

Agenda
City of Elk Run Heights
Workshop September 15, 2020 - 6:00 p.m.
Located at Eddis Winstead Council Chambers

1. Call to order
2. Pledge of Allegiance
3. Roll call
4. Approval of the September 15, 2020 Agenda
5. Council to enter into closed session pursuant to Chapter 21.5 (1) (j) of the Iowa code: To discuss the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property or reduce the price the governmental body would receive for that property
6. Motion to move forward with decision made in closed session regarding the sale of City property
7. Review of City Ordinances:
 - a. Building codes are developed by the City. Please provide the current building code. We will reformat the information.
 - b. Page 143 – Does the City use the 2012 Uniform Plumbing Code? Should this chapter be retained, revised or omitted?
 - Describe the City plumber permit process
 - Does the City require a bond as stated?
 - c. Page 144 – Any revisions to the electrical code? Should this chapter be revised or omitted?
 - d. Page 146 – Any revisions to the mechanical code? Should this chapter be revised or omitted?
 - e. Page 167.2.1 – Chapter 15.22, Any revisions to the construction site and erosion and sediment control ordinance? (COSESCO)
 - f. Page 167-3 – Chapter 15.24, Any revisions to the Post-Construction Erosion and Sediment Control Ordinance?
 - g. Page 167-7 Chapter 15.28, Any revisions to the Post-construction site inspection program?
 - h. Page 167.10 – Is the Mayor the enforcing officer for the dangerous buildings?
 - i. Page 167.10 – Inadequate maintenance (3) should that section be retained?
 - j. Page 168-1 – Chapter 16.04, Any revisions to subdivision regulations?
 - k. Page 169-219 – Notify us of any revisions to zoning?
 - l. A Standard Penalty section will be established in Chapter 1. As the result of a 2015 Supreme Court case (State of Iowa v. Young), we have seen some cities decide to amend the language found in this section of their code. The change to this section would remove incarceration as a

possible penalty for conviction of a simple misdemeanor on a violation of the City's code. Here is the current wording for this section.

1.14 **STANDARD PENALTY.** Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$65.00 but not to exceed \$625.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine.

(Code of Iowa, Sec. 364.3[2] and 903.1[1a])

SIMMERING CORY STATED: We suggest that you consult with your city attorney regarding if you should amend the wording in this section and if so, what the edited wording should be.

8. Adjournment

Julie Eastman

From: colfaxcityclerk@gmail.com
Sent: Tuesday, August 18, 2020 10:35 AM
To: Julie Eastman
Subject: 657A

We have had success using 657A. What's really nice is the city can control the repairs. We came up with our requirements (i.e. sidewalk, paved driveway, removal of trees, etc.) before we went out for sealed bids and made the successful bidder sign an agreement. We received \$19,720 through sealed bids but the house is now back on the tax rolls valued at \$240,000.00. We worked with Amy Beattie at Dorsey Whitney on the public hearing notices and closing documents.

We just sold two houses side by side in May or June. One was gifted to the City and the other 657A. We only received \$300 for the two combined but they are both in bad shape. There was only one bidder this time, but the area is known to flood on occasion. They may have to demolish the one home but that remains to be seen.

Nancy Earles

City Clerk
City of Colfax
19 E. Howard Street
Colfax IA 50054
Phone: 515-674-4096





20 S. LINCOLN STREET, COLFAX IA

PARCEL # 11.01.453.006

LEGAL DESCRIPTION: SHEPARD'S ADD LOTS 3-4 BLK 1 & ANKENEY'S ADD NORTH 2/3 LOT 5 BLK 3

This lot will be sold by sealed bids by the City of Colfax. City retains the right to refuse any and all bids. Lot will not be surveyed by the City. **Deadline for sealed bid is April 27, 2018 at 4:30 p.m.** A structure must be built or remodeled within two (2) years from date of sale and must include the following:

All one-family dwellings shall have a minimum of 1,200 square feet of living area excluding basements, breezeways, and garages. The living area at ground level shall have the following minimum square feet:

One story - a minimum of 1,200 square feet;

One and one-half stories – a minimum of 1,000 square feet at ground level;

Two stories - Living area of 1,000 square feet shall be 100 percent of the required minimum ground level living area.

All one-family dwellings shall have a two-stall garage with a minimum width of 22 feet and minimum depth of 22 feet.

All condominiums and multi-family dwellings shall have a minimum of 1,000 square feet of living area per unit with not less than two (2) bedrooms.

Sidewalks shall be at least four feet wide when located along a local street and shall be four inches thick, except where driveways cross the sidewalks, where they shall be six inches thick.

No cut trees, timber, debris, rocks, stones, contaminated soil, junk, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of an occupancy permit and removal of same shall be required prior to issuance of any occupancy permit

Soil Preservation and Final Grading. No certificate of occupancy shall be issued for any one lot until final grading of said lot has been completed

Lot Drainage. Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees with dimensions greater than 12 inches on the plat required to be retained shall be preserved and protected against change of grade unless approved by the Building Inspector.

Concrete Driveway must be installed.

Lot must be sodded or seeded upon completion of structure.

Building permits are required through the City of Colfax and all new and/or remodeling structure plans must be approved by the City Council and Building Inspector.

Structures on this property must comply with all local and state building codes and are subject to inspections by the City of Colfax Building Inspector. If the structure is not completed within the two year time frame, the property will not be eligible for tax abatement from the City of Colfax.

Chapter 15.04

BUILDING CODE

Sections:

- 15.04.010** Adopted.
- 15.04.015** Building official—
Appointment and
authority.
- 15.04.020** Amendments, additions
and deletions.
- 15.04.025** Building permit fees.
- 15.04.030** Garages—Lot line
distance restrictions.
- 15.04.040** Garages—Residential
dwelling distance
restrictions.
- 15.04.060** Garages—Attached—
Submission of plans.
- 15.04.080** Garages—Foundation—
Construction
specifications.
- 15.04.140** Garages and accessory
buildings—Combined
size limitations.

15.04.010 Adopted.

Pursuant to published notice and public hearing as required by law, the Uniform Building Code of the International Conference of Building Officials, 1997 Edition, and all provisions of the Uniform Building Code standards referred to therein published by the International Conference of Building Officials, are adopted in full, except for such portions as may be hereinafter deleted, modified or amended. (Ord. 186 § 1, 1999; Ord. 154 (part), 1992; Ord. 115 § 2, 1983; prior code § 13.1)

15.04.015 Building official—
Appointment and
authority.

There is created the office of building official, which official shall be appointed by the mayor. The building official shall have the authority to employ or obtain such assistance as may be necessary to perform the duties of the office. (Ord. 154 (part), 1992)

15.04.020 Amendments, additions
and deletions.

The following amendments, modifications, additions and deletions to the Uniform Building Code of the International Conference of Building Officials, 1997 Edition, are made as follows:

A. Whenever the word "municipality" or the word "city" is used in the code, it shall be held to mean the city of Elk Run Heights, Iowa.

B. Section 105 of the Uniform Building Code is deleted in its entirety.

C. Section 103 is amended by adding the following at the end of the section:

All violations of this code shall constitute a simple misdemeanor and be punished accordingly.

D. Section 106.2 of the Uniform Building Code is amended by adding thereto the following subsections:

12. This Section shall not apply to new construction of accessory buildings of one hundred forty-four square feet or less and minor repairs not exceeding one thousand dollars, including materials and

If over \$1,000 it has to have a permit

labor, in connection with one and two family dwellings. Minor repairs shall include, but not be limited to the following:

- (a) Any floor, stairs, wall or ceiling work done to refurbish deteriorated material.
- (b) Counter or cabinet tops, but not the remodeling of cabinets or fixtures which become a permanent part of the structure.
- (c) Repair or replacement of deteriorated roofing or siding and gutters.
- (d) Sidewalks, driveways, foundations, chimneys and exterior steps as a repair or replacement of deteriorated areas.
- (e) Such minor repairs of a similar nature as determined by the building inspector.
- (f) Any repairs or alterations that are made under this chapter in such a manner as to cause poor workmanship or code violations shall be subject to inspection and permit fees as provided by the Uniform Building Code.

permit required by State Code

E. Section 106 of the Uniform Building Code is amended by the addition subsection 106.4.6 to read as follows:

106.4.6 Any person, firm or corporation desiring to construct, reconstruct, remodel or repair any building or structure within the corporate limits of the City of Elk Run Heights, Iowa shall first file with the City Clerk, to be approved by the City Council, a surety bond in the penal amount of Three Thousand Dollars (\$3,000.00) conditioned on the faithful

performance of all duties and regulations required by the building code of the City of Elk Run Heights, Iowa, and any other laws or ordinances regulating buildings; on the payment to the City of all sums that are due or may become due by reason of these ordinances; on indemnifying the City from liability for damages arising from his negligence in doing, protecting, or completing his work; except that where a person, firm or corporation desires to construct, reconstruct, remodel or repair any building or structure of which he or they are the owner or owners of record, such work may be done by a member of his or their household, firm or corporation, without requiring such general contractor's bond.

F. Section 309.2.1 of the Uniform Building Code is amended to read as follows:

Sec. 309.2.1 **General.** Buildings or parts of buildings classed as Group M, Division 1 Occupancies because of the use or character of the occupancy shall not exceed 1,200 square feet in area or one story in height except as provided in Subsection (b). Any building or portion thereof that exceeds the limitations specified in this chapter shall be classed in the occupancy group other than Group M, Division 1 that it most nearly resembles.

No building, structure or premises shall be used, and no building shall be erected, extended, converted, moved, rebuilt, or altered, except in conformity with the requirement of this ordinance. In the event the Elk Run Heights Zoning Ordinance, Chapter 17, Elk Run Heights Ordinances, imposes a greater restriction

than is imposed or required by this ordinance or provisions of law, the provisions of the Elk Run Heights Zoning Ordinance shall control and prevail.
(Ord. 186 § 2, 1999; Ord. 162 (part), 1995; Ord. 154 (part), 1992; Ord. 115 § 3, 1983; prior code § 13.2)

15.04.025 Building permit fees.

Building permit fees shall be determined as follows:

A. Square footage charges shall be determined using the most recent Black Hawk County basic building charges (attached to the ordinance codified in this chapter as Exhibit "A").

B. Building permit fees shall be determined by (1) multiplying the square feet of the building by the building charge to determine total valuation and (2) by correlating total valuation with the building permit fee schedule (attached to the ordinance codified in this chapter as Exhibit "B"). (Ord. 186 § 3, 1999)

15.04.030 Garages—Lot line distance restrictions.

~~A garage must be a minimum of three feet~~ from the lot line unless the garage wall along the lot line is a one hour wall and has no openings in it. (Prior code § 13.10)

15.04.040 Garages—Residential dwelling distance restrictions.

A garage must be a minimum of six feet from a residential dwelling. (Prior code § 13.11)

15.04.060 Garages—Attached—Submission of plans.

Permits for attached garages require submission of a detailed sketch and plot plan to the building official and must have finished fire wall and approved self-closing fire door,

screened louver not over six inches off the floor open to outside air, and frost foundation when attached to house. (Ord. 154 (part), 1992; prior code § 13.13)

15.04.080 Garages—Foundation—Construction specifications.

The garage foundation must be constructed abovegrade so water runoff is away from the structure. (Prior code § 13.15)

15.04.140 Garages and accessory buildings—Combined size limitations.

The maximum number of garages and/or accessory buildings combined on a single-family lot and a two-family lot shall not exceed two in number. There shall be allowed only one attached garage to a family dwelling on each lot, not to exceed eighty percent of the square feet of the family dwelling. Both attached and detached garages shall be subject to the limitations below and in the Uniform Building Code. All accessory buildings larger than nine hundred square feet shall require foundations footings to a depth of forty-four inches below ground level. The combined total square feet of all garages, carports, sheds and accessory buildings shall be as follows:

A. For lots of ten thousand five hundred square feet or less, the combined total of all garages, carports, sheds and accessory buildings shall not exceed one thousand six hundred square feet;

B. For lots larger than ten thousand five hundred square feet, the combined total of all garages, carports, sheds and accessory buildings shall not exceed 15.2 percent of the total lot area, or two thousand four hundred square feet, whichever is less. (Ord. 204 § 1, 2005; Ord. 180 § 1, 1999; Ord. 162 (part), 1995; Ord. 157 (part), 1993; Ord. 154 (part), 1992)

Chapter 15.08**PLUMBING CODE****Sections:****15.08.010 Adoption.****15.08.020 Plumbing official—
Appointment and
authority.****15.08.080 Permit—Eligibility and
issuance conditions.****15.08.150 Plumber's bond.****15.08.010 Adoption.**

Pursuant to notice and hearing, the Uniform Plumbing Code, 2012 Edition, and IAPMO Installation Standards of the International Association of Plumbing and Mechanical Officials are adopted in their entirety. (Ord. 154 (part), 1992) (Ord. No. 240, § 2, 7-12-2016)

**15.08.020 Plumbing official—
Appointment and authority.**

There is created the office of plumbing official, which official shall be appointed by the mayor. The plumbing official shall have the authority to employ or obtain such assistants as may be necessary to perform the duties of the office. (Ord. 154 (part), 1992)

**15.08.080 Permit—Eligibility and
issuance conditions.**

A permit shall be issued only to a licensed master plumber. Any applicant who furnishes to the plumbing official proof of a current plumbing license duly issued by the cities of Waterloo, Cedar Falls or Evansdale shall be entitled to receive a permit. However, any permit required by this chapter may be issued to the owner of a single-family dwelling used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters;

provided, that the dwelling will be occupied by the owner and also that the owner personally shall purchase all material and perform all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected as other work. (Ord. 154 (part), 1992: prior code § 14.6)

15.08.150 Plumber's bond.

Any person, firm or corporation doing plumbing, as defined in this chapter, and who holds a plumber's license as provided in this chapter, shall execute and deposit with the city clerk a bond in the sum of three thousand dollars with sureties approved by the city clerk and the mayor. This bond is to be held as surety that the licensee will fulfill these conditions:

A. That all plumbing work performed by the licensee or under his supervision shall be performed in accordance with the provisions of the city of Elk Run Heights Iowa Plumbing Ordinance;

B. That he will pay all fines and penalties properly imposed upon him for violation of the city of Elk Run Heights, Iowa Plumbing Ordinance;

C. That the city shall be held free from any liability sustained by reason of neglect or incompetency of such master plumber or other person working under his supervision. (Prior code § 14.14)

CHAPTER 160

PLUMBING CODE

160.01 Purpose	160.07 Conflicts
160.02 Scope	160.08 Correction of Defects
160.03 Work to Conform	160.09 Exemptions
160.04 Uniform Plumbing Code Adopted	160.10 Applicability of State Code
160.05 Amendments Generally	160.11 Board of Appeals
160.06 Specific Amendments	

160.01 PURPOSE.

It is the purpose of this chapter to adopt a complete plumbing code, including provisions for the inspection and regulation of plumbing installations, issuance of permits, and collection of fees, and to provide penalties for violations of this chapter in order to protect public safety, health, and welfare.

160.02 SCOPE.

The provisions of this chapter apply to and govern the plumbing system, which includes all potable water supply and distribution pipes from the City main, all plumbing fixtures and traps, all drainage and vent pipes and all building drains and house sewers, including their respective joints and connections, devices, receptacles, and appurtenances within the property lines of the premises and shall include potable water piping, potable water treating or using equipment, fuel gas, piping, water heaters, and vents for the same. For the purpose of this section, the term "plumbing fixture" means an approved type installed receptacle, device, or appliance which is supplied with water or which receives liquid or liquid-borne wastes and discharges such wastes into the drainage system to which it may be directly or indirectly connected. Industrial or commercial tanks, vats, and similar processing equipment are not plumbing fixtures when and as otherwise provided for elsewhere in this chapter.

160.03 WORK TO CONFORM.

All plumbing work shall be performed in accordance with the provisions of this chapter.

160.04 UNIFORM PLUMBING CODE ADOPTED.

The *Uniform Plumbing Code*, 2009 Edition, including future amendments to the same, as published by the International Association of Plumbing and Mechanical Officials, and which includes appendices "A," "B," "C," "D," "E," and "G," is hereby adopted as though fully set forth and is incorporated and made a part of this section by reference. A copy of this chapter, certified as required by law, and a copy of the *Uniform Plumbing Code* adopted by this chapter shall at all times be on file in the office of the Clerk.

160.05 AMENDMENTS GENERALLY.

This chapter, including the *Uniform Plumbing Code*, shall not be altered, repealed, or amended except as provided by law. The *Uniform Plumbing Code* as adopted by this chapter shall be subject to this provision, and alterations of the *Uniform Plumbing Code* by the International Association of Plumbing and Mechanical Officials shall have no force and effect unless affirmed by the Council as required by law.

160.06 SPECIFIC AMENDMENTS.

The following additions and changes are hereby made to the 2009 Edition of the *Uniform Plumbing Code* as adopted by this chapter and all references to sections or chapters in this section refer to specific sections or chapters of the 2009 Edition of the *Uniform Plumbing Code*:

1. Administrative Authority. Whenever the term "administrative authority" is used in this code it shall mean the City Building Inspector or an authorized representative.

2. Cleanouts. Section 1107. Cleanouts, is amended to add a paragraph (g) to read as follows:

(g) There shall be a cleanout near the junction of the building drain and building sewer or a cleanout with Y branch inside the building wall unless the cleanout at the base of the stack is within five feet of the point where the sewer enters the building and in such case the stack cleanout will be sufficient.

3. Fees. Any and all fees associated with this chapter shall be set by resolution of the City Council, the fee schedule contained in the adopted version of the *International Building Code* notwithstanding.

160.07 CONFLICTS.

If portions of this chapter are found to be at variance or inconsistent with the *Uniform Plumbing Code* adopted by this chapter, the variance or inconsistency shall first be reconciled; however, should such variance between portions of this chapter and *Uniform Plumbing Code* be irreconcilable, the portion of the *Uniform Plumbing Code* shall control and govern.

160.08 CORRECTION OF DEFECTS.

1. When a complaint in writing is made by an owner, agent or lessee in regard to a licensed plumbing contractor's work that a sewer or water connection is faulty or defective, the master plumber, under whose bond such work has been done, within one year of such construction, shall be notified in writing by the Building Inspector to correct such faulty or defective work within 10 days from date of such notification. In the event that the owner, agent, or lessee shall have such work corrected on such faulty or defective sewer or water connection before the expiration of the period of time specified in such notification, such action shall be deemed a waiver of right of any damages sustained by such faulty or defective work.

2. When the master plumber so notified to correct such faulty or defective work has complied with such notification, and when, upon examination of such faulty or defective work, it is found that the cause for such correction shall have originated from other causes than faulty or defective construction, the owner, agent, or lessee filing such complaint shall pay for all the cost of said work caused by such complaint, and shall not be entitled to any damages or attorney fees.

3. Should the property owner be dissatisfied with the determination by the contractor and/or the Building Inspector as to the cause of the plumbing problem, then and in that event the property owner shall have the right to commence an action upon such bond in his or her own name without joining the City to recover the costs of such reconstruction and damages sustained thereby, and in case the property owner recovers damages therefor, is entitled also to recover a reasonable attorney's fee for the prosecution of such action.

160.09 EXEMPTIONS.

The following activities are exempt from the provisions of this chapter:

1. The installation, alteration, or repair of potable water systems owned and operated by the City for which a set of plans and construction specifications have been prepared by the City Engineer;
2. The installation, alteration, or repair of the public sewer system, which includes both sanitary and storm sewer, owned and operated by the City for which a set of plans and construction specifications have been prepared by the City Engineer, or which have been prepared under the direction and approval of the City Engineer;
3. Any work involved in the manufacturing or testing of plumbing fixtures or equipment but not including permanent plumbing fixtures or equipment;
4. No permit or license shall be required by an industry, gas utility, commercial building owner, or a manager of properties who employs a regular full-time employee who, in the course of said employee's duties, does plumbing maintenance work for that industry, gas utility, commercial building owner, or manager of properties for the following plumbing maintenance work inside the property line: the repairing of leaks or clearing of stoppage in soil, waste, gas, water or vent pipes, valves, drains, traps or fixtures and the replacement of the same with new, approved materials in any part or parts thereof.

160.10 APPLICABILITY OF STATE CODE.

This chapter and the *Uniform Plumbing Code*, 2009 Edition, adopted by this chapter shall not be construed to supersede the minimum requirements of the *State Plumbing Code*, rules and regulations of the State Department of Health governing the installation of plumbing published by the State, except that the higher and more stringent, but not lower, standards as set forth in the *State Plumbing Code* will be established as the minimum requirements under this chapter.

160.11 BOARD OF APPEALS.

1. Any person feeling aggrieved by an order or ruling of the Building Inspector shall have the right to appeal from such order or ruling in the following manner:

A. By appealing such rule or order of the Building Inspector by causing to be served on the Mayor or Clerk a notice in writing of the intention to appeal within 30 days after the person feeling so aggrieved has been served with notice of the rule or order in question.

B. Such appeal shall contain the following:

- (1) The nature of the dispute or disagreement that the aggrieved party has with the Building Inspector.
- (2) The location of the property in question.
- (3) The date, as nearly as can be determined, that the rule or order was made.

2. Upon receipt of an appeal, the Mayor shall appoint an ad hoc appeal board which shall consist of three members who have a background and knowledge of the building trade. No member may have an interest, direct or indirect, in the outcome of the matter to be considered.

3. An aggrieved party who has filed an appeal shall have the right to object to individual members of the appeal board. Such objection must be made within five days after the appeal board has been named and the aggrieved party has been so informed. The aggrieved party shall state to the Mayor the member or members of the appeal board that said party objects to and the reasons therefor. Valid objections shall consist of the following grounds:

- A. That the appeal board member has an interest in the outcome of the litigation;
- B. That the appeal board member cannot serve as a fair and impartial hearing officer;
- C. That the appeal board member in question does not have the necessary background, experience, and training to be qualified to serve.

If the Mayor determines that such an objection is valid, then the Mayor shall appoint another person who is qualified to serve on the appeal board. The party feeling aggrieved shall have the same right to object to new appointees as to original appointees and as set forth herein. In the event that the Mayor does not accept the objection to appointment of an appeal board member, that member shall serve. Both the Building Inspector and the party feeling aggrieved by the Building Inspector's rule or order shall have the right to suggest names of potential members to the Mayor for consideration as appeal board members. The Mayor shall not be bound or obligated to accept these nominations.

4. The appeal board shall set a time and place for a hearing on an appeal filed and at such hearing shall hear arguments and evidence that either the aggrieved party or the Building Inspector desires to present. Within 30 days after their appointment, the appeal board shall hold the hearing as prescribed by this section and within 20 days after the date of the hearing, the person appealing shall be notified in

writing of the decision of the appeal board.

5. The appeal board shall have the right to reverse, suspend, modify, or uphold the rules and orders of the Building Inspector. They may grant in their discretion the aggrieved party an opportunity to comply with the rules and orders as upheld, suspended, modified, or reversed.

6. The Building Inspector shall, upon being informed of the appeal board's decision, take such action as is required by this Code of Ordinances and the laws of the State.

Chapter 15.12

ELECTRICAL CODE

Sections:

15.12.010 Adopted.

15.12.020 Amendments, additions and deletions.

15.12.030 Performance bond required.

15.12.040 Permit.

15.12.010 Adopted.

Pursuant to published notice and public hearing as required by law, the National Electrical Code, 2014 Edition (NFPA NO. 70-1990) and all provisions of National Electrical Code standards referred to therein published by the National Fire Protection Association, are adopted in full as the Elk Run Heights Electrical Code, except for such portions as may be hereinafter deleted, modified or amended. (Ord. 154 (part), 1992; Prior code § 15.1) (Ord. No. 240, § 3, 7-12-2016)

15.12.020 Amendments, additions and deletions.

Section 203 of the National Electrical Code is deleted. The following is added to Section 204 of the National Electrical Code:

All violations of this Code shall constitute a misdemeanor, and upon conviction thereof shall be punishable by a fine and/or imprisonment as set forth by the governing laws of the jurisdiction. Each separate day or any portion thereof, during which any violation of this Code occurs or continues, shall be deemed to constitute a separate offense.

(Ord. 154 (part), 1992)

15.12.030 Performance bond required.

Any person, firm or corporation installing, removing, altering or making addition

to any electrical equipment in the city of Elk Run Heights, Iowa shall first file a bond with the city clerk in the sum of three thousand dollars, said bond to be approved by the city council conditioned on the faithful performance of all duties and regulations required by this chapter and the National Electrical Code, on the prompt payment of all fines or penalties imposed upon said person, firm or corporation for a violation of this chapter or the National Electrical Code during the life of the bond, and on indemnifying the city of Elk Run Heights, Iowa, and keeping it harmless from liabilities or damages arising from their negligence and unskillfulness in doing, protecting and completing the work as required by this chapter and the National Electrical Code. (Ord. 154 (part), 1992)

15.12.040 Permit.

A permit shall be issued only to a licensed master electrician. Any applicant who furnishes to the electrical official proof of a current electrician license duly issued by the cities of Waterloo, Cedar Falls or Evansdale shall be entitled to receive a permit. However, any permit required by this chapter may be issued to the owner of a single-family dwelling used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters; provided, that the dwelling will be

occupied by the owner and also that the owner personally shall purchase all material and perform all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected as other work. (Ord. 154 (part), 1992)

CHAPTER 162

ELECTRICAL CODE

162.01 Purpose and Scope	162.11 Fees
162.02 Adoption of National Electrical Code	162.12 Inspections
162.03 Amendments	162.13 Right of Entry
162.04 Administration and Enforcement	162.14 Stop Work Order
162.05 Installation by Owner	162.15 Revocation of Permit
162.06 Permit for Electrical Work	162.16 Shutting Off Supply
162.07 Permit Issued	162.17 Approval of Materials
162.08 Application for Permit	162.18 Appeals
162.09 Plans and Specifications	162.19 Electrical Power Supply
162.10 Emergency Work	

162.01 PURPOSE AND SCOPE.

It is the purpose of this chapter to adopt a complete electrical code, including provisions for the inspection and regulation of electrical installations, issuance of permits, and collection of fees therefor in order to protect the public safety, health, and welfare. The provisions of this chapter apply to and govern the supply of electricity and all sales, rentals, leases, uses, installations, alterations, repairs, removals, renewals, replacements, disturbances, connections, disconnections, and maintenance of all electrical equipment. For the purposes of this chapter, the term “electrical equipment” means all materials, wiring, conductors, fittings, devices, appliances, fixtures, signs, and apparatus or parts thereof. The following activities are exempt from the provisions of this chapter:

1. The installation, alteration, or repair of electrical generation, transmission or distribution equipment, but not utilization equipment, owned and operated by an electrical public utility company or the City.
2. The installation, alteration, or repair of electrical signal or communication equipment owned or operated by a public utility company or the City.
3. Any work on or in boats, railway cars, trackless trolleys, buses, aircraft, and motor vehicles.
4. Any work in connection with electrical equipment used for radio and television transmission, but not including supply wire to such equipment.
5. Any work involved in the manufacturing or testing of electrical equipment or apparatus, but not including any permanent wiring or equipment.
6. Any work associated with:
 - A. The repair of plug connected electrical appliances or devices.
 - B. Permanently connected electrical appliances or devices that have been electrically and mechanically disconnected and separated from all sources of electrical supply by a licensed electrician. The opening of switches or the blowing or removal of fuses shall not be considered an electrical or mechanical disconnection or separation.
7. The installation or replacement of approved fuses.
8. The installation or replacement of pin type lamps, screw base lamps, or plug-connected portable appliances.

162.02 ADOPTION OF NATIONAL ELECTRICAL CODE.

The *National Electrical Code*, 2014 Edition, including future amendments to the same, as recommended by the National Fire Protection Association, is hereby adopted in full except for the portions that are deleted, modified, or amended by this chapter. From the effective date of the ordinance codified in this chapter, all electrical work as defined in Section 162.01 shall be performed in accordance with the provisions of this code as modified in this chapter. A copy of the *National Electrical Code* as adopted and a certified copy of the ordinance codified herein are on file in the office of the Clerk for public inspection.

162.03 AMENDMENTS.

The following amendments, modifications, additions, and deletions to the *National Electrical Code* are hereby made:

– NONE –

162.04 ADMINISTRATION AND ENFORCEMENT.

It is the duty of the Building Inspector to administer and enforce the provisions of this chapter. The Building Inspector shall keep complete records of all permits issued, inspections and re-inspections made, and other official work performed in accordance with the provisions of this chapter.

162.05 INSTALLATION BY OWNER.

In cases where the owner/occupant desires to install wiring or apparatus in the owner/occupant's own residence, the owner may appear before the Building Inspector and show that said owner is competent to do the specific work for which the permit is desired and upon such showing, may obtain a permit by paying to the City the proper fees.

162.06 PERMIT FOR ELECTRICAL WORK.

No electrical work as defined in Section 162.01 of this chapter shall be done unless a permit authorizing the work has been issued by the Building Inspector. A permit shall be issued if the electrical work, as proposed in the application for a permit, meets all the requirements of this chapter. If plans and specifications are requested by the Building Inspector, they must meet the requirements of this chapter.

