

# SECTION 1

## REPEALING, ADOPTION, AND TITLE

### INTERPRETATION AND APPLICATION

### INTENT AND PURPOSE, COMPATIBILITY, RULES AND DEFINITIONS

#### BE IT ENACTED:

##### 1.01 REPEALING, ADOPTION, AND TITLE

This Ordinance repeals all prior Tiffin Zoning Ordinances, including but not limited to Ordinance No. 2005-272, and any prior amendments. This Ordinance establishes comprehensive zoning regulations for Tiffin and provides for the administrative enforcement and amendment of itself. The City Council adopts this Ordinance by authority of the *Code of Iowa*. This Ordinance is designated No. 2007-\_\_\_\_\_, City of Tiffin, Iowa. This Ordinance may be cited as the "Tiffin Zoning Ordinance No. 2007-\_\_\_\_\_".

##### 1.02 INTERPRETATION AND APPLICATION

The interpretation and application of the provisions of this Ordinance establish the minimum requirements adopted for the promotion of the public health, safety, morals, or general welfare. This Ordinance applies to all structures, land, and uses within the corporate limits of Tiffin, Iowa. Wherever the requirements of this Ordinance vary from the requirements of any other lawfully adopted restrictions or requirements, the most restrictive, or that imposing higher standards, must govern. Uses and exceptions not specifically described for each classification are prohibited in that classification.

##### 1.03 INTENT AND PURPOSE

The City Council adopts Zoning Ordinance and Zoning Map for the purpose of improving and protecting the public health, safety, comfort, convenience, and general welfare of the people in accordance with the *Code of Iowa* Section 414.3. The Ordinance intends to accomplish the following:

- A. To preserve the availability of agricultural land.
- B. To consider the protection of soil from wind and water erosion.
- C. To lessen congestion on the public streets.
- D. To avoid undue concentration of population.
- E. To prevent the overcrowding of land, thereby ensuring proper living and working conditions and preventing the development of blight and slums.
- F. To establish adequate standards for the provision of light, air, and open spaces.
- G. To facilitate the provision of adequate transportation, and of other public requirements and services such as water, sanitary sewer, storm sewer, schools, and parks.
- H. To zone all properties with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

- I. To protect residential, business, commercial, and industrial areas alike from harmful encroachment by incompatible uses and to ensure that land allocated to a class of uses must not be usurped by other inappropriate uses.
- J. To avoid the inappropriate development of lands and provide for adequate drainage, curbing of erosion, and reduction of flood damage.
- K. To fix reasonable standards to which buildings and structures must conform.
- L. To promote the conservation of energy resources.
- M. To promote reasonable access to solar energy.
- N. To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions or limitations imposed herein.
- O. To foster a more rational pattern of relationship between residential, business, commercial, and industrial uses for the mutual benefit of all.
- P. To isolate or control the location of unavoidable nuisance-producing uses.
- Q. To prescribe penalties for any violation of the provisions of this Ordinance or of any amendment thereto.

**1.04 COMPATIBILITY WITH THE COMPREHENSIVE LAND USE PLAN**

The standards and requirements contained in this Ordinance and the district mapping reflected on the "Official Zoning Map" are made in reference with the Comprehensive Land Use Plan of Tiffin, Iowa.

**1.05 RULES AND DEFINITIONS**

In the interpretation and application of this Ordinance, use the following rules and definitions:

**A. Rules**

- 1. Words used or defined in one tense or form shall include other tenses and derivatives.
- 2. The word "shall or must" is mandatory.
- 3. The word "may" is permissive.
- 4. The word "ordinance" means City of Tiffin Ordinances.
- 5. The word "Code of Iowa" means the State Code of Iowa.
- 6. The word "person" includes individuals, firms, corporation, associations, and any other similar entities.
- 7. The word "county" means the County of Johnson, Iowa.
- 8. The word "city" means the City of Tiffin.
- 9. The words "city council" means the City Council of Tiffin, Iowa.
- 10. The word "State" means the State of Iowa.
- 11. In case of any differences of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

## B. Definitions

**Accessory Building, Structure, or Use:** A use or structure subordinate to the principal use of a building or land on the same lot and serving a purpose customarily incidental to the use of the principal building or use of land.

