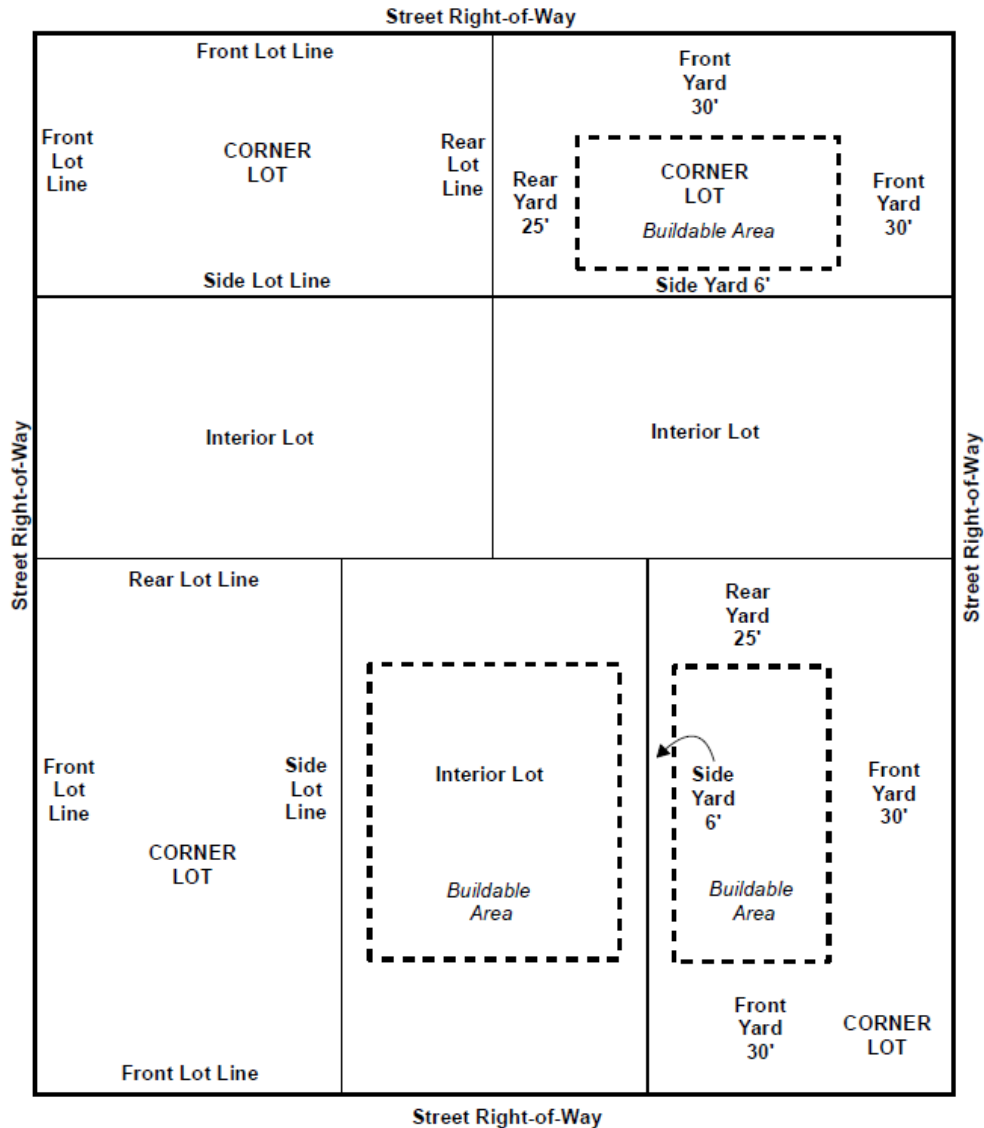
1. *Projecting Overhang or Structure.* The ordinary horizontal projection from buildings including eaves, sills, fascia, cornices, or other similar architectural and ornamental features, not including gutters, may project or extend not more than two feet (2') into any required yard.

2. *Line of Sight Visibility (at intersections).*

On a corner lot in any district, except the (C-1) Downtown Commercial District, no natural or man-made objects aside from public safety or utility owned structures shall be erected, placed, planted or allowed to grow in such a manner that will obstruct vision between a height of two feet (2') and ten feet (10') above the ground within a triangular area formed by connecting a point at the corner of the lot adjoining two streets and extending that line twenty-five feet (25') in each direction from the lot corner as measured along the property lines. (See diagram)



3. *Utilities.* Nothing in this ordinance shall have the effect of prohibiting utility service lines, utility connections, or utility boxes from encroaching into any required yard space.
4. *Through Lots.* Buildings on through lots, extending from street to street, shall provide the required front yard on both streets.
5. *Corner Lots.* The required side yard on the street side of a corner lot shall be the same as the required front yard on such street, and no accessory building shall project beyond the required front yard on either street. (See diagram)



Section 11.6. STEPS, DECKS AND PATIOS

Steps providing direct access to the ground level of a dwelling unit may encroach no more than three feet (3') into any required side yard or no more than five feet (5') into any required front or rear yard. Steps may also include a horizontal landing or platform of 48 square feet or less and not projecting more than six feet (6') into a required front or rear yard.

Decks higher than twelve inches (12") above the adjoining ground surface shall comply with required yard setbacks. No covered patios or other covered structures may project into the required front yard or street side yard setback on a corner lot.

Patios and concrete, pavers or other hard surfaced areas or other concrete slab structures constructed at grade level shall be allowed to be constructed within the required front, side, or rear yards. If a railing, wall, terrace, or any other above ground structure is built as part of the patio, all above ground structures shall comply with required yard setbacks.

Driveways and parking areas within front yard areas of residential zoned properties are permitted if the designated surfaced or concrete driveway is no larger than the width of the garage or designated parking space it is designated for and runs from the garage or parking space to the street. Furthermore, additional off street paved parking in the front yard shall be limited to no more than twelve feet (12') beyond either side of a driveway to be used for auxiliary parking spaces. A sidewalk on the property or paved access to the front door are also permitted.

Section 11.7. FENCES, HEDGES, AND RETAINING WALLS

For purposes of this section, the term "fence" means a constructed barrier of any material or combination of materials erected to enclose or screen areas of land. Plants, shrubs, bushes, and trees are not normally considered fences.

1. Fences or hedges in residential districts shall not exceed four feet (4') in height in any required front yard. Fences less than four feet (4') may be located on any part of a lot.
2. No fences are allowed within the "sight triangle" in accordance with Section 12.5.4. No fence shall obscure clear view of traffic at street intersections or driveways so as to create a safety hazard to pedestrians or vehicular traffic.
3. Except as provided above, fences or hedges shall not exceed seven feet (7') in height in any required side or rear yards. Fences more than seven feet (7') may be allowed in the cases of tennis courts, swimming pools, other recreational amenities, or for commercial and industrial uses upon review by the zoning administrator.
4. Determining the maximum height for fences and walls shall be made by measuring from the natural grade of the lot adjacent to the fence to the top of the finished fence structure.
5. Fences or walls are allowed to be built right up to any property line. Perennial plantings, including shrubs and hedges, shall not be planted closer than two and one-half feet (2½') to any property line. Except that fences, walls and perennial plantings may be placed up to the property line by written mutual agreement of adjoining property owners.
6. In the case of retaining walls, the height requirements specified in Section 12.7.3 above shall apply only to that part of the retaining wall above the ground surface of the retained land.
7. Retaining walls will not be subject to yard setback requirements if used for terracing land, holding back failing natural slopes, or changing the contour of land for development purposes.
8. It is the responsibility of the property owner to locate all easements prior to constructing or placing a fence. Said fence construction over any easement requires written permission of the city. The city may remove such fence at any time for necessary relocation or repairs of city utilities. Replacement of any removed fence shall be at the expense of the property owner.
9. Fences shall not be constructed of non-treated or natural wood products; corrugated tin, corrugated metal, or corrugated fiberglass; or sheet metal. Fences may be constructed from chain link, non-decomposing wood products (e.g. pressure-treated, redwood, cedar, etc.),

molded plastic or wrought iron. The zoning administrator may approve other materials.

10. Garden fences are exempt from zoning regulations except that no garden fence shall create a traffic or pedestrian hazard, or be located within the front yard or street side yard.
11. Fences in side and rear yards shall have at least one (1) access point, to allow for access for public safety and utility purposes.
12. Disputes between property owners concerning fences and/or plantings, trees, bushes, hedges or other natural or manufactured structures obstructing views, sunlight or air shall be considered a civil matter between private parties and shall be resolved in a court of law.

Section 11.8. BUILDINGS TO HAVE ACCESS.

Every building or principal use hereafter erected or structurally altered shall be on a lot or parcel having frontage on a public street or road, except in the (C-1) Downtown Commercial District.

Section 11.9. USE OF PUBLIC RIGHT-OF-WAY.

No portion of the public road, street or alley right-of-way shall be used, or occupied by an abutting use of land or structure for storage or display purposes, or to provide any parking or loading space required by this ordinance.

Section 11.10. Lot Frontage Continuity.

In the case where a block is improved with buildings amounting to more than thirty percent (30%) of the total number of lots, on one side of a street between two intersecting streets, then no part of any new building or structure shall project beyond a line joining the two adjacent corners of the buildings on either side thereof. Where there is a building on only one side, then no part of any new building shall project beyond a line projected from the corresponding adjacent corners of the two nearest buildings. No building shall be required to provide a front yard greater than forty feet (40'). In the case where the block front improved with buildings amounts to less than thirty percent (30%) of the total number of lots, including vacant lots, on one side of the street between two intersecting streets, the required minimum yard setbacks of the district shall be enforced.

Section 11.11. HEIGHT EXEMPTIONS.

No building shall exceed a height of thirty-five feet (35'), unless otherwise provided in this ordinance. Height regulations shall not apply to church spires, belfries, farm buildings, tanks, water towers, fire towers, stage towers or scenery lofts, chimneys, cooling towers, grain elevators, bulk-heads, conveyors, drilling rigs, monuments, flagpoles, ornamental towers, radio or television towers, and other necessary mechanical appurtenances may be erected to any height, not in conflict with any other applicable regulations. Communication towers and antennas shall be built to a height in conformance with the regulations set forth in Section 13.9. Wind energy devices shall be built to a height in conformance with the regulations set forth in Section 13.8. Height will be measured at grade.

ARTICLE 12. Additional Use Regulations

Article 12: Additional Use Regulations

- Section 12.1. Accessory Buildings
- Section 12.2. Portable Accessory Buildings and Storage Structures
- Section 12.3. Temporary Buildings
- Section 12.4. Gas Stations, Service Stations, or Convenience Stores
- Section 12.5. Home Occupations
- Section 12.6. Minimum Residential Dwelling Standards
- Section 12.7. Adult Entertainment Regulations
- Section 12.8. Wind Energy Regulations
- Section 12.9. Communication Towers

Section 12.1. ACCESSORY BUILDINGS AND USES.

The regulations set forth in this article qualify, supplement or modify the use regulations set forth elsewhere in this ordinance. Accessory buildings and uses customarily incidental to the principal building may be erected or established as permitted, provided they comply with the following.

