

**ORDINANCE NUMBER 222**

**AN ORDINANCE UPDATING THE RESTRICTED RESIDENCE DISTRICT**

**Outline dates to implement UPDATING BUILDING PERMITS AND REGULATIONS.**

**1<sup>st</sup> reading Ordinance No. 22      November 15**

**2<sup>nd</sup> reading                                      December 6**

**3<sup>rd</sup> reading                                      January 3<sup>rd</sup>, 2006**

**Resolution – Permit fees**

**Public Hearing to rezone total City Limits to R-1 District**

**Resolution – passing rezone total City Limits to R-1 District**

**Approve Forms: Application for Building Permit & Certificate of Occupancy**

## ORDINANCE NUMBER 222

### AN ORDINANCE UPDATING THE RESTRICTED RESIDENCE DISTRICT FOR THE CITY OF CLARKSVILLE, IOWA

WHEREAS, the City of Clarksville, Iowa, deems it necessary to update its regulations that will preserve the residential character of various areas of said City, and

WHEREAS, the protection of the residential character is in the best interest of the health, safety, and general welfare of our community, and

WHEREAS, the City of Clarksville, Iowa, does have the authority, as provided in Chapter 414 as amended of the State Code of Iowa, to establish reasonable rules and regulations for the erection, reconstruction, and alteration of buildings within said Restricted Residence District.

NOW, THEREFORE, BE IT ORDAINED by the City of Clarksville, Iowa, that the following Ordinance be and is hereby adopted in lieu of Chapter 155 of the Code of Clarksville, and all of the amendments thereto.

**TITLE.** Restricted Residence District for the City of Clarksville, Iowa.

**155.01 INTERPRETATION OF STANDARDS.** 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 by other rules or regulations or ordinances, the provisions of this Ordinance shall control.

#### **155.02 DEFINITIONS.**

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

1. Accessory Building or Use: A building or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building or use. An accessory building shall be a minimum of seven (7) feet away, measured from the foundation, from other buildings or structures.
2. Building Officials: The City Clerk shall be a Building Official and be

responsible for the administration, the Maintenance Staff shall be Building Officials and be responsible for all regulations. The City Council shall be the enforcement of this Ordinance.

3. Church or Church School: A building used for public worship, or connected with a building so used, or for instruction in religious beliefs, or for the conduct of activities related to church affairs.
4. Dwelling or Residence: Any building or portion thereof which is designed or used exclusively for residential purposes but not including a tent, cabin, trailer or mobile home.
5. Dwelling, Single Family: A detached residence designed for or used exclusively and occupied by one family only.
6. Dwelling, Two-Family: A residence designed for or used exclusively and occupied by two (2) families only, with separate housekeeping and cooking facilities for each.
7. Dwelling, Multiple: A residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.
8. Dwelling, Condominiums: A multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the others.
9. Dwelling, Row: Any one of three or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls.
10. Dwelling, Unit: A room or group of rooms which are arranged, designed, or used as living quarters for the occupancy of one family containing bath room and/or kitchen facilities.
11. Family: One (1) or more persons occupying a single dwelling unit, provided that all members are related by blood, marriage, or adoption.
12. Garage: A structure for shelter motor vehicles or household equipment and/or effects.
13. Home Occupation: An occupation or profession conducted entirely within an enclosed dwelling unit that is clearly incidental and secondary to residential occupancy and does not change the character thereof.
14. Home Industry: An occupation or profession conducted entirely within an enclosed accessory building that is clearly incidental and secondary to

residential occupancy and does not change the character thereof.

15. Household: A group of persons living together in a single dwelling unit with common access to, and common use of, all living and eating areas within the dwelling unit.
16. Lot: For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Such lot shall have frontage on a public street or private street, and may consist of: (a) A single lot of record; (b) A portion of a lot of record; (c) A combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (d) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.
17. Lot, corner: A lot abutting upon two (2) or more streets at their intersection.
18. Lot, depth of: The mean horizontal distance between the front and rear lot lines.
19. Lot, double frontage: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.
20. Lot, interior: A lot other than a corner lot.
21. Lot lines: The lines bounding a lot.
22. Lot of record: A lot which is a part of a subdivision recorded in the office of the County Recorder of Butler County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
23. Lot, width: The width of a lot measured at the building line and at right angles to its depth.
24. Lot reversed frontage: A corner lot, the side street line of which is substantially a continuation of the front lot line of the first platted lot to its rear.
25. Manufactured home: A factory built structure, which is manufactured or constructed under authority of 42 U.S.C. Section 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A

manufactured home shall be a minimum of twenty-two (22) feet in width and will be considered as a dwelling under the provisions of this Ordinance.