162.07 PERMIT ISSUED.

Permits shall be issued only to licensed electrical contractors. However, any permit required by this chapter may be issued to the owner of a single-family dwelling (or mobile home) used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters, provided that the dwelling will be occupied by the owner, that the owner appears before the Building Inspector and shows himself or herself competent to do the specific work for which the permit is desired, and that the owner personally shall purchase all materials and perform all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected like other work.

162.08 APPLICATION FOR PERMIT.

Applications for permits shall be made to the Building Inspector, on forms provided by the Clerk, prior to beginning the particular work, except for emergency work. The application shall include the name and business address of the person that is to do the work, a description of the property where the work is to be done, the name of the owner of the property, the name of the occupant, and a general description of the materials to be used, and shall specify the particular part or parts of the work that must be inspected as required by this chapter. The applications shall be accompanied by fees in accordance with the schedule of fees adopted by resolution of the Council. Permits shall be valid for 90 days from date of issue.

162.09 PLANS AND SPECIFICATIONS.

Plans and specifications showing the proposed work in the necessary detail shall be submitted if requested by the Building Inspector. If a permit is denied, the applicant may submit revised plans and specifications without payment of any additional fee. If, in the course of the work, it is found necessary to make any change from the plans and specifications on which a permit was issued, amended plans and specifications shall be submitted. Fees in the amount of half the fees originally required shall be paid. A supplementary permit, subject to the same conditions applicable to the original permit, shall be issued to cover the change.

162.10 EMERGENCY WORK.

In emergency situations work can be initiated and completed by licensed electricians without first obtaining a permit. However, a permit must be obtained within a reasonable time after the passage of the critical period. With this exception, all emergency work must be done in conformity with the provisions of this chapter and shall be inspected by the Building Inspector for full compliance.

162.11 FEES.

Fees for permits to do electrical work are set by resolution of the Council, a schedule of such fees being on file in the office of the Clerk.

162.12 INSPECTIONS.

Upon the completion of electrical work that has been done under a permit, the person doing the work shall notify the Building Inspector in person, by phone, or by mail. The Building Inspector shall inspect the work within 24 hours, exclusive of Saturdays, Sundays, and holidays, after receipt of notice, or as soon thereafter as practicable. If the Building Inspector finds the work to be in conformity with the provisions of this chapter, the Building Inspector shall issue the person that has done the work a certificate of approval and shall deliver a duplicate copy of the certificate of approval to the owner of the premises where the work was done. This certificate shall authorize the use of the work and its connection to the supply of electricity. The Building Inspector shall send written notice or phone this authorization to the agency supplying the electricity. A certificate of approval may be issued authorizing the connection and use of a temporary installation. Such certificate shall be issued to expire at a stated time and may be revoked by the Building Inspector for any violation of this chapter. If any electrical equipment is to be hidden from view by the permanent placement of parts of a building, structure, or grounds, the person installing the equipment shall notify the Building Inspector. Such equipment shall not be concealed until it has been inspected and approved by the Building Inspector or until twenty-four (24) hours, exclusive of Saturdays, Sundays, and holidays, shall have elapsed after the receipt of such notification by the Building Inspector. On installations where the concealment of equipment proceeds continuously, the person installing the equipment shall give the Building Inspector due notice. Inspections shall be made periodically during the progress of the work.

162.13 RIGHT OF ENTRY.

The Building Inspector shall have the right, during reasonable hours and upon consent of the occupant, to enter any building or premises in the discharge of official duties to make any inspection, re-inspection, or test of electrical equipment that is reasonably necessary to protect the public health, safety, and welfare. Where the building or premises is unoccupied, the consent of the owner shall be obtained. If the Building Inspector has reasonable cause to believe that electrical installations or equipment within the building or premises constitute an extreme hazard to persons or property, the Building Inspector shall have the right to enter immediately and inspect such installations or equipment, and may use any reasonable means required to effect such entry and make such inspection, whether such property be occupied or unoccupied and whether or not permission to inspect has been obtained.

162.14 STOP WORK ORDER.

Upon notice from the Building Inspector that work in or on any building or structure is being done contrary to the provisions of this chapter or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property or to an agent or to the person doing the work and shall state the conditions under which the work may be resumed.

162.15 REVOCATION OF PERMIT.

The Building Inspector may revoke a permit or approval issued under the provisions of this chapter in case of false statement or misrepresentation as to a material fact in the application or plans on which a permit or approval was based.

162.16 SHUTTING OFF SUPPLY.

If the Building Inspector finds that any electrical equipment or installation is defective or that it has been installed in conflict with the provisions of this chapter, the Building Inspector shall notify the person responsible for the electrical equipment or installation of such findings and orders. If the necessary changes or repairs are not completed within 15 days (or longer periods as specified in the notice), the Building Inspector shall have the

authority to disconnect or order the discontinuance of electrical service to the equipment or installation in question. No disconnection shall be made during the pendency of an appeal to the Electrical Appeal Board. In cases where maintenance of electrical service to electrical equipment or installations constitutes an extreme hazard to persons or property, the Building Inspector shall have authority to cause immediate discontinuance of such service. If fires have damaged the wiring of any building or structure, reconnection to electrical supply shall not be made until authorized in writing by the Building Inspector.

162.17 APPROVAL OF MATERIALS.

The Building Inspector may approve in advance electrical materials inspected and approved by the Underwriters' Laboratories, Inc. and other materials of equal or higher quality. The Building Inspector shall keep on file a list of such approved materials; this list shall be accessible for public reference during regular office hours.

162.18 APPEALS.

The City's Board of Adjustment shall be the Electrical Appeal Board for the purposes of this chapter. Necessary and actual expenses shall be allowed to members of the board, but no other compensation shall be paid to them. Any person aggrieved by any ruling, decision, interpretation or order of the Building Inspector pursuant to this chapter shall have the right to appeal to the Electrical Appeal Board by filing a written notice of such appeal with the Clerk within 10 days from the date of the ruling, decision, interpretation, or order. If such a notice is filed, the Appeal Board shall set a time and place for a hearing, and notify the party that has filed the appeal. The date of the hearing shall be not more than 15 days after the date the notice of appeal was filed. The notice of the hearing shall be sent by certified mail. The hearing shall be open to the public; all interested persons shall be given an opportunity to be heard. The Electrical Appeal Board, by majority vote, shall affirm, modify, or reverse any appealed ruling, decision, interpretation, or order of the Building Inspector. The Electrical Appeal Board may permit variance from the strict terms and provisions of this chapter if such variance can be made without increasing the hazards to health or safety of persons or property and when the granting of such variance will not violate the intent and purposes of this chapter. Mere inconvenience to the appellant shall not be grounds for the granting of such variance. The aggrieved party may appeal the decision of the Electrical Appeal Board to the Council by filing written notice of appeal within 10 days from the date of the final action of the Appeal Board. The Council shall give five days' written notice by certified mail to the appealing party, the Appeal Board and the Building Inspector of the date, time, and place of hearing. All interested persons shall be given an opportunity to be heard. The Council shall affirm, modify, or reverse the decision of the Appeal Board. Action taken by the board shall be affirmed by the Council if such action is supported by substantial evidence upon the whole record.

162.19 ELECTRICAL POWER SUPPLY.

It is unlawful for any person to make connection from a supply of electricity or to supply electricity to any electrical equipment for the installation of which a permit is required unless such connection has been authorized by the Building Inspector. It is unlawful to make connections to equipment that has been disconnected or ordered to be disconnected by the Building Inspector.

Chapter 15.16

MECHANICAL (HEATING, AIR CONDITIONING AND VENTILATION) CODE

Sections:

- 15.16.010 Adopted.**
- 15.16.020 Amendments, additions and deletions.**
- 15.16.030 Permit requirements.**
- 15.16.040 Performance bond required.**

15.16.010 Adopted.

Pursuant to notice and hearing, the Uniform Mechanical Code, 2012 Edition, of the International Conference of Building Officials is adopted in its entirety, except for such portions as may be hereinafter deleted, modified or amended. (Ord. 154 (part), 1992)
(Ord. No. 240, § 4, 7-12-2016)

15.16.020 Amendments, additions and deletions.

Section 203 of the Uniform Mechanical Code is hereby deleted. The following is added to Section 204 of the Uniform Mechanical Code:

All violations of this Code shall constitute a misdemeanor, and upon conviction thereof shall be punishable by a fine and/or imprisonment set forth by the governing laws of the jurisdiction. Each separate day or any portion thereof, during which any violation of this Code occurs or continues, shall be deemed to constitute a separate offense.
(Ord. 154 (part), 1992)

15.16.030 Permit requirements.

A permit shall be issued only to a licensed mechanical technician. Any appli-

cant who furnishes to the building official proof of a current license duly issued by the cities of Waterloo, Cedar Falls or Evansdale shall be entitled to receive a permit. However, any permit required by this chapter may be issued to the owner of a single-family dwelling used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters; provided, that the dwelling will be occupied by the owner and also that the owner personally shall purchase all material and perform all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected as other work. (Ord. 154 (part), 1992: prior code § 15.7)

15.16.040 Performance bond required.

Any person, firm or corporation installing, removing, altering or making addition to any mechanical equipment in the city of Elk Run Heights, Iowa shall first file a bond with the city clerk in the sum of three thousand dollars, said bond to be approved by the city council conditioned on the faithful performance of all duties and regulations required by this chapter and the Uniform Mechanical Code, on the prompt payment of all fines or penalties imposed upon said person, firm or corporation for a violation of this chapter or the Uniform Mechanical Code during the life of the bond, and on indemnifying the city of Elk Run Heights, Iowa, and keeping it harmless from liabilities or damages arising from their negligence and unskillfulness in doing, protecting and completing the work as required by this chapter and the Uniform Mechanical Code. (Ord. 154 (part), 1992)

CHAPTER 161

UNIFORM MECHANICAL CODE

161.01 Adoption of Code

161.02 Amendments

161.01 ADOPTION OF CODE.

Pursuant to published notice and public hearing as required by law, the *Uniform Mechanical Code, 2009 Edition*, including future amendments to the same, published by the International Conference of Building Officials, is hereby adopted in full except for such portions as may be hereinafter deleted, modified, or amended. An official copy of the aforementioned *Uniform Mechanical Code, 2009 Edition*, and a certified copy of the ordinance codified in this chapter are on file in the office of the Clerk, being marked and designated as *Uniform Mechanical Code*, including Appendix Chapter A, published by the International Conference of Building Officials, and is hereby adopted by reference as the code of the City for regulating the design, construction, quality of material, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of heating, ventilation, cooling, refrigeration systems, incinerators or other miscellaneous heat producing appliances in the City, providing for the issuance of permits, Certificates of Competency, collection of fees, and authorizing a Hearing Board and providing payment therefor.

161.02 AMENDMENTS.

The following amendments, modifications, additions, and deletions to the *Uniform Mechanical Code, 2009 Edition*, are hereby made:

1. Board of Appeals. Any person feeling aggrieved by an order or ruling of the Building Inspector shall have the right to appeal from such order or ruling in the following manner:

A. By appealing such rule or order of the Building Inspector by causing to be served on the Mayor or Clerk a notice in writing of the intention to appeal within 30 days after the person feeling so aggrieved has been served with notice of the rule or order in question.

B. Such appeal shall contain the following:

- (1) The nature of the dispute or disagreement that the aggrieved party has with the Building Inspector.
- (2) The location of the property in question.
- (3) The date, as nearly as can be determined, that the rule or order was made.

C. Upon receipt of an appeal, the Mayor shall appoint an ad hoc appeal board which shall consist of three members who have a background and knowledge of the building trade. No member may have an interest, direct or indirect, in the outcome of the matter to be considered.

D. An aggrieved party who has filed an appeal shall have the right to object to individual members of the appeal board. Such objection must be made within five days after the appeal board has been named and the aggrieved party has been so informed. The aggrieved party shall state to the Mayor the member or members of the appeal board that said party objects to and the reasons therefor. Valid objections shall consist of the following grounds:

- (1) That the appeal board member has an interest in the outcome of the litigation;
- (2) That the appeal board member cannot serve as a fair and impartial hearing officer;
- (3) That the appeal board member in question does not have the necessary background, experience, and training to be qualified to serve.

If the Mayor determines that such an objection is valid, then the Mayor shall appoint another person who is qualified to serve on the appeal board. The party feeling aggrieved shall have the same right to object to new appointees as to original appointees and as set forth herein. In the event that the Mayor does not accept the objection to appointment of an appeal board member, that member shall serve. Both the Building Inspector and the party feeling aggrieved by the Building Inspector's rule or order shall have the right to suggest names of potential members to the Mayor for consideration as appeal board members. The Mayor shall not be bound or obligated to accept these nominations.

E. The appeal board shall set a time and place for a hearing on an appeal filed and at such hearing shall hear arguments and evidence that either the aggrieved party or the Building Inspector desires to present. Within 30 days after their appointment, the appeal board shall hold the hearing as prescribed by this section and within 20 days after the date of the hearing, the person appealing shall be notified in writing of the decision of the appeal board.

F. The appeal board shall have the right to reverse, suspend, modify, or uphold the rules and orders of the Building Inspector. They may grant in their discretion the aggrieved party an opportunity to comply with the rules and orders as upheld, suspended, modified, or reversed.

G. The Building Inspector shall, upon being informed of the appeal board's decision, take such action as is required by this Code of Ordinances and the laws of the State.

H. The owner-occupant of a single-family dwelling house may, with the assistance of any member of his or her family and household, personally carry on, in such house, any work governed by this code, provided that such owner shall obtain a permit for any such work and shall call for inspection as hereinafter provided, and providing further that all work so performed shall fully comply with the provisions of this code.

I. Fees. Any and all fees associated with this chapter shall be set by resolution of the City Council, the fee schedule contained in the adopted version of the *International Building Code* notwithstanding.

Chapter 15.22

CONSTRUCTION SITE AND EROSION AND SEDIMENT CONTROL ORDINANCE (COSESCO)

Sections:

15.22.010 General provisions.

15.22.020 Definitions.

15.22.030 Application procedure for obtaining and maintaining a permitting authority construction site erosion and sediment control (COSESCO) permit.

15.22.040 Inspection procedures for COSESCO permits.

15.22.050 Monitoring procedures for COSESCO permits.

15.22.060 Enforcement.

15.22.070 Performance bond or cash security.

15.22.010 General provisions.

A. Findings of fact it is hereby determined that:

Land development projects and associated improvements increases impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; This stormwater runoff contributes to increased quantities of water-borne pollutants, and; stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the City of Elk Run Heights, Iowa establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for

the purpose of protecting local water resources from degradation as a result of construction activity. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

B. Purpose. The purpose of the ordinance is to control or minimize stormwater pollution along with soil erosion and sedimentation within the City of Elk Run Heights, Iowa. It references the SUDAS standards and specifications for conservation practices and planning activities designed to minimize non-point source pollution, soil erosion and sedimentation.

C. Applicability. Any person, firm, sole proprietorship, partnership, corporation, state agency or political subdivision proposing a land disturbance activity of one acre or more, and/or requiring site planning, subdivision and/or NPDES construction permit approval, within the jurisdiction, shall apply to the permitting authority. Land disturbing activities shall not begin until the plan conforms to the standards set forth in the ordinance and is approved by the permitting authority.

D. Compatibility with Other Permit and Ordinance Requirements. This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or

impose higher protective standards for human health or the environment shall be considered to take precedence.

E. Severability. If the provisions of any chapter, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

(Ord. No. 249, 5-9-2017)

15.22.020 Definitions.

"Best management practices (BMPS)" means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions and other management practices published by state or designated area-wide planning agencies. they can include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States.

Individual BMPs found in this permit are described in the Iowa SUDAS Standards and Specifications for Erosion and Sediment Control and the recommendations provided on the SUDAS website: www.iowasudas.com. BMPs must be adapted to the site and can be adopted from other sources.

"Common plan of development or sale" means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, adver-

tisement or physical demarcation indicating that land-disturbing activities may occur.

"Construction activity" for this permit, construction activity includes construction activity as defined in 40 C.F.R. part 122.26(b)(14)(x) and small construction activity as defined in 40 C.F.R. part 122.26(b)(15). This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling and excavating. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more.

"Construction erosion control plan" means a plan drawing at a minimum scale of 1" = 50' and at least 11" x 17" showing the location and sequencing of BMPs on the site.

"Dewatering" means the removal of water for construction activity. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. It may require Iowa Department of Natural Resources permits to be appropriated and if contaminated may require other permits to be discharged.

"Energy dissipation" means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to, concrete aprons, riprap, splash pads and gabions that are designed to prevent erosion.

"Erosion prevention" means measures employed to prevent erosion including, but

not limited to, soil stabilization practices, limited grading, mulch, temporary or permanent cover and construction phasing.

"Final stabilization" means that either: all soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent of the native background vegetative cover as measured by the line transect method for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed;

For individual lots in residential construction by either: (a) The homebuilder completing final stabilization as specified above, or (b) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization. (Homeowners typically have an incentive to put in the landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off sidewalks and driveways.); or

For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land) final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters and drainage systems and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria in (a) or (b) above.

"General contractor" means the party who signs the construction contract with

the owner to construct the project described in the final plans and specifications. Where the construction project involves more than one contractor, the general contractor will be the party responsible for managing the project on behalf of the owner. In some cases, the owner may be the general contractor. In these cases, the owner may contract an individual as the operator who would become the co-permittee.

"Impervious surface" means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

"National pollutant discharge elimination system (NPDES)" means the program for issuing, modifying, revoking, reissuing, terminating, monitoring and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

"Normal wetted perimeter" means the area of a conveyance, such as a ditch, channel or pipe that is in contact with water during flow events that are expected to occur once every year.

"Notice of discontinuation" means a notice to discontinue coverage under this permit after construction is complete, the site has undergone final stabilization, and maintenance agreements for all permanent facilities have been established in accordance with all applicable conditions of this permit.

"Notice of intent" means a discharger is required to submit a notice of intent in accordance with the Iowa Department of Natural Resources requirements for

stormwater discharge associated with industrial activity for construction activities pursuant to general permit number 2.

"Operator" means the person (usually the general contractor), designated by the owner, who has day to day operational control and/or the ability to modify project plans and specifications related to the SWPPP. The person must be knowledgeable in those areas of the permit for which the operator is responsible, (Part II.B. and Part IV.) and must perform those responsibilities in a workmanlike manner.

"Owner" means the person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the construction activity.

"Permanent cover" = final stabilization. Examples include grass, gravel, asphalt, and concrete.

"Permittee" means a person or persons, firm or governmental agency or other institution that signs the application submitted to the IDNR and is responsible for compliance with the terms and conditions of this permit.

"Runoff coefficient" This is the fraction of total rainfall that will appear at the conveyance as runoff.

"Saturated soil" means the highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features such as mottles or other information.

"Sediment control" means methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe

slope drains, storm drain inlet protection and temporary or permanent sedimentation basins.

"Sensitive waters" means sensitive waters might include cold-water trout streams, wetlands, or other high quality water streams and lakes. Extra precautions should be taken when disturbing site soils near or on these areas to minimize impacts on water quality.

"Stabilized" means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket or other material that prevents erosion from occurring. Grass seeding is not stabilization.

"Stormwater" means includes precipitation runoff, stormwater runoff, snowmelt runoff and any other surface runoff and drainage.

"Stormwater pollution prevention plan (SWPPP)" means a plan for stormwater discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.

"Surface water or waters" means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses and irrigation systems whether natural or artificial, public or private.

"Temporary erosion protection" means methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips and erosion netting.

"Underground waters" means water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or rego-

lith, or in rock formations deeper underground. The term ground water shall be synonymous with underground water.

"Waters of the state" Iowa Code 455B.381 (10): "Waters of the state" means rivers, streams, lakes and any other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common. "Waters of the state" includes waters of the United States lying within the state. (22).

"Wetland" or "wetlands" According to Iowa Code 456.1(5): "Wetlands" means an area of two or more acres in a natural condition that is mostly under water or waterlogged during the spring growing season and is characterized by vegetation of hydric soils. Wetlands generally include swamps, marshes, bogs and similar areas.

Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes: a predominance of hydric soils; inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and under normal circumstances support a prevalence of such vegetation.

(Ord. No. 249, 5-9-2017)

15.22.030 Application procedure for obtaining and maintaining a permitting authority construction site erosion and sediment control (COSESCO) permit.

A. Permit Required. No land owner or land operator shall receive any of the building, grading or other land development per-

mits required for land disturbance activities without first meeting the requirements of this ordinance prior to commencing the proposed activity.

B. Application Requirements. Unless specifically excluded by this ordinance, any land owner or operator desiring a permit for a land disturbance activity shall submit to the City of Elk Run Heights, Iowa a permit application on a form provided for that purpose. Unless otherwise accepted by this ordinance, a permit application must be accompanied by the following in order that the permit application be considered: a construction erosion control plan and a storm water pollution prevention plan (SWPPP); and a non-refundable permit review fee.

C. Application Review Fees. The fee for review of any land development application shall be based on the amount of land to be disturbed at the site, and the fee structure shall be established by the City of Elk Run Heights, Iowa. All of the monetary contributions shall be credited to a local budgetary category to support local plan review, inspection and program administration, and shall be made prior to the issuance of any building permit for the development.

D. Application Procedure.

1. Applications for land disturbance activity permits must be filed with the City of Elk Run Heights, Iowa on any regular business day.

2. A copy of this permit application shall be forwarded to the City of Elk Run Heights, Iowa for review.

3. Permit applications shall include the following: two copies of the construction erosion control plan and two copies of the SWPPP.

4. Within ten business days of the receipt of a complete permit application, including all documents as required by this

ordinance, the City of Elk Run Heights, Iowa shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.

5. If the permit application, stormwater management plan or maintenance agreement are disapproved, the applicant may revise the stormwater management plan or agreement. If additional information is submitted, the City of Elk Run Heights, Iowa shall have ten business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

a. The SWPPP shall be prepared in accordance with this chapter. Every SWPPP submitted to the city:

(1) Shall comply with all current minimum mandatory requirements for SWPPPs promulgated by the IDNR in connection with issuance of a state permit, as set out in the current version of the IDNR publication entitled, "Iowa Department Of Natural Resources NPDES General Permit No. 2, Storm Water Discharge Associated With Industrial Activity For Construction Activities" (the "permit handbook"), including, but not limited to, "Part IV. Storm Water Pollution Prevention Plans", and as said minimum mandatory requirements are modified from time to time hereafter; and

(2) Shall, if the applicant is required by law to file a joint application form, "protecting Iowa waters, Iowa department of natural resources and U.S. army corps of engineers", comply with all mandatory minimum requirements pertaining to such joint application, and copies of the joint application permit shall be included within the SWPPP; and

(3) Shall comply with all other applicable state or federal permit requirements in existence at the time of application; and

(4) Shall be prepared by the applicant's engineer and shall include within the SWPPP a signed and dated certification by the applicant's engineer that the SWPPP complies with all requirements of this chapter.

(5) Shall require the signature(s) identified in Section 1.3 of this ordinance upon the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(6) Shall also contain the following certification signed by all contractors and subcontractors identified in the SWPPP:

"I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with activity from the construction site as part of this certification. Further, by my signature, I understand that I am becoming a co-permittee, along with the owner(s) and other contractors and subcontractors signing such certifications, to the Iowa Department of Natural Resources NPDES General Permit No. 2 for

"Storm Water Discharge Associated with Industrial Activity for Construction Activities" at the identified site. As a co-permittee, I understand that I, and my company, are legally required under the Clean Water Act and the Code of Iowa, to ensure compliance with the terms and conditions of the storm water pollution plan developed under this NPDES permit and the terms of the NPDES permit."

The certification must include the name and title of the person providing the signature; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(7) Shall include the following statement signed by the applicant:

"The undersigned Applicant hereby agrees to defend, indemnify and hold the City of Elk Run Heights harmless from any and all claims, damages or suits arising directly or indirectly out of any act of commission or omission by the Applicant, or any employee, agent, assignee or contractor or subcontractor of the Applicant, in connection with Applicant's State NPDES General Permit No. 2 and/or Storm Water Pollution Prevention Plan."

6. If the permit application, construction erosion control plan, and SWPPP are approved by the City of Elk Run Heights, Iowa, all appropriate land disturbance activity permits shall be issued.

E. Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date the City of Elk Run Heights, Iowa notifies the permit holder that all stormwater management practices have passed the final inspection required under permit condition.

(Ord. No. 249, 5-9-2017)

15.22.040 Inspection procedures for COSESCO permits.

A. All inspections undertaken by the city under this chapter shall be conducted by the enforcement officer.

B. Prior to beginning construction, the applicant or applicant's SWPPP manager shall contact the city to schedule a preconstruction site inspection. The enforcement officer shall inspect the permitted site to determine that, at minimum, the control measures listed in the SWPPP that allow for construction to commence have been properly installed. If the enforcement officer determines that compliance has not been achieved, the enforcement officer shall provide to the applicant a written bill of particulars identifying the conditions of non-compliance. The applicant shall immediately commence corrective action and shall complete such corrective action within the time frame allotted by the enforcement officer in his discretion, but not exceeding seventy-two hours. For good cause shown, the city may extend the deadline for taking corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter.

C. Construction shall not occur on any area of the site that the enforcement officer has designated at any time while conditions of noncompliance that have been identified by the enforcement officer continue to exist.

D. Construction activities undertaken by an applicant before resolution of all discrepancies specified in the bill of particulars, if undertaken in an area designated by the enforcement officer as a prohibited area, shall constitute a violation of this chapter.

E. The city shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions that were undetected by inspection or that were undetected because the city, in operating its program of random inspections, did not inspect the property.

F. The applicant, the applicant's SWPPP manager or a qualified person designated by the applicant's SWPPP manager shall inspect the permitted site, as well as any transferred sites which the applicant is a co-permittee of, no less than once every seven calendar days. Reports generated by these site inspections shall be included within and deemed to be part of the SWPPP. Any deficiencies or needed modifications discovered during the inspections shall be noted in writing, and corrections or modifications shall be completed within seven calendar days following the inspection.

G. Before a notice of discontinuation of the state permit can be submitted to the IDNR, the applicant or the applicant's SWPPP manager shall contact the city to schedule a postconstruction site inspection. The enforcement officer shall inspect the permitted site to determine that all disturbed areas have achieved stabilization as required by the state permit and all temporary control measures have been removed. If the enforcement officer determines that stabilization has not been achieved, or temporary control measures need to be removed, the enforcement officer shall provide to the applicant or the applicant's SWPPP manager a written bill of particulars identifying the conditions of noncompliance. The applicant or applicant's SWPPP manager shall immediately commence corrective action and shall reschedule a postconstruction inspection with the city when the required corrective actions have been completed.

(Ord. No. 249, 5-9-2017)

15.22.050 Monitoring procedures for COSESCO permits.

A. Upon receipt of a state permit, the applicant and the applicant's SWPPP manager have an absolute duty to monitor site conditions and to report to the enforcement

officer any change of circumstances or site conditions which the applicant or the applicant's SWPPP manager knows or should know pose a risk of stormwater discharge in a manner inconsistent with applicant's state permit. Examples of conditions that require notification include, but are not limited to: 1) hazardous material spills, 2) failure of site perimeter BMPs, 3) discharge of polluted waters from the site into the MS4 or onto neighboring properties or nearby surface waters, or 4) proposed implementation of BMPs on site that deviate significantly from the BMPs proposed in the approved SWPPP.

1. Such report shall be submitted to the enforcement officer within twenty-four hours of the change of circumstances or site conditions.

2. Failure to make a timely report shall constitute a violation of this chapter.

B. Any third party may also report to the city site conditions, which the third party reasonably believes pose a risk of stormwater discharge in a manner inconsistent with applicant's state permit.

C. Upon receiving a report pursuant to subsection A of this section, the enforcement officer may conduct an inspection and thereafter shall provide the applicant or the applicant's SWPPP manager with a written bill of particulars identifying any conditions of noncompliance. The applicant or the applicant's SWPPP manager shall immediately commence corrective action and shall complete such corrective action within the time frame allotted by the enforcement officer in his discretion, but not exceeding seventy-two hours. For good cause shown, the city may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in Section 15.22.060 of this chapter.

D. Upon receiving a report from a third party pursuant to subsection B of this section, the enforcement officer may conduct an inspection of the site as soon as reasonably possible and thereafter shall provide the applicant or the applicant's SWPPP manager with a written bill of particulars identifying any conditions of noncompliance. The applicant or the applicant's SWPPP manager shall immediately commence corrective action and shall complete such corrective action within the time frame allotted by the enforcement officer in his discretion, but not exceeding seventy-two hours. For good cause shown, the city may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in Section 15.22.060 of this chapter.

E. The enforcement officer may conduct one or more unannounced inspections at any time during the course of construction to monitor compliance with the state permit and the approved SWPPP. If the inspection discloses any noncompliance, the enforcement officer shall provide the applicant or the applicant's SWPPP manager with a written bill of particulars identifying the conditions of noncompliance. The applicant or the applicant's SWPPP manager shall immediately commence corrective action and shall complete such corrective action within the time frame allotted by the enforcement officer in his discretion, but not exceeding seventy-two hours. For good cause shown, the city may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in Section 15.22.060 of this chapter.

F. The city shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions that were undetected by inspection or that were undetected because the city, in operating its program of random inspections, did not inspect the property. (Ord. No. 249, 5-9-2017)

15.22.060 Enforcement.

A. Violations. Any development activity that is commenced or is conducted contrary to this ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.

