

RESTRICTED  
RESIDENCE  
DISTRICT

Chapter 155

## CHAPTER 155

### RESTRICTED RESIDENCE DISTRICT

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**155.01 TITLE.** This chapter shall be known as the Restricted Residence District Ordinance for the City of Winthrop, Iowa.

**155.02. 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.

**155.03 DEFINITIONS.** 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 five (5) feet away, measured from exterior wall to exterior wall, from other buildings or structures.
2. Building Official: The Mayor of Winthrop shall be the Building Official and be responsible for the administration and 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, or trailer.
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 Home: A community-based residential home which is licensed as a residential care facility licensed under Chapter 135C of the Code of Iowa or as a child foster care facility under Chapter 237 of the Code of Iowa to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight (8) developmentally disabled persons and any necessary support personnel. A “family home” does not mean an individual foster care family as licensed under Chapter 237 of the Code of Iowa.
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 Buchanan 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, as defined in Chapter 125 of the Winthrop Code of Ordinances.
26. Mobile home: As defined in Chapter 125 of the Winthrop Code of Ordinances.
27. Mobile Home Park or Trailer Park: As defined in Chapter 125 of the Winthrop Code of Ordinances.
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.

**155.04 DISTRICT AND BOUNDARIES.** The Official Restricted Residence District Map is hereby made part of this Ordinance and is maintained at City Hall. Said Map delineates various areas of the City into the following classifications:

"R-1": Restricted Residence District (Regulated by this Ordinance)

"N-R": Non-Residential District (Not Regulated by this Ordinance)

For the purpose of this Ordinance, all restrictions described herein are applicable only in the "R-1" Restricted Residence District, as is shown on the Official Restricted Residence Map.

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 Winthrop shall be automatically classified as being in an "R-1" Restricted Residence District until such classification is changed by amendment of this Ordinance, including the Official Map, as provided herein.

#### **120.05 GENERAL PROVISIONS IN THE RESTRICTED RESIDENCE DISTRICT.**

1. Restricted Residence Permit and Certificate of Occupancy Required.
  - A. No building footprint, area, size or fence shall hereafter be altered or improved; or tree planted, unless a restricted residence permit, provided by the Building Official, considered 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. (Ordinance #191, 10/04/17)  
(Ordinance #201, 11/06/19)
  - B. A restricted residence permit shall not be issued for buildings or fences that do not comply with this or any other Ordinance of the City of Winthrop. 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. (Ordinance #191, 10/04/17)
  - C. If construction, as covered by the restricted residence permit, is not initiated within ninety (90) days from the date of permit issuance, said permit shall be void.
  - D. The City of Winthrop shall charge a fee for said restricted residence permit. Said fee shall be twenty-five dollars (\$25) if the size of the proposed improvement is one hundred (100) square feet or larger in size. There is no fee if the proposed improvement is less than one hundred (100) square feet in size or is a tree. (Ordinance #201, 11/06/19)
  - E. A restricted residence permit is not needed for constructing: an unenclosed porch, deck, or outside stair remodeling that does not increase the dimensions of the building or structure; small playhouses, tents, dog and pet houses (<100 square feet in size); interior remodeling projects; repair of an existing structures that does not increase the size or dimension of the structure; and parking of recreational vehicles on the owner's premises and not regularly used as a dwelling unit when so parked.
  - F. No change in the use or occupancy of land, or any change in use or occupancy in an existing building shall 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 Winthrop, 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 Winthrop. There shall be no fee for a certificate of occupancy.