26. Mobile home: Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon public highways or streets, or waterways; so designed and so constructed as to permit residential occupancy thereof, whether attached or unattached to a permanent foundation. Mobile homes shall include any such vehicle with motive power not registered as a motor vehicle in Iowa. Mobile homes to be used for dwelling purposes shall be placed only in an approved mobile home park.
27. Mobile Home Park or Trailer Park: Any lot, parcel or portion thereof having an area of at least five (5) acres upon which three (3) or more mobile homes or trailers occupied for residential purposes are located regardless of whether or not a charge is made for such accommodations; and provided further that said Mobile Home Park shall provide a minimum of three thousand (3,000) square feet per mobile home unit, and maintain front, side, and rear yard areas around said park of at least thirty (30) feet. Each mobile home within said park must maintain at least twenty (20) feet of front, side, and rear yard from all other adjacent mobile homes. Further provided that said Mobile Home Park shall be licensed in accordance with the provisions of the regulatory agencies of the State of Iowa.
28. School: A public or private building used for educational purposes that is regulated by the state department of public instruction as to curriculum.
29. Stable, Private: A building or structure used or intended to be used for housing horses belonging to the owner of the property for non-commercial purposes.
30. Stable, Public and Riding Academy: A building or structure used or intended to be used for the housing or riding of horses on a fee basis. Riding instruction may be given in connection with a public stable or riding academy.
31. Yard: An open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and nearest permitted building shall be used.
32. Yard, front: A yard extending across the full width of the lot and measured

between the front lot line and the building. "Front" shall be determined from the street where the address is derived.

33. Yard, rear: A yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On both corner lots and interior lots the opposite end of lot from the front yard.
34. Yard, side: A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

**155.03 DISTRICT AND BOUNDARIES.** The Official Restricted Residence District Map is on file with the City Clerk and is made a part of this Ordinance. Said map delineates various areas of the City into the following classifications:

- "R-1" - Restricted Residence District
- "N-R" - Non-residential District

For the purpose of this Ordinance, all restrictions described herein are applicable in the "R-1" Restricted Residence District. All district boundary lines shown on the official map correspond with property lines or street lines or center lines of right-of-way. In the case of a district boundary line which divides a property of single ownership, the City Council may make such boundary line adjustments as to place said lot of single ownership in or out of the Restricted Residence District.

All land that is hereafter annexed to the City of Clarksville shall be automatically classified as being in an R-1 Restricted Residence District until such classification is changed by amendment of this Ordinance, as provided herein.

#### **155.04 GENERAL PROVISIONS.**

- A. Building Permit and Certificate of Occupancy Required in All Districts.
  1. No building footprint, area, or size shall hereafter be altered or improved, in valuation of five hundred dollars (\$500) or more, unless a building permit, provided by the Building Official, approved by the City Council, and signed by the Mayor has been approved for each erection, reconstruction, or alteration. Said permit shall be applied for in writing on a properly completed application form, provided by the Building Official, that is accompanied by plans and specifications sufficient to determine compliance with the applicable Ordinances of the City. Any concrete or cement improvements, regardless of the valuation of the project, shall be subject to the permit process defined in this subsection.
  2. A building permit shall not be issued for buildings that do not comply with

this or any other Ordinance of the City of Clarksville. The Building Official may revoke a permit or approval, issued under the provisions of this Ordinance, if a false statement or misrepresentation was made by the applicant on the application or plans on which permit approval was based.

3. If construction, as covered by the building permit, is not initiated within six (6) months from the date of permit issuance, said permit shall be void.
4. The City of Clarksville shall charge a fee for said building permit set by resolution. This does not include the cost of a flood plain permit, which is an additional and entirely separate permit and fee requirement (See Chapter 160 of the Code of Clarksville).
5. No change in the use or occupancy of land, nor any change in use or occupancy in an existing building shall be made, nor shall any new building be occupied for any purpose or use until a certificate of occupancy has been issued by the Building Official. If the new occupancy complies with the provisions of this, and all other Ordinances of the City of Clarksville, the Building Official shall issue said certificate. A certificate of occupancy shall not be issued for uses that do not comply with this or any other Ordinances of the City of Clarksville. There shall be no fee for a certificate of occupancy.

