

CHAPTER 155

BUILDING AND LAND USE REGULATIONS

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155.01 PURPOSE. The purpose of this chapter is to provide and establish reasonable rules and regulations for the erecting and altering of buildings in the City, as well as the use and occupancy of such buildings.

(Code of Iowa, Sec. 364.1)

155.02 BUILDING OFFICIAL. The City Clerk is the Building Official and is responsible for the administration and enforcement of this chapter.

155.03 PERMIT REQUIRED. No building or other structure shall be erected, altered, used, or occupied within the City without first receiving a permit therefor.

155.04 APPLICATION. Application shall be made in writing, filed with the Building Official and contain the following information:

1. Name. The name and address of the applicant.
2. Location. The street address and full legal description of the property.
3. Proposed Work. The nature of work proposed to be done.
4. Use. The use for which the structure is or will be used.
5. Plans. Application for permits shall be accompanied by such drawings of the proposed work, including such floor plans, sections, elevations and structural details, as the Building Official may require. There shall also be filed a diagram or sketch in a form and size acceptable to the Building Official with all dimensions figured, showing accurately the size and location of the lot to be built upon, and the location and size of the building or structure to be erected or altered.

155.05 FEE. A permit fee shall accompany the application for a building permit in accordance with the following:

1. \$500.00 for a residential dwelling utilizing a one-inch water service line.
2. \$400.00 for a residential dwelling utilizing a ¾-inch water service line.

3. \$400.00 for a commercial building with a water service connection.
4. \$110.00 for a commercial building without a water service connection.
5. \$40.00 for a residential or commercial garage, whether attached or detached.
6. \$30.00 for any storage/utility shed, play house or yard-related structure.
7. \$30.00 for any deck, patio, or in-ground or above-ground swimming pool.
8. \$10.00 for any fence or sign.

155.06 AMENDMENTS. Nothing shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

155.07 COMPLETION OF EXISTING BUILDINGS. Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of a building, for which a valid permit has been issued or lawful approval given before the first day of June, 1992.

155.08 APPLICATION APPROVED. It is the duty of the Building Official to examine applications for permits within a reasonable time after filing. If, after examination, the Building Official finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto, the Building Official shall forward findings to the Council for its approval or disapproval.

155.09 ACTION BY COUNCIL. After receiving the findings of the Building Official, the Council shall, within a reasonable time, either approve or disapprove the application. If disapproved, the Council shall state its reasons for disapproval and notify the applicant of same. If approved, the Council shall instruct the Building Official to issue the building permit to the applicant. Said permit shall be issued in duplicate, one copy for the applicant and one copy to be retained in the City records.

155.10 RESTRICTIONS. No permit for the erection, alteration, use, or occupancy of a building or similar structure shall be granted unless it definitely appears that such erection, alteration, use, or occupancy shall not cause or be the source of the following:

(Code of Iowa, Sec. 414.24)

1. Noise. Any undue noise.
2. Electrical Interference. Any undue radio or television interference.
3. Odors. Any offensive odors.
4. Refuse. Any offensive or unsightly refuse.
5. Smoke. Any offensive or undue smoke.
6. Fire Hazard. Any fire hazard.
7. Appearance. Any unsightliness due to the appearance of any building or structure on the premises.
8. Congestion. Any undue gathering, congregating, parking of cars or undue congestion of people or traffic.

9. Other. Any effect that will be obnoxious, offensive, dangerous, or injurious to the health, welfare, and safety of citizens.

155.11 CONDITION OF THE PERMIT. All work performed under any permit shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plan, or an approved amendment thereof, shall be strictly adhered to. It is unlawful to reduce or diminish the area of a lot or plot of which a plan has been filed and has been used as the basis for a permit, unless a revised plan showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

155.12 REVOCATION. The Building Official may revoke a permit or approval issued under the provisions of this chapter in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

155.13 PERMIT VOID. In the event that construction covered by a permit is not initiated and under way within one (1) year from the date of issuance of the permit, such permit shall be deemed void and of no affect.

155.14 RESTRICTED RESIDENCE DISTRICT. The following area is hereby defined and established as a restricted residence district:

All of the platted portion of Merrill, Plymouth County, Iowa, except the following described area:

Lots Six (6) through Twenty-one (21), inclusive, of Block One (1) and all of Block Two (2) of the Original Plat of Merrill and Lots One (1), Two (2) and Three (3), Block One (1) Frost's First Addition and Block Two (2), Frost's First Addition and Blocks Eight (8), Nine (9), Ten (10) and Eleven (11) Frost's First Addition and Block Thirteen (13) Frost's First Addition and Lots Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15) and Sixteen (16) Simpson's Addition.