B. Notice of Violation. When the City of Elk Run Heights, Iowa determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. The name and address of the owner or applicant;
2. The address when available or a description of the building, structure or land upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the development activity into compliance with this ordinance and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen days of service of notice of violation.

C. Stop Work Orders. Persons receiving a notice of violation will be required to

halt all construction activities. This "stop work order" will be in effect until the City of Elk Run Heights, Iowa confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

D. **Civil and Criminal Penalties.** In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be punished by a fine of not less than two hundred fifty dollars or by imprisonment for a period not to exceed seven days, or both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

E. **Restoration of Lands.** Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City of Elk Run Heights, Iowa may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

F. **Holds on Occupation Permits.** Occupation permits will not be granted until corrections to all stormwater practices have been made and accepted by the City of Elk Run Heights, Iowa.
(Ord. No. 249, 5-9-2017)

15.22.070 Performance bond or cash security.

The City of Elk Run Heights, Iowa may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to insure that the stormwater practices are installed by the permit holder as required by the approved construction erosion control plan and

SWPPP. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the permit, plus twenty-five percent. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

The installation performance security shall be released in full only completion of the final inspection and the completion of a notice of discontinuation of the NPDES permit with the IDNR. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done at the discretion of the City of Elk Run Heights, Iowa.

(Ord. No. 249, 5-9-2017)

15.22.080 Joint application guidance.

A. Construction, excavation or filling in streams, lakes, wetlands, or on the floodplains may require permits from both the Corps and IDNR. A joint application form (Protecting Iowa Waters) shall be submitted to both agencies to begin the permit process for any of the following activities: cutting the bank of a river, stream, or lake; any excavation or dredging in a wetland, lake, stream or river; channel changes or relocations (including stream straightening); construction of any permanent dock, pier, wharf, seawall, boat ramp, beach, intake or outfall structure on a stream, river or lake; placement of any fill, riprap, or similar material in a stream, river, lake, or wetland; construction of a dam across any waterway; placement of fill, construction of levees, roadways and bridges; and similar activities on a floodplain; or construction of buildings on a floodplain.

The Iowa Department of Natural Resources also requires permits for the construction and operation of water and waste-

water treatment facilities, water withdrawal, water storage, and solid waste disposal and should be contacted for information about these permits.

The joint application covers three permitting entities (floodplain, sovereign lands,

and the Army Corps of Engineers) and one certification program (Section 401 water quality certification which the corps needs to issue their 404 permit).

Refer to the following links for additional guidance:

- **Joint application form:**

<http://www.iowadnr.com/other/files/jointpermit.pdf>

(preferred - via SL & FP)

<http://www.iowadnr.com/water/section401/files/Form36a.pdf> (via wetlands)

- **Army Corp of Engineering (COE):**

<http://www.mvr.usace.army.mil/Regulatory/RegulatoryDivisionHomePage.htm>

(Rock Island District); and/or

<http://www.nwo.usace.army.mil/html/pa/pahm/links.htm> (Omaha District)

- **FP Development Program:** <http://www.iowadnr.com/water/floodplain/index.html>

- **Sovereign Lands Program:** <http://www.iowadnr.com/other/slands.html>

- **401 Water Quality Certification Program:**

<http://www.iowadnr.com/water/section401/info.html>

B. Recommended BMPS for Sensitive Waters.

(1) During Construction.

a. All exposed soil areas with a slope of 3:1 or steeper, that have a continuous positive slope to a special water, should have temporary erosion protection or permanent cover within three days after the area is no longer actively being worked. All other slopes that have a continuous positive slope to a special water should have temporary erosion protection or permanent cover within seven days after the area is no longer actively being worked.

b. Temporary sediment basin requirements should be used for common drainage locations that serve an area with five or more acres disturbed at one time.

(2) Buffer Zone. An undisturbed buffer zone of not less than one hundred linear

feet from the sensitive water (not including tributaries) should be maintained at all times. Exceptions from this for areas, such as water crossings or limited water access, are allowed if the permittee fully documents in the SWPPP the circumstances and reasons that the buffer encroachment is necessary. All potential water quality, scenic and other environmental impacts of these exceptions, should be minimized and documented in the SWPPP for the project.

(3) Temperature Controls. The permanent stormwater management system should be designed such that the discharge from the project will minimize any increase in the temperature of the receiving waters. resulting from the one and twenty-four-year, twenty-hour precipitation events. Projects that discharge to sensitive waters should mini-

mize the impact using one or more of the following measures, in order of preference:

- a. Minimize new impervious surfaces.
- b. Minimize the discharge from connected impervious surfaces by discharging to vegetated areas, or grass swales and through the use of other non-structural controls.
- c. Other methods that will minimize any increase in the temperature of the trout stream.

(4) Wetlands Guidance in Order of Preference.

- a. Avoid all significant adverse impacts to wetlands from the project and post project discharge.
- b. Minimize any unavoidable impacts from the project and post project discharge.
- c. Provide compensatory mitigation when the permittee determines that there is no reasonable and practicable alternative to having a significant adverse impact on a wetland. For compensatory mitigation, wetland restoration or creation should be of the same type, size and whenever reasonable and practicable in the same watershed as the impacted wetland.

(Ord. No. 249, 5-9-2017)

CHAPTER 149

EROSION AND SEDIMENT CONTROL FOR DEVELOPMENT SITES

149.01 Purpose	149.05 Land Disturbing Activities Requirements
149.02 Definitions	149.06 Fees Established
149.03 Erosion and Sediment Control Plan Required	149.07 Penalties
149.04 Review and Approval Procedure	

149.01 PURPOSE.

Soil erosion from development sites contributes to the impairment of drainage ways, increased road and storm sewer maintenance costs, and destruction and obstruction to traveled roadways, creating a potential hazard for vehicular traffic, degradation of land surfaces and streams, flooding and dusty conditions. Requirements are established by this chapter in an effort to control erosion and sediment transport from development sites. Except as exempted in this chapter, a Soil Erosion and Sediment Control Plan will be required as part of any proposed land disturbing activity. No land shall be disturbed without approval of an Erosion and Sediment Control Plan unless exempted in this chapter.

149.02 DEFINITIONS.

1. “Building Inspector” means the appointed City official primarily responsible for the administration and enforcement of this chapter.
2. “Certified professional erosion and sediment control specialist” means a specialist in the area of soil erosion and sediment control certified by the Soil and Water Conservation Society and the International Erosion Control Association.
3. “Civil engineer” means a professional licensed in the State of Iowa to practice in the field of civil works.
4. “Clearing” means the act of removing unwanted growth, in the form of trees, wood, shrubs, brush, or items from a lot, tract, or parcel of land.
5. “Design professional” means a civil engineer, landscape architect, or certified professional erosion and sediment control specialist.
6. “Design Standards Manual” means the latest edition of the *Evansdale Metropolitan Area Engineering Design Standards* as approved by the City Council.
7. “Development” means the improvement of land from its existing state.
8. “Drainage way” means a natural or manmade channel, which collects and intermittently or continuously conveys storm water runoff.
9. “Erosion” means the wearing away of the land surface by running water, wind, ice, gravity, or other geological, natural agents, or manmade agents.
10. “Erosion and Sediment Control Plan” means a plan of a lot, tract, or parcel of land upon which land disturbing activities are proposed to take place. Said plan will indicate materials, construction phasing, grading activities, and methods used to control erosion and sediment transport as set forth in the Design Standards Manual and shall be certified by a design professional.
11. “Land disturbing activity” means the act of clearing, grading, excavating, filling, or other construction activities which involve the removal of protective cover and established vegetation on a lot, tract, or parcel of land.

12. "Landscape architect" means a professional landscape architect, registered in the State of Iowa to practice in the field of landscape architecture.

13. "Sediment" means solid material, both mineral and organic, that is in suspension, has been transported, or has been moved from its origin by air, water, gravity, or ice and has been deposited by the action of water or wind.

14. "Site" means a lot, parcel, or tract of land, or portion thereof, where land disturbing activities take place, and may or may not require additional permits.

149.03 EROSION AND SEDIMENT CONTROL PLAN REQUIRED.

1. The following activities are exempt from the requirements of this chapter:

- A. Agricultural use of land.
- B. Gardening activities.
- C. Cemetery graves.
- D. Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards.

2. Except as provided in this chapter, no person shall engage in land disturbing activities upon any site located within the City unless an Erosion and Sediment Control Plan has been approved by the Building Inspector.

3. Development sites shall fall into one of two categories as determined by the Building Inspector upon review of the area of disturbance for the project:

A. Sites with a disturbed area less than one acre (43,560 square feet) shall not require review and approval of an Erosion and Sediment Control Plan. However, a property owner of a site is required to plan and implement erosion control measures as described in the brochure entitled *Erosion Control for Small Site Development*. The brochure is available in the office of the Building Inspector. The Building Inspector may require submittal and approval of an Erosion and Sediment Control Plan for sites with a disturbed area less than one acre in cases warranted by site conditions.

B. Sites with a disturbed area greater than or equal to one acre (43,560 square feet) shall require review and approval of an Erosion and Sediment Control Plan certified by an appropriate design professional.

4. All Erosion and Sediment Control Plans shall be reviewed and approved by the Building Inspector prior to commencing land disturbing activities.

5. The property owner shall allow access by the City to the site for the purposes of plan review and observations during land disturbing activities.

6. The property owner shall give the Building Inspector written notice of completion of erosion and sediment control practices within 30 days after completion.

149.04 REVIEW AND APPROVAL PROCEDURE.

To obtain approval of an Erosion and Sediment Control Plan, the applicant shall submit an Erosion and Sediment Control Plan for the site, meeting the requirements established in the Design Standards Manual, to the Building Inspector for review and approval as follows:

1. The Building Inspector shall review the submittal for compliance with the requirements of an Erosion and Sediment Control Plan as set forth in the Design Standards Manual. Following the review, the Building Inspector shall return comments to the design professional.

2. Following receipt of comments from the Building Inspector, the applicant shall provide a revised submittal to the Building Inspector in accordance with any requested revisions and the requirements as set forth in the Design Standards Manual.

3. If the submittal is complete and meets the requirements as set forth herein, the Building Inspector shall approve the plan.

149.05 LAND DISTURBING ACTIVITIES REQUIREMENTS.

1. Land disturbing activities shall be conducted in compliance with the approved Erosion and Sediment Control Plan for the site.

2. The City may inspect sites to determine compliance with these regulations. Upon determination a site is not in compliance with these regulations, the Building Inspector may issue an order to comply to the property owner. The order shall describe the problem and specify a date whereby the work must be completed, and indicate the penalties to be assessed for further noncompliance.

149.06 FEES ESTABLISHED.

The Council may establish fees by resolution for the review and processing of documents necessitated by this chapter. If and when such fees are established, a submittal shall not be considered unless the appropriate fee has been submitted to the Building Inspector.

149.07 PENALTIES.

Any person who engages in land disturbing activities upon any site within the area of jurisdiction of this chapter before meeting the requirements of this chapter shall be subject to one or more of the following:

1. The provisions of Chapter 4 (Municipal Infractions) of this Code of Ordinances.
2. The actual cost to the City for removing sediment from public facilities as determined by the Building Inspector.
3. No foundation permits or building permits for the site shall be issued until the violations are corrected. Current foundation permits or building permits for the site may be rescinded.
4. No permanent certificates of occupancy shall be issued for property until the violations are corrected. An existing certificate of occupancy may be rescinded.

Nothing contained herein shall limit the right of the City to any other remedies available to the City for the enforcement of this chapter, including the use of municipal infractions. Enforcement of this section shall be the responsibility of the Building Inspector.

Chapter 15.24

POST-CONSTRUCTION EROSION AND SEDIMENT CONTROL ORDINANCE

Sections:

- 15.24.010 Purpose and intent.**
- 15.24.030 Inspection of stormwater management features.**
- 15.24.040 Right of entry for inspection by the city engineer or authorized representative.**
- 15.24.050 Requirements for maintenance.**
- 15.24.060 Records of installation and maintenance activities.**
- 15.24.070 Failure to maintain drainage features.**
- 15.24.080 Notice of violation.**
- 15.24.090 Stop work orders.**
- 15.24.100 Enforcement and penalties—Violations.**
- 15.24.110 Civil and criminal penalties.**
- 15.24.120 Restoration of lands.**
- 15.24.130 Hold of occupation permits.**
- 15.24.010 Purpose and intent.**
- A. The purpose of this chapter is to establish erosion, sediment controls and inspection procedures for controlling the introduction of pollutants to the municipal separate storm sewer system (MS4) from developed or re-developed properties.
- B. Post-construction stormwater inspections are limited to developed sites of one acre in size (forty-three thousand five hundred sixty square feet) or greater. The city

engineer herein grants an exemption to post-construction inspections for sites less than one acre, given the amount of impervious surface created is not in excess of eleven thousand square feet (approximately one-fourth acre). (Ord. 208 § 1, 2006)

15.24.030 Inspection of stormwater management features.

A. The city engineer, or his authorized representative, shall establish and maintain a stormwater inspection schedule that includes but is not limited to:

1. Routine inspections;
2. Random inspections;
3. Inspections based upon public complaints;
4. Inspections based upon notice of possible violation;
5. Inspection of areas identified as having a higher than typical potential for sediment or pollutant exposure, such as construction sites, detention and retention basins;
6. Inspections of businesses or industries of a type associated with discharges that are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards, or the National Pollutant Discharge Elimination System (NPDES) Phase II stormwater permit and the Clean Water Act; and

7. Joint inspections with other agencies inspecting under environmental or safety regulations as deemed necessary.

B. Inspections may include, but are not limited to, the following:

1. Evaluating the condition and current need for maintenance of stormwater control features such as inlets, manholes, piping, detention and retention basins;
2. Sampling discharges, surface water, groundwater, sediment material or standing

water in drainage control facilities as deemed necessary;

3. Reviewing maintenance and repair records of stormwater facilities;

4. Verification that stormwater facilities, approved during construction plan review, such as detention basins, retention basins, piping and inlets are present and in good condition. (Ord. 208 § 3, 2006)

15.24.040 Right of entry for inspection by the city engineer or authorized representative.

A. The city engineer, or his authorized representative, bearing proper credentials and identification, may enter and inspect properties within the city for regular periodic inspections, random inspections, investigations, monitoring, observation, measurement, enforcement, sampling, and testing, to enforce federal, state and local regulations related to the protection of stormwater runoff quality, and the city's stormwater management program.

B. The city engineer, or his authorized representative, shall duly notify the owner of said property, or the representative of the owner on site, of the inspection. The inspection shall be conducted at reasonable times during the business day.

C. Right of entry includes the right to enter a property for routine and random inspections, or when the city engineer, or authorized representative, has a reasonable basis to believe that a violation of federal, state, or local regulations is occurring or has occurred. Following inspection, the city engineer, shall require abatement or corrections of violations of stormwater regulations. (Ord. 208 § 4, 2006)

15.24.050 Requirements for maintenance.

A. All stormwater management features shall undergo an annual inspection to document maintenance and repair needs, and ensure compliance with requirements of this chapter, federal and state regulations.

B. Repair needs may include, but are not limited to, removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting, vegetation removal, replacement of landscape vegetation and maintenance to detention basins and retention basins.

C. Any maintenance needs found shall be addressed in a timely manner, as determined by the city engineer, and the inspection and maintenance frequency may be increased or decreased as deemed necessary to ensure proper functioning of the stormwater facilities. (Ord. 208 § 5, 2006)

15.24.060 Records of installation and maintenance activities.

A. Parties responsible for the operation and maintenance of a stormwater management facility shall maintain records of the installation, maintenance and repair of stormwater facilities. These records shall be made available to inspection personal upon request. Records shall be maintained for a period of three years from the date maintenance. (Ord. 208 § 6, 2006)

15.24.070 Failure to maintain drainage features.

A. If a responsible party fails or refuses to meet the requirements of the maintenance agreement, the city engineer, after reasonable notice, may correct a violation of the drainage facility or conduct necessary maintenance by

performing all necessary work to place the facility in proper working condition.

B. In the event that the stormwater management facility becomes a danger to public safety or public health, or violates federal, state, or local regulations, the city engineer shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have fourteen days from the date of the notice to effect maintenance and repair of the facility in an approved manner.

After proper notice, the city may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes. (Ord. 208 § 7, 2006)

15.24.080 Notice of violation.

A. When the city engineer, or his authorized representative, determines that a stormwater facility is in need of maintenance, in accordance with the requirements of this chapter, the city engineer shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. The name and address of the owner or applicant;
2. The address or a description of the building, structure or land upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A stop work order as described in the following section;
5. A description of the remedial measures necessary to bring the development activity into compliance with this chapter;

6. A time schedule for the completion of such remedial action;

7. A statement of the penalty, or penalties, that shall be assessed against the person to whom the notice of violation is directed; and

8. A statement that the determination of violation may be appealed to the city engineer by filing a written notice of appeal within ten days of service of notice of violation. (Ord. 208 § 8, 2006)

15.24.090 Stop work orders.

A. Persons receiving a notice of violation shall be required to halt construction activities. This "stop work order" shall be in effect until the city engineer confirms that the development activity is in compliance, and the violation has been satisfactorily addressed.

B. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter. (Ord. 208 § 9, 2006)

15.24.100 Enforcement and penalties—Violations.

A. Any development or redevelopment activity that is commenced or is conducted contrary to this chapter, may be restrained by injunction or otherwise abated in a manner provided by law. (Ord. 208 § 10, 2006)

15.24.110 Civil and criminal penalties.

A. In addition to, or as an alternative to, any penalty provided herein or by law, any person who violates the provisions of this chapter shall be punished by a fine of not less than one hundred dollars or by imprisonment for a period not to exceed five days, or both such fine and imprisonment. Such person shall be guilty of a separate offense for each day

during which the violation occurs or continues. (Ord. 208 § 11, 2006)

15.24.120 Restoration of lands.

A. Any person in violation of this chapter may be required to restore land to an appropriate condition as determined by the city engineer. In the event that restoration is not undertaken within a reasonable time after notice, the city engineer may take necessary corrective action, the cost of which shall become a lien upon the property until paid in full. (Ord. 208 § 12, 2006)

15.24.130 Hold of occupation permits.

A. Occupation permits shall not be granted until corrections to all stormwater facilities have been completed and accepted by the city engineer. (Ord. 208 § 13, 2006)

Chapter 15.28

POST-CONSTRUCTION SITE INSPECTION PROGRAM

Sections:

- 15.28.010 Purpose.
- 15.28.020 Applicability.
- 15.28.030 Compatibility with other permit and ordinance requirements.
- 15.28.040 Definitions.
- 15.28.050 Inspection, maintenance and repair requirements.
- 15.28.060 Right-of-entry for inspection.
- 15.28.070 Approval of program.

15.28.010 Purpose.

A. Land development and associated projects increase the impervious cover and alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition. The altered stormwater runoff contributes to increased quantities of water-borne pollutants, soil erosion, non-point source pollution, and transportation of trash and debris. While these items can be controlled and minimized through the regulation of stormwater runoff from development sites they may still impact the stormwater system.

B. Therefore, the city establishes this stormwater best management practices (BMP) post-construction site inspection program to provide reasonable guidance for the maintenance and repair of the stormwater system. It is determined that the stormwater runoff discharges from developed land increases the stormwater runoff rates and volumes, soil erosion, stream channel erosion, transportation of

trash and debris, and nonpoint source pollution; and it is in the public interest to attempt to prevent threats to public health and safety due to the altered stormwater runoff. (Ord. 213 § 1, 2009)

15.28.020 Applicability.

This program shall be applicable to all land developments that are bound by the post-construction erosion and sediment control ordinance (Ord. No. 208, codified in Chapter 15.24 of this code). (Ord. 213 § 2, 2009)

15.28.030 Compatibility with other permit and ordinance requirements.

This program is not intended to interfere with, abrogate, or annul any ordinance, rule or regulation, statute, or other provision of law. The requirements of this program should be considered minimum requirements, and where any provision of this program imposes restrictions different from those imposed by any ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence. (Ord. 213 § 3, 2009)

15.28.040 Definitions.

As used in this chapter:

“Accelerated erosion” means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

“BMP” is the abbreviation for best management practices.

“Channel” means a natural or artificial watercourse with a definite bed and banks that

conducts continuously or periodically flowing water.

“Detention basin” means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

“Inspection” means the physical review of embankments, intakes, outlets, retention basins, detention basins, sand filters, or any other component of the stormwater runoff system.

“Land development” means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

“Nonpoint source pollution” means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

“Stormwater runoff” means flow on the surface of the ground, resulting from precipitation.

“Storm water system” means the structural or non-structural items used to filter, divert, retain, detain, channel or carry stormwater runoff away from the site to either a public stormwater sewer or a watercourse.

“Watercourse” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water. (Ord. 213 § 4, 2009)

15.28.050 Inspection, maintenance and repair requirements.

A. Property owners are required to have annual inspections to ensure proper function of the stormwater system and to determine if any maintenance or repairs are required. All inspection, maintenance and repair logs shall be kept and made available for review by the city. Every three years the property owner is required to have a professional engineer certify that the BMP is functioning properly as designed. The professional engineer shall submit the annual inspection form and use it as guidance, but is expected that a complete inspection of the stormwater BMPs’ condition be conducted. This should include assessment of underground systems, filter media, infiltration capabilities, vegetation condition and coverage, etc. A supplemental narrative may be necessary to complete a full assessment.

B. Maintenance and repair may include, but are not limited to: removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the city, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater system.

C. The reports shall be submitted to the city by July 1 of each year, no earlier than sixty days prior. A separate report is required for each BMP covered under the project’s approved stormwater management plan.

D. The city, in lieu of a maintenance program, may accept dedication of any existing or future stormwater system for maintenance, provided such facility meets all the requirements set forth by the city. (Ord. 213 § 5, 2009)

15.28.060 Right-of-entry for inspection.

A. The property owner shall grant to the city the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a there is a stormwater system "issue" is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a stormwater system "issue".

B. Each year the city will conduct "spot" checks of stormwater BMPs to ensure compliance. A minimum of one-third of all BMPs will be "spot" checked each year by the city. Should a BMP be found to require maintenance or repair, a letter will be sent to the property owner and follow up will be requested. The letter will detail the deficiencies found. Should the property owner fail to maintain the stormwater BMP, enforcement actions may be taken by the city per Sections 10 and 11 of the Post-Construction Erosion and Sediment Control Ordinance (Ordinance No. 208, codified as Sections 15.24.100 and 15.24.110 of this code.) (Ord. 213 § 6, 2009)

15.28.070 Approval of program.

This stormwater best management practices post-construction site inspection program has been made and accepted by the city. (Ord. 213 § 7, 2009)

15.32**DANGEROUS BUILDINGS****Sections:**

- 15.32.010 Enforcement officer.**
- 15.32.020 General definition of unsafe.**
- 15.32.030 Unsafe building.**
- 15.32.040 Notice to owner.**
- 15.32.050 Conduct of hearing.**
- 15.32.060 Posting of signs.**
- 15.32.070 Right to demolish; municipal infraction.**
- 15.32.80 Costs.**

15.32.010 Enforcement officer.

The mayor, or appointed building enforcement officer, is responsible for the enforcement of this chapter.

(Ord. No. 227, § 1, 2-11-2014)

15.32.020 General definition of unsafe.

All buildings, structures or mobile homes that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Ord. No. 227, § 1, 2-11-2014)

State law reference—Code of Iowa, Sec. 567A.1 & 364.12[3a].

15.32.030 Unsafe building.

"Unsafe building" means any structure or mobile home meeting any of all of the following criteria:

1. **Various Inadequacies.** Whenever the building, structure or mobile home, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

2. **Manifestly Unsafe.** Whenever, for any reason, the building, structure, mobile home or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. **Inadequate Maintenance.** Whenever a building, structure or mobile home, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. **Fire Hazard.** Whenever any building, structure or mile home, because of dilapidated condition, deterioration, damage, or other cause, is determined by the fire marshal or fire chief to be a fire hazard.

5. **Abandoned.** Whenever any portion of a building, structure or mobile home remains on a site after the demolition or destruction of the building, structure or mobile home or whenever any building, structure or mobile home is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(Ord. No. 227, § 1, 2-11-2014)

15.32.040 Notice to owner.

The enforcement officer shall examine or cause to be examined every building, structure, mobile home or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building, structure or mobile home written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises within forty-eight hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building, structure, mobile home or portions thereof, and all such work shall be completed within the time indicated on the notice, unless otherwise stipulated by the enforcement officer. If necessary such notice shall also require the building, structure, mobile home or portion thereof to be vacated forthwith and not reoccupied until the repairs and improvements are completed, inspected, and approved by the enforcement officer.

1. Notice Served. Such notice shall be served by sending by certified mail to the property owner as shown by the records of the county auditor, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the city limits. If the owner is not found within the city limits, such service may be made upon the owner by registered mail or certified mail. If no address of any such person appears or if unable to locate then notice is deemed served if mailed to the last known address or by publication. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall be effective on the date of notice mailing.

2. Hearing. Such notice shall also advise the owner that he or she may request a

hearing before the council on the notice by filing a written request for hearing within the time provided in the notice.

(Ord. No. 227, § 1, 2-11-2014)

State law reference—Code of Iowa, Sec. 364.12[3h].

15.32.050 Conduct of hearing.

If requested, the council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The council shall make and record findings of fact and may issue such order as it deems appropriate.

(Ord. No. 227, § 1, 2-11-2014)

15.32.060 Posting of signs.

The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF ELK RUN HEIGHTS, IOWA." Such notice shall remain posted until the required demolition, removal, or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

(Ord. No. 227, § 1, 2-11-2014)

15.32.070 Right to demolish; municipal infraction.

In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building, structure, mobile home or portion thereof, the council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the

work specified in such notice. A statement of the cost of such work shall be transmitted to the council. As an alternative to this action, the city may utilize the municipal infraction process to abate the nuisance.

(Ord. No. 227, § 1, 2-11-2014)

State law reference—Code of Iowa, Sec. 364.12[3h].

15.32.80 Costs.

Costs incurred under Section 15.32.070 shall be paid out of the city treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building, structure or mobile home is located, and shall be certified by the county treasurer for collection in the manner provided for other taxes. In addition, the city may take any other action deemed appropriate to recover costs incurred.

(Ord. No. 227, § 1, 2-11-2014)

State law reference—Code of Iowa, Sec. 364.12[3h].

CHAPTER 157

DANGEROUS BUILDING CODE

157.01 Adoption of Code

157.02 Amendments

157.01 ADOPTION OF CODE.

Pursuant to published notice and public hearing as required by law, the *Uniform Code for the Abatement of Dangerous Buildings*, 1994 Edition, published by the International Conference of Building Officials, Library of Congress, No. 81-86616, is hereby adopted in full except for such portions as may be hereinafter deleted, modified or amended. An official copy of the *Uniform Code for the Abatement of Dangerous Buildings*, 1994 Edition, and a certified copy of the ordinance codified in this chapter are on file in the office of the Clerk.

157.02 AMENDMENTS.

The following amendments, modifications, additions, and deletions to the *Uniform Code for the Abatement of Dangerous Buildings*, 1994 Edition, are hereby made:

1. Section 205. Board of Adjustment shall be the same as the Board of Appeals.
2. Fees. Any and all fees associated with this chapter shall be set by resolution of the City Council, the fee schedule contained in the adopted version of the *International Building Code* notwithstanding.

