**ORDINANCE #180**

**RESTRICTED RESIDENCE DISTRICT**

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6-10-1 PURPOSE. The purpose of this Ordinance is to establish a restricted residence district in the City of Worthington, Iowa, and to provide reasonable rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds, and to provide that there shall be no use in such district except for residences, schoolhouses, churches, farms and agriculture, and other similar structures, except when a permit is granted in accordance with this Ordinance.

(Code of Iowa, Sec. 414.1 and 414.24)

6-10-2 DEFINITIONS. For use in this Ordinance, the following terms are defined:

1. "Residence" is a building used exclusively for a dwelling.

2. "School" is a building used for educational purposes, public or private, that is regulated by the Iowa Department of Education as to curriculum.

3. "Garage" is a structure for sheltering motor vehicles or household equipment and/or effects.

4. "Residential accessory use" is a building or structure customarily used in conjunction with a dwelling, namely a garage with a capacity of not more than three cars or more than one garage per apartment building nor more than one stall per dwelling unit, a shed 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, nor if it is used in conjunction with or for the business of selling goods or rendering services.

5. "Church", or "church school" is a building used for public worship, or connected with a building so used, for instruction in religious beliefs, or for the conduct of activities related to church affairs.

6. “Home-Based Business” any occupation or activity conducted within a residence which is clearly incidental and subordinate to the use of the premises for dwelling purposes. Home-based businesses shall be permitted as accessory uses within principal residential dwellings provided they meet the following provisions.

A. A home-based business shall not be permitted that:

1. Generates traffic, parking, sewerage or water use in excess of what is normal in the residential neighborhood;
2. Occupies more than twenty-five (25) percent of the total floor area of the dwelling unit;
3. Produces noise, vibration, smoke, odors, heat or glare as a result of a home-based business which would exceed that normally produced by a single residence as determined by the City Council.

 B. No external or internal alterations of the structure shall be made and no more than one sign indicating said occupation shall be displayed (but the sign may be double faced) nor shall the sign have a single face area of over one square foot.

7. “Farms and Agriculture” Agricultural uses, including the raising of field crops and livestock, horticulture, forestry, animal husbandry, noncommercial 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, livestock confinement operations, public stables, boarding kennels or veterinary clinics or such similar uses.

6-10-3 DISTRICT DESCRIBED. The following restricted residence district is hereby designated and established as shown on the Official Restricted Residence District Map, which together with all explanatory matter thereon, is hereby adopted by reference and is declared to be part of this ordinance. The Official Restricted Residence District Map shall be identified by the signature of the Mayor, attested by the City Clerk together with the date of adoption of this ordinance. The Official Restricted Residence District Map shall be located in the office of the City Clerk. Regardless of the existence of purported copies of the official Restricted Residence District Map, the Official Restricted Residence District Map which shall be located in the office of the City Clerk shall supersede all other maps and shall be the final authority as to the current restricted residence status of land and water area, buildings, and other structures in the City.

6-10-4 BUILDINGS PERMITTED. No buildings or other structures, except residences, schoolhouses, churches, farm buildings, and other similar structures shall be hereafter erected, reconstructed, altered, repaired, or occupied within the restricted residence district without first securing from the City Council a permit therefor.

6-10-5 RULES AND REGULATIONS. As permitted under Section 414.24 of the Code of Iowa, there are hereby adopted the following rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds within restricted districts established by this Ordinance for the use and occupancy of such buildings, and for the granting of permits to erect, reconstruct, alter, or repair any structure other than a residence, residential accessory use, school, church, or church school within said districts.

6-10-6 SET BACK. No residential building or other building exempted from permit shall be erected hereafter on a lot closer to the street property line on which it fronts than the set back of the nearest adjacent existing building except that no new construction shall be made closer than twenty (20) feet, nor shall any construction be required to be built with its front further than thirty (30) feet from said front line. All buildings to be used for residential purposes shall be placed on lots of no less than 8,000 square feet.

No residence or other building exempted from permit shall be located in the restricted district closer than five (5) feet to the side lot lines, and no accessory building closer than five (5) feet to said side lot lines, and overhangs shall not extend over any lot line, regardless of the compliance of the main foundation with this set back rule. However, any residence, other building, or accessory building currently located closer than five (5) feet to the side lot lines, may be extended or altered in conformance with its existing side lot set back lines. In no case may the residence, other building, or accessory building be located closer to the side lot line than it is currently located. Any other building granted a permit by council shall be placed at least as far from side lot lines as the residential, school, church, and farm related buildings. All set backs shall be measured from the main foundation line.

6-10-7 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, and industrial buildings and structures may be authorized by special permit to locate within the restricted residential district only if it appears that said use and the type of building will be compatible with the residential character of the district, and if the particular use could not practicably be built in an unrestricted area, or if the restricted district boundaries cannot be amended logically, considering topography, access to railroad or highway or other proper reason acceptable to the council. Further, the construction and/or placement of a building or structure that would otherwise violate Section 6-10-6 may be authorized by special permit if it appears that such deviation from the lot size and/or set back requirements of that section would alleviate a substantial hardship for the permit applicant, be compatible with the character of the neighborhood and not create a substantial hardship for neighboring property owners.

6-10-8 SPECIAL PERMITS. 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 except for buildings for residences, residential accessory use, schools, churches, church schools, home-based businesses, and agriculture and farming. Further, a written special permit shall be required to authorize the construction and/or placement of any building or structure contrary to the requirements of Section 6-10-6. Any such permit shall be applied for in writing, accompanied by plans and specifications sufficient to determine compliance with applicable Ordinances of the City and/or the extent to which proposed construction deviates from the requirements of Section 6-10-6. Said application shall be made to the City Clerk at least seven (7) days before the council meeting at which council action is taken. No permit shall or will be granted until notice of the application has been posted at least four (4) days prior to the meeting at which final action is taken to grant or deny the permit.

6-10-9 NONCONFORMING USES AND LOTS

1. A lawful, or authorized, nonconforming use existing at the time of adoption of this ordinance may be continued, maintained, repaired, or sold to another party. Said nonconforming use shall not be enlarged, expanded or changed, nor shall it occupy more lot area than was in use on the effective date of this ordinance.
2. If said lawful nonconforming 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 time of one (1) year or more, any future use of such land shall be in conformity with the provisions of this ordinance.
3. Any lot having insufficient area, width or depth shall be considered a lawful nonconforming lot only if it was conforming, lawfully platted, and filed in the office of the Dubuque County recorder prior to the adoption of this title or if a deed or other instrument in the owner's chain of title creating or containing a legal description consistent with the current dimensions of such lot was lawfully recorded and filed in the office of the Dubuque County recorder prior to the adoption of this title.

6-10-10 PROTEST. No permit shall be granted when sixty (60) percent of the resident real estate owners in said district within six hundred (600) feet of the proposed building and occupancy object thereto, except by a three-fourths (3/4) vote of all the members of the City Council.

6-10-11 FEES. There shall be no fee required for a permit under this Ordinance.

6-10-12 ACTION TO ABATE. Any building or structure erected, reconstructed, altered, or repaired in violation of the provisions of this Ordinance shall be deemed unlawful and a nuisance and it shall be abated by action in the district court. Such action for abatement shall be prosecuted in the name of the municipality.

6-10-13 CERTIFYING ORDINANCE. Within fifteen (15) days after this Ordinance becomes effective the Clerk shall prepare or have prepared a plat of the restricted residence district as established by this Ordinance and certify such Ordinance and plat to the County Recorder.

(Code of Iowa, Sec. 380.11)