and

A tract of land in the South One-half (S½) of the Northwest Quarter (NW¼) of Section Eleven (11), Township Ninety-one North (T91N), Range Forty-six West (R46W) of the Fifth Principal Meridian, lying between the rights-of-way of the Great Northern Railroad and Primary Road Number United States Seventy-five (U.S. 75) containing approximately one and thirty-five hundredths (1.35) acres more particularly described as follows: Commencing at the North Quarter corner (N¼ cor) of said Section Eleven (11), Township Ninety-one North (T91N), Range Forty-six West (R46W); thence due west seven hundred thirty-one (731) feet to the centerline of Primary Road Number United States Seventy-five (U.S. 75); thence southwesterly along the centerline of said Primary Road one thousand four hundred thirteen and seven tenths (1,413.7) feet; thence west along the south corporation line of the City of Merrill sixty-nine and forty-five hundredths (69.45) feet to a point of beginning; thence south along the west line of said Road No. U.S. 75 right-of-way twenty degrees, forty-three minutes west (20°43') four hundred ten and two tenths (410.2) feet;

thence west ninety-eight and six tenths (98.6) feet; thence north along the east line of the Great Northern Railroad right-of-way north five degrees, twenty-three minutes (5°23') east three hundred eighty-five and one tenth (385.1) feet to the south corporation line of the City; thence east two hundred seven (207) feet to the point of beginning. NOTE: The north line of said Section Eleven (11) is assumed to bear east and west.

and

All of Block Sixteen (16) in Frost's First Addition and all of Block Seventeen (17) in Frost's First Addition to the City of Merrill, Plymouth County, State of Iowa, and

All of Block Eighteen (18) in Frost's First Addition to the City of Merrill, and

Lots one (1) and two (2), Block One (1), Park Addition to the City of Merrill.

155.15 PROHIBITED USE. No building or other structure, except residences, schoolhouses, churches, and other similar structures, shall be erected, altered, used, or occupied within the restricted residence district as defined herein without first receiving from the Council a special use permit. No such special use permit shall be issued without the affirmative vote of three-fourths ($\frac{3}{4}$) of all of the members of the Council.

(Code of Iowa, Sec. 414.24)

155.16 EXCEPTIONS. The provisions of the preceding section shall have no application to any business, store, shop, or factory existing and in operation in a restricted residence district on the first day of June, 1992, except in the matter of reconstruction, alteration or change in use of the structure.

155.17 PROTEST. No special use permit shall be granted when sixty percent (60%) of the residential real estate owners in the restricted residence district who are located within six hundred (600) feet of the proposed building or occupancy object thereto, except by a unanimous vote of all of the members of the Council.

155.18 NOTICE REQUIREMENTS. Whenever a restricted residence district is established or its boundaries changed, a public hearing must be held, notice of which shall be given at least seven (7) days in advance of the hearing and in the manner prescribed in Section 18.05 of this Code of Ordinances. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice.

(Code of Iowa, Sec. 414.24)

155.19 FRONT YARD REQUIREMENTS. Within the restricted residence district there shall be a front yard of not less than twenty-five (25) feet, except as follows:

(Code of Iowa, Sec. 414.24)

1. **Between Existing Buildings.** Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent buildings on the two (2) sides, or
2. **Adjacent to Existing Building.** Where a building is to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one side only

within the same block, such building may be erected as close to the street as a line drawn from the closest front corner of that building to a point twenty-five (25) feet back from the front lot line measured at the center of the lot on which the proposed building is to be erected.

3. Double Frontage. Where lots have a double frontage, the front yard as required herein shall be provided on both streets.

155.20 SIDE YARD REQUIREMENTS. Within the restricted residence district no building shall be erected closer than eight (8) feet for a one-story building or ten (10) feet for a multiple story building, to either side lot line.

(Code of Iowa, Sec. 414.24)

155.21 REAR YARD REQUIREMENTS. Within the restricted residence district there shall be a rear yard provided for each principal building of not less than two (2) feet (when measured from the rear lot line) or thirty percent (30%) of the depth of the lot, whichever amount is larger.

(Code of Iowa, Sec. 414.24)

155.22 SETBACK MEASUREMENT. The building setbacks established in this chapter shall be measured from the front, side or rear lot line to the most extended point of construction of the dwelling or building erected on the lot in order to determine the minimum required setback requirements for yards, garages and accessory buildings.

155.23 MINIMUM STANDARDS OF PRINCIPAL STRUCTURE. No dwelling shall be erected, placed, or occupied within the restricted residence district unless such dwelling shall have a minimum dimension of twenty-two (22) feet measured at the narrowest point of such dwelling. Said dimension shall be exclusive of attached garages, porches or other accessory structures. All principal structures shall be placed on a permanent frost-free foundation.

155.24 GARAGES AND OTHER ACCESSORY BUILDINGS. A garage or other similar accessory building may be built in a rear yard but such garage or accessory building shall not occupy more than thirty percent (30%) of a rear yard and shall not be nearer than two (2) feet to any side or rear lot line, except that when a garage is entered from an alley it shall not be located closer than ten (10) feet to the alley line and except that a garage that is located closer than ten (10) feet to the rear line of the main building shall provide the side yard for the main building. Also, a garage or accessory building may be built in a side yard if compliance is made with the same side yard requirements as for the main building.