Chapter 16.04

GENERAL PROVISIONS

Sections:

- 16.04.010 Title.**
- 16.04.020 Purpose.**
- 16.04.030 Application.**
- 16.04.040 Plats within two miles of the city of Elk Run Heights.**
- 16.04.050 Subdivision classification.**
- 16.04.060 Zoning.**
- 16.04.070 Review by agencies.**

16.04.010 Title.

The following subdivision ordinance shall be known as the "Elk Run Heights, Iowa subdivision ordinance, "Ordinance Number 178 is an ordinance creating subdivision regulations for the purpose of protecting public health, welfare, and safety within the incorporated areas of Elk Run Heights, Iowa. (Ord. 178 § I, 1999)

16.04.020 Purpose.

To provide procedures and guidance for the review and consideration of subdivisions, resubdivision, or dedications in the incorporated areas of Elk Run Heights as well as a formal review procedure for subdivisions proposed in the unincorporated area in the two mile area around the corporate limits of Elk Run Heights; implementing the comprehensive plan; prescribing minimum standards for the design layout and development thereof; providing for the preliminary and final approval or disapproval thereof; providing for the enforcement and penalties for the violation thereof; all for the purpose of promoting adequacy,

safety and efficiency of the street and road system, and for the purpose of improving the health, safety, and general welfare of the citizens; and repealing all other ordinances or resolutions in conflict herewith. This title is permitted and specifically authorized in Chapter 354, Platting — Division and Subdivision of Land, Code of Iowa, as amended. (Ord. 178 (part), 1999)

16.04.030 Application.

This title shall apply to all plats, replats, and divisions of land into parcels lying in the incorporated area of Elk Run Heights, Iowa, as well as the subdivision of land within two miles of the city's corporate boundaries. The provisions of this title shall apply to the division of any lot or parcel of land entered of record in the office of the county recorder as a single lot or parcel after the effective date of the ordinance codified in this title. (Ord. 178 § III(A), 1999)

16.04.040 Plats within two miles of the city of Elk Run Heights.

In accordance with the provisions of Section 354.9 of the 1997 Code of Iowa, as amended, a proprietor or other agent, shall file a copy of all preliminary and final subdivision plats including minor plats, for the unincorporated area within two miles of the city. The city may review and comment on the proposed subdivision. The city may either approve, disapprove, or waive their right to review all plats within the extraterritorial area defined herein. The plat(s) shall be filed with the city prior to or at the same time as filing with the county. Approval by one political entity does not automatically constitute approval by the others unless the

political entities have so agreed. (Ord. 178 § III(B), 1999)

16.04.050 Subdivision classification.

Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision by the zoning administrator. To aid in this, the proprietor shall submit in written or other appropriate documentation the principle features of access, relationship and location of existing roads, proposed water and sanitary sewer systems, public utilities and improvements, the number and location of the proposed lots and other pertinent data or information. Any subdivision may be classified as a major subdivision at the proprietor's request. (Ord. 178 § III(C), 1999)

16.04.060 Zoning.

Any property proposed for subdivision shall be correctly zoned to accommodate the proposed use(s) before the subdivision process is begun. (Ord. 178 § III(D), 1999)

16.04.070 Review by agencies.

All plats shall be submitted to the zoning administrator for review prior to recording. The zoning administrator shall refer one copy of each to the city engineer, building inspector, and planning and zoning commission. Each of the aforementioned offices shall examine the plat as to its compliance with the zoning ordinances and regulations of Elk Run Heights, as well as Black Hawk County and the State of Iowa, and submit their findings to the zoning administrator as soon as is possible but within ten days of receipt of the copy. (Ord. 178 § III(E), 1999)

CHAPTER 175

SUBDIVISION REGULATIONS

175.01 Definitions	175.06 Procedure for Approval of Final Plat
175.02 Preliminary Plat; Information Required	175.07 Minimum Design Standards
175.03 Procedure for Approval of Preliminary Plat	175.08 Plats Situated Outside Corporate Limits
175.04 Construction Plans	175.09 Amendment or Revision
175.05 Final Plat; Information Required	

175.01 DEFINITIONS.

For use in this chapter, the following terms are defined:

1. “Building line” means a line on a plat between which line and the nearest street or alley no building or structure may be erected or placed.
2. “Lot” means a portion of a subdivision individually numbered or designated on the plat for facility of description, conveyance, and taxation.
3. “Major street” means any thoroughfare, boulevard, parkway, or highway designated by the Council to be used by persons and vehicles for through traffic in, by, or through the City.
4. “Minor street” means any street which has not been designated by the Council as a major street.
5. “Plat” means a map, drawing, or chart on which the subdivider’s plan of the subdivision is presented and which the subdivider submits for approval and intends in final form to record.
6. “Street width” means that horizontal distance between property lines.
7. “Subdivision” means: (a) the division of any tract of land into three or more lots, which division may or may not establish streets and alleys; or (b) the redivision of land heretofore platted into lots; provided, however, the sale or exchange of small parcels of land to or between adjoining property owners is not considered as a subdivision.

175.02 PRELIMINARY PLAT; INFORMATION REQUIRED.

In seeking to subdivide land into lots and/or to dedicate streets, alleys, or other land for public use, the owner shall submit four copies of a preliminary plat to the City Planning and Zoning Commission (the “Commission”). The preliminary plat, plainly marked “preliminary plat,” shall be drawn to a scale of not less than one inch to 100 feet and shall show:

1. The legal description of the property to be platted.
2. Contours with intervals of not more than two feet.
3. The location of such surface features as property lines, buildings, railroads, utilities, tree masses, watercourses, and other existing features affecting the development; the location and size of such subsurface features as existing or nearest available public sanitary and storm sewers, water mains, gas mains, culverts, and drain pipes; the location and size of the nearest water main, gas main, and public sewers are to be indicated in a general way on the plat.
4. The location and width of proposed and existing streets, alleys, and lots included in the development. The names of the proposed streets and the type of proposed surfacing. The plat shall also show how the streets and alleys in the proposed developments shall connect with existing and proposed streets and alleys in adjacent

subdivisions or undeveloped property to produce the most advantageous development of the entire neighboring areas.

5. The name and location of adjoining subdivisions.
6. The proposed location of building lines and easements, if any.
7. The title under which the proposed subdivision is to be recorded, with the name and address of the owner.
8. The scale, date, north point, and name of surveyor or engineer.
9. The above requirements for the preliminary plat shall conform to the minimum standards of design and development set forth in Section 175.07 of this chapter.
10. Any restrictions proposed to be included in the owner's declaration of plat shall accompany the preliminary plat. When the property proposed to be platted is in the corporate limits of the City, neither the Commission nor the Council shall require any building restrictions to be included in a plat that are more restrictive than the provisions of the Zoning Ordinance of the City, except for the building lines provided in Section 175.05 of this chapter.
11. When the plat or subdivision proposed for immediate development is a part of an overall development of a larger area and in which streets and other improvements are indicated, such future plat development shall appear on all plat drawings in dotted lines; the smaller area to be developed immediately as a plat shall be bounded by a heavy line. When any such extended future development shall have been accepted by the Council, such plan may be changed or altered only on the consent of the Council.
12. Any plat not containing all the information specified above shall not be approved by the Commission.

175.03 PROCEDURE FOR APPROVAL OF PRELIMINARY PLAT.

1. The Commission shall refer two copies of the preliminary plat to the Clerk, who shall carefully examine the plat as to its compliance with the laws and ordinances of the City, the existing street system, the major street plan, and good engineering practices and shall submit findings in duplicate to the Commission, together with one copy of the plat received.
2. When the Clerk's report is received by the Commission, it shall then set forth its recommendations in writing, whether of approval, modification, or disapproval. In case of modification or disapproval, it shall give its reasons therefor. The Commission shall forthwith submit the three copies of the preliminary plat to the Council, together with a signed copy of its recommendations.
3. The Council shall then take action upon the preliminary plat, certifying its approval or disapproval. In case of disapproval, it shall give its reasons therefor. Any requirements for improvements or alterations in the preliminary plat of the Council shall be given to the person who prepared the plat, in writing. One certified copy shall be filed with the Clerk, one with the Commission, and the third shall be returned to the owner or subdivider. The approval of the preliminary plat by the Council does not constitute acceptance of the subdivision but constitutes approval of all proposals and plans submitted with the preliminary plat.

175.04 CONSTRUCTION PLANS.

1. When the preliminary plat of a subdivision has been approved by the Council, the owner shall thereupon prepare detailed construction plans for the improvement and the arrangement for the improvements in accordance with the standards set forth by the Clerk's office.
2. Three sets of such detailed construction plans, together with an outline of the order in which the proposed improvements are to be constructed, are to be submitted to the Clerk for consideration.
3. The Clerk shall then submit the detailed construction plans, together with recommendations to the Council for their approval. Construction of any type shall not be started within the development until construction plans are approved by the Council.

175.05 FINAL PLAT; INFORMATION REQUIRED.

1. Filing. The final plat shall be filed within 12 months of the date of the approval of the preliminary plat and shall comply with the provisions of Section 175.07 of this chapter and shall conform to the preliminary plat as approved or modified by the Council.

2. Information Required. The final plat shall be made from an accurate survey, drawn to 100 feet to the inch or larger scale by a licensed surveyor and shall include the following information:

A. The boundaries of the property, the lines of all proposed streets and alleys, with the widths and names and the lines and dimensions of any other portions intended to be dedicated to the public use.

B. All lot lines and an identification system for all lots and blocks with figures showing their dimensions.

C. Building lines and easements for any rights-of-way provided for public use, services, or utilities, with figures showing their dimensions, unless the subdivider desires to describe the easements for public use, services, or utilities in the owner's declaration of plat.

D. All dimensions, both linear and angular, necessary for locating lots, tracts or parcels of ground, streets, alleys and easements, and the boundaries of the subdivision; the linear dimensions are to be expressed in feet and decimals of a foot.

E. Radii, arc and chords, points of tangency, central angles, and curve data for all curvilinear streets, and radii for all rounded corners.

F. The description, location, and elevation of all benchmarks.

G. The description and location of all permanent monuments set in the subdivision.

H. The name of the subdivision, location and extent of property subdivided, points of the compass, scale of the plat, date and name of the engineer platting the tract.

I. Certification under seal by a land surveyor, licensed under the laws of the State, to the effect that the plat represents a survey made by said surveyor, and that all necessary survey monuments are correctly shown thereon.

J. Where private restrictions appear on a separate instrument, reference to such instrument shall be made on the plat.

3. Attachments. The final plat shall have the following attached to it:

A. An accurate description of the subdivision land.

B. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.

C. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

D. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

E. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

F. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

G. A statement by the Auditor approving the name or title on the subdivision plat.

H. A certificate of dedication of streets and other public property.

I. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.

175.06 PROCEDURE FOR APPROVAL OF FINAL PLAT.

Four copies of the final plat of a subdivision shall be submitted to the Commission. The final plat shall be accompanied by a certificate from the Clerk that the same is substantially in accord with the preliminary plat as approved by the Council. When the final plat has been passed upon by the Commission, all four copies shall forthwith be transmitted to the Council, together with a certificate showing the action of the Commission. When the final plat has been approved by the Council, three copies shall be certified, and one copy shall be delivered to the Commission, one copy delivered to the Clerk, and one copy delivered to the subdivider for filing with the County Recorder. If such plat is disapproved by the Council, such disapproval shall point out in writing wherein the plat is objectionable.

175.07 MINIMUM DESIGN STANDARDS.

1. Acreage Subdivisions. Where a parcel of land is subdivided into a larger tract than ordinarily used for buildings lots, such parcel shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets. Easements providing for the future openings and extension of such streets may, at the discretion of the Council, be made a requirement of the plat.

2. Relation to Adjoining Street System. New subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for public requirements.

3. Street and Alley Widths.

A. Except as hereinafter provided, the street shall be of a width as great as that of the streets of which they are a continuation or projection, with a minimum width of 60 feet. However, the Council may in certain cases, because of topography or general welfare and safety, or for special reasons, require a street of greater or lesser width.

B. When a major street or primary roadway is included in any plat being developed and offered for approval, the overall width of the surfaced or paved roadway from back to back of curbs shall be a minimum of 31 feet or more; unless such street is the continuation of another street of greater width, in which case the surfaced roadway shall be carried on at the width deemed reasonable and proper. Street surfacing of all abutting streets and widths thereof shall be shown on the preliminary plat when submitted for approval.

C. When a minor street serves a dead end, a limited access area or other projected low traffic count area, the street may, with the recommendation of the Commission, have an overall width of the surfaced or paved roadway from back to back of curbs of 29 feet. In a subdivision where the lots exceed one acre in size, the street may be 25 feet curb to curb with no parking on the right-of-way.

D. If a street is designed to have one end permanently closed (cul-de-sac), the right-of-way shall be not less than 50 feet in width and shall be of such width at the closed end as will permit a turning radius of not less than 50 feet.

E. The minimum width of alleys shall be 16 feet.

F. Where alleys are not provided in the plat, easements of not less than eight feet in width may be required on each side of all rear and side lot lines where necessary for poles, wires, conduits, sewers, gas, water, and heat mains.

4. Blocks. Where it is desired to subdivide a parcel of land which, because of its size and location, does not permit a normal street arrangement, there may be established a "place." Such "place" may be in the form of a court, a non-connecting street, or other arrangement; provided, however, proper and easy access arrangement shall be provided for all lots from a dedicated street or court.

5. Street Names. Streets that are obviously in alignment with others already existing and named shall bear the name of existing streets, otherwise names shall not duplicate existing street names and names similar to existing street names shall not be permitted.

6. Building Lines. Building lines shall be shown on all lots whenever the depth of such building lines is greater than those required by the Zoning Ordinance. Where the subdivided area is not under zoning control, the Council may require building lines in accordance with the needs of such subdivision. Provisions shall be made by owner's declaration of plat, requiring all enclosed parts of a building to be set back to such building lines.

7. Easements along Streams and Watercourses. Whenever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at the subdivider's own expense, make adequate provisions for the proper drainage of surface water, and the Council, at its discretion, may require the dedication to the City of an easement along such stream or watercourse.

8. Improvements. Before the final plat of any subdivision shall be approved and recorded, the subdivider shall make and install the improvements described in this subsection. In lieu of final completion of the said minimum improvements, before the final plat is approved, the subdivider may enter into a contract with the City to ensure the completion of the improvements within a specified time. The performance of said contract may be secured by the filing of a bond to be approved by the Council.

A. Street Grading.

(1) All streets shall be filled or excavated to the grade approved by the Council after receiving the recommendation of the Street Department Superintendent, and the actual construction shall be subject to the supervision of the Street Superintendent.

(2) Streets shall be so arranged that grades shall, so far as practicable, not exceed six percent for major streets and 10 percent for minor streets, and no grade shall be less than one-half of one percent.

(3) All alleys included in any plat or subdivision shall be brought to the grade approved by the Council; and when utilities are installed, they shall be installed therein or at the rear of platted lots if equally feasible with other methods of installation.

B. Sewers. Where a public sanitary sewer is contiguous to said subdivision, the subdivider shall connect or provide for the connection with said sewer accessible to each lot. Where any part of said subdivision is within 450 feet from the nearest point of a usable public sewer installation, the Council may require the subdivision to connect or provide for the connection with such sewer system to make such sewer accessible to each lot in the subdivision. When sanitary sewers are installed in the subdivision in the street, they shall be stubbed in from the main sewer to the property line. The subdivider shall, upon completion of the sanitary sewer system, file in the office of the Clerk a plat of said subdivision marked with the location of said stubs or of any Y's placed in the main sewer.

C. Inaccessible Sewers. Where public water supply is available to the proposed subdivision but sanitary sewer is inaccessible, lots shall not be less than 7,500 square feet in area. Where neither public water supply nor sanitary sewer is accessible to the subdivision, lots shall not be less than 15,000 square feet in area. The above area requirements may be lowered upon recommendation of the Code Enforcement Officer providing results from percolation tests indicate that a lesser area will be required for tank installation. The owner shall furnish to the Commission a report from the health officer that the soil conditions of the subdivision are suitable for the installation and maintenance of septic tanks and the proposed lot area is sufficient for its operation.

D. Other Improvements. The Council may also require certain street improvements including the installation of sidewalks, water mains, curb and gutter, and street surfacing or paving on any or all streets, in accordance with the specifications approved by the Council and under the supervision of the Street Waste Water

Foreman. When sewer and water are to be installed in a plat, all street improvements shall be installed not later than two years following the date of approval of the final plat. A performance bond running for not more than two years shall be given a contract entered into by the subdivider for the completion of the improvements.

175.08 PLATS SITUATED OUTSIDE CORPORATE LIMITS.

1. All plats of property situated outside the corporate limits of the City which require action by the Commission and Council shall comply with all the foregoing regulations.

2. Any lot described as or intended for use as a residential lot and which is intended to be served either temporarily or permanently by a septic tank sewage disposal system shall not be less than the area set forth in Section 175.07(8)(C) of this chapter.

175.09 AMENDMENT OR REVISION.

Any regulations or provisions of this chapter may be changed and amended from time to time by the Council; provided, however, such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given in a newspaper of general circulation at least 15 days prior to such hearing.

Title 17

ZONING

Chapters:

- 17.04 Title, Purpose and Interpretation**
- 17.08 Definitions**
- 17.12 Establishment of Districts and District Boundaries**
- 17.16 General Regulations and Provisions**
- 17.20 Supplemental Regulations and Modifications**
- 17.24 A Agricultural District**
- 17.28 R-1 Residential District**
- 17.32 R-2 Residential District**
- 17.36 R-3 Multiple Residential District**
- 17.40 C-1 Central Commercial District**
- 17.42 C-2 Outlying Commercial District**
- 17.44 I Industrial District**
- 17.48 Mobile Homes and Mobile Home Parks**
- 17.52 Solar Collector Systems**
- 17.56 Administrative Provisions**
- 17.60 Board of Adjustment**
- 17.64 Violation—Penalty**
- 17.68 Amendments**

Chapter 17.04

**TITLE, PURPOSE AND
INTERPRETATION**

Sections:

- 17.04.010 Title.**
- 17.04.020 Short title.**
- 17.04.030 Purpose—Statutory authority.**
- 17.04.040 Interpretation and application of language.**

17.04.010 Title.

The ordinance codified in this title, including the zoning district map adopted as a part of the ordinance codified in this title, shall be known as, and may be cited and referred to as "The Elk Run Heights, Iowa, Zoning Ordinance, 1983." (Ord. 112 § 1 (part), 1983)

17.04.020 Short title.

The ordinance codified in this title, including the map adopted as a part of the ordinance codified in this title, may be cited and referred to as "The Elk Run Heights Ordinance," to the same effect as if the full title were stated. (Ord. 112 § 1 (part), 1983)

17.04.030 Purpose—Statutory authority.

The ordinance codified in this title is adopted for the purpose of promoting the public health, safety, comfort, order and general welfare to conserve and protect the natural and manmade environment, to secure and provide the social and economic advantages resulting from an orderly, planned use of land resources, and to facilitate adequate but economical provisions for public improvement for the citizens of the city of Elk Run Heights, as permitted by the provisions of Chapter 414 of the 1981 Code of Iowa, as amended. (Ord. 112 § 3, 1983)

17.04.040 Interpretation and application of language.

In their interpretation and application, the provisions of this title shall be held to be minimum requirements. Where this title imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations or ordinances, the provisions of this title shall control. (Ord. 112 § 4, 1983)

Chapter 17.08

DEFINITIONS

Sections:

17.08.005	General requirements— Grammatical interpretation.	17.08.147	Factory-built structure.
17.08.010	Accessory use or structure.	17.08.149	Factory-built housing.
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17.08.030	Alteration, structural.	17.08.165	Feedlot.
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17.08.050	Boardinghouse or roominghouse.	17.08.185	Garage, storage.
17.08.055	Building.	17.08.190	Gasoline filling station.
17.08.060	Building, height of.	17.08.195	Grade.
17.08.065	Bulk station.	17.08.200	Group home.
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17.08.080	Cellar.	17.08.215	Hotel.
17.08.085	Clinic.	17.08.220	Institution.
17.08.090	Court.	17.08.225	Junk or salvage yard.
17.08.095	Day nursery, nursery school or day care, private or public.	17.08.230	Kennel, commercial.
17.08.100	Development.	17.08.235	Kennel, private or hobby.
17.08.105	District.	17.08.240	Lot.
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17.08.115	Dwelling.	17.08.250	Lot, corner.
17.08.120	Dwelling, condominium.	17.08.255	Lot, depth of.
17.08.125	Dwellings, multiple.	17.08.260	Lot, double frontage.
17.08.130	Dwelling, row.	17.08.265	Lot, interior.
17.08.135	Dwelling, single-family.	17.08.270	Lot lines.
17.08.140	Dwelling, two-family.	17.08.275	Lot line, front.
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		17.08.285	Lot of record.
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		17.08.310	Mobile home.
		17.08.315	Mobile home park or trailer park.
		17.08.317	Modular home.

- 17.08.320 Motel, auto court or motor lodge.**
- 17.08.325 Nonconforming use.**
- 17.08.330 Nursing or convalescent home.**

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 17.08.485 Yard.
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 17.08.495 Yard, rear.

17.08.500 Yard, side.
 17.08.505 Zoning administrator.

**17.08.005 General requirements—
Grammatical
interpretation.**

For the purpose of this title, certain terms and words are defined as set out in this chapter. Words used in the present tense include the future; the singular number includes the plural; and the plural, 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. (Ord. 112 § 6 (part), 1983)

17.08.010 Accessory use or structure.

“Accessory use or structure” means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure. (Ord. 112 § 6(1), 1983)

17.08.015 Administrative officer.

“Administrative officer” means the individual designed by this title to administer the Zoning Ordinance and who is responsible for the enforcement of the regulations imposed by the ordinance. This person may also be referred to as the “city clerk.” (Ord. 112 § 6(2), 1983)

17.08.020 Agriculture.

“Agriculture” means the use of land for agricultural purposes including farming, dairying, pasturage, apiculture, floriculture, viticulture, fish farm and

animal and poultry husbandry, and the necessary accessory uses for packing, treating or storing the project; provided, however, that the operation of such accessory uses shall be secondary to that of normal agricultural activities; provided further, that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals. (Ord. 112 § 6(3), 1983)

17.08.025 Alley or lane.

“Alley or lane” means a public or private way, other than a second street, not more than twenty feet wide affording generally secondary means of access to abutting property and not intended for general traffic circulation. (Ord. 112 § 6(4), 1983)

17.08.030 Alteration, structural.

“Structural alteration” means any change in the supporting members of a building, such as bearing walls and partitions, columns, beams or girders. The enlargement of the size or height of a building shall be constructed to be a structural alteration. (Ord. 112 § 6(5), 1983)

17.08.035 Basement.

“Basement” means a story partly underground but having at least one-half of the height of two or more walls above the level of the adjoining ground. A basement shall be constructed as a story for the purpose of height regulations. (Ord. 112 § 6(6), 1983)

17.08.040 Billboard.

“Billboard” means and includes all structures regardless of the material used

in the construction of the same, that are erected, maintained or used for public display of posters, painted signs, walls signs, whether the structure be placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which such signs or billboards are located. (Ord. 112 § 6(7), 1983)

17.08.045 Block.

“Block” means the property abutting on one side of the street and lying within the two nearest intersecting streets, an unsubdivided acreage or railway rights-of-way. (Ord. 112 § 6(8), 1983)

17.08.050 Boardinghouse or roominghouse.

“Boardinghouse or roominghouse” means a building other than a hotel, where for compensation, lodging or meals and lodging are provided for three or more persons. (Ord. 112 § 6(9), 1983)

17.08.055 Building.

“Building” means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards. (Ord. 112 § 6(10), 1983)

17.08.060 Building, height of.

“Height of building” means the vertical distance from the average natural grade to the highest point of the roof. (Ord. 112 § 6(11), 1983)

17.08.065 Bulk station.

“Bulk station” means distributing stations commonly known as bulk or tank stations used for the storage and distribution of flammable liquids or liquefied petroleum products where the aggregate capacity of all storage tanks is more than twelve thousand gallons. (Ord. 112 § 6(12), 1983)

17.08.070 Business or commercial.

“Business or commercial,” when used in this title, refers to the engaging in the purchase, sale or exchange of goods or services, or the operation for profit of offices, recreational or amusement enterprises. (Ord. 112 § 6(13), 1983)

17.08.075 Carport.

“Carport” means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For the purposes of this title, a carport attached to a principal building shall be considered part of the principal building and subject to all yard requirements in this chapter. (Ord. 112 § 6(14), 1983)

17.08.080 Cellar.

“Cellar” means that portion of a building having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement. (Ord. 112 § 6(15), 1983)

17.08.085 Clinic.

“Clinic” means a building or buildings used by physicians, dentists, osteopaths, chiropractors and allied professions for

outpatient care or persons requiring such professional services. (Ord. 112 § 6(16), 1983)

17.08.090 Court.

“Court” means an open, unobstructed and unoccupied space other than a yard which is bounded on two or more sides by a building on the same lot. (Ord. 112 § 6(17), 1983)

17.08.095 Day nursery, nursery school or day care, private or public.

“Public or private day nursery, nursery school or day care” means any private agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than lodging overnight for six or more children of preschool age, for compensation. (Ord. 112 § 6(18), 1983)

17.08.100 Development.

“Development” means any manmade change to improve or unimprove real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. (Ord. 112 § 6(19), 1983)

17.08.105 District.

“District” means a section or sections of the city within which certain uniform regulations and requirements governing the use of buildings and premises or the height and area of buildings and premises are uniform. (Ord. 112 § 6(20), 1983)

17.08.110 Dump.

"Dump" means a premises used for the disposal of clean type of fill material, such as dirt, rocks and similar materials, but not including organic matter of any type, such as garbage or dead animals or portions thereof. (Ord. 112 § 6(21), 1983)

17.08.115 Dwelling.

"Dwelling" means any building or portion thereof which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer or mobile home. (Ord. 112 § 6(22), 1983)

17.08.120 Dwelling, condominium.

"Condominium dwelling" means a multiple dwelling as defined in this chapter whereby the fee title to each dwelling unit is held independently of the others. (Ord. 112 § 6(23), 1983)

17.08.125 Dwellings, multiple.

"Multiple dwellings" means a residence designed for or occupied by three or more families, with separate housekeeping, bathroom and cooking facilities. (Ord. 112 § 6(24), 1983)

17.08.130 Dwelling, row.

"Row dwelling" means 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 separate from one another by an approved wall or walls. (Ord. 112 § 6(25), 1983)

17.08.135 Dwelling, single-family.

"Single-family dwelling" means a detached residence designed for or used exclusively and occupied by one family only. (Ord. 112 § 6(26), 1983)

17.08.140 Dwelling, two-family.

"Two-family dwelling" means a residence designed for or used exclusively and occupied by two families only, with separate housekeeping, bathroom and cooking facilities for each. (Ord. 112 § 6(27), 1983)

17.08.145 Dwelling, unit.

"Unit dwelling" means a room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one family containing bathroom and kitchen facilities. (Ord. 112 § 6(28), 1983)

17.08.147 Factory-built structure.

"Factory built structure" means any structure which is, wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. (Ord. 148 (part), 1991)

17.08.149 Factory-built housing.

"Factory-built housing" means a factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of three types: modular homes, mobile homes, and manufactured homes. (Ord. 148 (part), 1991)

17.08.150 Family.

"Family" means one or more persons occupying a single dwelling unit; provided, that unless all members are related by blood, marriage or adoption, no such family shall contain over four persons. (Ord. 112 § 6(29), 1983)

17.08.155 Farm.

“Farm” means an area comprising thirty-five or more contiguous acres which is used for agricultural purposes and the growing and production of all farm products thereon, and their storage on the premises, or for the raising thereon of poultry or livestock. A division of such property by a road does not render the property as noncontiguous. (Ord. 112 § 6(30), 1983)

17.08.160 Farmstead.

“Farmstead” means the buildings and adjacent service areas of a farm. (Ord. 112 § 6(31), 1983)

17.08.165 Feedlot.

“Feedlot” means any parcel of land or premises which is used for the concentrated feeding of cattle, hogs, sheep, fowl or other livestock within a confined area. (Ord. 112 § 6(32), 1983)

17.08.170 Frontage.

“Frontage” means all the property on one side of a street between two intersecting 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 of the street. (Ord. 112 § 6(33), 1983)

17.08.175 Garage, private.

“Private garage” means an enclosed structure intended for the parking of private motor vehicles of the families residing upon the premises. (Ord. 112 § 6(34), 1983)

17.08.180 Garage, public.

“Public garage” means any building premises except those used as private garages used for equipping, servicing, repairing, hiring, selling or storing motor-driven vehicles. (Ord. 112 § 6(35), 1983)

17.08.185 Garage, storage.

“Storage garage” means any building or premises used for housing only of motor-driven vehicles pursuant to previous arrangements and not to transients, and at which automobile fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired or sold. (Ord. 112 § 6(36), 1983)

17.08.190 Gasoline filling station.

“Gasoline filling station” means any building or premises used for the retail sales of products and accessories customarily associated with the maintenance and propulsion of motor vehicles and including services and repairs. (Ord. 112 § 6(37), 1983)

17.08.195 Grade.

“Grade” means the average level of the finished surface of the ground adjacent to the exterior walls of the building. (Ord. 112 § 6(38), 1983)

17.08.200 Group home.

“Group home” means a facility for individuals over the age of eighteen who require continuing assistance and supervision on a daily basis on a long-term basis. These homes are intended primarily for moderately and severely retarded adults whose current stage of development precludes independent living. (Ord. 112 § 6(39), 1983)

17.08.205 Halfway house.

“Halfway house” means any institution, place, building or agency, for adolescents or adults who have been institutionalized for various reasons and released or who have had physical or social disabilities which make transition into society difficult and require the protection of a group setting to facilitate the transition into a functional member of society. (Ord. 112 § 6(40), 1983)

17.08.210 Home occupation.

“Home occupation” means a secondary use carried on entirely within the residence where there is no evidence of

such occupation being conducted on the premises by virtue of excessive noise, odors, electrical disturbances or traffic generation. (Ord. 112 § 6(41), 1983)

17.08.215 Hotel.

“Hotel” means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests, as contradistinctive from a boardinghouse or roominghouse. (Ord. 112 § 6(42), 1983)

17.08.220 Institution.

“Institution” means a building occupied by a nonprofit corporation or a nonprofit establishment for public use. (Ord. 112 § 6(43), 1983)

17.08.225 Junk or salvage yard.

“Junk or salvage yard” means any area where waste, discarded or salvaged material or equipment are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including house wrecking yards, auto wrecking activities, used lumber yards and places or yards for storage of salvaged building materials and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building and not including pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental and necessary to manufacturing operations and not including contractors’ storage yards. (Ord. 112 § 6(44), 1983)

17.08.230 Kennel, commercial.

“Commercial kennel” means any premises on which three or more dogs, six months old or older are kept, including grooming, boarding and other associated activities. (Ord. 112 § 6(45), 1983)