1. Accessory buildings that are structurally part of or attached to the principal building shall conform to the site development regulations of the lot. In this instance, attached shall be considered a shared roof line or a shared common wall.
2. Accessory buildings with a floor area of less than one hundred (100) square feet may be located no closer than two feet (2') of the side or rear lot lines. Accessory buildings with a floor area of more than one hundred (100) square feet may be located no closer than five feet (5') from any side or rear lot lines.
3. No detached accessory buildings or accessory structure is permitted within any front yard.
4. Accessory buildings located on a corner lot may be located no closer to any public street right-of-way or property line, than the principal building on the same lot.
5. Accessory buildings shall not occupy more than thirty percent (30%) of the rear or side yard.
6. Accessory buildings shall not be used for dwelling purposes.
7. An open unenclosed porch or any deck structure may not project into a required front yard.
8. Accessory buildings shall not be erected within any required easement.
9. Accessory buildings shall not be constructed upon a lot until the construction of the main building has been commenced; and accessory buildings shall not be used unless the main building on the lot is also being used.
10. Accessory buildings shall not be erected, placed, constructed or moved within ten feet (10') of any principal building on the same lot or adjacent lots.
11. If any overhead door faces an alley or other public right-of-way, the minimum setback must be at least fifteen feet (15').

12. All accessory buildings within any zoning district, including detached garages, shall be no larger than 1,500 square feet total; except multiple family residential structures where a detached garage larger than 1,500 square feet containing one parking space or garage stall per dwelling unit may be provided.

Section 12.2. PORTABLE ACCESSORY BUILDINGS AND STORAGE STRUCTURES.

1. "Storage Structure" shall mean one of the following definitions:

Membrane storage structure: A temporary structure consisting of a frame covered with a plastic, fabric, canvas, aluminum, or other non-permanent material, which is used to provide temporary storage for vehicles, boats, recreational vehicles, or other personal property. The term also applies to structures commonly known as hoop buildings or tent garages; but shall not apply to carports permanently or physically attached to the ground or other structure or temporary tents and canopies used for special events such as weddings or graduations.

On-demand or on-site storage structure: Any portable or permanent storage container, storage pod, storage unit, receptacle or other portable structure that is used for the storage of personal or commercial property, which is located outside an enclosed building. The term does not include temporary or permanent sheds, garages, outbuildings, or membrane storage structures.

2. The term "storage structure" shall not apply to a truck trailer or semi-trailer while it is actively being used for the transportation of materials, inventory or equipment and is temporarily located adjacent to a loading dock. A storage structure may be used as a construction site trailer but only during construction on the site.

3. *All Residential zoning districts.*

Temporary membrane storage structures are not permitted on any residential properties. A permanent storage structure with a hard roof (such as a carport structure) may be permitted on any property if the structure is permanently attached to the ground, concrete driveway, or hard surface, or permanently attached to a principal or accessory structure. A temporary portable on-demand or on-site storage structure may be kept within the yard areas on any residential property for a maximum of 30 days for purposes of packing, shipping or moving materials from a permanent structure.

4. *All Commercial, Industrial, and other zoning districts.*

A temporary storage structure for other than residential purposes is permitted as an accessory structure but shall be located on the property within the permitted rear or side yard areas so as not to obstruct any drive access or block required off-street parking spaces. Where a business or industry is located on a through lot or corner lot, any on-site storage structure must be screened appropriately from adjoining properties or streets. Membrane storage structures may be permitted for temporary storage or seasonal promotion or sale of products.

Section 12.3. Temporary BUILDINGS AND USES.

Provisions authorizing temporary uses are intended to permit occasional, temporary uses when

consistent with the purposes of this ordinance and when compatible with other nearby uses.

1. *Temporary Use Types:* The zoning administrator may authorize the following temporary uses, subject to specific limitations herein.
 - a. Temporary building(s) for construction work may be permitted in any district during the period that the construction work is in progress, but such temporary building(s) shall be removed within thirty (30) days after completion or abandonment of the construction work.
 - b. Temporary residential occupancy on the site of an active construction project.
 - c. Religious, patriotic, or historic assemblies, displays, or exhibits.
 - d. Outdoor sales, including swap meets, flea markets, parking lot sales, or similar activities.
 - e. Circuses, carnivals, rodeos, fairs, or similar transient amusement or recreational activities not closer than 200 feet to an existing residential dwelling.
 - f. Outdoor art and craft shows and exhibits.
 - g. Christmas tree sales lots
 - h. Temporary use of trailer or storage units, or similar portable structures, limited to a maximum period of 6 months per calendar year.
 - i. Seasonal retail sales of agricultural or horticultural products raised or produced off the premises, when located not closer than 200 feet to an existing dwelling.
 - j. Additional similar uses determined to be temporary by the zoning administrator.
2. *Required Conditions of Temporary Use:* Each site occupied by a temporary use shall be left free of debris, litter, or other evidence of temporary use upon completion or removal of the use. The zoning administrator may establish such additional conditions as deemed necessary to ensure land use compatibility and to minimize potential impacts on nearby uses, including but not limited to time and frequency of operation, temporary arrangements for parking and traffic circulation, screening, or enclosure, and guarantees for site restoration and cleanup.
3. *Determination and Authorization:* The zoning administrator may authorize a temporary use when, in the zoning administrator's judgment, the temporary use will not impair the normal, safe, and effective operation of a permanent use on the same site; will be compatible with nearby uses in the general vicinity and will not create traffic hazards or otherwise interrupt or interfere with the normal conduct of uses in the vicinity. Any temporary use authorized pursuant to these provisions shall not be exempted or relieved from compliance with any other ordinance, law, permit, or license applicable to such use.

Section 12.4. GAS STATIONS, SERVICE STATIONS, and CONVENIENCE STORES.

Gasoline service stations and convenience stores shall be subject to the following regulations:

1. Location of Ingress and Egress. No gasoline service station or automobile repair shop shall have an entrance or exit for vehicles within one hundred-fifty feet (150') as measured along the public street in which there exists a school, public playground, church, chapel, convent, hospital, public library or the property line of any residentially zoned district. Such access shall not be closer to any intersection than forty feet (40').

2. Location of Oil Drainage Pits and Hydraulic Lifts. All oil drainage pits and hydraulic lifts shall be located within an enclosed structure.
3. Gasoline Dispensing Pumps. Gasoline service stations and convenience stores shall have their gasoline pumps, including other service facilities, set back at least twenty-five feet (25') from any public right-of-way. When located in commercial districts, gasoline dispensing pumps shall not be considered as accessory structures.

Section 12.5. HOME OCCUPATIONS.

Home occupations are an occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a dwelling unit for residential purposes and which does not alter the exterior of the property or affect the residential character of the neighborhood.

1. A home occupation must be conducted entirely within a dwelling unit; or entirely within an attached or detached accessory building (not to include a carport, driveway, yard, or any outside area).
2. A home occupation must be carried on by a member of the family residing in the dwelling.
3. A home occupation may employ only one (1) unrelated person living outside of the residence and members of the immediate family.
4. The use must be conducted as a secondary use and in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term.
5. The home occupation shall not generate customer related vehicular traffic substantially more than the normal anticipated residential traffic.
6. The use must not infringe upon the right of neighboring residents to enjoy peaceful and healthy occupancy of their home for which purpose the residential district was created and primarily intended.
7. A home occupation shall not produce external noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference, or waste run-off outside the dwelling unit or on the property surrounding the dwelling unit.
8. A home occupation has no exterior display, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building, other than one exterior, flush mounted, non-illuminated sign not to exceed five (5) square feet in size.
9. Daycare facilities, as a home occupation, are permitted and regulated per state regulations.
10. The following businesses or occupations shall not be permitted as home occupations: animal hospitals, animal breeding, clinics, hospitals, contractor's yards, junk or salvage yards, restaurants, rental outlet, vehicular repair shops, tattoo or massage parlors, or any form of adult oriented business.

Section 12.6. minimum RESIDENTIAL DWELLING STANDARDS.

All structures intended for residential occupancy placed, erected, assembled or constructed after the effective date of this ordinance shall comply with the minimum requirements set forth below:

1. *Structure Size.* All residential structures, including site-built dwellings, factory-built (modular) houses, and mobile homes located outside of a mobile home park and converted to real estate, shall have a main body with a minimum exterior width of at least twenty-two feet (22') measured from outside of the exterior walls. A structure may include porches, sunrooms, garages and wings of lesser dimensions and area so long as the main body meets the minimum requirements. This provision does not apply to dwellings specifically intended for or designed as a "tiny house" as defined in this ordinance and approved by the board of adjustment.
2. *Minimum Floor Area.* All residential structures shall have a minimum floor area of not less than eight hundred (800) square feet, unless specifically intended for or designed as a "tiny house" as defined in this ordinance and approved as such by the board of adjustment.
3. *Foundation.* All residential structures shall have a continuous and complete frost protected perimeter foundation, except that a perimeter foundation shall not be required for a mobile or manufactured home if a perimeter foundation is incompatible with the structural design of the building. For such a mobile or manufactured home, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site. Foundation materials may be masonry, poured concrete, wood or metal and must extend below the normal frost line or be an approved frost-free permanent foundation. The structure must be permanently attached to the foundation.
4. *Exterior Materials.* Exterior wall covering shall be wood or masonry finish, vertical or horizontal grooved siding or lap siding, or the typical residential appearance thereof. Roofing material shall be shingles (asphalt, fiberglass, or wood), slate, ceramic, concrete, or metal of a type customarily used for residential roofing material, such as "standing seam" or embossed or textured metal. Soffits, eaves, window, and door trim (not exceeding 18 inches in width), roofs and coverings over bay and bow windows and doors may be smooth finished metal, vinyl, or wood or unfinished metal, such as copper, customarily used for residential structure trim.
5. *Roof Pitch.* All dwelling units that have a pitched roof shall have a minimum roof pitch of at least 3:12. This requirement shall not apply to mobile or manufactured housing if the structure complies with 42 U.S.C., Section 5403.
6. *Wheels, Axels, or Towing Device.* No residential dwelling shall have attached wheels, axels, or a towing device.
7. *Exemption.* The provisions of this section shall not apply to mobile homes and/or manufactured housing placed in mobile home park or manufactured housing subdivision in compliance with the remaining regulations of this ordinance.
8. *Tiny Houses.* The construction, placement, moving, or locating a "tiny" house consisting of any residential dwelling of less than the minimum required 800 square feet in size, may be

permitted on any lot of record in the City of Sutherland only upon approval of a conditional use permit subject to the review by the board of adjustment. Tiny houses designed or constructed specifically to be on a portable trailer or frame on wheels may be parked on a lot and not subject to the foundation requirements stated in Part 3 above. A tiny house designed to be attached to a foundation shall comply with the foundation requirements stated in this Section. All tiny houses, at a minimum, shall have cooking, bathroom and sleeping quarters.

Section 12.7. ADULT ENTERTAINMENT BUSINESSES.