**B. Non-Conforming Uses and Lots in the Restricted Residence District.**

1. A lawful, or authorized, non-conforming use existing at the time of adoption of this Ordinance may be continued, maintained, repaired, or sold to another party. Said non-conforming use may not be enlarged, expanded or changed, nor shall it occupy more lot area than was in use on the effective date of this Ordinance unless the Official Restricted Residence Ordinance Map is amended or a Special Permit is granted.
2. If said lawful non-conforming use, or any portion thereof, is discontinued, either voluntarily by the owner or through the sale of the property or business, for a period of one (1) year or more, any future use of such land shall be in conformity with the provisions of the "R-1" Restricted Residence District unless the Official Restricted Residence Ordinance Map is amended or a Special Permit is granted.
3. In any Restricted Residence District on a lot of record at the time of enactment of this Ordinance, a single-family dwelling may be established regardless of the size or dimension of the lot, provided all other requirements of this Ordinance are met. However, where two (2) or more vacant and contiguous substandard recorded lots are held in common ownership, they shall be combined into zoning lots and shall thereafter be maintained in common ownership and shall be so joined and developed for implementing this Ordinance. The razing of a building on a substandard lot shall constitute the formation of a vacant lot.

**155.05 ISSUANCE.** The City Council shall approve all permits.

**155.06 "R-1" RESTRICTED RESIDENCE DISTRICT.** The following regulations shall apply in all areas designated in the "R-1" Restricted Residence District.

A. Principal Permitted Uses (Only one (1) principal permitted use shall be allowed per lot, including lots of record).

1. One and two family dwellings or residences.
2. Churches, cathedrals, temples, and similar places of worship.
3. Public and parochial schools, including elementary and secondary schools.
4. Fire stations.
5. Publicly owned parks, playgrounds, golf courses, libraries, and recreation areas.
6. Agricultural uses, including nurseries and truck gardens; provided that no offensive odors or dust are created, and provided further, that no retail sales shall be permitted on the premises. This shall not be construed to include the operation of livestock feed lots or auctions, public stables, boarding kennels or veterinary clinics or such similar uses.
7. Conversions of one family dwellings into two family dwellings in accordance with the lot area, frontage, height, and yard requirements of this section.
8. Mobile Home Parks or Trailer Parks may be established provided approval is granted by the City Council after a public hearing has been held pursuant to the establishment of such use.
9. Multiple dwellings, including row dwellings consisting of not more than six (6) units in a continuous row, cooperative apartment house, and condominium dwellings.
10. Boarding and rooming houses.
11. Nursing, convalescent and retirement homes.
12. Funeral homes.
13. Uses other than those permitted in this section may be erected, reconstructed, altered, or placed provided the City Council shall have approved, by Special Permit, the said erection, reconstruction, alteration, or placement of the use.

B. Permitted Accessory Uses.

1. Customary home occupation as a secondary use carried on entirely within the residence not including any garage or other building or



structure not designed and used for daily, human habitation and where there is no evidence of such occupation being conducted on the premises by virtue of signs, or displays, or excessive noise, odors, electrical disturbances, or traffic generation, except one (1) sign not larger than two (2) square feet in area, with no more than one (1) non-resident assistant and where not more than one-half ( $\frac{1}{2}$ ) of the floor area of any one floor is devoted to such use.

2. A residential accessory building or structure customarily used in conjunction with a dwelling, namely, a garage with a capacity of not more than 1,000 square feet floor area, a tool or "summer" house not exceeding 100 square feet floor area, or a private swimming pool properly fenced and screened. Any other building on residential property shall not be deemed a residential accessory use if not incidental to a residential purpose, or if it is used in conjunction with or for the business of selling goods or rendering services. It is unlawful to move any previously constructed accessory building or structure into or within the City limits.