17.08.235 Kennel, private or hobby.

“Private or hobby kennel” means any lot on which three or more dogs are kept, however, this shall not include grooming, boarding or other activities dealing with dogs other than the owner’s. (Ord. 112 § 6(46), 1983)

17.08.240 Lot.

“Lot” means 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 required in this title. 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;
- 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 chapter. (Ord. 112 § 6(47), 1983)

17.08.245 Lot, area.

“Area lot” means the total horizontal area within lot lines. (Ord. 112 § 6(48), 1983)

17.08.250 Lot, corner.

"Corner lot" means a lot abutting upon two or more streets at their intersection. (See Examples of Lot Definitions.) (Ord. 112 § 6(49), 1983)

17.08.255 Lot, depth of.

"Depth of lot" means the mean horizontal distance between the front and rear lot lines. (Ord. 112 § 6(50), 1983)

17.08.260 Lot, double frontage.

"Double frontage lot" means a lot having a frontage of two nonintersecting streets, as distinguished from a corner lot. (See Examples of Lot Definitions.) (Ord. 112 § 6(51), 1983)

17.08.265 Lot, interior.

"Interior lot" means a lot other than a corner lot. (See Examples of Lot Definitions.) (Ord. 112 § 6(52), 1983)

17.08.270 Lot lines.

"Lot lines" means the lines bounding a lot. (Ord. 112 § 6(53), 1983)

17.08.275 Lot line, front.

"Front lot line" means a line separating the lot from the street on which it fronts. (Ord. 112 § 6(54), 1983)

17.08.280 Lot line, rear.

"Rear lot line" means the lot line opposite and most distant from the front lot line. (Ord. 112 § 6(55), 1983)

17.08.285 Lot of record.

"Lot of record" means a lot which the contract or deed has been recorded in the office of the county recorder of Black Hawk

County, prior to January 1, 1983. (Ord. 112 § 6(56), 1983)

17.08.290 Lot, reversed frontage.

"Reversed frontage lot" means a corner lot, the side street line of which is substantially a continuation of the front line of the first platted lots to its rear. (See Examples of Lot Definitions.) (Ord. 112 § 6(57), 1983)

17.08.295 Lot lines, side.

"Side lot lines" means any lot line other than a front or rear lot line. (Ord. 112 § 6(58), 1983)

17.08.300 Lot width.

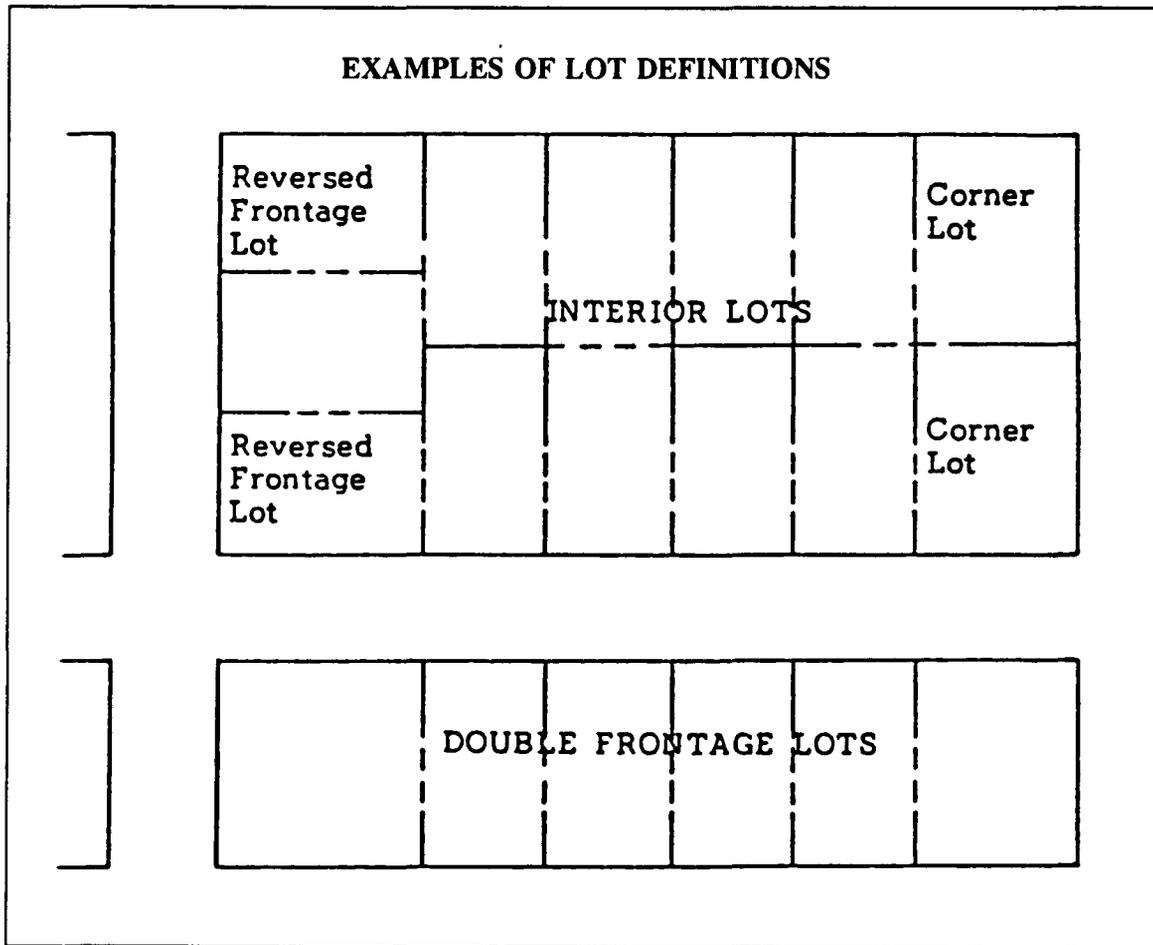
"Lot width" means the width of a lot measured at the building line and at straight angles to its depths. (Ord. 112 § 6(59), 1983)

17.08.305 Lumber yard.

"Lumber yard" means a premises on which primarily new lumber and related building materials are sold. (Ord. 112 § 6(60), 1983)

17.08.307 Manufactured home.

"Manufactured home" means a factory-built single-family structure, which is manufactured under the authority of 42 U.S.C. Sec. 5403, National Manufactured Home Construction and Safety Standards Act of 1974, and is to be used as a place for human habitation, but which is not constructed 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 mobile home is not a manufactured home. For the purpose of these regulations, a manufactured home built after June 15, 1976, shall bear the seal certifying that it is in compliance with the National Manufactured Home Construction and Safety Standards Act of 1974. For the purpose of these regulations, manufactured homes shall be subject to the same standards as site-built dwellings. (Ord. 148 (part), 1991)

17.08.310 Mobile home.

“Mobile home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed

to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. Nothing in this title shall be construed as permitting for occupying a mobile home in other than an approved mobile home park or site. (Ord. 112 § 6(61), 1983)

17.08.315 Mobile home park or trailer park.

“Mobile home park or trailer park” means any lot or portion of a lot upon which two or more mobile homes or trailers occupied for dwelling or sleeping purposes

are located regardless of whether or not a charge is made for such accommodations. (Ord. 112 § 6(62), 1983)

17.08.317 Modular home.

“Modular home” means factory-built housing certified as meeting the State Building Code as applicable to modular housing. For the purpose of these regulations, once certified by the State, modular homes shall be subject to the same standards as site-built dwellings. (Ord. 148 (part), 1991)

17.08.320 Motel, auto court or motor lodge.

“Motel, auto court, or motor lodge” means a building or group of attached or detached buildings containing individual sleeping or living units for overnight auto tourists, with parking facilities conveniently located to each such unit, and may include such accessory facilities such as swimming pool, restaurant, meeting rooms, etc. (Ord. 112 § 6(63), 1983)

17.08.325 Nonconforming use.

“Nonconforming use” means the lawful use of any building or land that was established prior to or at the time of passage of this title or amendments thereto which does not conform after the passage of the ordinance codified in this title, or

amendments thereto with the use regulations of the district in which it is situated. (Ord. 112 § 6(64), 1983)

17.08.330 Nursing or convalescent home.

“Nursing or convalescent home” means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled or injured persons, not including insane and other mental cases, inebriate or contagious cases. (Ord. 112 § 6(65), 1983)

17.08.335 Parking lot.

“Parking lot” means a parcel of land devoted to unenclosed parking spaces. (Ord. 112 § 6(66), 1983)

17.08.340 Parking space.

“Parking space” means an area of not less than one hundred eighty square feet plus necessary maneuvering space for the parking of a motor vehicle. Space for maneuvering, incidental to parking or unparking, shall not encroach upon any public right-of-way. Parking spaces for other than residential use shall be of a surface material approved by the city council. (Ord. 112 § 6(67), 1983)

17.08.345 Principal use.

“Principal use” means the main use of land or structures as distinguished from an accessory use. (Ord. 112 § 6(68), 1983)

17.08.350 Right-of-way.

“Right-of-way” means the land area the right to possession of which is secured

or reserved by the contracting authority for road purposes. (Ord. 112 § 6(69), 1983)

17.08.355 Road.

“Road” means all property dedicated or intended for public or private road, street, alley, highway, freeway or roadway purposes or to public easements therefor. (Ord. 112 § 6(70), 1983)

17.08.360 Roadlines.

“Roadlines” means a dividing line between a lot, tract or parcel of land and a contiguous road. (Ord. 112 § 6(71), 1983)

17.08.365 Roominghouse.

“Roominghouse” means a building where a room or rooms are provided for compensation of three or more persons. (Ord. 112 § 6(72), 1983)

17.08.370 Sign, exterior.

“Exterior sign” means a sign which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such sign is located. An exterior sign is attached flat to the building or structure, or projecting out from the building or structure, or erected upon the roof of a building or structure. (Ord. 112 § 6(73), 1983)

17.08.375 Sign, freestanding or post.

“Freestanding or post sign” means any sign erected or affixed in a rigid manner to any pole or post, and which carries any advertisement strictly incidental and subordinate to a lawful use of the premises on which it is located, including

signs, or sign devices indicating the business transacted, services rendered or goods sold or produced on the premises by an occupant thereof. (Ord. 112 § 6(74), 1983)

17.08.380 Sign, illuminated.

“Illuminated sign” means a sign designed to give forth artificial light or through transparent or translucent material from a source of light within such sign, including but not limited to neon and exposed lamp signs. (Ord. 112 § 6(75), 1983)

17.08.385 Sign, off-site.

“Off-site sign” means a sign other than an on-site sign. (Ord. 112 § 6(76), 1983)

17.08.390 Sign, on-site.

“On-site sign” means a sign relating to its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises. (Ord. 112 § 6(77), 1983)

17.08.395 Special permit.

“Special permit” means a use allowed in any district after a public hearing by the city council and recommendation of the planning and zoning commission that meets the necessary conditions and safeguards for its operation. (Ord. 112 § 6(78), 1983)

17.08.400 Stable, private.

“Private stable” means a building or structure used or intended to be used for housing horses belonging to the owner of the property only for noncommercial purposes. (Ord. 112 § 6(79), 1983)

17.08.405 Stable, public and riding academy.

“Public stable or riding academy” means a building or structure used or intended to be used for the housing only of horses on a fee basis. Riding instruction may be given in connection with a public stable or riding academy. (Ord. 112 § 6(80), 1983)

17.08.410 Stable, riding club.

“Riding club stable” means a building or structure used or intended to be used for the housing only of horses by a group of persons for noncommercial purposes. (Ord. 112 § 6(81), 1983)

17.08.415 Storage yards.

“Storage yards” means an area used for the storage of new and used material, equipment, tools, machinery, supplies and vehicles which is not in use at all times, but which is necessary for the conduct of business which may or may not be located on the premises. (Ord. 112 § 6(82), 1983)

17.08.420 Story.

“Story” means that portion of a building included between the surface of any floor and 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 or roof next above it. (Ord. 112 § 6(83), 1983)

17.08.425 Story, half.

“Half-story” means a space under a sloping roof which has the line of intersecting or roof decking and wall face not more than four feet above the top floor level. (Ord. 112 § 6(84), 1983)

17.08.430 Street line.

“Street line” means a dividing line between a lot, tract or parcel of land and a contiguous street. (Ord. 112 § 6(85), 1983)

17.08.435 Street, road, drive, alley or entrance, private.

“Private street, road, drive, alley or entrance” means all property intended for use by vehicular traffic, but not dedicated to the public, nor controlled and maintained by a political subdivision. (Ord. 112 § 6(86), 1983)

17.08.440 Street, road, drive, alley or entrance, public.

“Public street, road, drive, alley or entrance” means all property intended for use by vehicular traffic which has been dedicated to the public or deeded to a political subdivision. (Ord. 112 § 6(87), 1983)

17.08.445 Structure.

“Structure” means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, “structures” includes buildings, mobile homes, billboards and poster panels. (Ord. 112 § 6(88), 1983)

17.08.450 Structural alterations.

“Structural alterations” means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance. (Ord. 112 § 6(89), 1983)

17.08.453 Terminal, truck.

“Truck terminal” means an establishment

for the receipt and delivery of freight, which may include an assembly, dividing, re-routing and dispatching of loads. It will typically include a building or buildings with docks or management offices or both. It shall not include a long-term inactive storage of freight nor exposed outside storage of used tires, parts or wrecked vehicles of any kind. (Ord. 163 (part), 1995)

17.08.455 Tourist home.

“Tourist home” means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for transients. (Ord. 112 § 6(90), 1983)

17.08.460 Trailer or mobile home.

See “Mobile home.” (Ord. 112 § 6(91), 1983)

17.08.465 Trailer or mobile home park.

See “Mobile home park or trailer park”. (Ord. 112 § 6(92), 1983)

17.08.470 Travel trailer or motor home.

“Travel trailer or motor home” means a vehicle customarily used for vacation or recreational purposes defined and licensed in accordance with Section 321.1(68), Code of Iowa, 1981. (Ord. 112 § 6(93), 1983)

17.08.475 Use.

“Use” means any activity, occupation, business or operation carried on, or intended to be carried on, in a building or structure, or on a tract of land. (Ord. 112 § 6(94), 1983)

17.08.480 Variance.

“Variance” means a device which grants a property owner relief from certain provisions of this title which the board of adjustment is permitted to grant in cases where strict enforcement of such provisions would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought. (Ord. 112 § 6(95), 1983)

17.08.485 Yard.

“Yard” means an open space on the same lot with a building or structure. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the depth shall be determined by measuring from the lot line to the furthest projection of the building at a height of thirty inches above the ground, except that the width of the overhang in excess of two feet shall be added to the depth requirement. In measuring a yard for the purpose of determining the width of a side yard, the same method employed to determine width of front and rear yards shall be used. (Ord. 112 § 6(96), 1983)

17.08.490 Yard, front.

“Front yard” means a yard extending across the full width of the lot and measured between the adjacent right-of-way line and the building. (See Examples of Yard Definitions.) (Ord. 112 § 6(97), 1983)

17.08.495 Yard, rear.

“Rear yard” means a yard extending across the full width of a 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 the lot from the front yard. (See Examples of Yard Definitions.) (Ord. 112 § 6(98), 1983)

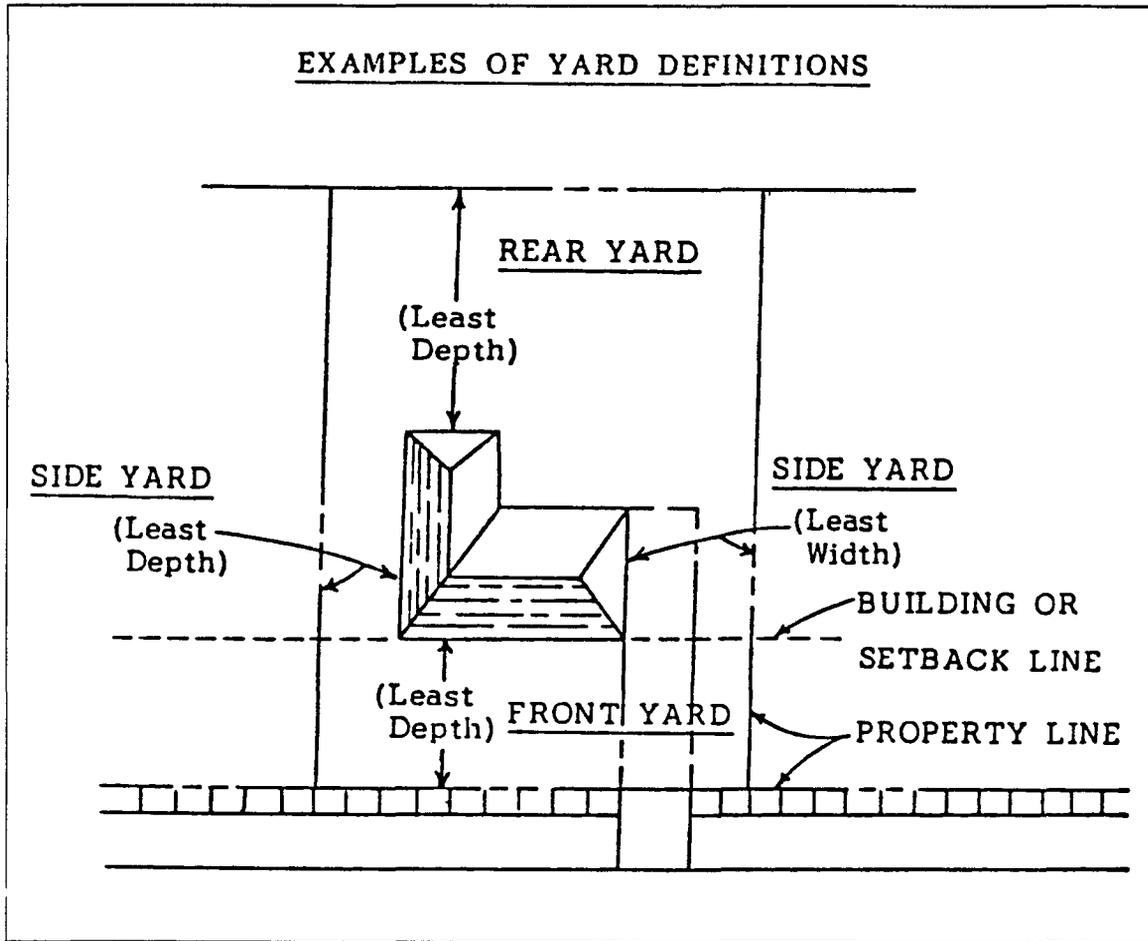
17.08.500 Yard, side.

“Side yard” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building. (See Examples of Yard Definitions.) (Ord. 112 § 6(99), 1983)

17.08.505 Zoning administrator.

“Zoning administrator” means the administrative officer designated or appointed by the city council to administer and enforce the regulations contained in this chapter. (Ord. 112 § 6(100), 1983)

EXAMPLES OF YARD DEFINITIONS



Chapter 17.12

ESTABLISHMENT OF DISTRICTS AND DISTRICT BOUNDARIES

Sections:

- 17.12.010** **Districts established.**
17.12.020 **Boundaries and official
map.**
17.12.030 **Zoning map adopted.**
17.12.040 **Interpretation of district
boundaries.**

17.12.010 **Districts established.**

For the purpose and intent of this title, the incorporated area of the city of Elk Run Heights, Iowa, is divided into six classes of districts. The use, height and area regulations are uniform in each class of district. The districts shall be known as:

- A. A agricultural district;
- B. R-1 residential district;
- C. R-2 residential district;
- D. R-3 multiple residential district;
- E. C commercial district; and
- F. I industrial district.

(Ord. 112 § 7(1), 1983)

17.12.020 **Boundaries and official map.**

A. The boundaries of these districts are indicated upon the official zoning map of Elk Run Heights, which, with all notations, designations, references and other matters shown thereon, shall be as much a part of this title as if fully described and set forth in this title. The official zoning map shall be posted in the public office of the City Hall of Elk Run Heights, Iowa.

B. If, in accordance with the provisions of this title, changes are made in the district boundaries or other matters portrayed on the

official zoning map, the resolution number and date of such change shall be recorded by the city clerk on the official zoning map.

C. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the city council by resolution shall adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. (Ord. 112 § 7(2), 1983)

17.12.030 **Zoning map adopted.**

The ordinance codified in this chapter adopts the proposed digital official zoning map, including paper copy, as the Official Elk Run Heights Zoning Map. (Ord. 199 § 2, 2003)

17.12.040 **Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of the various districts as shown on the official zoning map accompanying the ordinance codified in this title and made a part of this title, the following rules shall apply:

A. Boundaries indicated as approximately following the centerlines of streets, highways, alleys or other public

rights-of-way shall be constructed to follow such centerlines; upon the vacation of the public right-of-way, the boundaries shall be interpreted as following the condition of the former right-of-way;

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

C. Boundaries indicated as approximately following city limits shall be construed as following city limits;

D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

E. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline boundaries indicated as approximately following the centerline of stream, river or other bodies of water shall be construed to follow such centerline;

F. Boundaries not capable of being determined in the previous subsections shall be as dimensioned on the official zoning map or if not dimensioned shall be determined by the scale shown on the map. (Ord. 112 § 7(3), 1983)

Chapter 17.16

GENERAL REGULATIONS AND PROVISIONS

Sections:

- 17.16.010 New annexations—
District designation.
- 17.16.020 Conformance required.
- 17.16.030 Building location
restrictions.
- 17.16.040 Continuing existing
uses.
- 17.16.050 Nonconforming uses
and structures.
- 17.16.060 Water supply and
sewage disposal.
- 17.16.070 Accessory uses.
- 17.16.080 Lot sizes.
- 17.16.090 Area regulations.
- 17.16.100 Street frontage
required.
- 17.16.110 Corner lots.
- 17.16.120 Lot area computation.
- 17.16.130 Reduction of lots.
- 17.16.140 Approved plats.
- 17.16.150 Pending applications for
building permits.
- 17.16.160 Gasoline filling stations.
- 17.16.170 Home occupations.
- 17.16.180 Development and use of
rezoned land—Time
limitations.
- 17.16.185 Dwelling standards.
- 17.16.190 Watercourse alterations.
- 17.16.010 New annexations—District
designation.

All territory which may hereafter be annexed to the city shall automatically be classified as in the A agricultural district until such classification shall have been

changed by an amendment to the zoning ordinance, as provided by law. (Ord. 112 § 8(1), 1983)

17.16.020 Conformance required.

Except as provided, no building, structure or premises shall hereafter be used, and no building shall be erected, extended, converted, moved, rebuilt or altered except in conformity with all the district regulations established by this title for the district in which it is located. (Ord. 112 § 8(2), 1983)

17.16.030 Building location restrictions.

Every building hereafter erected or structurally altered shall be located on a lot as defined in this title, and in no case shall there be more than one main building on one lot, unless otherwise provided by this title. More than one industrial, commercial, multiple dwelling or institutional building may be erected upon a single lot or tract in a district permitting these uses, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such building nor shall there be any change in intensity of use regulations. (Ord. 112 § 8(3), 1983)

17.16.040 Continuing existing uses.

The lawful use of a building existing at the time of the enactment of the ordinance codified in this title may be continued even though such use may not conform with the regulations of this chapter for the district in which it is located. Such use shall become known as

a nonconforming use and shall be subject to the provisions of this chapter. (Ord. 112 § 8(4), 1983)

17.16.050 Nonconforming uses and structures.

No existing building or premises devoted to a use not permitted by this title in the district in which such building or premises is located, except when required by law, shall be enlarged, extended, reconstructed, substituted or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building or premises is located except as follows:

A. Restoration. Any nonconforming building or structure damaged more than sixty percent of its replacement value, exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot or act of God, shall not be restored or reconstructed and used as before such happening, but if less than sixty percent damaged above the foundation, it may be restored, reconstructed or used as before; provided, that it be started within six months of such happening, and be built of like or similar materials.

B. Discontinuance. Whenever any nonconforming use of a building, structure or land has been discontinued for a period of six months, such use shall not thereafter be reestablished and any subsequent use shall be in conformance with the regulations of this title.

C. Substitution. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use of a

building, structure or land has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

D. Repairs and Maintenance. Ordinary repairs and maintenance of a structure containing a nonconforming use shall be permitted. (Ord. 112 § 8(5), 1983)

17.16.060 Water supply and sewage disposal.

Every residence, business, trade or industry hereafter established, which requires water supply and sewage disposal facilities, shall provide facilities which conform with the regulations of the city of Elk Run Heights and the county department of health. (Ord. 112 § 8(6), 1983)

17.16.070 Accessory uses.

A. Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.

B. Accessory uses may be erected or established upon any lot or tract of land; provided, that they comply with the following:

1. No accessory use is permitted within the limits of a front yard;

2. Accessory uses shall not be located nearer to the side or rear lot line than is permitted within each designated zoned district;

3. An accessory building which is not a part of the principal building shall not occupy more than thirty percent of the rear yard; however, this regulation shall not be interpreted to prohibit the construction of a four hundred forty square foot garage on a minimum rear yard;

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4. No accessory building shall be used for dwelling purposes. (Ord. 112 § 8(7), 1983)

17.16.080 Lot sizes.

No building or structure, or part thereof, shall hereafter be built, moved or remodeled and no building, structure or land shall hereafter be used, occupied, arranged or designed for use or occupancy on a lot which is smaller in area, or area per dwelling unit, narrower in width, or shallower in depth than the minimum requirements of the district in which the land is located. (Ord. 112 § 8(8), 1983)

17.16.090 Area regulations.

No building or structure, or part thereof shall hereafter be built or moved or remodeled and no building, structure or land shall hereafter be used, occupied or designed for use or occupancy so as to provide any setback or front, side or rear yard that is less than that specified for the zoning district in which such district or use of land is located or maintained. (Ord. 112 § 8(9), 1983)

17.16.100 Street frontage required.

Except as permitted in this title, no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least forty feet on at least one street, or unless it has an exclusive unobstructed private easement of access or be not more than one single-family dwelling for such frontage or easement, except that a common easement of access at least twenty-four feet wide may be provided for two or more such single-

family dwellings or for one or more two-family or multiple dwellings. (Ord. 112 § 8(10), 1983)

17.16.110 Corner lots.

For corner lots, platted after the effective date of the ordinance codified in this title, the street side yard shall be equal in width to the setback regulations of the lots to the rear having frontage on the intersecting street. The side yard regulation shall apply to the longer street side of the lot except in the case of reverse frontage where the corner lot faces an intersecting street. In this case, there shall be a side yard on the longer street side of the corner lot of not less than fifty percent of the setback required on the lots to the rear of such corner lot, and no accessory building on such corner lot shall project beyond the setback line of the lots in the rear. (Ord. 112 § 8(11), 1983)

17.16.120 Lot area computation.

In all districts, lot area requirements shall be computed exclusive of street, road, alley or highway right-of-way. (Ord. 112 § 8(12), 1983)

17.16.130 Reduction of lots.

No lot shall be sold, divided or set off in such a manner that either the portion sold, divided or set off, or the portion remaining shall be less than the minimum size prescribed by the regulators relating to the district in which it is located unless it becomes a part of an adjacent lot meeting those requirements. No part of a yard, acreage or other open space provided about any building or structure for the purpose of complying with the provisions of this title shall be

included as part of a yard, acreage or other open space required under this title for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this title. (Ord. 112 § 8(13), 1983)

17.16.140 Approved plats.

Whenever the plat of a land subdivision on record in the office of the county recorder shows a setback building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this title unless specific yard requirements in this title require a greater setback. (Ord. 112 § 8(14), 1983)

17.16.150 Pending applications for building permits.

Nothing contained in this title shall require any change in the overall layout, plans, construction, size or designated use of any building, or part thereof, for which approvals and required building permits have been granted before the enactment of the ordinance codified in this title, the construction which, conforming with such plans, shall have been started prior to the effective date of the ordinance codified in this title and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control. (Ord. 112 § 8(15), 1983)

17.16.160 Gasoline filling stations.

A. No gasoline filling station or a commercial customer or employee parking lot for twenty-five or more motor

vehicles, or a parking garage or automobile repair shop, shall have an entrance or exit for vehicles within two hundred feet along the same side of a street, of any school, public playground, church, hospital, public library or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut.

B. No gasoline filling station or public garage shall be permitted where any fuel filling appliance is located within twelve feet of any street line or within twenty-five feet from any R district where such appliance is within a building.

C. In any district where permitted, a service station shall be subject to the following regulations:

1. The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard area;

2. All major repair work shall be done within a completely enclosed building;

3. All automobile parts, dismantled vehicles and merchandise shall be stored within the confines of the building during the hours when the business is not operating. (Ord. 112 § 8(16), 1983)

17.16.170 Home occupations.

A home occupation shall encompass not more than one-half of the floor area of any one floor within the habitable area of the residence or an adjoining enclosed structure, and employ no more than one nonresident assistant. An adjoining enclosed structure shall not be used for automobile repair storage or other related purposes. Only one nonilluminated sign is permitted which can be no

larger than two square feet, and must be placed flat against any one side of the residence. A home occupation must be approved by the city council after receiving a recommendation from the city planning and zoning commission. In the event that the home occupation is discontinued or the premises are vacated or sold, a new application must be applied for, before a new occupant may continue or establish a home occupation. (Ord. 112 § 8(17), 1983)

17.16.180 Development and use of rezoned land—Time limitations.

Unless any lot, tract or parcel of land which has been zoned to a less restrictive classification than A agricultural district as provided in this title, has been used or developed within two years from such rezoning, or unless there exists an unexpired building permit for the development thereof at the end of such two years, the city planning and zoning commission may, after seven days notice, in writing, to the property owner of such land and providing a reasonable opportunity to be heard, initiate and recommend to the city council that the land be rezoned to its zoning classification as established at the date of the passage of the ordinance codified in this title. (Ord. 112 § 8(18), 1983)

17.16.185 Dwelling standards.

The following standards shall apply to all new dwellings.