The City of Sutherland finds adult entertainment businesses require special consideration to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of the community. Such adult entertainment businesses, because of their very nature, have a detrimental effect on both existing uses surrounding them and adjacent residential areas. Adult entertainment businesses often have serious objectionable operational characteristics, thereby contributing to blight, and downgrading the quality of life in the adjacent area. The concern over sexually-transmitted diseases is a legitimate health concern of Sutherland citizens that demands reasonable regulation of adult entertainment businesses to protect the health and well-being of the community. The community wants to prevent such adverse effects and thereby protect the health, safety, and welfare of its residents; protect residents from increased crime; preserve the quality of life; preserve the property values and character of the surrounding area and deter the spread of blight. It is not the intent of these regulations to suppress any free speech activities protected by the First Amendment, but to address the secondary effects of adult entertainment businesses as well as the problems associated with such establishments.

1. *Adult Entertainment Defined.* Adult entertainment businesses consisting of, including, or having the characteristics of any or all the following.
 - a. *Adult Entertainment:* Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.
 - b. *Adult Entertainment Business:* Any establishment including bookstores, novelty stores, video stores, cabarets, nightclubs, bar, restaurants, motels, hotels, picture theatres or any other place offering adult entertainment, with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined below. It further means any premises offering topless dancers, go-go dancers, strippers, male or female impersonators, or other similar entertainers. Adult entertainment establishments further mean those places to which are arranged to provide booths, cubicles, rooms, compartments, or stalls separate from the common area for the purposes of viewing adult-oriented motion pictures, or adult entertainment dancing.
 - c. *Operators:* Any person, partnership, or corporation operating, conducting, maintaining, or owning any adult entertainment business.
 - d. *Specified Anatomical Areas:* Less than completely and opaquely covered female or male

genitals or buttocks, and the fully exposed female breasts.

- e. *Specified Sexual Activities*: Simulated or actual acts of:
 - (i) Showing of specified anatomical areas in a state of sexual stimulation or arousal.
 - (ii) Actual or simulated acts of sexual intercourse, sodomy, or sado-masochism.
 - (iii) Fondling or erotic touching of specified anatomical areas.

2. *Locational Requirements and Restrictions.*

An adult entertainment business shall be permitted within the City of Sutherland only in the (GI) General Industrial zoning district upon receipt of a site plan in accordance with Article 11, a conditional use permit in accordance with the procedures set forth in Article 21; and only if it meets all the location requirements set forth below. Distances provided hereafter shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property upon which the proposed adult entertainment business is to be located, to the nearest point of the parcel of property or zoning district from which the proposed adult entertainment business is to be separated.

- a. Adult entertainment businesses shall be prohibited in or within 1,000 feet of the borders of a residential district.
- b. Adult entertainment businesses shall be prohibited within 1,000 feet of any church, synagogue, mosque, temple, or other place of religious worship.
- c. Adult entertainment businesses shall be prohibited within 1,000 feet of any public or private school.
- d. Adult entertainment businesses shall be prohibited within 1,000 feet of any public park.
- e. Adult entertainment businesses shall be prohibited within 1,000 feet of any other adult entertainment business.

3. *Development Design Standards.*

It shall be unlawful for an owner of an adult entertainment business to allow merchandise or activities to be visible from a point outside the business. Furthermore, adult entertainment businesses shall not allow the exterior portion to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representation of any manner depicting specified anatomical areas or specified sexual activities. In addition to the sign regulations identified elsewhere in these zoning regulations, the display surfaces of the sign shall not contain any flashing lights or photographs, silhouettes, drawings, or pictorial representations of any manner, except for the name of the enterprise.

4. *Responsibilities of the Operator.*

Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs with the authorization, knowledge, or approval of the operator or because of the operator's negligent failure to supervise the employee's conduct. The operator shall be punishable for such act or omission in the same manner as if the operator committed the act or omission.

5. *Minors.*

It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult entertainment business at any time the establishment is open for business. The operator is responsible for monitoring public entrances during regular business hours.

Section 12.8. WIND ENERGY DEVICES.

The purpose of this section is to oversee the permitting of wind energy devices and to preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of wind energy systems.

1. Definitions.

- a. Commercial Wind Energy Device - any wind energy device with a nameplate capacity of more than 100kw of which its primary intent is to generate electrical power to be sold to utility or power companies.
- b. Owner/Developer - the individual or entity that intends to own and operate the wind energy system in accordance with this ordinance.
- c. Rotor Diameter - the cross-sectional dimension of the circle swept by the rotating blades.
- d. Total Height - the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- e. Tower - a monopole, freestanding, or guyed structure that supports a wind generator.
- f. Wind Energy Device – any equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, wire, inverter, batteries, or other components used in the system. The term wind energy device often refers to and includes wind towers, wind turbines, wind generators, windmills, or wind energy conversion systems.
- g. Meteorological Tower - any meteorological, measuring or surveying equipment erected on or attached to any tower, monopole, or guyed structure to verify the wind and weather resources found within a certain area. Meteorological towers are also subject to permitting on both temporary and permanent structures.
- h. Small Wind Energy Device - a wind energy system that is used to generate electricity and has a nameplate capacity of 100kw or less. Wind energy devices with a generating capacity of 20kw or less may be used for residential or personal use. A wind energy device with a generating capacity between 20kw and 100kw is considered small wind energy for commercial/industrial applications. A wind energy device is considered “small” only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supply by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company in accordance with Section 199, Chapter 15.11 (5) of the Iowa Administrative Code.

2. Wind Energy Location and Height Requirements.

Commercial wind energy devices shall not be permitted within any defined residential zoning

district. Commercial wind energy devices shall be limited to a total height of 250 feet within 1,320 feet of any residential zoning district. Both commercial and small wind energy devices shall be exempted from height limitations identified in this ordinance.

3. Wind Energy Setback Requirements.

Commercial wind energy devices shall be set back a distance equal to 110% of its total height from any public right of way, overhead utility lines or adjacent property lines not under the same ownership unless the property owner or entity with jurisdiction over the street, utilities, or adjacent properties grants written consent. With that stated, those wind energy devices that are located on land adjacent to property under the same ownership may have the property line setback requirement waived; however, the setbacks still apply to overhead utility lines and public rights-of-way. A greater setback may be required to minimize shadow flicker, nuisance noise, and other possible documented effects to humans living in these dwellings.

Small wind energy devices located on a freestanding pole or other structure must maintain a setback distance equal to 110% of its total height from any public street or road right-of-way, overhead utility lines or adjacent property lines not under the same ownership unless the property owner or entity with jurisdiction over the street, utilities, or adjacent properties grants written consent.

4. Wind Energy Placement or Spacing.

Commercial wind energy device spacing will vary depending on common industry practice and manufacturer specifications. The owner/developer shall consider the public interest and the natural environment, and maintain the intent and purpose of this ordinance.

Small wind energy devices designed for residential or personal use shall be erected on either a freestanding pole or tower. In all residential zoned districts, no small wind energy device or accessory structures shall be permitted within the front yard.

5. Utility notification and interconnection.

Commercial wind energy devices that connect to the electric utility shall comply with all local, state and federal regulations regarding the connection of energy generation facilities.

Small wind energy devices shall not be installed until evidence has been given that the utility company has authorized interconnection of the small wind device to its electric distribution or transmission, under an agreement approved by and subject to regulation adopted by the Iowa Utilities Board. Small wind energy devices not connected to a public utility system shall be exempt from this requirement.

6. Electrical Wires. All electrical wires associated with any wind energy device, other than wires necessary to the operation of the wind turbine itself shall be located underground. In the instance of commercial wind energy projects, transmission lines or high capacity electrical lines from substations transferring cumulative energy resources from a wind energy project shall not be required to be placed underground.

7. Lighting. Any wind energy device shall not be artificially lighted, unless the Federal Aviation Administration requires such lighting.

8. Appearance, Color, and Finish. Any wind energy device shall remain painted or finished the

color or finish applied by the manufacturer, unless approved in the conditional use permit.

9. *Signs.* All signs shall be prohibited other than the manufacturer or installer's identification sign and appropriate warning signs.

10. *Sound.* Sound produced by any wind energy devices under normal operating conditions, as measured at the property line shall not produce sound at a level that would constitute a nuisance. Industry standards support that wind energy noise should not exceed 50 decibels at 1,250 feet. Sound levels, however, may be exceeded during short term events out of anyone's control, such as utility outages and/or severe wind storms.

11. *Electromagnetic Interference.* Any wind energy device shall be designed and constructed so as not to cause radio and television interference. If it is determined that the wind energy device is causing electromagnetic interference, the owner shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities.

12. *Conditional Use Permit.*

Commercial wind energy devices, wind energy towers or meteorological towers erected in any zoning district may be granted as a conditional use and approved by the board of adjustment after a public hearing. The zoning administrator shall perform an assessment of the issues raised because of erecting wind energy devices and issuing conditional use permits in the zoning district prior to any public hearing and any action by the board of adjustment.

Small wind energy devices designed, marketed, and sold explicitly for personal or private residential or business applications, which has a nameplate capacity of 100kw or less shall be considered a conditional use in all zoning districts.

13. *Wind Energy Permit Requirements.*

A zoning compliance permit shall be required for the installation of any wind energy device. The application for zoning permit will be accompanied by a detailed site plan for the wind energy device. A site plan and other such plans and manufacturer's specifications shall show the dimensions, arrangements, descriptive data, site layout and other information essential to an understanding of the use and construction of the proposed wind energy device. A site plan shall include the following at a minimum:

- Location of the proposed wind energy device(s)
- Wind energy device specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed)
- Tower foundation blueprints or drawings and tower blueprint or drawing
- Site layout, including location of property lines, wind turbines, electrical wires, connection points with electrical grid, and related accessory structures.
- Documentation of land ownership or legal control of the property.
- FAA Permit Application, if applicable.

14. *Notification.* The owner/developer shall be responsible for obtaining and submitting to the city a listing of the names and last known addresses of the owners of all property within 200 feet of the parameter of the total project development site containing wind energy device(s). Prior to the public hearing for such conditional use permit, all adjacent property owners, and those within

200 feet of the proposed wind energy site shall be given notice by ordinary mail.

15. *Review and Approval.* Within 60 days of receiving the permit application for a wind energy device, the board of adjustment shall schedule a public hearing regarding the conditional use permit. Notice shall be given to the public no less than 4 days and no more than 20 days prior to the public hearing by publication in the official city newspaper. Approval of the conditional use permit for a wind energy device shall be valid for a period no longer than two (2) years from the date of such permit, unless construction has commenced or the board of adjustment specifically grants a longer period for the building permit. The approval and issuance of a conditional use permit for the construction or installation of any wind energy device, under this ordinance, shall not relieve any permittee, applicant, or owner from compliance with all legal requirements nor relieve the permittee, applicant, or owner of any liability for damage or loss resulting from the placement, construction, or maintenance of such wind energy device. The city assumes no liability whatsoever by virtue of the issuance of a conditional use permit for wind energy devices.

16. *Mitigation of Damages.* If any damages occur during construction or maintenance of any wind energy device, the owner/developer shall be fully responsible to mitigate and correct any damages to public streets or infrastructure.

17. *Discontinuance or Abandonment.* Any wind turbine that is out-of-service for a continuous 1 year period will be deemed to have been abandoned and discontinued for use. At such time the wind turbine is determined to be abandoned the owner shall remove the wind turbine at the owner's expense within six months of receipt of notice. If the owner fails to remove the wind turbine, the zoning administrator may pursue legal action to have the wind turbine removed at the owner's expense and such costs will be assessed against the property.