155.25 FENCES.

1. Materials. Fences shall be constructed of material commonly used for landscape fencing such as masonry block, lumber, chain-link, wrought iron or natural plantings, but shall not include corrugated sheet metal or salvage material. The owner of a fence shall provide and maintain a two-foot setback from adjoining property for the purpose of fence maintenance access.

2. Placement. Fences in which the openings between the materials of which the fence is constructed represent less than seventy percent (70%) of the total surface may be erected to a height not exceeding four (4) feet along the boundaries of a lot, except that no such fence shall be erected within thirty (30) feet of the intersection of two street lines. Wire fences and other fences in which the openings between the materials

of which the fence is constructed represent more than 70% of the total fence area may be erected to a height of not more than six (6) feet, except within 30 feet of the intersection of two street lines.

155.26 EXISTING LOTS. No yard or lot existing on the first day of June, 1992, shall be reduced in dimension or area below the minimum requirements established in this chapter.

155.27 VARIANCES. Variances to minimum yard or fence requirements may be approved by securing an affirmative vote of three-fourths ($\frac{3}{4}$) of all of the members of the Council. Said variance must include the reason for a variance, why the variance was granted and specific description of the property for which the variance was granted.

155.28 CERTIFYING ORDINANCES. Within fifteen (15) days of the effective date of the adoption of any amendments to the provisions of this chapter, the Clerk shall certify such amendment to the County Recorder.

(Code of Iowa, Sec. 380.11)

155.29 ABATEMENT OF VIOLATION. Any building or structure erected, altered, used or occupied in violation of this chapter shall be determined a nuisance, and the same may be abated by the City or by any property owner within said district in the manner provided for the abatement of nuisances.

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CITY OF MERRILL, IOWA
ORDINANCE NO. 2023-2
CHAPTER 155

AN ORDINANCE OF THE CITY OF MERRILL, IOWA,
TO ADD AND TO AMEND PROVISIONS OF CHAPTER 155
CONCERNING FENCES

BE IT ENACTED by the City Council of the City of Merrill, Iowa:

SECTION ONE. CHAPTER 155 of the Code of Ordinances of the City of Merrill, Iowa, is hereby amended to include additional provisions governing materials and placement of fences within the city limits of the City of Merrill, Iowa as follows:

SECTION 155.25 (Amended) MATERIALS. Fences shall be constructed of material commonly used for landscape fencing but shall not include corrugated sheet metal or salvage material.

SECTION 155.25 (Amended) PLACEMENT. At any special or residential district, fences may be erected along a lot line or adjacent thereto to a height not exceeding six (6) feet above the ground level. Fences erected in a required front or street side yard and located less than four (4) feet from the street lot line shall not exceed a height greater than four (4) feet above the ground level, provided, however, that within ten (10) feet of any driveway crossing of the street lot line, any fencing shall not exceed two (2) feet in height.

SECTION 155.25 (Addition) PERMIT REQUIRED. There will be a fee set by resolution of the Council for a fence permit. Application for a fence permit shall include a complete site plan of the lot and the proposed fence, with the height of desired fence included.

SECTION 155.25 (Addition). Fences will not be allowed in a drainage way. If a fence is requested to be put on an easement, the property owner must have permission from the City Maintenance Director and holder of the easement.

SECTION 155.25 (Addition) COMMERCIAL. In any commercial or manufacturing district, no required fencing shall be erected along a lot line or adjacent thereto to a height exceeding eight feet above the ground level.

SECTION 155.25 (Addition). EXEMPTIONS. The City Maintenance Director may modify provisions for screening between adjacent properties when suitable screening exists on abutting property or when such officer determines that such modifications for screening shall be in harmony with the general purpose and intent of this subsection. The Maintenance Director may also modify the provisions for the requirement of vision clearance when such officer determines that such modifications shall be consistent with traffic safety and shall be in harmony with the general purpose and intent of this subsection.

SECTION TWO. REPEALER. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance as stated herein are hereby repealed.

SECTION THREE. SEVERABILITY CLAUSE. If any section, provision or part of this Ordinance, as modified and added to shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION FOUR. WHEN EFFECTIVE. This Ordinance shall be in full force and effect from and after its final passage, approval and publication as provided by law.


PASSED by the City Council of the City of Merrill, Iowa, the 17th day of July, 2023.

APPROVED this 17th day of July, 2023.

CITY OF MERRILL, IOWA

ATTEST:

BY: 
BRUCE NORGAARD, MAYOR


ANGELA GRAY, CITY CLERK

First Reading: 07/17/2023
Second Reading: 7 / 17 /2023 Waived
Third Reading: 7 / 17 /2023 Waived

I CERTIFY that the foregoing is published as Ordinance No. 2023-2 on the 17th day of July, 2023.


ANGELA GRAY, CITY CLERK