A. The dwelling shall be affixed to a permanent foundation system, in accordance with the Uniform Building Code standards.

B. The minimum average dimension of the width of the main body of the dwelling unit shall not be less than twenty feet.

C. The minimum floor area shall be as follows:

1. Single-family dwelling, one story—R-1-1,040 square feet; R-2-950 square feet;

2. Single-family dwelling, two story—R-1-1,370 square feet; R-2-1,280 square feet;

3. Single-family dwelling, three story—R-1-1,690 square feet; R-2-1,600 square feet;

4. Two-family dwelling, one story—860 square feet per dwelling unit;

5. Two-family dwelling, two story—1,220 square feet per dwelling unit;

6. Two-family dwelling, three story—1,600 square feet per dwelling unit;

7. Multiple-family dwelling—400 square feet per dwelling unit. (Ord. 164, 1996; Ord. 148 (part), 1991)

17.16.190 Watercourse alterations.

Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. This shall include natural waterways. (Ord. 148 (part), 1991)

Chapter 17.20

SUPPLEMENTAL REGULATIONS AND MODIFICATIONS

Sections:

- 17.20.010 Off-street loading.
- 17.20.020 Off-street parking.
- 17.20.030 Outdoor advertising signs and billboards.
- 17.20.040 Height exceptions.
- 17.20.050 Temporary buildings.
- 17.20.060 Fences.

17.20.010 Off-street loading.

In all districts, spaces for loading and unloading shall be provided in accordance with the following minimum requirements: In any district, in connection with any use permitted by this title having a gross floor area of ten thousand square feet or more, there shall be at least one off-street loading space plus one additional such loading space for each additional twenty thousand square feet or major fraction thereof of gross floor area; and, each such loading space shall be not less than twelve feet in width and forty feet in length. (Ord. 112 § 9(1), 1983)

17.20.020 Off-street parking.

A. In conjunction with any principal building hereafter erected or any use of land hereafter established, there shall be provided on the same lot therewith sufficient parking spaces to meet the minimum requirements specified herein:

1. Auditoriums, assembly halls, dance halls, theaters, gymnasiums and skating rinks: One space for each four seats or bench seating capacity;

2. Boarding, rooming or lodging-houses: One space for each rented sleeping room;

3. Bowling alleys: Four spaces per each lane;

4. Churches: One space for each five seats or pew seating capacity in the main seating area;

5. Dwellings: Two spaces for each dwelling unit;

6. Home occupations: Two spaces per dwelling unit plus one space for each two hundred feet of floor area devoted to such home occupation;

7. Hospitals, sanitariums, homes for the aged, nursing homes or similar institutions: One space for each three beds, plus one for each two employees;

8. Hotels or motels: One space for each sleeping room or suite, plus one space for each two hundred square feet in commercial floor area contained therein;

9. Industrial and/or manufacturing: One space for each two employees on the maximum working shift, plus space to accommodate all trucks and other vehicles used in connection therewith;

10. Offices, business and professional agencies, banks, medical or dental clinics: Six spaces, plus one additional parking space for each four hundred square feet of floor area over one thousand square feet;

11. Private clubs or lodges: One space for every seven memberships;

12. Restaurants, night clubs, cafes or similar recreation or amusement establishments: Three spaces for each one hundred square feet of floor area;

13. Retail stores or personal service establishments: One space for each two hundred square feet of floor area;

14. Wholesale establishments and warehouses: One space for each two employees.

B. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of a similar nature.

C. Whenever a building existing prior to the effective date of the ordinance codified in this title is enlarged to the extent of twenty-five percent or more in floor area, such building or use shall then and thereafter comply with the parking requirements set forth in this title. (Ord. 112 § 9(2), 1983)

17.20.030 Outdoor advertising signs and billboards.

The regulations governing outdoor advertising signs and billboards shall comply with all state and federal regulations.

A. In all districts, where permitted, billboards shall be set back from any proposed or existing right-of-way line of any county road, street or highway, at least as far as the required front yard depth for a principal building in such districts. This is not to include business identification, directional and other incidental signs otherwise permitted under the provisions of this chapter.

B. No outdoor advertising sign or billboard shall be permitted within a corner lot when the sides are formed by the lines of streets intersecting at an angle of less than sixty degrees and a line joining points on such lines one hundred fifty feet distant from their point of intersection. Signs shall be located in such a manner as not to obscure or otherwise

interfere with the effectiveness of an official traffic sign, signal or device or which will obstruct, or interfere with the driver's view of approaching, merging or intersecting traffic.

C. Portable signs of a temporary nature, such as trailer mounted, shall be of a maximum four-by-eight foot size, and nonilluminated. These signs will be allowed in all districts for a total of seven consecutive days after which they must be removed for a period of thirty consecutive days before they may be reinstated.

D. Business Signs.

1. Signs, any part of which project out from the building from four to eighteen inches shall be erected so that no portion of the sign is less than eight feet above grade.

2. Signs which project more than eighteen inches from the building must be at least twelve feet above grade and may extend a maximum of eight feet in height.

3. Moving, flashing, rotating, illuminated signs or colored lights that may be confused with traffic lights and therefore be potentially hazardous, are not permitted.

4. Freestanding commercial or industrial signs shall not project over the public right-of-way.

5. Signs shall be structurally safe and in good repair, including signs connected to a building facade.

6. One temporary on-site sign, not illuminated and not exceeding four square feet in size advertising the sale or rental of the property may be placed in a required front yard without a permit. Any sign advertising the sale or rental of

property exceeding four square feet in size is required to have a permit. (Ord. 112 § 9(3), 1983)

17.20.040 Height exceptions.

The district regulations as set forth in this section shall qualify or supplement as the case may be:

A. Public, semipublic or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to height not exceeding sixty feet and churches and temples may be erected to a height not exceeding seventy-five feet if the building is set back from side and rear yard lines heretofore established an additional foot for each two feet of building height above the height limit otherwise imposed in the district in which the building is located;

B. Single-family and two-family dwellings may be increased in height by not more than ten feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten feet, but they shall not exceed three stories in height;

C. Chimneys, cooling towers, elevators, bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio towers and necessary mechanical apparatus, may be erected to any safe height not in conflict with existing or hereafter adopted regulations of the city. (Ord. 112 § 9(4), 1983)

17.20.050 Temporary buildings.

Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period the work is underway, but such temporary buildings shall be removed upon the completion of

the construction work as determined by the administrative officer. (Ord. 112 § 9(5), 1983)

17.20.060 Fences.

A. Fences. The following fences shall be regulated:

Types: 1. Constructed: posts/rails, panels, stacked blocks, woven wire, etc.;

2. Naturally grown: trees, bushes, shrubs, hedges, etc.

B. Location Restrictions. Unless otherwise provided by this title or other section of this code, no fence shall be placed on any lot or tract outside the surveyed lot lines of a property. Proof of lot line location shall be provided by the property owner, or his representative, prior to receiving a permit for installing a fence along a lot line.

C. Required Openings. Unless otherwise provided by this title or other sections of this code, any fence installed on residential property within required front or street side yards shall contain openings constituting no less than fifty percent of the surface of the fence.

No fence shall cause an unsafe condition to pedestrian or vehicular traffic, by obscuring the visibility available to vehicles exiting a driveway.

No fence shall obscure clear view of traffic at intersections, or create a safety hazard to pedestrians or vehicular traffic in the "sight triangle," an area forming a triangle bounded by the street right-of-way lines or property lines of a corner lot and a straight line joining points on the right-of-way lines twenty-five feet from the point of intersection of the right-of-way or property lines (see sight triangle illustration).

D. Effect on Adjacent Properties. No fence shall damage adjacent property by obstructing views, inhibiting solar access or hindering ventilation.

The finished/decorative surface of any fence shall face toward adjacent properties and street frontage.

E. Required Permits. In addition to proof of lot line location, an illustration of proposed fence installation...including type of fence, materials to be used and dimensions for placement of fence, shall be required for issuance of permit.

“Iowa One Call” shall be contacted (800-292-8989) at least two days prior to any digging or excavation, in order to locate underground utilities.

F. Residential Fences. Fences installed within R-1, R-2 and R-3 districts are subject to the following provisions:

1. Heights. The maximum height of a fence within a front yard or street side yard setback shall be four feet. The maximum height for any fence in any other part of the yard will be six feet, except that a privacy fence may be eight feet, as long as it is located no nearer the street than on the building line in a front yard and street side yard;

2. Materials. Constructed fences shall be made of wood, chain link, PVC/resin, bonded paint steel panels or masonry materials only;

3. Civic Uses in Residential Districts. The maximum height of fences installed as part of primary and secondary educational facilities or park and recreation use types within residential zoning districts shall be the same as those for residential users.

G. Agricultural Fences. Barbed wire and/or electrified fences are permitted only within agricultural districts; however, no wire fences or livestock fences shall be permitted within any street yard. Height and material restrictions shall be the same as commercial and industrial districts.

H. Commercial and Industrial Fences. Fences installed in commercial and indus-

trial districts are subject to the following provisions:

1. The maximum height of a fence for any permitted use in a commercial district shall be eight feet. The maximum height for any permitted use in an industrial district shall be eight feet* (see subsection (H)(2) of this chapter).

2. The board of adjustment may approve greater fence heights on a case by case basis, if it concludes that such permission furthers the health, safety and welfare of the residents of Elk Run Heights.

I. Nonconforming Fences. The lawful use of a fence existing at the effective date of the ordinance codified in this chapter may be continued, although such fence does not conform to the provisions set forth in this ordinance. Any extension or alteration of an existing nonconforming fence must meet the provisions of the ordinance codified in this chapter, as for new fences.

J. Appeals. Denials, revocations or cancellations of a building permit, based on the provisions of this section, may be appealed to the board of adjustment as set forth in Chapter 17.60 of this code. (Ord. 203, 2005; Ord. 112 § 9(6), 1983)

Chapter 17.24

A AGRICULTURAL DISTRICT

Sections:

- 17.24.010 Purpose.**
- 17.24.020 Permitted uses.**
- 17.24.030 Permitted accessory uses.**
- 17.24.040 Height regulations.**
- 17.24.050 Area regulations.**

17.24.010 Purpose.

The A agricultural district is designed to preserve agricultural resources from incompatible nonagricultural uses until such time as they are ready to be developed. (Ord. 112 § 10 (part), 1983)

17.24.020 Permitted uses.

Principal permitted uses in the A agricultural district are as follows:

- A. Agriculture and the usual agricultural buildings and structures, but not on a scale that would be obnoxious to adjacent areas because of noise or odors. This provision shall not be construed to allow livestock husbandry of common farm-type animals or specialized poultry, pigeon, rabbit and other animal farms;
- B. One-family dwellings;
- C. Truck gardening, private nurseries and greenhouses;
- D. Private riding stables. Such structure must be located at least one hundred feet from all boundary lines of the property on which it is located;
- E. Grain elevators with usual accessory structures;
- F. Forest and forestry activities;
- G. Parks, playgrounds, recreational fields, golf courses and public and private outdoor recreation facilities;

H. Cemeteries, both public and private (minimum ten acres);

I. Public utility structures and the necessary equipment for the operation thereof;

J. Transmitting stations and towers shall be subject to the recommendation of the planning and zoning commission and the approval of the city council. The base of the tower must be located a distance at least equal to the height of the tower from all of the lot lines;

K. Airports and landing fields; provided, that adequate approach and clear zones are obtained;

L. Buildings erected and used by a department of the federal, state, county or municipal governments;

M. Mining, extraction and processing of sand, gravel, top soil, or other natural resources provided the land is restored to a condition suitable for the permitted uses of this district subject to recommendations of the planning and zoning commission and approval by city council. The city council may require special conditions for such use. (Ord. 194 § 1, 2002; Ord. 148 (part), 1991; Ord. 112 § 10(1), 1983)

17.24.030 Permitted accessory uses.

The following accessory uses and structures shall be permitted in the A agricultural district; provided, that they conform to the requirements of Chapter 17.16 of this title:

- A. Accessory uses and structures normally incidental and subordinate to the permitted principal uses, and structures which are primarily adopted by reason of nature and area for use for agricultural purposes;
- B. Home occupations;
- C. Private garage or carport;

D. One temporary board or sign not to exceed fifty square feet in area referring to the construction, lease, hire or role of a building premise, or lots; which sign shall refer to property on which the sign is located, and shall be removed as soon as the premises are sold or leased or construction completed;

E. Temporary buildings or structures for uses incidental to construction work, which shall be removed upon the completion or abandonment of the construction work;

F. Roadside stands, offering for sale only agricultural products or other products produced on the premises;

G. Signs, not exceeding ten square feet in area, identifying the premises or

indicating the product grown or material and equipment used on the premises. (Ord. 112 § 10(2), 1983)

17.24.040 Height regulations.

No limitations; provided, however, that no structure shall be permitted to extent into the approach zone, or clear zones or other restricted air space required for the protection of any public airport. (Ord. 112 § 10(3), 1983)

17.24.050 Area regulations.

The minimum area regulations that shall be observed in the A agricultural district are set out in Table 17.24.050. (Ord. 112 § 10(4), 1983)

Table 17.24.050

A Agricultural District Area Regulations

Use	Lot Area (in acres)	Lot Width (in feet)	Yard Requirement		
			Front (in feet)	Side (in feet)	Rear (in feet)
Dwellings (farm)	35	330	50	25	50
Single-family dwellings	2	200	50	25	50
Other permitted uses ¹	Recommendation of the planning and zoning commission and approval of the city council				
Accessory uses			50 ³	50 ²	50 ²

¹Subsections (I), (J), (K) and (L) of Section 17.24.020, permitted principal uses, are exempt from minimum lot size; however, such lot size shall be at the discretion of the planning and zoning commission with approval of the city council.

²If in rear yard, it may be placed within four feet of the side or rear lot line.

³Subsections (D), (E) and (F) of Section 17.24.030, permitted accessory uses, are exempt from front yard setbacks.

Chapter 17.28

R-1 RESIDENTIAL DISTRICT

Sections:

- 17.28.010 Purpose.**
17.28.020 Permitted uses.
17.28.030 Permitted accessory uses.
17.28.040 Height regulations.
17.28.050 Area regulations.

17.28.010 Purpose.

The R-1 residential district is designed to provide areas of low density single-family housing. (Ord. 112 § 11 (part), 1983)

17.28.020 Permitted uses.

Principal permitted uses in the R-1 residential district are as follows:

- A. Single-family dwellings;
- B. Churches and institutions of a religious, philanthropic or charitable character, including public libraries;
- C. Public and parochial schools, and other educational institutions having an established current curriculum similar as ordinarily given in public schools;
- D. Public utility structures and equipment necessary for the operation thereof;
- E. Parks, playgrounds, recreational fields and outdoor recreational facilities, which are not conducted for commercial ventures;
- F. Factory-built housing, except mobile homes. (Ord. 148 (part), 1991; Ord. 112 § 11(1), 1983)

17.28.030 Permitted accessory uses.

Permitted accessory uses in the R-1 residential district are as follows:

A. Accessory uses and structures normally incidental and subordinate to the permitted principal uses, such as garages, tool storage buildings and fences;

~~B. Home occupations;~~

C. One temporary board or sign not to exceed fifty square feet in area pertaining to the construction, lease, hire or role of a building, premises or lots; which sign shall refer to property on which the sign is located, and shall be removed as soon as the premises are sold, leased or construction completed;

D. Temporary buildings or structures for uses incidental to construction work, which shall be removed upon the completion or abandonment of the construction work;

E. Church bulletin boards. (Ord. 112 § 11(2), 1983)

17.28.040 Height regulations.

Height regulations in the R-1 residential district are as follows:

A. Principal uses. Two and one-half stories or thirty-five feet, whichever is lower.

B. Accessory Uses. One story or eighteen feet, whichever is lower. (Ord. 112 § 11(3), 1983)

17.28.050 Area regulations.

The minimum regulations that shall be observed in the R-1 residential district are set out in Table 17.28.050. (Ord. 112 § 11(4), 1983)

Table 17.28.050

R-1 Residential District Area Regulations

Use	Lot Area (in sq. ft.)	Lot Width (in feet)	Yard Requirement		
			Front (in feet)	Side (in feet)	Rear (in feet)
Single-family dwelling	8,400	70 <i>X 120</i>	25	7	30
Other permitted uses	10,000	100 <i>X 100</i>	30	10	30
Accessory structures ¹					

¹Two feet side and rear yard from furthest projection, if accessory structure is located in rear yard and at least five feet behind dwelling unit.

Chapter 17.32

R-2 RESIDENTIAL DISTRICT

Sections:

- 17.32.010 Purpose.**
- 17.32.020 Permitted uses.**
- 17.32.030 Permitted accessory uses.**
- 17.32.040 Height regulations.**
- 17.32.050 Area regulations.**

17.32.010 Purpose.

The R-2 residential district is designed to provide areas of medium density housing and for transitional uses. (Ord. 112 § 12 (part), 1983)

17.32.020 Permitted uses.

Principal permitted uses in the R-2 residential district are as follows:

- A. Any use permitted in the R-1 residential district;
- B. Two-family dwellings;
- C. Day nursery, nursery school or day care facilities (private or public). (Ord. 148 (part), 1991; Ord. 112 § 12(1), 1983)

17.32.030 Permitted accessory uses.

Permitted accessory uses in the R-2 residential district are as follows:

- A. Accessory uses as permitted in the R-1 residential district;
- B. Other accessory uses and structures, not otherwise prohibited, and customarily accessory and incidental to any principal permitted use. (Ord. 148 (part), 1991; Ord. 112 § 12(2), 1983)

17.32.040 Height regulations.

Height regulations in the R-2 residential district are as follows:

- A. Principal Uses. Three stories or forty feet, whichever is lower.
- B. Accessory Uses. One story or eighteen feet, whichever is lower. (Ord. 112 § 12(3), 1983)

17.32.050 Area regulations.

The minimum regulations that shall be observed in the R-2 residential district are set out in Table 17.32.050. (Ord. 148 (part), 1991; Ord. 112 § 12(4), 1983)

Table 17.32.050

R-2 Residential District Area Regulations

Use	Lot Area (In sq. ft.)	Lot Width (in feet)	Yard Requirement		
			Front (in feet)	Side (in feet)	Rear (in feet)
Single-family dwellings	7,000	60	25	5	25
Two-family dwellings	8,400	70 <i>or 120</i>	25	7	25
Other permitted uses	10,000	80	30	7	30

Accessory structures ¹

¹Two feet side and rear yard from furthest projection, if accessory structure is located in rear yard and at least five feet behind dwelling unit.

Chapter 17.36

R-3 MULTIPLE RESIDENTIAL DISTRICT

Sections:

- 17.36.010 Purpose.
- 17.36.020 Permitted uses.
- 17.36.030 Permitted accessory uses.
- 17.36.040 Height regulations.
- 17.36.050 Area regulations.

17.36.010 Purpose.

The R-3 multiple residential district is intended and designed to provide for multiple-family dwellings, mobile home parks, hotels, motels and small commercial offices at a high density. (Ord. 148 (part), 1991; Ord. 112 § 13 (part), 1983)

17.36.020 Permitted uses.

Principal permitted uses in the R-3 multiple residential district are as follows:

- A. Day nursery, nursery school or day care (private or public);
- B. Multiple-family dwellings; ↩
- C. Mobile home parks;
- D. Funeral homes and mortuaries;
- E. Hotels, motels and auto courts, in which retail shops may be operated for convenience of the occupants of the building; provided, however, that there shall be no entrance to such place of business, except from the inside of the building, nor shall any display of stock or goods for sale be so arranged that it can be viewed from the outside of the building;
- F. 1. Offices such as:
 - a. Accountants,
 - b. Architects,
 - c. Art schools,

- d. Artists,
- e. Barber shops,
- f. Beauty shops,
- g. Civil engineers,
- h. Collection agencies,
- i. Credit bureaus,
- j. Dental offices,
- k. Insurance,
- l. Lawyers,
- m. Medical offices with dispensary,
- o. Nurses registry,
- p. Psychologists,
- q. Public stenographers,
- r. Real estate.

2. Other uses similar to the foregoing designated uses, but subject to review by the city zoning commission and approval of the city council;

G. Tourist home;

H. Hospitals, nursing and convalescent homes, and clinics, subject to recommendation of the planning and zoning commission and approval of the city council. The city council may require special conditions for such use. (Ord. 148 (part), 1991; Ord. 112 § 13(1), 1983)

17.36.030 Permitted accessory uses.

Permitted accessory uses in the R-3 residential district are as follows:

- A. Accessory uses permitted in the R-2 residential district;
- B. Other accessory uses and structures, not otherwise prohibited, customarily accessory and incidental to any permitted principal use, including an indirectly nonflashing lighted sign not to exceed one square foot for each five feet of frontage of property occupied by the use in question.

Table 17.36.050

R-3 Multiple Residential District Area Regulations

Use	Lot	Lot Width (in feet)	Lot Area Per Family (in sq. ft.)	Yard		
				Front (in feet)	Side (in feet)	Rear (in feet)
Multifamily and other permitted uses:						
1 and 1 1/2 stories	8,000 sq. ft.	65	2,000 for the first 4	20	10	35
2 and 1/2 stories	8,000 sq. ft.	65	units plus 850 per	20	10	35
3 stories	8,000 sq. ft.	70	unit on 1st, 2nd,	20	10	35
4 or more stories	10,000 sq. ft.	80	and 3rd floor	20	10	35
Motels and auto courts ¹	1 acre	100	1,500 per unit	25	20	40
Mobile home parks ¹	1 acre	100	3,000 per unit	25	20	40
Accessory uses ²				—	—	—
¹ All access drives to motels, auto courts and mobile home parks shall be all weather, dust-tree surfacing. Above yard requirements for motels, auto courts, and mobile home parks apply to total area and no individual units. Side yard requirements for motels, auto courts and mobile home parks may be reduced to ten feet where such motel, court or part abuts a less restrictive zoning district.						
² Two feet side and rear yard from furthest projection, if accessory structure is located in rear yard and at least five feet behind dwelling unit.						

C. Storage garages for personal belongings and tools relevant to the maintenance of buildings where the lot is occupied by a multiple dwelling, a hospital or an institutional building. (Ord. 148 (part), 1991; Ord. 112 § 13(2), 1983)

17.36.040 Height regulations.

No buildings shall exceed three stories or forty-five feet in height, whichever is lower, except additional height for additional stories may be added at the rate of two feet in height for each one foot that the building or portion thereof is set back from the required yard lines. (Ord. 112 § 13(3), 1983)

17.36.050 Area regulations.

The minimum regulations that shall be observed in the R-3 residential district are set out in Table 17.36.050. (Ord. 148 (part), 1991; Ord. 112 § 13(4), 1983)

Chapter 17.40

C-1 CENTRAL COMMERCIAL DISTRICT

Sections:

- 17.40.010 Purpose.**
- 17.40.020 Permitted uses.**
- 17.40.030 Permitted accessory uses.**
- 17.40.040 Height regulations.**
- 17.40.050 Area regulations.**

17.40.010 Purpose.

The C-1 central commercial district is designed to accommodate the needs of the central business district, allowing a wide range of services and goods permitted for consumer daily and occasional shopping and service needs. (Ord. 172 (part), 1998)

17.40.020 Permitted uses.

Principal permitted uses in the C-1 central commercial district are as follows:

1. Any use permitted in the R-3 multiple residential district except multiple-family dwellings and mobile home parks;
2. Auto parts stores;
3. Bakeries and others whose products are sold only on the premises;
4. Barber and beauty shops;
5. Banks and other financial institutions;
6. Business, professional offices and governmental offices;
7. Clothing stores;
8. Florist and gift shops;
9. Hardware stores;
10. Jewelry stores;
11. Medical and dental clinics;
12. Pharmacy;
13. Public buildings, playgrounds, community buildings, public parks;
14. Public utilities;

15. Restaurants;
16. Television and appliance repair and sales;
17. Video/movie film and equipment rental;
18. Accessory uses and buildings which are customarily incidental to the above stated uses and including temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work;

19. Churches;

20. Carpenter shops (Subject to Provision 1.) Definition: A business engaged in building or repairing wooden items for consumer, residential or commercial customers;

21. Electrical, plumbing and heating shops (Subject to Provision 1.) Definition: A business engaged in fabrication, repair and sales of residential or commercial electrical and/or HVAC systems or components;

22. Small engine repair shops (Subject to Provision 1.) Definition: A business engaged in the maintenance, repair, overhaul and sales of repair parts for small gasoline engines, used in yard and garden equipment;

23. Used car lots (Limited) (Subject to Provisions 1 and 2.) Definition: A business engaged in sales and/or trade of automobiles and trucks with a maximum ten thousand pound GVWR, and limited to twenty vehicles displayed on lot.

Provision 1. Front parking area shall be used for licensed motor vehicles only, and consist of concrete or asphalt paving. Front parking area shall not cause water runoff to negatively impact adjacent properties. Items stored in any rear yard shall be concealed from view of all adjacent properties, using solid fence of at least six feet in height (subject to provisions of Section 17.20.060).

Provision 2. Front parking area (display lot) shall allow a minimum of one hundred eighty

square feet per vehicle displayed. No more than twenty vehicles shall be displayed as 'For Sale'. Only vehicles that are fully-functional and legal for operation on public roads shall be allowed on display lot. Any inoperable vehicles (or parts thereof) shall only be allowed within building or fenced rear yard. (Ord. 211 § 1, 2008; Ord. 210 § 1, 2007; Ord. 172 (part), 1998)

17.40.030 Permitted accessory uses.

Permitted accessory uses in the C-1 central commercial district deemed to be of the same general character as the foregoing permitted uses, but not including any use that may become obnoxious or offensive are as follows:

A. Apartment above first story level of a store or shop with off-street/on-site parking;

B. Grocery/convenience stores which may include gasoline sales. (Ord. 172 (part), 1998)

17.40.040 Height regulations.

Height regulations in the C-1 central commercial district are as follows:

A. Principal uses: two stories or thirty-five feet, whichever is lower;

B. Accessory uses: one story or eighteen feet, whichever is lower;

C. Exterior or roof sign: exterior or roof signs shall not exceed sixteen feet above the roof line. (Ord. 172 (part), 1998)

17.40.050 Area regulations.

The minimum regulations that shall be observed in the C-1 central commercial district are set out in Table 17.40.050.

Table 17.40.050**C-1 Central Commercial District Area Regulations**

Use	Lot Area (in acres)	Lot Width (in feet)	Yard Requirement		
			Front (in feet)	Side (in feet)	Rear (in feet)
Motels	1	100	25	20	40
Other permitted uses	As necessary	Only as required by a proposed right-of-way line	None except when adjacent R residential district, in which case not less than 15 feet		
Accessory buildings ¹					
¹ All accessory buildings shall not project the front building line of the principal building if the principal building setback line is increased.					

(Ord. 172 (part), 1998)

Chapter 17.42

C-2 OUTLYING COMMERCIAL DISTRICT

Sections:

- 17.42.010 Purpose.**
17.42.020 Permitted uses.
17.42.040 Height regulations.
17.42.050 Area regulations.