Section 12.9. COMMUNICATION TOWERS.

The purpose of this section is to provide for the regulation of contractors engaged in the construction, erection, placement, or location of freestanding communications towers in the City of Sutherland. These regulations do not apply to television, satellite dish, or other communication antennas attached to a structure or accessory building and primarily used for personal or residential enjoyment.

1. Communication towers shall be permitted under a conditional use permit in every zoning district within the city. The conditional use application shall include drawings, plans and other necessary documents describing the intent, layout, and construction or installation.
2. "Communication Tower" means a structure, tower, antenna, or other facility primarily engaged in the provision of broadcasting and information relay services accomplished using electronic, cellular, or other mechanisms but exclude those classified as major utility facilities. Typical uses include but not limited to telecommunication towers, radio, cellular and other receiving towers, antennas or structures and amateur radio communications including voluntary and noncommercial communication services.
3. The construction and maintenance of a communication tower shall be permitted to the owner of the tower as specified in the conditional use permit only upon compliance with all

applicable ordinances of the city. The permit shall be of indefinite duration and remain in effect so long as the tower remains in compliance with applicable city ordinances. A conditional use permit for communication towers may be revoked upon notice to the owner and following opportunity for a public hearing before the board of adjustment, for a violation of any applicable city ordinance, state or federal statute or regulation.

4. The issuance of a conditional use permit for construction or installation of communication towers shall not relieve any permittee, applicant, or owner from compliance with all legal requirements or from liability for damage or loss resulting from the placement, construction, or maintenance of the tower. The City of Sutherland assumes no liability whatsoever by issuance of a conditional use permit for a communications tower.
5. The minimum distance from the base of the tower to the nearest property line of the tower site shall not be less than one hundred ten percent (110%) of the tower height, except that no setback shall be less than any required yard setbacks in the zoning district.
6. Communication towers are exempt from the height limitations in this ordinance. The height of a communication tower shall be measured from the base of the tower or structure of which it is attached, to the tip of the structure, antenna or tower being measured.
7. The communication tower base shall be designed or constructed to provide a secure environment and unauthorized access to the tower base.
8. All towers shall be maintained and operated in compliance with the standards adopted by the Federal Communications Commission concerning electromagnetic field emissions.
9. The city shall not restrict or deny the use of amateur radio antennas or towers for the personal enjoyment and use of the owner(s) and shall comply with Title 47 of the Code of Federal Regulations, Part 97 (FCC rules for amateur radio).
10. To avoid unnecessary duplication of communications towers, businesses engaged in wireless communication requiring the use of communications towers are required to utilize joint or multiple use of all existing and proposed towers. An application for a conditional use permit for a communication tower shall include verification that the applicant has considered the use of existing towers and include a detailed explanation establishing that the use of an existing tower is economically or technically not feasible. Each owner of a tower placed and constructed pursuant to a conditional use permit issued under this ordinance shall, to the extent technically feasible, lease tower capacity to other wireless communication providers at commercially reasonable rates and terms.
11. Abandoned or decommissioned communication towers shall be removed within twelve months of the discontinuance of such use, and it shall be the responsibility of the property owner to have such tower properly removed or dismantled.

ARTICLE 13. Off Street Parking

Article 13: Off Street Parking

- Section 13.1. General Parking Area and Surface Requirements
- Section 13.2. Computation of Parking Spaces
- Section 13.3. Off Street Parking Requirements
- Section 13.4. Recreational Vehicle Parking
- Section 13.5. Off Street Loading Requirements

Section 13.1. General Parking Area and Surface Requirements.

Off-street parking areas shall comply with the following minimum area and surface requirements.

1. The provisions of this section shall not apply to the (C-1) Downtown Commercial District.
2. All off street parking spaces shall be at least 200 square feet in size (typically 10' x 20').
3. Off street parking spaces required by this ordinance shall be located on the same lot of the use it serves, or as part of a multi-use or joint parking lot, located within 300' of the principal use.
4. Off street parking areas consisting of more than five (5) parking spaces shall be hard surfaced. Off street parking spaces shall be surfaced with Portland cement, concrete, asphaltic concrete, compacted aggregate, or equivalent hard surface. Parking areas shall be graded and drained to dispose of surface water on the lot and shall be marked to provide for safe ingress and egress.
5. Enclosed parking areas or garages shall qualify to meet minimum parking requirements.
5. Requirements as to number and size of parking space in this section are minimum requirements only and shall not be construed as limitations.
6. Owners of two (2) or more uses or parcels of land may agree to jointly use the same parking spaces provided satisfactory legal evidence is presented to establish such a joint use, and provided the single lot meets the combined parking requirements of each separate use.
7. All yard areas, except front yards in the R-1 Single Family Residential district, may be used for off-street parking. However, within the R-1 zoning districts, that portion of the driveway lying within the front yard may be used to satisfy off-street parking requirements.
8. Any lighting used to illuminate off street parking areas or lots shall be directional lighting and arranged to direct light away from adjacent properties.
9. Willful failure to maintain and provide parking spaces as required under this section shall be deemed a violation of this ordinance and subject to the penalty in Section 18.1.

Section 13.2. COMPUTATION OF PARKING SPACES.

1. In case of any building structure or premises, the use of which is not specifically mentioned herein, the number of parking spaces provided will be equal to that of similar use mentioned in Section 14.3 shall apply, as determined by the zoning administrator.

2. Where fractional spaces occur, the required parking shall be increased to the next number.
3. Whenever a building or use constructed or established after the effective date of the ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided based on the enlargement or change. Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of fifty percent (50%) or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
4. If multiple uses occupy the same building or land, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

Section 13.3. Off Street Parking Requirements.

At the time of construction, alteration, moving into, enlargement of a structure or building, or change in the use of the land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows, except in the downtown commercial district:

- | | |
|---|---|
| 1. Single Family Residential: | 2 spaces per dwelling |
| 2. Two Family Residential (Duplex): | 2 spaces per dwelling |
| 3. Multiple Family Residential:
- <i>Condominiums, apartments, and townhouses</i> | 1.5 spaces per dwelling |
| 4. Mobile/Manufactured Home Residential: | 1 space per mobile/manufactured home and
1 space per dwelling unit for visitor/guest parking |
| 5. Group Residential/Family Home: | 1 space for each two (2) bedrooms |
| 6. Hotel/Motel and Bed & Breakfast: | 1 space per guest room and 5 additional spaces |
| 7. Hospital/Healthcare facilities/
Assisted Living facility: | 1 space for each four (4) patient beds, plus 1
space for each two (2) employees on the
largest shift |
| 8. Convalescent Services:
- <i>Nursing Homes, Rest Homes, etc.</i> | 1 space for each eight (8) patient beds, plus 1
space for each two (2) employees on the
largest shift |
| 9. Public Assembly/Religious Assembly:
- <i>Churches, auditoriums, stadiums, theaters
community center, public buildings, etc.</i> | 1 space for each six (6) seats of seating
capacity provided or 1 space per 500 sq.ft.
of gross floor area, whichever is greater |
| 10. Downtown Commercial: | 3 spaces per 4 employees; and employee
parking shall be at the rear of the building
and not within any public right-of-way |
| 11. General Retail Sales/Professional Office: | 1 space per 300 sq.ft. of gross floor area |
| 12. Large Retail/Services in excess of
15,000 square feet: | 1 space per 600 sq.ft. of gross floor area |

13. Bowling Alley:	5 spaces for each alley
14. Restaurants/Lounges/Bars:	1 space for each four (4) seats, plus 1 space for each two (2) employees, or 1 space per 300 sq.ft. of gross floor area, whichever is greater
17. Educational Facilities: - Including preschools, daycares, etc.	1 space per regular employee and 1 space for for every six (6) seats in the largest facility for public assembly.
18. Industry/Manufacturing/Research:	1 space for each employee on the largest shift.
19. Salvage yards/scrap yards/junk yards:	One (1) space per five hundred (500) sq. ft. of display or floor area, plus one (1) space for each two (2) employees on the largest shift.
20. Campgrounds, camp sites, RV parks:	One (1) space per one (1) camping or RV site
22. All Other Uses:	All other buildings with a gross floor area of 2,000 sq.ft. or more shall provide 1 off-street parking space for each 1,000 square feet of floor space on the same lot as the building.

Section 13.4. RECREATIONAL VEHICLE PARKING.

The term “recreational vehicles” shall mean a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. Such vehicles include, but are not limited to, travel trailers, campers, camping trailers, motor coach homes, converted trucks and busses. Recreational vehicles shall also include personal watercraft, boats, snowmobiles, and other recreation based vehicles.

1. Recreational vehicles are permitted in campgrounds, recreational vehicle parks, and other typical recreational areas.
2. Vehicles, travel trailers, camper trailers, and other trailers shall not be parked within a front yard, except in the driveway portion in any single family residential district, for a period not to exceed seven (7) days.
3. Recreational vehicles may be parked or stored long term within a side yard or rear yard of a residential lot or within an enclosed garage. Unlicensed recreational vehicles and machinery must be stored in an enclosed structure.
4. Recreational vehicles parked or stored on any lot shall not be used for human occupancy. In any residential district, recreational vehicles shall only allow temporary human habitation for not more than fourteen (14) days in a calendar year.
5. Recreational vehicles shall not be used for business purposes in any zoning district.

Section 13.5. OFF STREET LOADING REQUIREMENTS.

At the time of construction, alteration, or enlargement of any 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 similar uses requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided on the same lot at least one (1) permanently maintained off-street loading space plus one (1) additional loading space for each twenty thousand (20,000) square feet or fraction thereof of gross floor area, so used, in excess of ten thousand (10,000) square feet.

Such loading space may occupy all or any part of any required side or rear yard or open space, except where adjoining a residential district. If the loading space is adjacent to a residential district, it shall be set back at least ten feet (10') and effectively screened from view. All loading, unloading and parking must be conducted on private property and cannot be conducted on the public right-of-way, except for designated or approved delivery, parcel or moving vehicles intended for temporary unloading.

ARTICLE 14. Sign Regulations

Article 14: Sign Regulations

Section 14.1	Intent
Section 14.2	Definitions
Section 14.3	Sign Requirements
Section 14.4	Sign Variances
Section 14.5	General Sign Provisions
Section 14.6	Unsafe Signs and Removal of Signs
Section 14.7	Exempt Signs
Section 14.8	Nonconforming Signs

Section 14.1. INTENT.

This article is established to protect and promote health, safety, welfare and order within the City of Sutherland through the establishment of uniform standards, regulations and procedures governing the type, number, size, structure, location, height, lighting, erection, use or display of devices, signs, or symbols serving as a visual media to persons situated within or upon public rights-of-way or private properties. Hereafter no sign shall be erected, constructed, altered, or modified except as regulated by the provisions of this article.

Section 14.2. DEFINITIONS.

For use in this article, the following terms are defined.