**Agriculture:** The use of land for any of the following purposes:

- raising, breeding, or management of livestock, poultry, fish, or honeybees;
- dairies, truck gardening, forestry, nurseries, or orchards;
- non-commercial on-farm storage or processing of agricultural products; or
- any similar agricultural, horticultural, silvacultural, or aquacultural use.

No farms may operate for the disposal of garbage, sewage, rubbish, or offal. Nor does this definition allow rendering plants for the slaughtering of animals, except to the extent that animals raised on the premises or maintained on the premises are used by residents of the agricultural use.

**Alley:** Any dedicated public way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

**Alterations, Structural:** Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

**Apartment:** A room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building where there are a multiple of these units.

**Balcony:** An unroofed platform, unenclosed except by a railing, which projects from the outer wall of any building above ground level with or without support other than the building.

**Basement:** The portion of a building that lies partly below grade but that has more than one-half its height above the average grade of the adjoining ground. For the purpose of this Ordinance, a basement is not considered a "story" unless designed or used for habitable space or business purposes.

**Bed and Breakfast:** Any single-family or multi-family dwelling unit used for overnight or temporary lodging that consists of one to five units and that may provide meals.

**Board of Adjustment:** The Board of Adjustment is described in Iowa Code § 414.7. This Ordinance may refer to it as "the Board".

**Boarding House** is a building, other than a hotel or motel, that provides meals and lodging for three or more persons for pay.

**Building:** Any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, or property.

**Building Envelope** is the area of a lot that remains after the minimum yard setbacks, height requirements, and open space requirements of this Ordinance are met.

**Building, Height of:** The vertical distance from the grade to:

- the highest point of the coping of a flat roof; or
- the deck line of a mansard roof; or
- the average height level between eaves and ridge for gable, hip, and gambrel roofs.

**Building Line:** A line formed by the face of the building, and for the purposes of this Ordinance, a minimum building line is the same as a front setback line.

**Building, Main or Principal:** is a building that houses the principal use of the lot where the building stands.

**Cellar** is the portion of a building that has half or more of its clear height below the grade plane. A cellar is not habitable and is not counted as a story.

**Communications Tower:** A metal structure that is used primarily as a communication antenna or that is used primarily for the commercial transmittal of radio, television, radar, or microwaves. Non-commercial towers 50 feet or less in height are not communication towers.

**Communication Tower Height:** The distance between the base of a tower and the top of the highest appurtenance mounted on the tower. Towers in excess of 40 feet must not exceed the overall height recommended by the FAA and FCC.

**Comprehensive Land Use Plan** is the general plan for the development of the community. It may also be called the master plan, comprehensive plan, land use plan, or some other title. The Tiffin City Council adopts a "Comprehensive Land Use Plan". A "Comprehensive Land Use Plan" includes any amendments to the Plan.

**Conditional Use:** A "special exception" is the same as a "conditional use" in this Ordinance.

**Day Care Facility** is a facility where six or more children stay for part of the day for care and instruction. A "Day Care Facility" must be licensed by the State of Iowa. The term "Day Care Facility" includes, by way of example, the following descriptions: nursery schools, childcare centers, day nurseries, kindergartens, preschools, and playgroups. The term but does not include kindergartens or nursery schools operated by public or private school systems.

**Deck** is covered or uncovered platform area projecting from the wall of a building, accessible at or from above grade and attached to the ground.

**Dwelling** is any building or portion of a building that is intended for residential purposes. The building must have an outside dimension of not less than 20 feet wide by 30 feet long, not counting any exterior garage.

**Dwelling, Single-Family:** A building designed with accommodations for exclusive occupancy by one family or individual.

**Dwelling, Two-Family:** A building designed for occupancy by two families or two individuals living independently of each other.

**Dwelling, Multiple or Multi-Family:** A building designed for occupation by more than two families or individuals living independently of each other.

**Family** is a group of individuals not necessarily related by blood, marriage, adoption, or guardianship that live together in a dwelling unit as a single housekeeping unit and maintain a common housekeeping management plan based on an intentionally structured relationship that provides organization and stability.