C. Lot and Building Regulations. (Minimum requirements)

1. Lot Area: One family dwelling - 8,000 square feet.  
Two family dwelling - 8,000 square feet.  
Multiple family or other permitted use - 10,000 square feet.
2. Lot area per dwelling unit; Row housing and multiple dwellings - 2,500 square feet each for the first four (4) units, plus 850 square feet per additional unit.
3. Lot width: One family dwelling - 66 feet.  
Two family dwelling - 66 feet.  
Row housing units - 25 feet per unit.  
Multiple family dwelling and other permitted uses - 75 feet.
4. Front yard: Twenty (20) foot setback - any lot which abuts on two (2) or more streets shall have a fifteen (15) foot side yard between each lot line abutting on said side street and any building. On lots of record, the average setback of adjacent dwellings may be used. Schools and churches are exempt from front yard setback requirements.
5. Side yards: Six (6) foot setback for all principally permitted uses.  
  
Accessory Building - unattached in rear yard a minimum setback distance of five (5) feet from the principal building; seven (7) feet from side yard lines.
6. Rear yard: Ten (10) foot setback for all principally permitted uses.

Accessory Building - unattached in rear yard a minimum setback distance of five (5) feet from the principal building; seven (7) feet from rear yard lines.

7. Maximum height:  
Principal building - 45 feet except that for each one (1) foot that the building or a portion of it sets back beyond the required front, side, and rear yards, one (1) foot may be added to the height limit of such building or portion thereof, provided, however, that no building shall exceed a height of 75 feet. Accessory building - 20 feet.
8. Maximum number of stories:  
Principal building - 4 stories.  
Accessory building - 2 <sup>1</sup>/<sub>2</sub> stories.
9. Maximum rear yard coverage for an accessory building(s): 40 percent.
10. Minimum Size. All dwellings shall have a minimum floor area of not less than 850 Square feet on the main floor, and the minimum dimensions of the main floor of the dwelling shall not be less than 24 feet.
11. Siding. All dwellings must be sided with a material other than flat or corrugated Sheet metal.
12. Maximum Occupancy. The maximum occupancy of any dwelling unit shall not exceed the following requirements: for the first occupant, 250 square feet of floor space and at least 150 square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.
13. Concrete Floor. Any building over 100 square feet in area shall have a concrete floor with a one foot foundation barrier. Portland cement (3 to 1 cement ratio, ready mix, 200 psi) shall be the only cement used in the construction.
14. Setback on Alleys. No person shall erect, reconstruct, alter, repair or move into the City any structure, fence or other permanent construction so that all or part of such structure will be within two (2) feet of any boundary line of a City alley.
15. Foundation. All dwellings shall have a permanent foundation. Foundation will extend to all perimeters of dwelling and in depth of forty-eight (48) inches below the ground.

**155.07 FENCING.** The following regulations shall apply to all fences built, repaired or replaced in the R-1 District.

1. No one shall build, repair, replace or extend any new or existing fence, wall or other similar structure unless such structures meet the following criteria:
  - A. All fences shall be erected solely on the property owner's property and shall not extend over the property line.
  - B. Each fence will be set back from any side lot line by eighteen (18) inches, unless the adjoining property owner has waived this setback requirement in writing and filed it with the Building Official. The waiver is irrevocable and is binding on all successors in interest. No setback is required for a non-maintenance fence erected on the property owner's property, if there is an official survey of said property.
  - C. No fence shall exceed eight (8) feet in height. On street frontage lot lines, corner lots and for any front yards, the height shall not exceed four (4) feet. The front yard limitation shall be twenty-two (22) feet when there are no adjacent buildings or if there are, shall be the average setback for adjacent buildings.
  - D. On any new fences the supporting poles shall be on the inside of such a fence, unless waived in writing by the adjoining property owner. Such waiver will be irrevocable.
  - E. Each new fence shall be subject to a building permit.
2. Natural Fencing. The foregoing restrictions shall not apply to any fences comprised solely of any living plants being used as a living fence, excepting that no part of such living fence shall be planted to hang over the property line. Further, the frontage height descriptions of four (4) feet shall also apply to such living fences.

**155.08 BUILDINGS REQUIRING SPECIAL PERMITS TO LOCATE WITHIN RESTRICTED DISTRICTS.** Construction of clinics, offices, hospitals, utility buildings and substations, any type of commercial stores and warehouses, plant nurseries, farm buildings, and industrial buildings and structures may be authorized by special permit to locate within the Restricted Residence District only if it appears that said use and type of building will be compatible with the residential character of the district, and that the particular use could not practicably be built in an unrestricted area, or the restricted district boundaries amended logically, due to topography, access to railroad or highway or other proper reason acceptable to Council.