1. **AWNING:** A device made of cloth, metal, or other material affixed to and projecting from a building in such a manner that the device is either permanently fixed or so erected as to allow it to be raised or retracted and return to a flat position against the building.
2. **BILLBOARD:** A billboard includes all structures, regardless of materials used in construction, that are erected, maintained or used for public display of posters, painted signs, or wall signs, whether the structure is placed on a wall or freestanding. Billboards include pictures or other pictorial materials which advertise a business or attraction which is not carried on, manufactured, or sold on the premises where said billboards are located.
3. **ERECT:** To build, construct, attach, hang, suspend or affix, and shall also include the painting of wall signs.
4. **FACING (or SURFACE):** The surface of the sign upon; against or through which the message is displayed or illustrated on the sign.
5. **INCOMBUSTIBLE MATERIAL:** Any material that will not ignite at or below a temperature of 120° F and will not continue to burn or glow at that temperature.
6. **PERSON:** Any one being, firm, partnership, association, corporation, company or organization of any kind.
7. **SIGN:** Any device, structure or surface upon which letters, illustrations, designs, figures, or symbols are painted, printed, stamped, raised, or outlined or attached in any manner for

the purpose of advertising.

- a. **ABANDONED SIGN:** A sign which no longer correctly directs any person, advertises a bona fide business, owner, product, or activity conducted on the premises where such sign is displayed.
- b. **ADDRESS SIGN:** A sign identifying street address only, whether written or numerical form.
- c. **AWNING SIGN:** A sign consisting of either an operating or permanently affixed awning that portrays the business or advertising of the establishment in which it is attached. Awning signs shall not extend more than four (4) feet out from a building and shall meet all other size requirements addressed in this article. Permanent awnings may be lighted from the backside, but awning signs shall not have any flashing or otherwise intermittent light emitting from the sign.
- d. **CAMPAIGN SIGN:** A temporary sign promoting the candidacy of a person running for a governmental office, or promoting an issue to be voted upon at a governmental election.
- e. **CONSTRUCTION SIGN:** A sign placed at construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.
- f. **DIRECTIONAL SIGN:** A sign erected on public or private property which bears the address and name of a business, institution, church, or other use plus directions or information.
- g. **FLASHING SIGN:** Any illuminated sign that is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature or similar information, shall not be considered a flashing sign.
- h. **FREE STANDING SIGN:** Any sign or sign structure, not securely attached to the ground or to any other structure. This shall not include trailer signs as defined in this section
- i. **GOVERNMENTAL SIGN:** A sign which is erected by a governmental unit.
- j. **ILLUMINATED SIGN:** Any sign which has character, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.
- k. **INFORMATION SIGN:** Any sign giving information to employees, visitors or delivery vehicles, but containing no advertising or identification.
- l. **JOINT IDENTIFICATION SIGN:** A free-standing sign which identifies a subdivision, a multiple residential complex, shopping center, office complex or at least three (3) separate businesses listed on the same sign. Any instance of multiple signs on the same sign structure.
- m. **NON-CONFORMING SIGN:** A sign which lawfully existed at the time of the passage of this ordinance but which does not conform to the current regulations of this ordinance.
- n. **POLE SIGN:** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.
- o. **PORTABLE SIGN:** Any sign not permanently attached to a building, structure, or the ground, capable of being moved at periodic intervals.

- p. PROJECTING SIGN: A sign that projects perpendicular to the wall surface of a building or structure, and is supported by a wall of the building or structure.
 - q. REAL ESTATE SIGN: A business sign placed upon a property advertising that particular property for sale, for lease or for rent.
 - r. ROOF SIGN: A sign erected upon or above a roof or parapet of a building or structure.
 - s. SWINGING SIGN: A sign installed on an arm or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.
 - t. TRAILER SIGN: Any sign mounted on a vehicle normally licensed by the State of Iowa as a trailer and used for advertising or promotional purposes.
 - u. WALL SIGN: All flat signs placed against a building or other structure and attached to the exterior front, rear or side wall of any building or other structure. Such signs may extend no more than twelve (12) inches from the surface of the building or structure to which they are attached. Wall signs are also known as “flush mounted signs”.
- 8. SIGN AREA: That area enclosed by one contiguous line, connecting the extreme points or edges of a sign. The area shall be determined by using the largest area or silhouette visible at any one time from any one point. This does not include the main supporting sign structure.
 - 9. SIGN STRUCTURE: The supports, uprights, bracing and framework for a sign including the sign area.
 - 10. STREET LINE (or PROPERTY LINE): The place where the street right of way line begins and the private property line ends.
 - 11. STRUCTURAL TRIM: The molding, battens, cappings, nailing strips, latticing and platforms that are attached to the sign structure.
 - 12. TEMPORARY SIGN: Any sign which is erected or displayed for a specified period of time.

Section 14.3. SIGN REQUIREMENTS.

- 1. *All Residential Districts*: Signs pertaining to principal permitted uses are allowed in residential districts subject to the following regulations.
 - a. Home occupation signs are permitted pursuant to Section 9.14 of this ordinance.
 - b. Signs, for non-residential businesses located in residential areas, shall be limited to no more than twenty (20) square feet on one (1) free standing or wall sign not to exceed a height of six (6) feet from the ground to the top of the sign structure.
 - c. One (1) on-site sign pertaining to the sale, lease or rent of the land or building shall be allowed per residential property.
 - d. Prohibited Signs: All flashing type signs are prohibited.
- 2. *All other Zoning Districts (Commercial, Industrial & Agriculture Districts)*: Signs pertaining to

principal permitted uses are allowed subject to the following regulations.

- a. The sign area shall be calculated by computing 2 square feet of sign area for each 1 lineal foot of building frontage, not to exceed a total aggregate area of all signs (wall signs, freestanding signs, etc.) of 200 square feet for any size building.
- b. The sign area shall be computed by:
 - i. For freestanding letters, by taking the area enclosed within the smallest rectangle needed to completely encompass each word or insignia of the sign.
 - ii. For signs other than freestanding letters, taking the total area of the facing or the total area within the outer edge of any existing border of the sign.
- c. All signs shall be permanently fixed and not moving or audible. No illumination shall be intermittent or flashing. Sign that are internally illuminated for purposes of a scrolling marquee for information or advertising purposes is permitted; as long as it is not flashing.
- d. Wall-mounted signs shall not project more than four (4) feet above the roofline.
- e. Service stations shall be limited to two hundred fifty (250) square feet of sign area.
- f. Billboards are not permitted within the city limits of Sutherland, Iowa.
- g. Signs may be permitted to be built up to the front property line, but no portion of any sign shall be allowed to be located on or overhang any public right-of-way or permanent easement.
- h. Only one permanent type freestanding or pole sign will be permitted per frontage for each principal use, except for corner lots or double frontage lots in which case one permanent sign shall be permitted per each street frontage.
- i. Permitted signs in all zoning districts, except for within residential districts, include all sign types identified in the Section 12.2.7 above, except for abandoned, flashing or trailer signs.

Section 14.4. SIGN VARIANCES.

Specific requirements of this zoning ordinance may be varied by any person desiring to display a sign which is nonconforming with the ordinance by making application to the board of adjustment for a sign permit. Such application shall indicate the proposed location of the sign, a description of the sign, including the dimensions, lighting, and moving parts, if any, the owner of the sign and the owner of the property on which the sign is to be located.

1. Such application shall be submitted, in writing, to the board of adjustment.
2. Upon receipt of an application for such a sign permit, the board of adjustment shall schedule and give at least seven (7) days public notice of a public hearing on the application. The applicant shall be notified in writing by the city clerk of the time and place of the hearing.
3. At the time and place set, the board of adjustment shall hold the public hearing and shall thereafter make its recommendation to the city council, which recommendation may only be overridden by the affirmative vote of $\frac{3}{4}$ of the city council.

Section 14.5. GENERAL SIGN PROVISIONS.

In all districts, signs and billboards shall adhere to pertinent state regulations and other local ordinances. The following signs are allowed with a permit and shall comply with all other applicable provisions of this ordinance.

1. *Ground Signs and/or Pole Signs:* All letters, figures, characters or representations in cut-out or irregular form, maintained in conjunction with, attached to, or superimposed upon any sign shall be safely and securely built or attached to the sign structure.
2. *Wall Signs:* No wall sign shall cover wholly or partially any wall opening, nor project beyond the ends of the wall to which it is attached.
1. *Bulletin Boards and Announcement Signs:* These shall be permitted on the premises of charitable, religious and public institutions but may not exceed 32 square feet in size and 5 feet in height.
2. *Free Standing Signs:* Free standing signs shall be permitted if they do not block the view of traffic, conform to the Iowa DOT regulations, and not located in any public right-of-way.
3. *Safety:* No sign shall be erected, located or maintained so as to prevent free ingress or egress to any door, window or fire escape. No sign or other advertising structure as permitted by this ordinance shall, by reason of its location, lighting, size, color or intensity, create a hazard to the safe efficient movement of traffic. No signs shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision. No private sign shall contain words that might be construed as traffic controls, or be confused with any authorized traffic sign or signal; or which makes use of the words "STOP", "WARNING", "CAUTION", "DANGER", or any other word, phrase, symbol or character as to mislead or confuse traffic.
6. *Signs in Right-of-Way:* No signs other than government signs shall be erected or temporarily placed within any public rights-of-ways.
7. *Clearance:* All signs located over public rights-of-way or any public or private access (e.g. sidewalks, etc.) shall be located a minimum of ten (10) feet above grade.
8. *Temporary Signs:* The temporary use of portable or moveable signs, search lights, banners, pendants, and similar devices shall be allowed in excess of and in addition to the sign limitations of this article for continuous periods of thirty (30) consecutive days. No business proprietor shall be allowed more than three such periods in any calendar year.
9. *Signs Required by Law:* All signs required by law shall be permitted in all districts.
10. *Back to Back Signs:* If a sign or sign structure is constructed so that the faces are not back to back, the angle shall not exceed thirty (30) degrees. If the angle is greater than 30 degrees, the total area of both sides added together shall be the calculated sign area.
11. *Illumination:* All externally illuminated signs shall be constructed so as to direct the source of light away from adjacent properties or public streets.
12. *Double Frontage:* Lots having frontage on two streets or on a street and an alley shall be permitted to provide the maximum number and square footage of signs on each of the opposite ends of said lot, provided however, that not more than the maximum number of

square feet of signs per frontage may be viewed simultaneously.

Section 14.6. UNSAFE SIGNS AND REMOVAL OF SIGNS.

No advertising sign or billboard shall be allowed to remain if it is structurally unsafe and in a state of needed repair, and no sign will be permitted which constitutes a traffic hazard for safe and efficient operation of vehicles, or creates a condition which endangers the safety of persons or property. The board of adjustment may order its removal based upon a report after inspection by the zoning administrator as to traffic or safety problems created by any such sign. The board shall notify the sign owner of any existing problem and if the conditions are not remedied in 30 days, a hearing shall be held to discuss the removal of said sign. If said sign is not removed within 30 days after the date of public hearing held by the board of adjustment, the city shall remove said sign and expenses will be charged to the property owner where the sign is located for costs incurred by the city.

Any sign now or hereafter existing which no longer advertises a bona fide business, or selling a product, shall be taken down and removed within ninety (90) days from date of notice provided by the city. If after the expiration of the ninety (90) day period, the sign has not been removed, the city may cause the sign to be removed and any expenses may be charged to the property owner.

Section 14.7. EXEMPT SIGNS.