**Family Group Care Home:** A community-based residential home that is licensed as a residential care facility under Iowa Code Chapter 135C or as a child foster care facility under Iowa Code Chapter 237. The care home provides room and board, personal care, habitation services, and supervision in a family environment for not more than eight developmentally disabled persons and any necessary support personnel. The term does not mean an "individual foster care home" licensed under Iowa Code Chapter 237.

**Farm** is an area of not less than ten acres that is used for growing farm products such as vegetables, fruits, and grain, and for raising farm poultry and farm animals, and uses ancillary to those functions, including storage.

**Fee:** An amount charged by the City to cover the cost of various City services. The City Council sets fees by resolution.

**Fence:** A freestanding structure intended to provide privacy, prevent escape or intrusion, or to redirect a person's direction of travel. A fence may be constructed of posts, wire, boards, stone, or any standard building materials.

**Feedlot, Commercial:** A confined area where 500 or more cattle, swine, sheep, or 30,000 or more fowl are housed, penned, and fed.

**Flood Plain:** Lands that are subject to a one percent or greater chance of flooding in any given year as established by FEMA or Corps of Engineers guidelines.

**Floor Area:** The total area of all floors of a building as measured to the outside surfaces of exterior walls and not including halls, stairways, elevator shafts, attached garages, porches, and balconies.

**Frontage:** All the property on one side of a street between two intersection streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end or the street.

**Garage, Private** is an accessory building used for the storage of not more than four motor vehicles owned and used by the occupants of the buildings to which it is accessory.

**Garage, Public**: A building or portion thereof other than a private or storage garage, intended for equipping, servicing, repairing, hiring, selling, or storing motor vehicles.

**Garage, Storage**: Any portion of a building intended for term storage of motor vehicles and where motor fuels and oils are not sold nor are motor vehicles repaired, hired, or sold.

**Garden Shed**: An accessory structure of not more than 140 square feet in area and eight feet in height intended primarily for storage.

**Grade**: The average level of the finished surface of the ground adjacent to the exterior walls of the building, except when any wall approximately parallels and is not more than five feet from a street line, then the elevation of the street serves as grade.

**Home Occupation**: Any occupation or activity carried on within a dwelling unit or accessory building by a member of the family residing at the home. The occupation or activity must be secondary to the residential occupancy and not change its residential character.

**Hotel** is a residential building licensed by the State used principally as a place of lodging for guests. Hotels may provide meals.

**Junk or Salvage Yard**: Any enclosed or fenced area where waste or salvaged materials are handled, including automobiles or other machinery, house wrecking yards, used lumber yards, or structural steel materials and equipment. This definition does not include areas where the activities occur entirely within a completely enclosed building.

**Kennel**: is an establishment where small animals are bred, raised, trained, groomed, and boarded for commercial purposes.

**Loading Space** is an off-street space within the main building or on the same lot, providing for the standing, loading, or unloading of commercial vehicles, having a minimum dimension of 12 feet by 35 feet and a vertical clearance of at least 14 feet.

**Long-term Care Facility**: A long-term care unit of a hospital, a licensed hospice program, a foster group home, a group living arrangement, or a facility licensed under *Iowa Code* §135C.1 whether the facility is public or private.

**Lot**: A tract, plot, or portion of a subdivision or other parcel of land intended to serve as a unit of taxation and lawful transfer.

**Lot, Corner:** A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

**Lot, Depth of:** The average horizontal distance between the front and rear lot lines.

**Lot, Double Frontage** is a lot that fronts upon two parallel streets or two streets that do not intersect at the boundaries of the lot.

**Lot, Interior:** A lot other than a corner lot.

**Lot, Merged:** Two or more contiguous lots, in single ownership, that individually do not conform to zoning ordinance bulk standards and on which an "Affidavit of Explanatory of Title" has been filed in the office of the Recorder of Johnson County, Iowa.

**Lot Lines:** The lines bounding a lot.

**Lot Line, Front:** In the case of an interior lot, that line separating the lot from the street. In the case of a corner lot, or double frontage lot, "front lot line" means that line separating the lot from that street that is designated as the front street in the plat and in the application for a zoning compliance permit.