**155.09 SPECIAL PERMITS IN THE RESTRICTED RESIDENCE DISTRICT.** With the exception of the principal and accessory uses stated in this Ordinance, a written special permit shall be required for the erection, reconstruction, alteration, or repair of any building and for its occupancy and use within the restricted residential district of this city. Said permit shall be applied for in writing on a properly completed application form provided by the Building Official that is accompanied by plans and specifications

sufficient to determine compliance with applicable ordinances of the city. Said application shall be made to the Building Official at least twenty-one (21) days before the City Council meeting at which the request for Council action is made.

No permit shall or will be granted until a public hearing has been conducted by the City Council at a regularly scheduled meeting. Notice of the public hearing shall be placed in a publication of general circulation at least seven (7) days, but not more than twenty (20) days, prior to the hearing. As a courtesy and in addition to publication, the notice of hearing shall be provided to property owners within three hundred (300) feet of the property in question. Notice to property owners shall be mailed at least seven (7) days, but not more than twenty (20) days, prior to hearing. The applicant shall be responsible to provide a list of the names and addresses of the property owners, who are to receive said courtesy notice, together with addressed envelopes with pre-paid first (1<sup>st</sup>) class postage thereon to the Building Official who shall then mail the notices to the property owners.

After a public hearing is conducted, but prior to consideration of a special permit, the City Council shall weigh the application using the following special permit standards. The City Council shall find that:

- A. The establishment, maintenance, or operation of the special permit will not be detrimental to, or endanger, the public health, safety, or general welfare of the city;
- B. The special permit will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish or impair property values of the neighborhood;
- C. The establishment of special permits will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- D. Adequate utilities and public services (e.g. police and fire protection, sewer and water service), access roads, drainage and/or necessary facilities have been or are being provided;

- E. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- F. The special permit shall, in all other respects, conform to the applicable regulations and ordinances of the City of Clarksville; and
- G. A properly noticed public hearing, as outlined in the Section, was conducted by the City Council prior to special permit consideration.

After a public hearing is conducted and consideration has been given to the above standards, the City Council shall act on the special permit application. The Council may either approve, deny, or table a special permit application by simple majority roll call vote unless sixty (60) percent of the surrounding property owners who received notice object to the special permit application in which case the City Council shall be bound by different voting requirements in that granting a special permit shall then require an affirmative three-fourths ( $\frac{3}{4}$ ) vote of all the members of the City Council.

Each special permit application shall be accompanied by a check payable to the City of Clarksville or a cash payment in the amount of twenty-five dollars (\$25) to cover processing costs.

**155.10 PARKING REQUIREMENTS.** There shall be a minimum of two (2) off-street parking spaces per dwelling unit required in the Restricted Residence District. This provision shall also apply to all mobile homes, as herein defined.

**155.11 AMENDMENTS.** From time to time the City Council may wish to amend, change, or alter provisions of this Ordinance and/or the Official Map, which is a part of this Ordinance. Such amendments, changes, or alterations is hereby allowed, provided that prior to such amendment a public hearing be held at which time all parties involved in such an amendment including those in adjacent properties may be heard. Notice of the public hearing pertaining to amendments, changes, or alterations of this Ordinance shall be made in accordance with the Special Permit procedures for conducting such hearings, as defined herein. Upon adoption, publication, and recordation by the City Council, such amendments, changes, or alterations shall become effective.

**155.12 VIOLATION AND PENALTIES.** Any building or structure erected, altered, repaired or used in violation of this Ordinance passed by the City Council of Clarksville, Iowa, shall be deemed a nuisance, and the City Council may provide for the abatement of such nuisance through the procedures outlined in Chapter 50 of the Code of Clarksville.

**155.13 VALIDITY.** Should any section, provision, or part of this Ordinance be declared by a court of competent jurisdiction to be invalid, or unconstitutional, that decision shall not affect the validity of the Ordinance as a whole or any section, provision, or part thereof, not adjudged invalid or unconstitutional.

**SECTION XIII. EFFECTIVE DATE.** This Ordinance shall be in full force and effect after its final adoption, publication, and recordation as provided by law.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ and effective on the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor of Clarksville, Iowa

ATTEST:

\_\_\_\_\_  
City Clerk of Clarksville, Iowa