- G. All dwellings shall have a minimum width of nineteen (19) feet.
  - H. There shall be no more than one (1) single family dwelling erected or located on the same premises.
  - I. All dwellings must be placed on a permanent foundation and be attached to the real estate on which they are erected or located. All dwellings must have a foundation that meets or exceeds one (1) of the following three (3) criteria:
    - 1. Any dwelling with a width of less than twenty-four (24) feet shall have two (2) rows of 24"X24"X48" deep concrete pads placed five (5) feet apart. Concrete blocks, 8"X16", shall be placed to form a square from the pads to the frame of the dwelling.
    - 2. Any dwelling with a width of more than twenty-four (24) feet shall have four (4) rows of 24"X24"X48" deep concrete pad place four (4) feet apart. Concrete blocks, 8"X16", shall be placed to form a square from the pads to the frame of the dwelling.
    - 3. Placement on a basement.
  - J. All dwellings shall have skirting that is made of materials equal to, or better, than the siding of the dwelling and must be approved by City Council. All dwellings shall remove wheels, tires, tongue, and any other equipment used to move the dwelling an conceal them underneath the dwelling.
  - K. In the event of a natural disaster to the existing dwelling or during construction of a new dwelling, the land owner may place a temporary dwelling, not meeting the above requirements, on the property until construction is completed, or one (1) year has expired from the date of placement of the dwelling, whichever may come first. The owner will have thirty (30) days to remove the temporary dwelling after construction is completed, or after one (1) year from placement has expired, whichever is less.
  - L. No fence, wall, retaining wall, or unenclosed deck shall be erected closer than one (1) foot from a lot line.
  - M. No tree or shrub shall be planted closer than five (5) feet from the lot line between adjacent property owners.
2. Non-Conforming Uses and Lots in the Restricted Residence District.
- A. 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.
  - B. 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.
  - C. Destruction of a nonconforming building or structure in the Restricted Residence District that exceeds fifty (50) percent of the market value prior to destruction shall not be allowed to be

reconstructed in a nonconforming manner and shall comply with this Ordinance .

- D. 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 (lots of record are exempt from Section VI, subsections C(1) through C(3)), 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 restricted residence 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.

**155.06 "R-1" RESTRICTED RESIDENCE DISTRICT.** The following uses are allowed in the "R-1" Restricted Residence District, and the requirements for said uses shall apply in all areas of the District.

- 1. Principal Permitted Uses (Only one (1) principal permitted use shall be allowed per lot, including lots of record).
  - A. One and two family dwellings or residences.
  - B. Churches, cathedrals, temples, and similar places of worship.
  - C. Public and parochial schools, including elementary and secondary schools.
  - D. Fire stations.
  - E. Publicly owned parks, playgrounds, golf courses, libraries, and recreation areas.
  - F. 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.
  - G. Conversions of one family dwellings into two family dwellings in accordance with the lot area, frontage, height, and yard requirements of this section.
  - H. Mobile Homes, Mobile Home Parks or Trailer Parks established per Chapter 125 of the Winthrop Code of Ordinances.
  - I. Multiple dwellings, including row dwellings consisting of not more than six (6) units in a continuous row, cooperative apartment house, and condominium dwellings.
  - J. Boarding and rooming houses.
  - K. Nursing, convalescent, assisted living, elder group homes, and retirement homes.
  - L. Funeral homes.
  - M. Family homes, group homes, and homes for persons with disabilities.
  - N. 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.

2. Permitted Accessory Uses.

- A. 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.
- B. Accessory buildings or structures customarily used in conjunction with a dwelling or residence, including, but not limited to: a garage; a tool or utility shed; a guest or summer house; a gazebo, arbor, or trellis; or a private swimming pool properly fenced and screened. Any other building on residential property shall not be deemed an allowed 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. All accessory buildings shall be of the same paint scheme as the principal structure.

3. Lot and Building Requirements. (Minimum requirements)

- A. 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.
- B. Lot area per dwelling unit; Row housing and condominiums- 2,500 square feet each for the first four (4) units, plus 850 square feet per additional unit.
- C. 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.
- D. Front yard: Twenty (20) foot setback - any lot which abuts on two (2) or more streets shall have a twenty (20) 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.  
  
Accessory Buildings are not allowed in front yards.
- E. Side yards: Five (5) foot setback for all principally permitted uses, measured from the exterior wall  
  
Accessory Building – Must be unattached and may be located in rear yard a minimum setback distance of five (5) feet from the principal building, measured from exterior wall to exterior wall; An accessory building shall have a five (5) foot setback, measured from the exterior wall. (Ord #172, 5/6/15)
- F. Rear yard: Five (5) foot setback for all principally permitted uses.  
  