**Lot Line, Rear** is the lot line opposite and most distant from the front lot line. In the case of a lot pointed at the rear or triangular shaped, the rear lot line is an imaginary line parallel to the front lot line not less than ten feet long farthest from the lot line and wholly within the lot.

**Lot Line, Side:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side-street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Lot Width:** The width of a lot measured at the building line and at right angles to its depth where the minimum building line or setback intersects the side lot lines.

**Lot, Reversed Corner:** A corner lot, the rear of which abuts the side of another lot.

**Main Building:** A building in which is conducted the principal use of the lot upon which it is situated.

**Main Use** is the principal use to which the premises are devoted.

**Manufactured Home:** A factory-built dwelling that is manufactured or constructed under the authority of 42 U.S.C. Section 5403, Federal Manufactured Home Construction and Safety Standards. To qualify as a manufactured home under this ordinance it must not be constructed with a permanent hitch or other device allowing it to be moved, other than for the purpose of moving to a permanent site, and it must not have permanent wheels or axles. A mobile home constructed to the Federal Manufactured Home Construction and Safety Standards is not a manufactured home unless it has

been converted to real property and is taxed as a site built dwelling as is provided in *Iowa Code* Chapter 427A. For the purpose of any of these regulations, manufactured homes are the same as a single-family detached dwelling.

**Mobile Home:** A vehicle without motor power intended for use as a conveyance upon the public ways. The mobile home must be duly licensed as such, and constructed in such a manner as will permit occupancy for human habitation, including sleeping quarters. A mobile home must be towed or transported by another vehicle. This definition also includes mobile homes that are located on a permanent or temporary foundation.

**Mobile Home Park** is any area of land where two or more occupied mobile homes are located either free of charge or for revenue purposes. Structures ancillary to mobile homes may be located in a mobile home park.

**Mobile Home Converted to Real Estate:** A mobile home that meets the provisions of Iowa Code §435.26.

**Motel:** Any building that provides lodging for transient occupancy and where each unit has convenient access to a parking space for the use by the unit's occupants.

**Nonconforming Building** is a building that does not conform to the provisions of this Ordinance establishing requirements for the district where it is located.

**Nonconforming Use** is a use that does not conform to the use regulations of the district where it is located.

**Nursing Home:** An institution that provides nursing or convalescent care for persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients who do not usually require hospital facilities. A nursing home provides care for persons who need continuing medical and skilled nursing care. For the purpose of this Ordinance, a "nursing home" is also considered a "convalescent home". To meet the definition of this Ordinance, the institution must be licensed by the State.

**Open Space:** The land area of a site not covered by buildings, right-of-ways, parking structures, or accessory buildings, except recreational structures, and which is available to the public. "Open Space" does not include school sites and commercial areas.

**Parking Spaces:** A surfaced area either enclosed or unenclosed, having an area of not less than 180 square feet exclusive of driveways, and not including that area directly in front of a single width garage, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway that affords satisfactory ingress and egress for vehicles.

**Plan:** See Community Development Plan



**Planned Area Development:** A zoning designation intended to promote innovative, designed developments involving residential and nonresidential land uses, which together form an attractive and harmonious unit of the community. The area may be able to function as an individual community, neighborhood, or mixed-use development that requires flexibility because of unique circumstances or design characteristics. (See Section 3 PAD)

**Planning and Zoning Commission** is appointed by the City Council to review and recommend proposed applications for zoning and proposed changes to the ordinance, as well as to review subdivisions. The Commission is also known as the "P&Z" or "Commission".

**Principal Use** is the main use of land or structures as distinguished from accessory use. For example, a house is a principal use in a residential area; a garage or pool is an accessory use.

**Private:** In reference to a building, structure, utility, facility, or use, "private" means owned by someone other than a unit of government, or an agency of government, unless the context clearly indicates that "private" is being used in a broader sense of something not open or available to the general populace.

**Public:** In reference to a building, structure, utility, facility, or use, "public" means owned and/or operated by a unit of government or an agency thereof, unless the context clearly indicates that "public" is being used in the broader sense of something available to the general populace.

**Setback:** The distance required to obtain the front, side, or rear yard open space provisions of this Ordinance. All measurements are taken from the structure's foundation or from the exterior wall at grade level.

**Public Information Sign:** A directional or informational guide or aid erected by a public agency or by private persons and not intended primarily for advertising.