17.42.010 Purpose.

The C-2 outlying commercial district is intended and designed for business, professions and occupations which are located in areas other than the central business district, and require off-street parking areas and loading spaces. (Ord. 172 (part), 1998)

17.42.020 Permitted uses.

Principal permitted uses in the C-2 outlying commercial district are as follows:

1. Apartments above first story level of a store or shop, with off-street/on-site parking;
2. Apparel shops;
3. Art shops;
4. Automobile accessory stores;
5. Automobile, commercial truck and trailer, recreational vehicle, motorcycle and boat establishments for display, hire, rental and sales (including sales lots) and truck terminals;
6. Automobile, commercial truck and trailer, recreational vehicle, motorcycle, and boat service/repair establishments. This subsection shall not be construed to include automobile, tractor or machinery wrecking and rebuilding and used parts yards;
7. Bakeries or bakery outlets;
8. Banks, savings and loan associations and similar financial institutions;

9. Barbershops and beauty parlors;
10. Bicycle shops, sales and repair;
11. Bowling alleys;
12. Business offices, professional offices and studios;
13. Business and vocational schools;
14. Camera stores;
15. Carpenter and cabinet-making shops;
16. Car wash with truck bay;
17. Churches and temples;
18. Clothes cleaning and laundry pick-up stations;
19. Clothing stores;
20. Collection office of public utility;
21. Commercial parking lots and garages;
22. Confectionery stores, including ice cream or snack bars;
23. Dairy stores, retail only;
24. Dance studio;
25. Delicatessens;
26. Dental and medical clinics;
27. Department stores;
28. Drive-in restaurants;
29. Drug stores;
30. Dry goods stores;
31. Florist shops;
32. Furniture stores;
33. Gasoline filling stations;
34. Gift shops;
35. Grocery stores, including supermarkets;
36. Hardware stores;
37. Hobby stores;
38. Hotels and motels;
39. Household appliances, sale and repair;
40. Jewelry stores and watch repair shops;
41. Launderettes, coin-operated dry cleaning establishments and dry cleaning or pressing establishments using only nonflammable solvents;

- 42. Lawn mower repair shops;
- 43. Locker plant for storage and retail sales only;
- 44. Leather goods stores;
- 45. Lumberyards;
- 46. Music stores and music studios;
- 47. Office supplies shops;
- 48. Paint and wallpaper store;
- 49. Pet shops;
- 50. Photographic studios, printing and developing establishments;
- 51. Plumbing and heating shops;
- 52. Post offices;
- 53. Printing and lithographing shops;
- 54. Private clubs and lodges;
- 55. Publishing and engraving establishments;
- 56. Radio and television sales and repair shops;
- 57. **Rental storage buildings;** *
- 58. Restaurants and taverns;
- ✓ 59. Sheet metal shops;
- 60. Shoe and hat repair shops;
- 61. Sporting goods stores;
- 62. Tailor and dressmaking shops;
- 63. Theaters;
- 64. Toy stores;
- 65. Upholstering shops;
- 66. Used car lots;
- 67. Variety stores;
- 68. Video equipment rental and sales;
- 69. Accessory uses and buildings which are customarily incidental to the above stated uses but not including any use that may become obnoxious or offensive. (Ord. 172 (part), 1998)

17.42.040 Height regulations.

Height regulations in the C-2 outlying commercial district are as follows:

- A. Principal uses: three stories or forty-five feet, whichever is lower;

B. Accessory uses: one story or eighteen feet, whichever is lower;

C. Exterior or roof sign: exterior or roof signs shall not exceed sixteen feet above the roof line. (Ord. 172 (part), 1998)

17.42.050 Area regulations.

The minimum regulations that shall be observed in the C-2 outlying commercial district are set out in Table 17.42.050.

Table 17.42.050**C-2 Outlying Commercial District Area Regulations**

Use	Lot Area (in acres)	Lot Width (in feet)	Yard Requirement		
			Front (in feet)	Side (in feet)	Rear (in feet)
Motels	1	100	25	20	40
Other permitted uses	As necessary	Only as required by a proposed right-of-way line	None except when adjacent R residential district, in which case not less than 15 feet		

Accessory buildings ¹

¹All accessory buildings shall not project the front building line of the principal building if the principal building setback line is increased.

(Ord. 172 (part), 1998)

Chapter 17.44

I INDUSTRIAL DISTRICT

Sections:

17.44.010	Purpose.
17.44.020	Permitted uses.
17.44.030	Conditional uses.
17.44.040	Height regulations.
17.44.050	Area regulations.

17.44.010 Purpose.

The I industrial district is designed to provide for areas of industry which will be compatible with community needs and which will impact upon public services, and utilities and surrounding property. (Ord. 112 § 15 (part), 1983)

17.44.020 Permitted uses.

Principal permitted uses in the I industrial district are as follows:

1. Any use in the C commercial district; provided, that no structure shall be used for any dwelling, school, hospital, clinic or other institution for human care, except where incidental and necessary to a permitted principal use;

2. Farm implement establishment for the display, sale, hire and repair of such vehicles, including new and used sales lots;

3. Bakeries, other than those whose products are sold at retail only on the premises;

4. Carting, express, hauling or storage yards;

5. Circus, carnival or similar transient enterprise: provided such structures or buildings shall be at least two hundred feet from any R district;

6. Concrete mixing, concrete products manufacture and asphalt plant;

7. Contractors' equipment storage yard or plant, or rental of equipment commonly used by contractors, storage and sale of livestock, feed and/or fuel, provided dust is effectively controlled, and storage yards for vehicles of a delivery or draying service;

8. Creamery, cheese processing, bottling works, wholesale ice cream manufacturing, ice manufacturing and cold storage plant;

9. Enameling, lacquering or varnishing;

10. Foundry casting lightweight nonferrous metals or electric foundry not causing noxious fumes or odors;

11. Laboratories, experimental, film or testing;

12. Livery stable or riding academy;

13. Manufacture of musical instruments and novelties;

14. Lumber yards, and building material sales yard;

15. Manufacture or assembly of electrical appliances, instruments and devices;

16. Manufacture of pottery or other similar ceramic products, using only previously pulverized clay or kilns;

17. Manufacture and repair of electric signs, advertising structures, sheet metal products, including heating and ventilating equipment;

18. Sawmill, planing mill, including manufacture of wood products not involving chemical treatment;

19. Storage and warehouse businesses, but not including any manufacturing or fabricating;

20. The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals and food products;

21. The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather,

paper, plastics, metals, or stones, tobacco, wax, yarns and wood;

(22) Paint ball field and paint ball facility, which are designated for the supervised recreational use of paint ball guns and for the purpose of supervised paint ball activities, both indoor and outdoor. (Ord. 201 § 1, 2004; Ord. 170 § 1 (part), 1997; Ord. 163 (part), 1995; Ord. 112 § 15(2), 1983)

17.44.030 Conditional uses.

A. The following uses may be permitted in the I industrial district subject to approval of the city council after notice and public hearing and report from the planning and zoning commission. In its determination upon a particular use at the location requested, the council shall consider all of the following conditions:

1. That the proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;

2. That such use shall not impair an adequate supply of light and air to surrounding property;

3. That such use shall not unduly increase congestion in the streets, or public danger of fire and safety;

4. That such use shall not diminish or impair established property values in adjoining or surrounding property;

5. That such use shall be in accord with the intent, purpose and spirit of this title and the land use policies of the city of Elk Run Heights;

6. That the best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance, shall be employed;

7. That all principal buildings and all accessory buildings to structures, including loading and unloading facilities, shall be located at least two hundred feet from any R residential district and not less than one hundred feet from any other district.

B. The uses subject to the provisions of subsection A of this section are as follows:

1. Agricultural seeding processing, storage and sales;

2. Recycling center to include wood waste or reusable lumber, asphalt, concrete, plastic, cardboard/paper and metal, where the premises upon which such activities are conducted are wholly enclosed within a building with a roof. Recycling should not be construed to include waste or used tires. (Ord. 170 §§ 1 (part), 2, 1997; Ord. 112 § 15(2), 1983)

17.44.040 Height regulations.

There are no height regulations in the I industrial district. (Ord. 112 § 15(3), 1983)

17.44.050 Area regulations.

The minimum regulations that shall be observed in the I industrial district are set out in Table 17.44.050. (Ord. 112 § 15(4), 1983)

Table 17.44.050

I Industrial District Area Regulations

Use	Lot Area (in feet)	Lot Width (in feet)	Yard Requirement		
			Front (in feet)	Side (in feet)	Rear (in feet)
All uses	20,000	150	25	10	25 ¹
Accessory buildings	—	—	25	10	10

¹For every additional foot the front yard depth is increased over 25 feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than eight feet; and, in addition, if any portion of this rear yard is used for an enclosed off-street loading space, the area above such an enclosure may be used for building purposes.

Chapter 17.48**MOBILE HOMES AND MOBILE HOME PARKS****Sections:**

- 17.48.010 Mobile home location restrictions.**
- 17.48.020 Permitted uses.**
- 17.48.030 Permitted accessory uses.**
- 17.48.040 Design procedure, standards and requirements.**

17.48.010 Mobile home location restrictions.

Mobile homes to be used for dwelling purposes shall be placed only in mobile home parks except as may be set forth in this chapter. A mobile home park may be established only in a designated R residential district; provided, that a permit is secured as set forth herein. (Ord. 112 § 16 (part), 1983)

17.48.020 Permitted uses.

Permitted principal uses include:

- A. Single and double wide homes;
- B. Noncommercial community recreational facilities which are intended for the use of residents and their guests of the mobile home development;
- C. Service facilities which are intended exclusively for the use of the residents of the mobile home development;
- D. Buildings used for the management and maintenance of the development. (Ord. 112 § 16(1), 1983)

17.48.030 Permitted accessory uses.

The following accessory uses and structures shall be permitted in the designated mobile home park; provided, that they conform to the requirements of Chapter 17.16 of this title:

A. Buildings and structures customarily accessory to mobile homes such as garages and storage buildings;

B. Signs identifying the name and location of the mobile home development. (Ord. 112 § 16(2), 1983)

17.48.040 Design procedure, standards and requirements.

A. Procedure. The owner or owners of any tract of land comprising an area of not less than five acres shall submit to the planning and zoning commission a plan for the use and development of the entire tract of land. This plan shall include the site location and uses of all buildings, the location of each single-wide and double-wide mobile home stand, the locations and types of all community and recreational facilities; open spaces, including developed open spaces and those to be preserved in their existing state: points of access to the site, principal pedestrian and vehicular circulation ways, parking facilities, and other principal elements of the vehicular and pedestrian transportation system. The planning and zoning commission shall review the conformity of the proposed development with recognized principles of civic design, land use planning, and landscape architecture. The planning and zoning commission may after holding a public hearing and

reviewing the development plan recommended approval, approval with modifications, or disapproval of the development plan which accompanies the application. The planning and zoning commission shall forward its written recommendations to the city council which shall after notice and public hearing, approve or disapprove such application and plan, or may require such changes thereto as it deems necessary to effectuate the intent and purpose of this title.

B. Standards.

1. The land usage, minimum lot area, yard, height and accessory uses shall be determined by the requirements set out as follows which shall prevail over conflicting requirements of this title or the Subdivision Ordinance:

a. Uses along the project boundary lines shall not be in conflict with those allowed in adjoining or opposite property. To this end the planning and zoning commission may require, in the absence of an appropriate physical barrier, that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project;

b. A plat of the development shall be recorded, showing building locations, common land, streets, easements and other applicable items required by the Subdivision Ordinance;

c. No building permits shall be issued until the final plan of the development is approved by the city council and filed in their records and the applicant files with the zoning administrator proof of compliance with all requirements of the Department of Health of the State of Iowa.

2. Deed Restrictions. In its review of the plan, the commission or council may consider any deed restrictions or covenants entered into or contracted for by the developer concerning the use of common land or permanent open space. Common land as herein contained shall refer to land dedicated to the public use and to land retained in private ownership but intended for the use of the residents of the development unit or the general public.

C. Land Use and Density Requirements.

1. Seven mobile home stands shall be permitted for each acre of land contained in the usable area of the plan.

2. No part of any mobile home or other structure shall be located within twenty-five feet of any public road, nor within twenty feet of any exterior boundary of the planned mobile home development.

3. Parking facilities shall be provided within the development at the rate of two spaces per mobile home. (Ord. 112 § 16(3), 1983)

Chapter 17.52**SOLAR COLLECTOR SYSTEMS****Sections:**

- 17.52.010** Exceptions to yard and density requirements—
General requirements.
- 17.52.020** Front yard.
- 17.52.030** Rear yard.
- 17.52.040** Side yard.
- 17.52.050** Lot coverage.
- 17.52.060** Height requirements.
- 17.52.070** Easement encroachment prohibited.

17.52.010 Exceptions to yard and density requirements—
General requirements.

The exceptions to yard requirements and density requirements set out in this chapter are allowed for the placement of solar collectors in all districts and solar collector systems shall be considered a permitted accessory use in all districts. (Ord. 112 § 17 (part), 1983)

17.52.020 Front yard.

No exceptions shall be allowed into any front yard unless the collector is attached to the dwelling and does not intersect with the ground. (Ord. 112 § 17(1), 1983)

17.52.030 Rear yard.

A collector may extend ten feet into any rear yard; provided, that a minimum of ten feet rear yard is still provided in residential areas. In all other districts, the

collector may extend a total of fifty percent into the existing rear yard. (Ord. 112 § 17(2), 1983)

17.52.040 Side yard.

A solar collector may extent into either side a total of forty percent of the required yard; however, this is not to exceed a maximum of four feet in residential areas and shall not extend into any easement. In all other districts, the collectors may extend a total of fifty percent into the existing side yard. (Ord. 112 § 17(3), 1983)

17.52.050 Lot coverage.

The solar collector is included in determining lot coverage. In existing residential developments, lot coverage shall not be interpreted as to prevent the placement of a forty square foot collector in any required rear yard; provided, that the other yard requirements are met. (Ord. 112 § 17(4), 1983)

17.52.060 Height requirements.

Solar collectors may be placed ten feet above the height requirement of their district when attached to the principal use on the lot. (Ord. 112 § 17(5), 1983)

17.52.070 Easement encroachment prohibited.

No portion of any solar collector system shall extend into any easement, regardless of the above-stated exceptions to yard requirements. (Ord. 112 § 17(6), 1983)

Chapter 17.56

ADMINISTRATIVE PROVISIONS

Sections:

- 17.56.010 Zoning commission—
Rules of procedure.
- 17.56.012 Creation.
- 17.56.014 Membership.
- 17.56.020 Zoning permit—
Required.
- 17.56.030 Zoning permit—
Application procedure.
- 17.56.040 Administrative officer—
Appointment—Duties—
Compensation.
- 17.56.050 Violation—Notice.
- 17.56.060 Violation—Abatement
procedures.

17.56.010 Zoning commission— Rules of procedure.

The Elk Run Heights city zoning commission, a public body, is subject to the terms, regulations and restrictions of the Iowa Open Meeting Law, Chapter 28A of the Code of Iowa, as amended. Wherever in these ordinances a conflict appears between the ordinance and open meeting law, the open meeting law shall control. (Ord. 112 § 5, 1983)

17.56.012 Creation.

The planning and zoning commission of the city of Elk Run Heights, as established under the applicable provisions of the Code of Iowa, is the planning and zoning commission referred to in this chapter. (Ord. 148 (part), 1991)

17.56.014 Membership.

Said planning and zoning commission shall consist of five members, citizens of the city of Elk Run Heights, Iowa, and who shall not hold any elective office in the municipal government, shall be appointed by the mayor, subject to the approval of the city council.

Members shall serve for a period of five years, with one appointment expiring each year. Vacancies shall be filled by appointments for unexpired terms only. Any reduction in present commission membership shall be by attrition only and present members may continue to be reappointed. (Ord. 148 (part), 1991)

17.56.020 Zoning permit—Required.

Zoning permits shall be required in accordance with the following except that no permit shall be required for agricultural uses:

A. No land shall be occupied or used, and no building erected or structurally altered shall be occupied or used in whole or in part for any purpose until a permit is issued by the zoning administrative officer, stating that the building and use comply with the provisions of this title;

B. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, unless such changes are in conformity with the provisions of this title and a permit is issued by the zoning administrative officer;

C. Nothing in this section shall prevent the continuance of a nonconforming use as hereinbefore authorized, unless a discontinuance is necessary for the safety of life or property;

D. In accordance with this section, zoning permits shall be obtained from the zon-

ing administrative officer before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building or structure. Zoning permits shall be issued to complying applicants within seven days after application is made and appropriate records and copies of permits shall be maintained as a matter of public record;

E. A zoning permit shall become null and void six months after the date on which it is issued unless within such six-month period construction, building, moving, remodeling or reconstruction of a structure is commenced or a use is commenced. (Ord. 112 § 18(1), 1983)

**17.56.030 Zoning permit—
Application procedure.**

Applicants for a zoning permit shall be required to provide the following:

A. A plat, in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon or used, the size, shape and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and a vicinity map of the lot to be built upon or used;

B. Proof of compliance with standards for water supply and sewage disposal which conform with the regulations of the city;

C. Such other information as may be necessary to provide for the enforcement of this title;

D. Fees as required by the city. (Ord. 112 § 18(2), 1983)

**17.56.040 Administrative officer—
Appointment—Duties—
Compensation.**

The city council shall appoint an admin-

istrative officer, and it shall be the duty of such officer to enforce this title. Such administrative officer may be a person holding other public office in the city, or other governmental subdivision. The city council is authorized to pay to the officer out of the general fund such compensation as it deems fit. (Ord. 112 § 19(1), 1983)

17.56.050 Violation—Notice.

If the zoning administrator finds that any of the provisions of this title are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. (Ord. 112 § 19(2), 1983)

**17.56.060 Violation—Abatement
procedures.**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the city council, in addition to other remedies, shall institute any proper action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. (Ord. 112 § 19(3), 1983)

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Chapter 17.60

BOARD OF ADJUSTMENT

Sections:

- 17.60.010 Established—
Membership—
Vacancies.
- 17.60.020 Rules and procedures.
- 17.60.030 Actions on appeals.
- 17.60.040 Special exceptions.
- 17.60.050 Variances.
- 17.60.060 Public notice.

17.60.010 Established—
Membership—Vacancies.

A board of adjustment, to be hereinafter referred to as the "board," is established. The board shall consist of five members, none of whom shall hold an elective office or be another city official, each to be appointed by the city council for the term of five years. Members shall be removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled by the city council for the unexpired term of any member whose term becomes vacant. (Ord. 112 § 21(1), 1983)

17.60.020 Rules and procedures.

The board shall adopt rules of procedure in accordance with the provisions of this title. The board shall elect its own chairman who shall serve for one year. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All

meetings of the board shall be open to the public and the presence of three members shall constitute a quorum. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if members are absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the zoning administrative officer and shall be a public record. (Ord. 112 § 21(2), 1983)

17.60.030 Actions on appeals.

The board of adjustment shall have the following powers and duties: To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrative officer in the enforcement of this title. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the administrative zoning officer:

or Bld Insp

A. Such appeals shall be taken within ninety days of the date of such decision filing with the zoning administrative officer and chairman of the board of adjustment a notice of appeal specifying the grounds thereof and by paying the required fee to be used for the administrative costs of the appeal. The zoning administrative officer shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from is taken.

B. An appeal stays all proceedings in furtherance of the action appealed from unless the administrative officer certifies

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to the board, after notice of appeal shall have been filed with him/her, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record on application of notice to the administrative officer and on due cause shown.

C. The board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as it believes proper, and to that end shall have all the powers of the administrative officer. The concurring vote of three of the members of the board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this title; provided, however, that the action of the board shall not become effective until after the resolution of the board, setting forth the full reason for its decision and the vote of each member participating therein, has been spread upon the minutes. Such resolution, immediately following the board's final decision, shall be filed in the office of the board, and shall be open to public inspection. (Ord. 112 § 21(3)(A), 1983)

or
Bld
Insp

17.60.040 Special exceptions.

The board of adjustment shall hear and decide only such special exceptions as the board of adjustment is specifically authorized to pass on by the terms of this

title; provided further, that a special exception shall not be granted by the board of adjustment unless and until:

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A. A written application for a special exception accompanied by the required fee is submitted indicating the chapter of this title under which the special exception is sought and stating the grounds on which it is requested;

B. The board of adjustment shall make a finding that it is empowered under this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest;

C. In granting any special exception, the board of adjustment may prescribe appropriate conditions and safeguards in conformance with this title. Violation of such conditions and safeguards, when a part of the terms under which the special exception is granted, shall be deemed a violation fo this title and punishable as provided by this chapter. (Ord. 112 § 21(3)(B), 1983)

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17.60.050 Variances.

The board of adjustment shall authorize upon appeal in specific cases, such variance from the terms of this title as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this title would result in unnecessary hardship. A variance from the terms of this title shall not be granted by the board of adjustment unless and until a written application for a variance, accompanied by the required fee is submitted demonstrating:

\$ 75⁰⁰

A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

B. That literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title;

C. That the special conditions and circumstances do not result from the action of the applicant;

D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands,

structure or buildings, in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance. (Ord. 112 § 21(3)(C), 1983)

17.60.060 Public notice.

The board of adjustment shall not exercise its powers until a public hearing has been held on each such appeal, special exception or variance.

A. The board shall cause public notice of such hearing to be published in a paper of general circulation within the city at least fifteen days, but not more than twenty-five days before such date of public hearing.

B. At the public hearing any part may appear in person, or by agents, or attorney. (Ord. 112 § 21(4), 1983)

Chapter 17.64

VIOLATION—PENALTY

Sections:

17.64.010 Violation—Penalty.

17.64.010 Violation—Penalty.

For each and every violation of the provisions of this title, the owner, contractor or other persons interested as general agent, architect, engineer, land surveyor, building contract, owner, tenant or any other persons who commit, take part, or assist in any violation of this

title or who maintain any building or premises or uses of any land in violation of this title, shall for each and every violation by imprisoned for a period not exceeding thirty days or be fined not exceeding one hundred dollars or both, at the discretion of the judicial officer before whom such a conviction may be had. Whenever such person has been officially notified by the zoning officer or by service of a summons in a prosecution, or in any other official manner, that he is committing a violation, each day's continuance of such violation after such notification shall constitute a separate offense punishable by a like fine or penalty. (Ord. 112 § 22, 1983)

Chapter 17.68

AMENDMENTS

Sections:

- 17.68.010 Council authority—Public notice and hearings.**
- 17.68.020 Petitions—Public notification and hearing.**
- 17.68.030 Petitions—Filing fee.**
- 17.68.040 Recommendations to city council.**
- 17.68.050 Conditions for approval by city council.**
- 17.68.060 Resubmission of petition—Time limitations.**

17.68.010 Council authority—Public notice and hearings.

The city council may, from time to time, on its own action or on petition, after public notice and hearings as provided by law, and after report by the planning and zoning commission, amend, supplement or change the boundaries or regulations in this title or subsequently established, and such amendment shall not become effective except by the favorable vote of a majority of all the members of the city council. (Ord. 112 § 20(1), 1983)

17.68.020 Petitions—Public notification and hearing.

Prior to and in addition to the requirements set out in Section 17.68.010, whenever any person, firm or corporation desires that any amendment or change be made in this title, including the

text and/or map, as to any property in the city, there shall be presented to the planning and zoning commission a petition requesting such change or amendment.

Such petition shall be duly signed by the owners of at least fifty percent of the area of all the real estate included within the boundaries of such tract as described in such petition. The petition shall contain a legal description of the area for which rezoning is requested, the existing zoning classification, and the requested zoning classification. Within thirty days after the filing of such petition, the planning and zoning commission acting as a commission through its chairman, or other authorized agent, shall fix a time, date and place of hearing on such petition, which date shall be no more than sixty days after the filing of such petition. The planning and zoning commission shall cause notice of the hearing to be published in a newspaper of general circulation within the city at least fifteen days before the date fixed for such hearing. Such notice shall contain the time, date and place of the hearing, the existing zone classification, the requested zone classification, and the name of the petition or petitioners. Additionally, the planning and zoning commission shall cause such notice to be delivered in writing to the property owners of land lying within the tract to be rezoned and within two hundred feet of the boundaries of such tract described in the petition. (Ord. 112 § 20(2)(A), 1983)

publication 15 days

within 200 ft

17.68.030 Petitions—Filing fee.

Before any action shall be taken as provided in this chapter, the petitioner or petitioners seeking the change in districts

or regulations shall remit a filing fee as established by the city council to cover the costs of the procedure. Under no circumstances shall such sum or any part thereof be refunded for failure of such amendment to be enacted into law. (Ord. 112 § 20(3), 1983)

17.68.040 Recommendations to city council.

The planning and zoning commission after public hearing, shall advise the city council on their recommendations and their vote thereon. The planning and zoning commission may upon unanimous approval of members present at a regular meeting suspend the above hearing requirement and act upon a petition for rezoning or initiate a zoning change or amendment forwarding their recommendations to the city council for action as required by law. (Ord. 112 § 20(2)(B), 1983)

17.68.050 Conditions for approval by city council.

In case the proposed amendment, supplement or change be disapproved by the planning and zoning commission, or a protest is presented duly signed by the owners of twenty percent or more of the area included in such proposed change, or, by the owners of twenty percent or more of the property lying within two hundred feet of the boundaries thereof,

such amendment shall not become effective except by the favorable vote of at least seventy-five percent of all the members of the city council. (Ord. 112 § 20(2)(C), 1983)

**17.68.060 Resubmission of petition—
Time limitations.**

Whenever any petitions for an amendment, supplement or change of the zoning districts or regulations herein contained or subsequently established shall have denied by the city council, then no new petition covering the same property or the same property and additional property shall be filed with or considered by the city council until six months have elapsed from the date of filing the first petition. (Ord. 112 § 20(2)(D)), 1983)

CHAPTER 170

ZONING REGULATIONS

170.01 Title	170.17 C-2 Commercial District
170.02 Interpretation of Standards	170.18 C-3 Central Business District
170.03 Definitions	170.19 M-1 Industrial District
170.04 Classifications of Zoning Districts	170.20 M-2 Heavy Industrial District
170.05 Official Zoning Map	170.21 P-D Planned Development District
170.06 Amending Official Zoning Map	170.22 Off-Street Parking and Loading Areas
170.07 Replacing Official Zoning Map	170.23 Filling Stations, Public Garages, and Parking Lots
170.08 Boundaries in Doubt	170.24 Outdoor Advertising Signs and Billboards
170.09 Future Annexation of Territory	170.25 Exceptions and Modifications
170.10 General Regulations	170.26 Board of Adjustment
170.11 U-1 Unclassified District	170.27 Occupancy Permits
170.12 R-1 Residence District	170.28 Plats
170.13 R-2 Medium Density Residential District	170.29 Amendments
170.14 R-3 High Density Residential District	170.30 Violation, Penalties, and Enforcement
170.15 R-MH Planned Mobile Home District	170.31 Validity
170.16 C-1 Recreational-Commercial District	

170.01 TITLE.

This chapter shall be known and may be cited and referred to as the “Zoning Ordinance” or “Ordinance” of the City of Evansdale.

170.02 INTERPRETATION OF STANDARDS.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter 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 chapter shall control.

170.03 DEFINITIONS.

For the purpose of this Zoning Ordinance, the words “used or occupied” include the words “intended, designed, or arranged to be used or occupied.” The following terms are defined for use in this chapter:

1. “Accessory use or structure” means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. “Administrative Officer” means, for the purpose of this chapter, the building official, who is the individual designated by this chapter to administer the Zoning Ordinance, and is responsible for the enforcement of the regulations imposed by said ordinance. Said officer may also be referred to as the “Zoning Administrator.”
3. “Agriculture” means the use of land for agricultural purposes, including crop production, pasturage, horticulture, floriculture, and viticulture, and the necessary accessory uses for storing produce; provided, however, the operation of such accessory uses shall be secondary to that of normal agricultural activities.
4. “Alley” means a public way, other than a street, affording generally secondary means of access to abutting property and not intended for general traffic circulation.
5. “Alteration, structural” structural alteration means any change in the supporting members of a building, such as bearing walls, partitions, columns, beams, or girders. The enlargement of the size or height of a building shall be construed to be a structural alteration.
6. “Apartment house” means a building containing both dwelling units and/or rooming units used primarily for permanent occupancy.
7. “Basement” means a story partly underground but having at least one-half of the height of one or more walls above the level of the adjoining ground. A basement shall be construed as a story under the provisions of this chapter.

8. "Billboard" includes all structures, regardless of the material used in the construction of the same, which are erected, maintained, or used for public display of posters, painted signs, wall signs, whether the structure is placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction that is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.
9. "Block" means the property abutting on one side of the street and lying within the two nearest intersecting streets, an unsubdivided acreage, or railway right-of-way.
10. "Boarding/rooming house" means a building other than a hotel where, for compensation, lodging or meals and lodging are provided for three or more persons.
11. "Building" means any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property, but not including signs or billboards.
12. "Building height" means the perpendicular distance measured in a straight line from the curb level to the highest point of the roof beams in the case of flat roofs, and to the mid-point of the gable of the roof in the case of pitched roofs, the measurement in all cases to be taken through the center of the front of the house. Where a dwelling is on a corner lot and there is more than one grade or level, the measurements shall be taken from the main entrance elevation. In all districts where permitted, exterior roof signs shall not be included in building height measurement.
13. "Building, principal" means a building in which the principal use of the lot is conducted.
14. "Business or commercial" refers to the engaging in the purchase, sale, or exchange of goods or services, or the operation for profit of offices or recreational or amusement enterprises.
15. "Carport" means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For the purposes of this Zoning Ordinance, a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.
16. "Cellar" means a story having more than one-half of the height of all walls below the highest level of the adjoining ground. A cellar shall not be considered a story for the purpose of this chapter.
17. "Clinic" means a building or buildings used by physicians and/or dentists, osteopaths, chiropractors, and allied professions for outpatient care or persons requiring such professional service.
18. "Convenience store" means a small retail store providing selected groceries and variety goods, provided that more than 60 percent of its gross income is derived from, and more than 75 percent of its retail floor space is devoted to, the sale of merchandise, services for on-site enjoyment, food, and beverages other than alcoholic beverages, in either case not including the sale of tobacco products, lottery tickets, or pumped vehicle fuels such as gasoline, diesel, and similar products, and provided further that not more than 25 percent of its gross income as so determined is derived from the sale of alcoholic beverages other than beer or wine.
19. "Court" means an open, unobstructed, and unoccupied space other than a yard which is bounded on two or more sides by a building on the same lot.
20. "Curb level" means the main level of the curb or the established curb grade in front of a lot.
21. "Day nursery" or "nursery school" means any private agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than lodging overnight for six or more unrelated children of pre-school age, for compensation.
22. "District" means a section or sections of the City within which certain uniform regulations and requirements governing the use of buildings and premises or the height and areas of buildings and premises are uniform.
23. "Drinking establishment" refers to a business where a predominant amount of activity relates to the sale of alcoholic beverages for consumption on the premises. For the purpose of this Zoning Ordinance, bars, beer parlors, night clubs, and taverns are considered to be drinking establishments.
24. "Dwelling" means any building or portion thereof which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.
25. "Dwelling, single-family" means a detached residence designed for or occupied by one family only.