Accessory Building – Must be unattached and may be located in rear yard a minimum setback distance of five (5) feet from the principal building, measured from exterior wall to exterior wall; An accessory building shall have a five (5) foot

setback, measured from the exterior wall. (Ordinance #172, 5/6/15)

- G. Maximum height:
  - Principal building - 45 feet, measured from the final grade to the highest point of a wall. (Ordinance #171, 4/1/15)
  - Accessory building - 10 feet, measured from the final grade to the highest point of a wall. AND 20 feet measured from the final grade to the highest point of the roof. (Ordinance #171, 4/1/15)
- H. Maximum number of stories:
  - Principal building - 4 stories.
  - Accessory building - 1 story.
- I. Maximum building coverage: The sum of the dwelling and all accessory buildings square footage, located on any one lot, shall not exceed fifty (50) percent of the lot's total square footage. (Ordinance #173, 5/6/15)
- J. Dwelling Unit-Minimum square footage: All dwelling units must contain full walls separating it from the remaining structure and must be a minimum of: single story (1,000 square feet.), two story (1,400 Square feet). Excludes: porches, porticoes and entryways in square footage calculation. (Ordinance #197, 5/8/19)

**155.07 USES REQUIRING SPECIAL PERMITS TO LOCATE WITHIN THE RESTRICTED RESIDENCE DISTRICT.** Construction of clinics, offices, hospitals, home industry, 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 on the Official Map could not be amended logically, for proper reasons acceptable to Council.

**155.08 SPECIAL PERMIT PROVISIONS OF THE RESTRICTED RESIDENCE DISTRICT.**

1. 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. This includes any proposed waiver or exception to this Ordinance. 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.
2. 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 four (4) days, but not more than twenty (20) days, prior to the hearing. As a courtesy, to the best ability of the City and applicant, and in addition to publication, the notice of hearing will be mailed via regular mail to property owners, within the City, that have lots contiguous, exclusive of street, to the property in question. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration process. 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 for providing a list of the names and addresses of the property owners that 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.
3. 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, can be, 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 Winthrop; and
  - G. A properly noticed public hearing, as outlined in the Section, was conducted by the City Council prior to special permit consideration.
4. 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 twenty (20) 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.
  5. Each special permit application shall be accompanied by a non-refundable fee payable to the City of Winthrop or a cash payment in the amount of fifty dollars (\$50) to cover processing costs.
  6. With the exception of the principal and accessory uses state in this chapter, a written Special Permit shall be required for the erection, reconstruction, alternation, or repair of any building and for its occupancy and use within the Restricted Residential District of the City. This includes any proposed waiver or exception to this chapter. 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. Special Permit variances requested for a permanent structure less than five feet from the property lot line, shall be required to provide a survey of the property, completed by a professionally licensed land surveyor/engineer and be attached to the Special Permit at the time of application.

**155.09 AMENDMENTS.** From time to time the City Council may wish to amend, change, or alter provisions of this Ordinance and/or the Official Restricted Residence Map, which is part of this Ordinance.

1. No amendment, change, or alteration shall be approved by the City Council until after a properly noticed public hearing has been conducted by the Council at a regularly scheduled meeting. Notice of the public hearing shall be placed in a publication of general circulation in the city at least seven (7) days, but not more than twenty (20) days, prior to the hearing.
2. In addition to a hearing, when the City Council is considering an amendment to the Official Restricted Residence District Map, they shall provide, as a courtesy, as well as in addition to publication, the notice of hearing via regular mail to property owners within the City, that have lots contiguous, exclusive of street, to the property in question. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration

process. 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 for providing 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.

3. Upon adoption, publication, and recordation of the amendment by the City, such amendments, changes, or alterations shall become effective.

**155.10 VIOLATION AND PENALTIES.** Any building or structure erected, altered, repaired or used in violation of this Ordinance, passed by the City Council of Winthrop, Iowa, shall be deemed a nuisance, and the City Council may provide for the abatement of such nuisance through the procedures outlined in Chapter 8 of the Winthrop Code of Ordinances.