**Sexually-Oriented Businesses:** An establishment, including bookstores, bars, restaurants, movie theaters, and arcades where films are shown, or videotapes, magazines, books, or other printed matters are sold, or live performances take place, that are characterized by an emphasis upon the depiction or exposure of "specified sexual activities" or "specified anatomical areas" as defined below. Massage parlors where services are not administered by a licensed practitioner, chiropractor, acupuncturist, therapist, or similar person licensed by the State are also included in this definition.

- 1) Specified Sexual Activities: Patently offensive acts, exhibitions, representations, depictions or descriptions of: 1) human genitals in a state of sexual stimulation or arousal; 2) fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; 3) intrusion, however slight, actual or stimulated by an object, any part of an animal's body or any part of a person's body into the genital or anal openings of a person's body; 4) cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated; 5)

- flagellation, mutilation, or torture, actual or simulated; 5) flagellation, mutilation, or torture, actual or simulated in a sexual context.
- 2) Specified anatomical areas: Less than completely and opaquely covered human genital, pubic region, buttocks, and a female breast below a pint above the areola; and human male genitals in a discernibly turgid state—even if completely and opaquely covered. ***See Ordinance No. 2001-255, Regulating the Operation of Sexually-Oriented Businesses***

**Sign:** Any structure, or part thereof, or device attached thereto or painted, or represented thereon, which must display or include any letter, word, model, banner, flag, pennant, insignia, device or representation intended as an announcement, direction, or advertisement. The definition of “sign” includes the word “billboard” for purposes of this Ordinance.

**Story:** That portion of a building, other than a basement not having over 50 percent of its height below grade, included between the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

**Story, Half** is a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of the story, except that any partial story used for residence purposes, other than for janitor or caretaker and family, or by a family occupying the floor immediately below it, is deemed a full story.

**Street:** Public property, not an alley, intended for motor vehicle use. In appropriate context, the term “street” may refer to the right-of-way bounded by the property lines of public property, or it may refer to the paving installed within such right-of-way.

**Structure:** Anything constructed or erected that requires a permanent location on the ground, including that includes by way of example the following: advertising signs, billboards, backstops for tennis courts, gazebos, ground-based satellite dishes, and solar collectors.

**Travel Trailer or Motor Home:** A vehicle with or without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed to permit the vehicle to be used as a place of human habitation by one or more persons. The vehicle may be up to eight feet in width and any length provided its length does not exceed 40 feet. If the vehicle is used as a place of human habitation for more than 90 days in any 18-month period, it is classed as a mobile home, regardless of the size and weight limitation provided herein.

**Trailer Camp or Tourist Camp Ground:** An area providing spaces for two or more travel trailers, camping trailers, or tent sites for temporary occupancy, with necessary incidental services, sanitation, and recreation facilities to serve the traveling public.

**Variance** is a modification of the literal provisions of this Ordinance that would cause undue hardship owing to circumstances unique to the individual property

on which the variance is granted. The crucial points of variance are (a) undue hardship, (b) unique circumstances and (c) applying to property. The authority to grant variances vests in the Board of Adjustment pursuant to Iowa Code Chapter 414.

**Yard** is an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure. In measuring a yard to determine the width of a side yard, the depth of a front yard, or the depth of the rear yard, use the minimum horizontal distance between the lot lines and the main building line.

**Yard, Front:** A front yard extends across the front of a lot and is measured by the minimum horizontal distance between the street or place line and the main building other than uncovered steps. On corner lots, the front yard is parallel to the street upon which the lot has its least dimension, except where owner elects to front his building on a street parallel to the lot line having the greater dimension.

**Yard, Rear:** A rear yard extends across the rear of a lot and is the required minimum horizontal distance between the rear lot line and the rear of the main building line other than uncovered steps. In all lots, the rear yard is in the rear of the front yard.

**Yard, Side:** A yard between the main building line and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building line or any projections of uncovered steps.

**Zero Lot Line Dwelling:** A single-family dwelling that adjoins another single-family dwelling on an adjacent lot and that shares a common boundary line and a common wall with the adjoining single-family dwelling. Each such dwelling must have separate utility services.