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

1. *Real estate signs (on-site)* advertising for sale, rental, or lease the lot or tract on which they are located will be allowed in all districts. The area of such sign shall not exceed four (4) square feet. At the date of closing, signs shall be removed within forty-eight (48) hours.
2. *Integral signs, Memorial signs or Professional name plates* not exceeding two (2) square feet, is attached to the building, includes names, date of construction, commemorative tablets and the like, which are a part of the building or structure.
3. *Address Signs* identifying street address only, whether in written or numerical form.
4. *Construction Signs* as a non-illuminated sign announcing the names of architects, engineers, contractors, proposed use, and other individuals involved with the construction, alteration, or repair of such building are permitted. Signs shall be confined to the site of the construction and shall be removed within one (1) year of the date of issuance of the building permit or when the project is completed. One sign, not to exceed 32 sq. ft. shall be permitted on the project site.
5. *Political signs* as allowed by Section 306C.22, Code of Iowa.
6. *Government signs* of a public, non-commercial nature to include safety, danger, trespassing, traffic, and scenic or historical signs; and memorial plaques and the like.
7. *On-site Directional and Parking Signs* intended to facilitate the movement of vehicles and

pedestrians upon which the sign is located. Signs shall not exceed six (6) square feet of area.

Section 14.8. NONCONFORMING SIGNS.

Nonconforming signs shall be brought to compliance upon change of ownership or occupancy of the premises. Any sign displayed pursuant to a permit issued under this ordinance may be required to be removed by the board of adjustment at any time after 18 months after the date of issuance of the permit and such limitations as a condition of the issuance of a sign permit.

ARTICLE 15. Nonconforming Buildings and Uses

Article 15: Nonconforming Buildings and Uses

- Section 15.1. Intent
- Section 15.2. Nonconforming Uses of Land
- Section 15.3. Nonconforming Uses of Buildings or Structures
- Section 15.4. Replacing Damaged Buildings or Structures
- Section 15.5. Change in Tenancy or Ownership

Section 15.1. Intent.

It is the intent of this ordinance to permit legal nonconforming lots, structures, or uses to continue until they are discontinued, but not to encourage their continuance. It is recognized there exists structures and uses of land and structures within the various zoning districts of this ordinance or amendments thereto which were lawful prior to the adoption of this ordinance that would otherwise be prohibited, regulated, or restricted under provisions of this ordinance. These nonconformities will be allowed to continue until they are discontinued, but are declared by the ordinance to be incompatible with permitted uses in the zoning districts involved.

Section 15.2. Nonconforming Uses of Land.

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

1. A nonconforming use may be changed to a permitted or conditional use in any district.
2. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of the same intensity or more restrictive classification. Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not hereafter be changed to a less restrictive use.
3. 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 this ordinance.
4. If a nonconforming use of any structure or premises is discontinued for a period of one (1) year, any subsequent use shall conform thereafter to the uses permitted in the district in which it is located.
5. Any nonconforming lot of record which does not meet the minimum lot width or lot area shall be allowed to be built upon for any permitted or conditional use if such proposed use maintains the required front, side, and rear yards in relation to the principal use building or structure.

Section 15.3. NONCONFORMING USES OF BUILDINGS OR STRUCTURES.

Where a lawful building or structure exists at the effective date of adoption or amendment of this ordinance cannot be built under the terms of this ordinance due to restrictions on area, lot

coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may continue to exist so long as it remains otherwise lawful, subject to the following.

1. No such structure shall be enlarged or altered in a way which increases its nonconformity. Such nonconforming structures or buildings may be structurally altered or enlarged in conformity with the lot area, lot width, yard, and height requirements of the district in which such use is located. Such construction shall be limited to buildings on lots of record in the same ownership prior to the effective date of this ordinance. The structural alteration or enlargement of buildings or structures shall not change the nature of the nonconforming use that existed prior to the effective date of this ordinance.
2. If a nonconforming structure or building is destroyed by any means to an extent of more than fifty percent (50%) of its replacement costs, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this ordinance.
3. Should a nonconforming structure or building be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
4. If a nonconforming structure, building, or land is discontinued, vacated, abandoned, or not used for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
5. Where nonconforming status applies to a building or structure and land in combination, the removal or destruction of the building or structure shall eliminate the nonconforming status of the land.

Section 15.4. REPLACING DAMAGED BUILDINGS OR STRUCTURES.

Any nonconforming building or structure damaged by fire, flood, windstorm, explosion, war, riot, any natural disaster, or act of God to the extent of more than fifty percent (50%) of its replacement value shall not be restored or reconstructed and used as before such happening; but it may be restored, reconstructed, or used as before provided the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased and reconstruction is started within one (1) year of such happening.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon orders of such official.

Section 15.5. CHANGE IN TENANCY OR OWNERSHIP.

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, of structures, or of structures and land in combination without affecting the nonconforming status of such land, buildings, or use.

ARTICLE 16. Zoning Enforcement

Article 16: Zoning Enforcement

- Section 16.1. Zoning Administrator
- Section 16.2. Zoning Compliance
- Section 16.3. Zoning Permits Required
- Section 16.4. Application for Zoning Permit
- Section 16.5. Site Plans
- Section 16.6. Construction and Use as in Applications, Plans, and Permit
- Section 16.7. Fees
- Section 16.8. Conditional Uses
- Section 16.9. Administrative Appeals

Section 16.1. Zoning Administrator.

The city council of Sutherland, Iowa, shall appoint a zoning administrator. It shall be the duty of said zoning administrator to enforce this ordinance. The role of zoning administrator is to review zoning permits for construction of new buildings and structures, to act as a liaison between the city and public related to zoning matters, and to enforce this ordinance. The zoning administrator is also given the responsibility of serving as the recording secretary for the planning commission and board of adjustment, and will act on the city's behalf in matters reviewed before these boards. The zoning administrator may be a person holding other appointive office in the city or in another governmental agency. The term of appointment for the zoning administrator is perpetual until city council makes a decision and notification is given to the administrator.

Section 16.2. ZONING COMPLIANCE.

If the zoning administrator finds any violations to this ordinance, they shall notify in writing the person responsible for such violations indicating the nature of the violation and ordering the action necessary to correct it. The zoning administrator shall order discontinuance of illegal uses of land, buildings, or structures, removal of illegal buildings or structures or additions, alterations, or structural changes thereto, discontinuance of any illegal work, or take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

Section 16.3. Zoning Permits Required.

No building or structure hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until the zoning administrator issues a permit. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefore by the zoning administrator. No permit shall be issued to make a change unless the changes are in conformity with provisions of this ordinance. All zoning permits will be null and void if the purpose for which the permit is issued is not commenced within one year from date of issuance. A zoning permit is not issued for demolition. Other small buildings including movable garden sheds or small storage buildings 100 sq.ft. or less in size, along with typical yard landscaping, are not required to submit a zoning permit.

Section 16.4. APPLICATION FOR Zoning PERMIT.

Zoning permits shall be obtained from city hall. Prior to starting the erection, construction, moving, structural alterations of a building or structure, or the erection of signs or billboards, a zoning permit must be issued. Permits shall be kept on file in the office of the zoning administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. Zoning permits shall be reviewed and a decision to approve, deny or request for additional information shall be provided to complying applicants within seven (7) days after application. In the case of moving a house or building onto a lot, photos of the building or structure being moved along with a route plan shall accompany the zoning permit.

Section 16.5. Site Plans.

Each application for a zoning permit shall be accompanied by a site plan showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be constructed, the dimensions of the required yards, parking and open spaces, and such other information as may be necessary to provide for the enforcement of this ordinance.

Section 16.6. CONSTRUCTION & USE as IN APPLICATION, PLANS, AND PERMIT.

Zoning permits issued based on plans and applications, approved by the zoning administrator, authorize only that use, arrangement and construction. Any use, arrangement, and construction at variance with that authorized shall be deemed a violation of this ordinance and punishable as provided by Section 18.1.

Section 16.7. FEES.

The city council shall establish, by resolution, the zoning fees to be applied to zoning permits, conditional uses, variance and appeals pursuant to this zoning ordinance. Before receiving a zoning permit the owner or the owner's agent shall pay a permit fee to the city. The city, county, state, and federal governments shall be exempt from paying any scheduled fees. Fees for zoning permits issued after construction has begun shall double in cost as a penalty for not complying with the city's zoning permit process.

Section 16.8. Conditional Uses.

The zoning administrator may issue a zoning permit for a conditional use after review and upon order of the board of adjustment.

Section 16.9. Administrative Appeals.

This procedure is intended to afford review of administrative actions taken pursuant to the zoning ordinance where such actions may be in error. Appeals to the board of adjustment concerning interpretation or administration of this ordinance by the zoning administrator may be taken by any person aggrieved or by any public officer of the City of Sutherland, board, bureau, corporation, or others affected by a decision of the zoning administrator. Such appeals should be taken within a reasonable time, not to exceed 60 days of the action by filing with the zoning administrator a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board of adjustment all papers constituting the record from which the action appealed was taken. A concurring vote of at least three (3) members of the board is necessary to approve, modify or reverse any decision or action of the zoning administrator, even

in the instance of absentee members or in conflicts of interest. The board of adjustment shall fix a reasonable time (typically no more than 30 days) to conduct a hearing of appeal, give public notices thereof, as well as due notice to the parties of interest, and render a decision on the appeal or application. At the hearing, any party may appear in person or by agent or attorney. The board of adjustment shall make written findings of fact and conclusions on all issues presented in any adjudicatory proceeding. The board shall notify the appellant of its decision. A fee to be determined by resolution of the city council shall be paid at the time the notice of appeal is filed. (*Code of Iowa, Section 414.10*).

ARTICLE 17. Violation and Penalty

Article 17: Violation and Penalty

Section 17.1. Violation and Penalty

Section 17.2. Restraining Order

Section 17.1. Violation and Penalty.

Unless provided elsewhere in this ordinance or the city's municipal code, any person, firm, corporation or agent responsible for such building or land who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance or amendment thereof; or who shall build or alter any building in violation of any detailed statement or approved plan with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor; or a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa, is a municipal infraction and punishable by civil penalty as provided herein. Each day that a violation is permitted to exist constitutes a separate offense.

A municipal infraction for a zoning violation in Sutherland, Iowa is punishable under the following civil penalties: (*Code of Iowa, 2016, Sec. 455A.22 and Sec. 123.49*)

First offense – no less than \$250 and not to exceed \$750.00, plus court costs

Second and repeat offenses – no less than \$250 and not to exceed \$1,000.00, plus court costs

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation, may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 17.2. RESTRAINING ORDER.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this ordinance, the city attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City of Sutherland, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, conduct, business or use in or about said premises.

ARTICLE 18. Board of Adjustment

Article 18: Board of Adjustment

- Section 18.1. Board of Adjustment
- Section 18.2. Proceedings of the Board of Adjustment
- Section 18.3. Stay of Proceedings
- Section 18.4. Powers and Duties
- Section 18.5. Decisions of the Board of Adjustment
- Section 18.6. Appeals from the Board of Adjustment

Section 18.1. Board of Adjustment.

A board of adjustment is hereby established. The board of adjustment shall consist of five (5) members, each of whom shall be residents of the city, to be appointed by the mayor subject to approval by the city council for overlapping terms of five (5) years. Members of the board of adjustment may be removed from office by the city council for cause upon written charges and after public hearing. Absence by any member for three (3) consecutive meetings without prior excuse from the board chairperson shall be deemed sufficient cause for removal. The city council shall fill vacancies in the same manner as the original appointment. A majority of the members of the board of adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. (*Code of Iowa, 2015, Sections 414.7 and 414.8*)

Section 18.2. PROCEEDINGS OF THE BOARD OF ADJUSTMENT.

The board of adjustment shall, subject to approval of the city council, adopt rules and regulations necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the city clerk and at such other times as the board may determine. The chairperson, or the acting chairperson, may administer oaths and compel attendance of witnesses. There shall be a fixed place of meeting and all meetings shall be open to the public in accordance with the provisions of Chapter 28A, Code of Iowa. The city clerk shall act as secretary for the board of adjustment. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examination and other official actions, all of which shall be a public record and be immediately filed at city hall. The presence of three (3) members shall constitute a quorum, even in the instance of absentee members or during conflicts of interest.

Section 18.3. STAY OF PROCEEDINGS.

An appeal stays all proceedings in furtherance of the action which was appealed unless the zoning administrator certifies to the board of adjustment, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of record on the application, upon notice to the zoning administrator and on due cause shown. The final disposition of any appeal shall be in written form by the board, either reversing, modifying, or confirming the decision of the zoning administrator.

Section 18.4. POWERS AND DUTIES.

The board of adjustment shall have the following powers and duties.

1. *Administrative Review.* To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this ordinance.
2. *Conditional Uses.* To hear and decide such exceptions as the board of adjustment is specifically authorized to pass by the terms of this ordinance, and as provided for in Article 21.
1. *Variances.* To authorize upon appeal in specific cases such variance from the terms of this Ordinance, as provided for in Article 20; and as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.
4. *Interpretation.* The board shall interpret the zoning map and provisions of this ordinance in such a way as to carry out the intent and purpose of the ordinance. To permit the extension of a use district where the boundary line of such district divides a lot in single ownership, as shown of record or by existing contract of purchase.
5. *Other such Powers and Duties as Granted, including but not limited to.* Permitting a nonconforming use of a building to be changed to another nonconforming use of a similar or more restrictive use; or to extend the time limits of zoning permits, variances, conditional uses, or other permits issued.

Section 18.5. Decisions of the Board of Adjustment.

In exercising the above mentioned powers, the board of adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify, order requirements, decision, or determination as ought to be made and to that end shall have powers of the zoning administrator from whom the appeal is taken. The concurring vote of three (3) members of the board, even in the instance of absentee members or during conflicts of interest, shall be necessary to reverse any order, requirement, decision, or determination of the zoning administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to affect any variation in application of this ordinance.

Section 18.6. APPEALS FROM THE BOARD OF ADJUSTMENT.

Any person or persons, or any board, taxpayer, department, board, or bureau of the community aggrieved by any decision of the board of adjustment may seek review of such decision of the board of adjustment by a court of record in the manner provided by the laws of the State of Iowa and particularly by Chapter 414, Code of Iowa. A petition shall be submitted to a court of record claiming that such decision or act of the board of adjustment is illegal, wholly, or partially, and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the action of the board. Otherwise, all decisions of the board of adjustment shall be final immediately upon filing of the board's decision.

ARTICLE 19. Variances

Article 19: Variances

- Section 19.1. Intent
- Section 19.2. Application
- Section 19.3. Proceedings
- Section 19.4. Lapse of Variance
- Section 19.5. Revocation of Variance
- Section 19.6. Appealing a Variance
- Section 19.7. Variance to Run with the Land or Structure

Section 19.1. Intent.

To authorize upon appeal in specific cases such variances from the terms of this zoning ordinance, of which will not be contrary to the public interest and where a property owner can show due to exceptional circumstances or other peculiar situation affecting a lot of record existing at the time of passage of this ordinance. Furthermore, evidence should be shown indicating the strict application of these regulations will prohibit the use of such property in a manner similar to other property in the district and result in an unnecessary hardship. In certain circumstances, a variance may be authorized and issued that will not be contrary to public interest and where the board shall be satisfied by the evidence heard before it, that the granting of such variation will alleviate a hardship as distinguished from a special privilege sought by the owner.

Section 19.2. APPLICATION.

A variance from the terms of this ordinance shall not be granted by the board of adjustment unless and until a written application for the variance is submitted with the zoning administrator. The submitted application shall include:

1. Name and address of the owner and applicant.
2. Address and legal description of the property.
3. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner.
4. A statement describing the variance requested and the reasons why it complies with the criteria for variances provided in this section.
5. The property address, name, and mailing address of the owner of each lot adjacent to the property requesting a variance, and those properties within 200 feet of the subject property.
6. A site plan, as prepared in accordance with Article 11.
7. A fee shall accompany the application, as established by resolution of the city council.
8. The zoning administrator may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a variance exist.

Section 19.3. PROCEDURES.

1. The zoning administrator shall review the application and prepare a report to be submitted to the board of adjustment and available to the applicant prior to the public hearing.
2. Notice of public hearing shall be given by publication of a legal notice in a newspaper of general circulation no less than four (4) days and no more than twenty (20) days prior to the date of the hearing. Notice shall be given by ordinary mail to the applicant and to the owner of each property within two hundred feet (200') of the subject property prior to the date of the hearing. In the event, there is more than one property owner for any parcel of property, it shall be sufficient to notify only one owner of each parcel by ordinary mail. The public notice shall include appropriate information pertaining to the general nature of the application or decision, and identifying the applicant, the subject property, the time and place of the meeting or hearing, and the address and telephone number from which additional information may be obtained.
3. The public hearing shall be held. Any party may appear in person or by agent or attorney.
4. Prior to making any decisions on a variance application, the board shall consider whether the variance is contrary to the nature, intent and general objectives of the zoning ordinance and the city's comprehensive plan. Furthermore, that in granting such a variance, there will be no reasonable precedent established for others to follow which would make future zoning enforcement more difficult, and that no injustice or discrimination will result to other property owners in not granting them the same privileges.
5. The board of adjustment shall make findings that the requirements of this section are met by the applicant for a variance, based on the following criteria.
 - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 - c. That special conditions and circumstances do not result from the actions of the applicant.
 - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
6. The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
7. The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
8. The board of adjustment shall act upon the application not more than 45 days following the

closing of the public hearing for a variance. The board may grant a variance as applied for, or in modified form, or subject to conditions established by the board, or the application may be denied. The board shall notify the applicant of its decision. The concurring vote of three (3) members of the board of adjustment is necessary to grant a variance, even in the case of absentee or conflicts of interest.

9. Every variance granted or denied by the board of adjustment shall be accompanied by a written finding of fact, based upon testimony and evidence; and specifying the reasons for granting or denying such variance.
10. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 18.1 of this ordinance.

Section 19.4. LAPSE OF VARIANCE.

Unless a longer time is specifically established as a condition of approval, a variance shall lapse and shall become void one (1) year following the date on which the variance became effective, unless prior to the expiration of one year a zoning permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the variance application, or the site is occupied if no zoning permit is required.

Section 19.5. REVOCATION OF VARIANCE.

A variance shall be revoked upon notification from the zoning administrator to the owner of the use or property subject to the variance upon violation of any applicable provision of this ordinance or upon failure to comply with conditions of the approved variance.

Section 19.6. APPEALING A VARIANCE DECISION.

Any person or persons, or any board, taxpayer, department, or bureau of the community aggrieved by a decision on a variance request by the board of adjustment may only seek review and appeal of such decision by a court of record in the manner provided by the laws of the State of Iowa and particularly by Chapter 414, Code of Iowa.

Section 19.7. VARIANCE TO RUN WITH THE LAND OR STRUCTURE.

Unless otherwise specified at the time a variance is granted, a variance shall run with the land and shall continue to be valid upon a change of ownership of the site or structure to which it applies.

ARTICLE 20. Conditional Uses

Article 20: Conditional Uses

- Section 20.1. Requirements
- Section 20.2. Responsibilities
- Section 20.3. Application for a Conditional Use Permit
- Section 20.4. Procedures
- Section 20.5. Standards
- Section 20.6. Revocation
- Section 20.7. Conditional Use to Run with the Land
- Section 20.8. Uses Under Conditional Use Provisions
- Section 20.9. Supplemental Standards

Section 20.1. Requirements.

The enactment of this zoning ordinance is based upon the division of the city into districts, each of which include permitted uses that are mutually compatible. In addition to such compatible permitted uses it is recognized there are certain other conditional uses which may be necessary or desirable to allow in certain locations in certain districts. Conditional uses need to be carefully regulated with respect to their location for the protection of the city based upon the actual or potential impact on neighboring uses or public facilities. Allowable conditional uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of the board of adjustment. The board of adjustment will grant or deny a conditional use permit in accordance with the standards set forth herein and with the intent and purpose of this ordinance. In granting a conditional use permit, the board of adjustment will authorize the issuance of a conditional use permit and may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the use.

Section 20.2. Responsibilities.

The zoning administrator shall be responsible for administration of the conditional use procedure and the board of adjustment shall be responsible for the review, evaluation, and action on all applications for a conditional use permit.

Section 20.3. APPLICATION FOR CONDITIONAL USE PERMIT.

A request for a conditional use permit may be initiated by a property owner or an authorized agent by filing an application with the zoning administrator upon forms prescribed for the purpose. The application shall be accompanied by a site plan and other such plans and data showing dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein. The application shall also be accompanied by a fee as determined by resolution of the city council. The application shall include the following:

1. Name and address of the owner and applicant. If the applicant is not the property owner, a statement that the applicant is the authorized agent of the owner.
2. Address and legal description of the property.

3. The property address, name and mailing address of the owner of each lot within two hundred feet (200') of the subject property and a map with parcels keyed to the ownership and address data certified by a licensed abstractor, land surveyor or attorney.
4. A statement describing the nature and operation characteristics of the proposed use, including any data pertinent to the findings required for approval of the application.
5. Site plan as prepared in accordance with Article 11, if requested by the zoning administrator.
6. Preliminary building elevations, improvement plans, and such additional maps and drawings, and when possible the staking of the corners of proposed construction.
7. The location and dimension of boundary lines, easements, and required yards and setbacks.
8. The location, height, bulk, general appearance, and intended use of existing and proposed buildings on the site, and the approximate location of existing buildings on abutting sites within fifty feet (50').
9. The location of existing and proposed site improvements including parking, vehicular and pedestrian access, landscaped areas, utilities, fencing and screening, signs, and lighting.
10. The location of watercourses and drainage features.
11. The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements.
12. The relationship of the site and proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements.

Section 20.4. PROCEDURES.

The board of adjustment shall not grant a conditional use permit unless and until the following procedures have been fulfilled:

1. The city shall schedule a public hearing for the conditional use request. Notice shall be given of the public hearing as required by state statute by publication in a newspaper of general circulation in the city. Notice shall be given by ordinary mail to a complete list of persons provided by the applicant who are all of the owners of property within two hundred feet (200') feet of the property in question. Such notice shall be at least seven (7) days prior to the public hearing and shall contain the time and location of such hearing. In the event there is more than one property owner, it shall be sufficient to notify only one owner of each property by mail.
2. The zoning administrator shall review the application for completion in accordance with this ordinance and prepare a report for the board of adjustment and made available to the applicant.
3. At the public hearing, the board shall review the application and receive pertinent evidence concerning the proposed use and conditions under which it would be operated or maintained.
4. The board of adjustment shall act on the conditional use application not more than thirty (30) days following the closing of the public hearing. The board may grant a conditional use permit

as the permit was applied for, or in a modified form, or subject to conditions, or the board may deny the application. The board shall notify the applicant of its decision.

5. In granting any conditional use permit the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Conditions of approval are intended to ensure the proposed use is compatible with surrounding uses and to preserve the public health, safety, and welfare. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this ordinance and punishable under Section 18.1 of this ordinance.
6. The concurring vote of three (3) members of the board of adjustment grants a conditional use permit, even in the event of absentee members or conflicts of interest.
7. Unless a longer time is specifically established as a condition of approval, a conditional use permit shall be valid for a period of one (1) year from the date of such order, unless zoning permit is obtained within the one (1) year period and construction is commenced.

Section 20.5. STANDARDS.

The zoning administrator and board of adjustment shall review and evaluate conditional use applications using the following criteria:

1. Establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community.
2. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
3. Establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
4. In the case of relocating or moving buildings, the proposed use aesthetically blends in with the existing neighboring uses and special attention is given to architectural style, size, and existing conditions.
5. Adequate utilities, access roads, drainage, parking, and/or necessary facilities are or will be provided.
6. Compatibility of the proposed use is consistent with existing or permitted uses on adjacent sites in terms of height, setbacks, open space, landscaping, and site development.
7. Adequate measures are taken to provide ingress and egress designed to minimize traffic congestion in the public streets.
8. The use shall not include any activity involving the use or storage of flammable, or explosive material unless protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
9. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
10. The use shall not include vibration which is discernable without instruments on any adjoining lot or property.

11. The use shall not involve any malodorous gas or matter which is discernable on any adjoining property.
12. The use shall not involve any pollution of the air by fly-ash, dust vapors, or other substance which is harmful to health, animals, vegetation, or other property or which causes soiling, discomfort, or irritation.
13. The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.
14. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
15. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
16. That the use will not conflict with the city's comprehensive plan.
17. The ground coverage shall be such that no additional dust or stormwater run-off is generated by the conditional use.
18. The proposed use shall not cause any permanent, irreparable environmental damage to the property in question or neighboring lands.
19. The conditional use permit may be reviewed after a specified period for compliance and for possible additional conditions.

Section 20.6. REVOCATION.

The issuance of a conditional use permit by the board shall entitle the owner to continue to operate the use so long as the owner remains in compliance with the terms and conditions of this ordinance and the terms, conditions, limitations, requirements, and safeguards set forth in the conditional use permit. If a conditional use permit is granted, it expressly grants to the city for the enforcement of this ordinance, the power and authority to enter upon the premises at any reasonable time for inspection and enforcement of the terms of this ordinance or of the terms of the conditional use permit. In the event the owner or occupant of the property violates any provision of this ordinance or any term, condition, limitation, regulation, or safeguards contained in the conditional use permit, the permit shall become null and void and the owner or occupant shall be deemed to be in violation of this ordinance and the city may proceed to enforce the provisions of this ordinance in accordance with Section 18.1.

Section 20.7. CONDITIONAL USE TO RUN WITH THE LAND.

Unless otherwise specified at the time a conditional use is granted, a conditional use permit granted pursuant to these provisions shall run with the land and shall continue to be valid upon a change of ownership of the site or structure that was the subject of the conditional use permit application.

Section 20.8. USES UNDER Conditional Use PROVISIONS.

Any use for which a special exception is permitted as provided in this ordinance shall not be considered a nonconforming use. With that stated, any expansion of a conditional use shall be granted by review and approval from the board of adjustment.

Section 20.9. SUPPLEMENTAL STANDARDS.

In addition to the general standards outlined in Section 21.5 above, certain uses shall adhere to the following supplemental standards for specific activities:

1. **Salvage Yards:** All salvage yards, including any area where waste, junk, discarded or wrecked and salvaged materials are bought, sold, stored, exchanged, baled or packed, disassembled or handled, including dismantling, or wrecking of automobiles or machinery or other vehicles, shall be in the agricultural district and the general industrial district under conditional use permit.
 - a. The yards shall be at least five hundred feet (500') distant in all directions from any residential building.
 - b. Outdoor salvage or junk yards shall be screened by a solid wall or uniformly painted or finished solid fence not less than eight feet (8') in height, or in lieu thereof, a landscape buffer strip may be planted fifty feet (50') wide with deciduous and evergreen trees and large shrubs to provide an opaque landscape screen at least ten feet (10') high upon planting.
 - c. An off-street parking or service area for licensed vehicles only in connection with the yards may be located outside of the screened-in area.
2. **Open-Air Sales Display and Storage:** All open-air sales display, equipment, or material storage, including but not limited to new and used farm implement and equipment sales and storage, new and used truck, machinery, or equipment sales and storage, or recreational vehicle, boat, or trailer outdoor storage areas shall require a conditional use permit. The application shall be accompanied with drawings and other documents describing the intent, layout, and construction or installation in accordance with the following minimum requirements:
 - a. Open-air sales, display, equipment or material storage yards shall be surfaced, preferably with a hard surfacing material, but at a minimum with granular, aggregate, crushed stone or rock material at a uniform depth of at least three inches (3").
 - b. The sides and rear lot lines, when abutting properties used for residential dwellings, ~~may~~ **shall** be required to be screened by a solid wall or uniformly painted or finished solid fence and at least eight feet (8') in height. The fence shall not be required to extend beyond the front yard setback line.
 - c. All lighting and lighted facilities shall be designed and arranged so that they do not focus or glare directly on adjacent residential properties, or public streets, thereby creating a traffic hazard. No lighted flashing signs, or revolving beacon lights shall be permitted.
 - d. The open-air area shall be maintained to be reasonably free of weeds, debris, trash, and other objectionable materials.

ARTICLE 21. Changes and Amendments

Article 21: Changes and Amendments

- Section 21.1. Application for Rezoning or Text Amendment
- Section 21.2. Procedures
- Section 21.3. Initiation
- Section 21.4. Protest Provision
- Section 21.5. New Application

Section 21.1. Application for Rezoning or Text Amendment.

Applications for rezoning requests to text amendments shall be filed with the zoning administrator on forms provided by the city, and shall include the following information.

1. Each application shall be accompanied by a fee as determined by resolution by the city council and shall contain the following information. Failure to approve the requested change or text amendment shall not be deemed cause to refund the fee to the applicant.
 - a. The name and address of the owner and applicant. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner.
 - b. The legal description and local address of the property.
 - c. The present zoning classification and the zoning classification requested for the property.
 - d. The existing use and proposed use of the property.
 - e. A statement of the reasons why the applicant feels the present zoning classification is no longer appropriate.
 - f. In the event of a text amendment, a copy of the proposed text amendment that specifically identifies the requested language to be changed.
 - g. The names and addresses of the owners of all property within two hundred feet (200') of the property for which the rezoning change is requested. This information is not necessary for a proposed text amendment.
 - h. An accurate map or plat of survey of the area proposed for rezoning showing existing and proposed locations, dimensions, and use of the property; and all property within two hundred feet (200') thereof, including streets, alleys, railroads, and other physical features.

Section 21.2. PROCEDURES.

This ordinance and the zoning districts map created by said ordinance may be amended from time to time. However, no amendment shall become effective unless it shall have been proposed by or shall have been first submitted to the planning and zoning commission for review and recommendation. Not more than forty-five (45) days after filing the application, the planning and zoning commission shall hold a public hearing on each application for a text amendment or rezoning. A notice of such public hearing shall be published no less than seven (7) days and no more than twenty (20) days, per Iowa Statute, prior to the date established for such hearing. Such notice shall include the time and place of the public hearing. At the public hearing, the planning and zoning commission shall review the application or the proposal and shall receive pertinent evidence relating to consistency with the objectives of this ordinance, and the

development policies of the city. The planning and zoning commission shall act on the application not more than thirty (30) days following the closing of the public hearing. The planning and zoning commission shall determine whether the change is consistent with the objectives of this ordinance and shall recommend to the city council the text amendment or rezoning be approved, approved with modifications or changes, or denied. The commission shall report its determinations and recommendations to the city council.

Before adoption of any proposed amendment to this ordinance the city council shall hold a public hearing no more than thirty (30) days following receipt of the recommendation of the planning and zoning commission. A notice of such public hearing shall be published not less than seven (7) days and no more than twenty (20) days prior to the date established for such hearing. Notification of the public hearing shall also be sent by ordinary mail to the owners of all property within two hundred feet (200') of the property for which the change is requested. If there is more than one property owner for any parcel of property, it shall be sufficient to notify only one owner of each parcel. In no case, shall the public hearing be held earlier than the next regularly scheduled city council meeting following the published notice. Such notice shall include the time and place for the public hearing.

Within Thirty (30) days following the public hearing, the city council shall, make a specific finding as to whether the current district classification of the property to be rezoned is valid, whether there is a need for additional land zoned for the purpose requested, whether there is an intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time and whether the proposed change is consistent with the city's current land use plan. If the change is consistent, the city council shall introduce an ordinance amending the zoning text or amending the zoning map, whichever is appropriate. If the city council finds the change is not consistent it shall deny the application.

Section 21.3. INITIATION.

Requests for rezoning of property or zoning amendments may be initiated by one of three ways.

1. The planning and zoning commission may initiate a text amendment or rezoning request.
2. The city council may initiate a text amendment or rezoning request.
3. The owner or the authorized agent of the owner of property may initiate a rezoning request by filing an application for a change in district boundaries (rezoning). If the property for which rezoning is proposed is in more than one ownership, all the owners or their authorized agents shall join in filing the application.

Section 21.4. PROTEST PROVISION.

In case the planning and zoning commission does not approve the text amendment or rezoning request, or in case a protest filed with the city council against a change in district boundaries signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto and within two hundred feet (200') of the boundaries thereof, such amendment shall not be passed except by the favorable vote of four-fifths (4/5) of all the members of the city council.

Section 21.5. NEW APPLICATION.

Whenever the city council denies a petition requesting an amendment, supplement or change of any regulations prescribed by this ordinance such petition cannot be renewed for one (1) year thereafter unless it is signed by the owners of at least fifty percent (50%) of the property owners who previously objected to the change. This provision, however, shall not prevent the city council from acting on its own initiative in any case or at any time provided in this section.

ARTICLE 22. Effective Date

Section 22.1. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its adoption and publication as required by law and as provided for in Chapter 380.6 and 380.7 of the Code of Iowa.

(Code of Iowa, Sec. 380.6[1]; Sec. 380.7[3]; and Sec. 362.3)

A

Adoption

ZONING ORDINANCE OF THE CITY OF SUTHERLAND, IOWA

Passed and approved by resolution of the first consideration on _____, 2022

Passed and approved by resolution of the second consideration on _____, 2022

Passed and approved by resolution of the third and final consideration on _____, 2022

Adopted on _____, 2022

Published on _____, 2022

Mayor, City of Sutherland

Attest:

Sutherland City Clerk