26. "Dwelling, two-family" means a residence designed for or occupied by two families only with separate housekeeping and cooking facilities for each.
27. "Dwelling, single-family bi-attached" means a dwelling designed for or occupied by one family only which is erected on a separate lot and is joined to another such residence on one side only by a wall located on the lot line and which has yards on the remaining sides.
28. "Dwelling, multiple" means a residence designed for or occupied by three or more families with separate housekeeping and cooking facilities for each.
29. "Dwelling, multiple elderly" means a group of residences designed for elderly occupants and having special site development considerations distinct from multiple dwellings occupied by all age groups.
30. "Dwelling, condominium" means a multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the others.
31. "Dwelling, row" means 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.
32. "Dwelling unit" means a room or group of rooms which are arranged, designed, or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.
33. "Dwelling unit, efficiency (or studio)" means a residence having a common living-sleeping area.
34. "Factory-built housing" means a factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of three types: modular homes, mobile homes, and manufactured homes.
35. "Factory-built structure" means any structure which is, wholly or in substantial part, made, fabricated or assembled in manufacturing facilities for installation or assembly and installation on a building site.
36. "Family" means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over four persons.
37. "Feed lot" means any parcel of land or premises on which the principal use is the concentrated feeding of cattle, hogs, or sheep within a confined area.
38. "Fill" means the placing, storing, or dumping of any material such as earth, clay, sand, rubble, concrete, or animal waste upon the surface of the ground which results in increasing the natural surface elevation.
39. "Flood plain" or "flood prone area" means the area adjoining the river or stream which has been or may be hereafter covered by flood water, as established in Chapter 165 of this Code of Ordinances.
40. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any river or stream as defined by the Iowa Natural Resources Council.
41. "Floor area" means the sum of gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating buildings.
42. "Floor area ratio" means the gross floor area of all buildings on a lot divided by the lot area on which the building or buildings are located.
43. "Foster child care" means care and education of not more than five children unrelated to the residents by blood or adoption.
44. "Frontage" means all the property on one side of a street between two intersecting 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 of the street.
45. "Garage, private" means an enclosed structure intended for and used for the parking of the private motor vehicles of the families resident upon the premises.
46. "Garage, public" means any building or premises except those used as private garages, used for equipping, refueling, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

47. "Gasoline or service station" means any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles and may include such products as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories, and other items customarily associated with the sale of such products; for the rendering of services and making of adjustments and replacements to motor vehicles, and the washing, waxing, and polishing of motor vehicles, as incidental to other services rendered; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are defined to be spray painting, body, fender, clutch, transmission, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or retreading of tires.

48. "Grain elevator" means a structure or group of related structures whose purpose is limited to the receiving, storage, drying, and transporting of bulk grain.

49. "Height" - See "building height."

50. "Home" means a mobile home, a manufactured home, or a modular home.

51. "Home occupation" means a secondary use where there is no evidence of such occupation being conducted on the premises by virtue of noise, odors, electrical disturbances, or traffic generation, and where not more than 49% is devoted to such use. The operation of such occupation shall be limited to the proprietor and one employee.

52. "Hotel/motel" means a building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, as distinguished from a boarding house or rooming house.

53. "Institution" means a building occupied by a non-profit corporation or a non-profit establishment for public use.

54. "Junk or salvage yard" means any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including automobile, tractor, or machinery wrecking and used parts yards, and the processing of used, discarded, or salvaged materials as part of manufacturing operations and not including contractors, storage yards.

55. "Kennel" (commercial) means any parcel of land on which three or more dogs, cats or similar animals or pets, six months old or older are kept for the purpose of breeding, grooming, boarding or other activities associated with the care of said animals for commercial purposes.

56. "Kennel" (private) means any parcel of land on which three or more dogs, cats or similar animals or pets, are kept, however, this shall not include breeding, grooming, boarding or other activities associated with the care of said animals other than the owner's.

57. "Lawful use" means the use of a building or land which existed on the effective date of the Zoning Ordinance codified in this chapter, and for which a legal zoning permit has been issued thereafter.

58. "Liquor store" means a retail store where sales of alcoholic beverages comprise 39 percent or more of its gross income, and 24 percent or more of its retail floor space is devoted to such merchandise, in either case not including the sale of tobacco products, lottery tickets, or pumped vehicle fuels such as gasoline, diesel and similar products.

59. "Lot" means 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: (i) a single lot of record; (ii) a portion of a lot of record; (iii) a combination of complete lots of record and portions of lots of record; or of portions of lots of record; and (iv) 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 Zoning Ordinance.

60. "Lot area" means total horizontal area within lot lines.

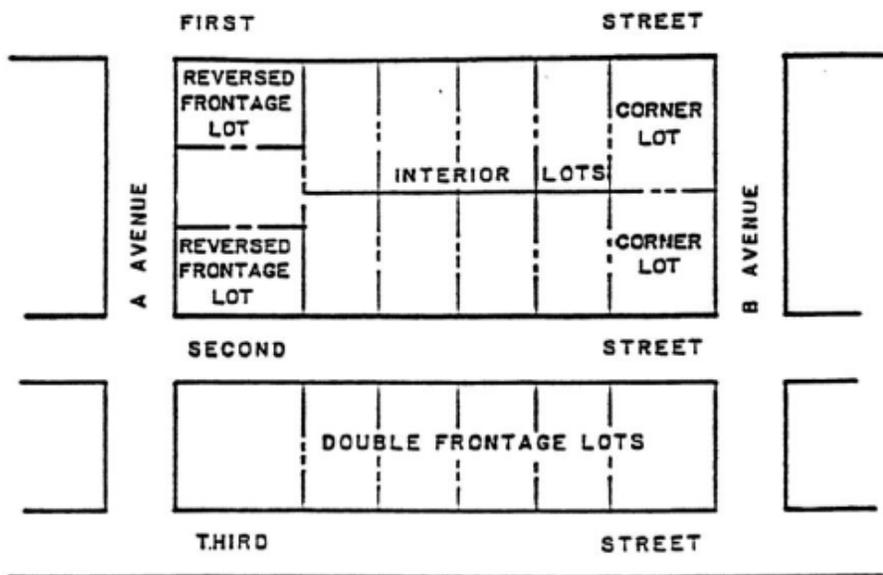
61. "Lot, corner" means a lot abutting upon two or more streets at their intersection.

62. "Lot, depth" means the mean horizontal distance between the front and rear lot lines.

63. "Lot, double frontage" means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

64. "Lot, interior" means a lot other than a corner lot.
65. "Lot lines" means the lines bounding a lot.
66. "Lot line, front" means the line separating the lot from the street on which it fronts.
67. "Lot line, rear" means the lot line opposite and most distant from the front lot line.
68. "Lot line, side" means any lot line other than a front or rear lot line.
69. "Lot of record" means a lot which is a part of a subdivision recorded in the office of the County Recorder or a lot or parcel described by metes and bounds, the description of which has been so recorded.
70. "Lot, reversed frontage" means a corner lot, the side street line of which is substantially a continuation of the front line of the first platted lot to its rear.
71. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.

EXAMPLES OF LOT DEFINITIONS



72. "Manufactured home" means a factory-built structure built under authority of 42 U.S.C. 6 5403, is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976. If a manufactured home is placed in a mobile home park, the home must be titled and is subject to the mobile home square foot tax. If a manufactured home is placed outside a mobile home park, the home must be titled and is to be assessed and taxed as real estate.

73. "Mobile home" means any vehicle 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, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A "mobile home" is not built to a mandatory building code, contains no State or federal seals, and was built before June 15, 1976. If a mobile home is placed outside a mobile home park, the home is to be assessed and taxed as real estate.

74. "Mobile home park" means a site, lot, field, or tract of land upon which three or more mobile homes, manufactured homes, or modular homes, or a combination of any of these homes are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available. The term "mobile home park" shall not be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students. A mobile home park must be classified as to whether it is a residential mobile home park or a recreational mobile home park or both. The Mobile Home Park Residential Landlord Tenant Act only applies to residential mobile home parks.

75. "Modular home" means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, and must display the seal issued by the State Building Code Commissioner. If a modular home is placed in a mobile home park, the home is subject to the annual tax as required by Section 435.22. If a modular home is placed outside a mobile home park, the home shall be considered real property and is to be assessed and taxed as real estate,

76. "Nonconforming use" means the lawful use of any building or land that was established prior to or at the time of passage of the Zoning Ordinance or amendments thereto and which does not conform after the passage of the Zoning Ordinance or amendments thereto with the use regulations of the district in which it is situated.

77. "Nursing, convalescent or retirement home" means a home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept, or provided with food, shelter and care, for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

78. "Obstruction" means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, junk, solid waste, refuse, fill, or other analogous structure or matter in, along, across, or projecting into any floodway which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property.

79. "Occupancy permit" means a certificate issued by the Building Official to insure the compliance with this Zoning Ordinance and the building and health ordinances of the City.

80. "Office" means a place where chattels or goods, wares, and merchandise are not commonly created, sold, or exchanged.

81. "Official flood prone area map" means that map on file in the office of the City Clerk and which delineates the flood plain within the City.

82. "Official major street plan" means a map on file in the office of the City Clerk which identifies the existing and proposed major streets of the City and their right-of-way.

83. "Official zoning map" means that map on file in the office of the City Clerk, and all references hereinafter to said official map shall mean the map just referred to. The map by this reference thereto is made a part of this chapter.

84. "Parking lot" means a parcel of land devoted to unenclosed parking spaces.

85. "Parking space" means an area of not less than 180 square feet plus necessary maneuvering space for the parking of a motor vehicle. Space for maneuvering, incidental to parking or leaving a parking space, shall not encroach upon any public right-of-way. Parking spaces for other than residential use shall be dust-free surfaces.

86. "Porch, unenclosed" means a roofed projection which has no more than 50 percent of each outside wall area enclosed by a building or siding material other than meshed screens.

87. "Principal use" means the main use of structures as distinguished from an accessory use.

88. "Retail store" means an enterprise offering for sale to the ultimate consumer for direct consumption and not for resale.

89. "Right-of-way" means the land area the right of possession of which is secured or reserved by the contracting authority for road purposes.

90. "Shop" means a use devoted primarily to the sale of a service or a product or products, but the service is performed or the product to be sold is prepared in its finished form on the premises. Packaging is not to be considered preparation.

91. "Sign, exterior" means a sign which directs attention to a business, profession, service, product, or activity sold or offered upon the premises where such sign is located. An exterior sign is a sign attached flat against a building or structure, or projecting out from a building or structure or erected upon the roof of a building or structure.

92. "Sign, free standing or post" means any sign erected or affixed in a rigid manner to any pole or post, and which carries any advertisement strictly incidental and subordinate to a lawful use of the premises on which it is located,

including signs, or sign devices indicating the business transacted, services rendered, or goods sold or produced on the premises by an occupant thereof.

93. “Sign, illuminated” means a sign designed to give forth artificial light or through transparent or translucent material from a source of light within such sign, including but not limited to neon and exposed lamp signs.

94. “Special exception” means a use not in specific conformity with the provisions of this chapter, which may be allowed according to enumerated community safeguards.

95. “Stable, private” means a building or structure used or intended to be used for housing horses belonging to the owner of the property for non-commercial purposes.

96. “Stable, public” means a building or structure used or intended to be used for the housing of horses on a fee basis or the activity of giving riding instructions.

97. “Story” means that portion of a building included between the surface of any floor and 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 or roof next above it.

98. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four feet above the top floor level.

99. “Street line” means a dividing line between a lot, tract, or parcel of land and a contiguous street.

100. “Street, road, or drive, private” means any private property intended for use by vehicular traffic but not dedicated to the public or controlled or maintained by the City.

101. “Street, road, or drive, public” means any property intended for use by vehicular traffic which has been dedicated to the public or deeded to the City for street purposes.

102. “Structural alterations” – See “alterations, structural.”

103. “Structure” means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, billboards and poster panels.

104. “Trailer park” - See “mobile home park.”

105. “Truck terminal” means a commercial facility where truck freight is stored, handled, and dispatched between various locations by way of different major truck carriers and including facilities for the storage and repair of trucks and trailers while awaiting consignment.

106. “Use” means any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or structure or on a tract of land.

107. “Variance” means a legal modification or variation of the provisions of this chapter as applied to a specific piece of property as distinct from rezoning.

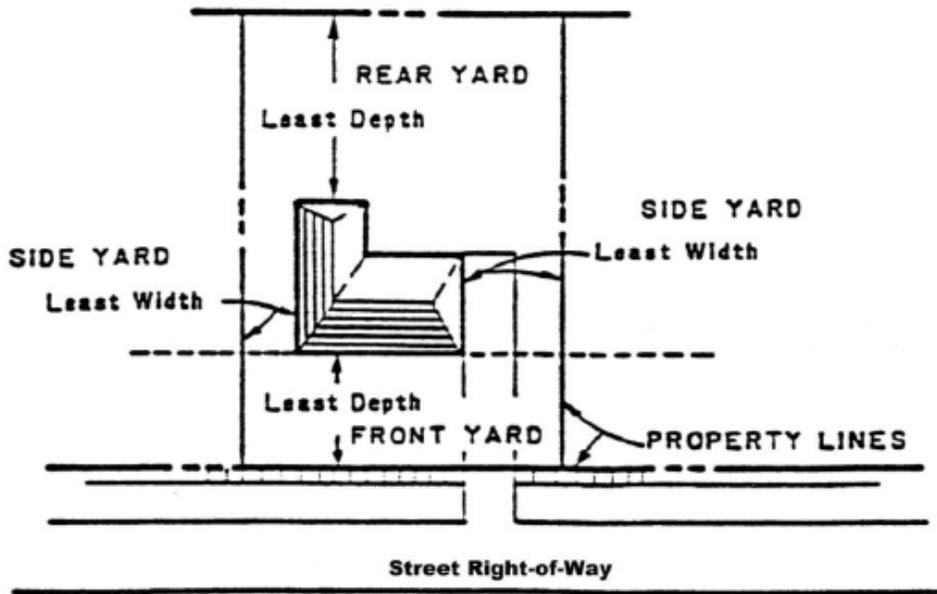
108. “Yard” means an open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from 30 inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a 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.

109. “Yard, front” means a yard extending across the full width of the lot and measured between the front lot line and the building or any projection other than the steps.

110. “Yard, rear” means 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. On both corner lots and interior lots, the opposite end of the lot from the front yard.

111. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

EXAMPLES OF YARD DEFINITIONS



112. "Zoning Permit" means a permit issued by the Building Official authorizing the use of land in the manner and for the purpose specified in the application.

170.04 CLASSIFICATIONS OF ZONING DISTRICTS.

In order to classify, regulate, and restrict the location of trades and industries, and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas and to regulate and determine the area of yards, courts, and other open spaces within and surrounding such buildings, the City of Evansdale is hereby divided into 11 classes of districts. The use, height, and area regulations are uniform in each class of district, and said districts shall be known as:

- U-1 Unclassified District
- R-1 Residence District
- R-2 Medium Density Residential District
- R-3 High Density Residential District
- R-MH Planned Mobile Home District
- C-1 Recreational-Commercial District
- C-2 Commercial District
- C-3 Central Business District
- M-1 Industrial District
- M-2 Heavy Industrial District
- P-D Planned Development District

170.05 OFFICIAL ZONING MAP.

As shown by the official zoning map, the City is divided into 11 classes of districts. The boundaries of these districts are hereby established as shown on the official zoning map of the City, and said map and all notations, references and other information shown thereon shall be and are hereby made a part of this chapter by reference. The official zoning map, signed by the Mayor and properly attested by signature of the Clerk and date of adoption, shall be and remain on file in the office of the City Clerk.

170.06 AMENDING OFFICIAL ZONING MAP.

Amendments, supplements or changes of the boundaries of districts as shown on the official zoning map shall be made by an ordinance amending the Zoning Ordinance. The amending ordinance shall refer to the official zoning map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the

new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the City Clerk as other ordinances and a certified copy thereof shall be attached to the official zoning map. Such amendatory ordinance shall, however, not repeal or re-enact said map, but only amend it. The official zoning map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City. (See EDITOR'S NOTE following Section 170.09 relative to amendments to the official zoning map.)

170.07 REPLACING OFFICIAL ZONING MAP.

In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of use, the City Council may by resolution adopt a new official zoning map which shall supersede the prior map. The new official zoning map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by date and the signature of the Mayor attested by the City Clerk, under the following words: "This is to certify that this Official Zoning map supersedes and replaces the Official Zoning map adopted (date of adoption of map being replaced) as part of the zoning ordinance of the City."

170.08 BOUNDARIES IN DOUBT.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this Zoning Ordinance, the following rules apply:

1. The district boundaries are either street lines or alley lines otherwise shown; and where the districts, designated on the map accompanying and made a part of this Zoning Ordinance, are bounded approximately by street lines or alley lines, the street lines or alley lines shall be construed to be the boundary of the district.
2. In unsubdivided property, the district boundary lines on the map accompanying and made a part of this Zoning Ordinance shall be determined by the use of the scale appearing on the map.

170.09 FUTURE ANNEXATION OF TERRITORY.

All territory which may hereafter be annexed to the City of Evansdale shall automatically be classed as lying in the U-1 Unclassified District until such classification shall have been changed by an amendment to the Zoning Ordinance, as provided by law.

EDITOR'S NOTE			
The following ordinances have been adopted amending the official zoning map described in Section 170.06 and have not been included as a part of this Zoning Ordinance but have been specifically saved from repeal and are in full force and effect.			
ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
353	May 5, 1981	519	September 17, 1996
359	November 17, 1981	520	September 17, 1996
360	November 17, 1981	521	November 6, 1996
368	March 16, 1982	522	November 19, 1996
388	August 2, 1983	524	January 7, 1997
397	November 20, 1984	530	June 3, 1997
409	May 6, 1986	550	May 24, 1999
417	March 17, 1987	566	February 1, 2000
456	June 20, 1989	565	April 3, 2001
457	June 20, 1989	567	June 5, 2001
461	July 5, 1989	572	May 7, 2002
464	September 5, 1989	613	April 5, 2011
473	July 3, 1990	636	July 1, 2014
486	October 6, 1992	645	April 19, 2016
498	November 9, 1994	662	May 7, 2019
502	April 4, 1995	663	May 21, 2019
504	June 6, 1995		
505	June 20, 1995		
507	July 5, 1997		

512	January 16, 1996		
513	February 6, 1996		

170.10 GENERAL REGULATIONS.

1. Conformance Required. Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this Zoning Ordinance for the district in which the building or land is located.

2. Continuing Existing Uses. The use of a building existing at the time of the enactment of this Zoning Ordinance may be continued even though such use may not conform with the regulations of this Ordinance for the district in which it is located. Any use in existence at the adoption hereof which was not an authorized nonconforming use under previous zoning ordinances shall not be authorized to continue as a nonconforming use pursuant to this Zoning Ordinance or amendments thereto.

3. Nonconforming Uses or Buildings in Any R or U District. No existing building or premises devoted to a use not permitted by this Zoning Ordinance in the district in which such building or premises is located, except when required by law, shall be enlarged, extended, reconstructed, substituted, or structurally altered unless the use thereof is changed to a use permitted in the district in which such building or premises is located, except as follows:

A. Substitution. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to conforming use, such use shall not thereafter be changed to a less restricted use.

B. Discontinuance. In the event that a nonconforming use of any building or premises is discontinued for a period of one year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

C. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than 60 percent of its replacement value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or act of God, shall not be restored or reconstructed and used as before such happening; but if less than 60 percent damaged above the foundation, it may be restored, reconstructed, or used as before, provided that it is initiated within six months of such happening, and is built of like or similar materials.

4. Nonconforming Uses or Buildings in any District Other than an R or U District.

A. Structural Alterations and Enlargements. Any building in districts other than an R or U District devoted to a use made nonconforming by this chapter may be structurally altered or enlarged in conformity with the lot area, the lot frontage, yard and height requirements of the district in which situated, provided such construction shall be limited to buildings on land owned of record by the owner of the land devoted to the nonconforming use prior to the effective date of this Zoning Ordinance. In the event of such structural alteration or enlargement of buildings, the premises involved may not be used for any nonconforming use other than the use existing on the effective date of this Zoning Ordinance, other provisions of this Ordinance notwithstanding.

B. Discontinuance. In the event that a nonconforming use of any building or premises is discontinued for a period of one year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

C. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than 60 percent of its replacement value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or act of God; shall not be restored or reconstructed and used as before such happening, but if less than 60 percent damaged above the foundation, it may be restored, reconstructed, or used as before, provided that it is started within six months of such happening, and is built of like or similar materials.

5. Street Frontage Required. Except as permitted in Section 170.25 of this chapter, no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least 40 feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least 20 feet wide to a street, and there shall be not more than one single-family dwelling for such frontage or easement, except that a common easement of access at least 50 feet wide may be provided for two or more such single-family dwellings or for one or more two-family or multiple dwellings.

6. Accessory Buildings. No accessory building shall be erected in any required court or front yard. Accessory buildings shall be distant at least five feet from alley lines and at least five feet from lot lines of adjoining lots which are in any R District, except that accessory buildings constructed in the rear 60 percent of the lot may be erected three feet

from interior lot lines, and on a corner lot they shall conform to the setback regulations on the side street. Accessory buildings, except stables, may be erected as a part of the principal building, or if at least six feet therefrom may be connected thereto by a breezeway or similar structure, provided all yard requirements for a principal building are complied with. An accessory building which is not a part of the main building shall not occupy more than 30 percent of the rear yard and shall not exceed 15 feet in height; however, this regulation shall not be interpreted to prohibit the construction of a 440 square foot garage on a minimum rear yard. A freestanding or attached portable shelter consisting of a fabric covering stretched over poles used as a carport or similar structure shall be prohibited in conjunction with any residential use.

7. Corner Lots. For corner lots platted after the effective date of this Zoning Ordinance, the street side yard shall be equal in width to the setback regulation of the lots to the rear having frontage on the intersecting street. See Figure 1.

A. On corner lots platted and of record at the time of the effective date of this Ordinance, the side yard regulation shall apply to the longer street side of the lot except in the case of reverse frontage where the corner lot faces an intersecting street. In this case, there shall be a side yard on the longer street side of the corner lot of not less than 50 percent of the setback required on the lots to the rear of such corner lot, and no accessory building on said corner lot shall project beyond the setback line of the lots in the rear; provided further, this regulation shall not be so interpreted as to reduce the buildable width of the corner lot facing an intersecting street, and of record or as shown by existing contract of purchase at the time of the effective date of this Zoning Ordinance, to less than 28 feet or to prohibit the erection of an accessory building. See Figure 2.

B. On corner lots, frontage may be considered on either street provided that if front and rear yards are parallel to the lot line having the longer dimension, then setbacks along both streets shall conform to the front yard requirement of the district in which it is located.

8. Front Yard. In any R District there shall be a minimum front yard required as stated in the yard requirements for that particular district; provided, however, where lots comprising 30 percent or more of the frontage within 200 feet of either side lot line are developed with buildings at a greater setback, the front yard setback shall be the average of these building setbacks and the minimum setbacks required for the undeveloped lots. In computing the average setback, buildings located on reversed corner lots or entirely on the rear half of lots shall not be counted. The required setback as computed herein need not exceed 50 feet in any case. See Figure 3.

YARD REQUIREMENTS
FOR CORNER LOTS

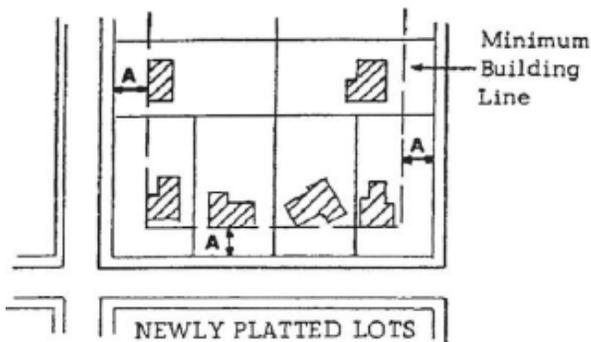


FIGURE 1

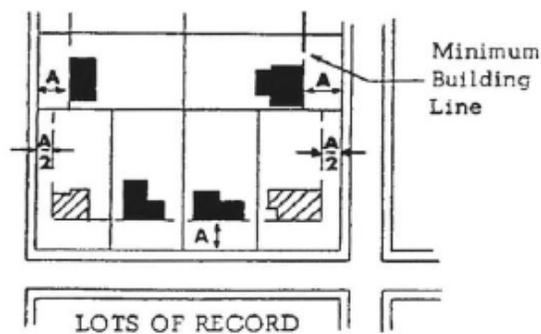
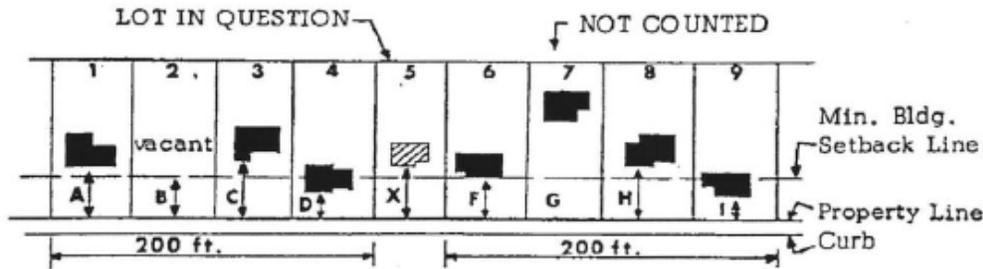


FIGURE 2

METHOD OF COMPUTING BUILDING SETBACK IN A DEVELOPED BLOCK



X = Minimum setback of proposed building

$$X = \frac{A+B+C+D+F+H+I}{7}$$

FIGURE 3

9. Required Yard Cannot Be Reduced. No lot shall be reduced in area so as to make any yard of any other open space less than the minimum required by the Zoning Ordinance. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Zoning Ordinance shall be included as part of a yard or other open space required under this Zoning Ordinance for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this Ordinance.

10. Building Lines on Approved Plats. Whenever the plat of a land subdivision on record in the office of the County Recorder shows a setback building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this Ordinance unless specific yard requirements in this Ordinance require a greater setback.

11. Pending Applications for Building Permits. Nothing herein contained shall require any change in the overall layout, plans, construction, size, or designated use of any building, or part thereof, for which approvals and required building permits have been granted before the enactment of this Zoning Ordinance, the construction of which conformably with such plans shall have been started prior to the effective date of this Ordinance and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control.

12. Dwelling Standards. The following standards shall apply to all new dwellings for which building permits have been issued on or after March 1, 1991:

A. The dwelling shall be affixed to a permanent foundation system which shall be constructed of masonry, concrete, or treated wood in compliance with Uniform Building Code Standard No. 29-3, and in all cases shall extend below the frost line. Footings of concrete and masonry shall be of solid material. Bearing walls shall be supported on masonry or concrete foundations. Piles will not be approved for bearing walls.

B. The average width and length of the main body of the dwelling shall be a minimum of 20 feet as measured from at least three points of at least 10 feet apart on the dwelling.

C. The area of the living quarters of a dwelling unit shall be a minimum of 1.2 times greater than the inclusive garage area of the building.

170.11 U-1 UNCLASSIFIED DISTRICT.

The regulations set forth in this section and those contained in Section 170.10 shall apply in the U-1 Unclassified District. The intent of the U-1 District is to preserve existing open space for future development and to identify those portions of the City that have adverse soil or drainage way characteristics and/or are affected by seasonal flooding, and thus are best suited for preservation as open space or buffers between land uses and are primarily unsuitable for structural development.

1. Principal Permitted Uses.

A. Agriculture uses, provided that no offensive odors or dust are created and provided further that no retail sales shall be permitted on premises. This shall not be construed to include the operation of livestock or poultry confinement or feeding areas, or auctions, public stables, boarding kennels, or veterinary clinics or such similar uses. Private stables shall be permitted where there exists an area devoted to such purposes of one acre, with an additional one-half acre per animal exceeding two in number. No structure or building for the stabling of animals or tethering area shall be closer than 50 feet from abutting residential properties. The area devoted to such uses shall be kept in a clean and sanitary condition.

B. Amusement enterprises, such as race track, carnival, circus, rides, and shows subject to prior recommendation from the Planning and Zoning Commission and approval by the City Council.† II

C. Single-family dwellings on existing lots of record.

D. Single-family dwellings.

E. Truck gardening, nurseries, and greenhouses provided that no permanent dwelling units shall be erected thereon unless the tract contains three or more acres.

F. Mining and extraction of minerals or raw material, subject to approval by the City Council.†

G. Airports and landing fields, subject to approval by the City Council.†

H. Forest and forestry.

I. Parks, playgrounds, golf courses, both public and private, and recreational uses including boat ramps and docks.†

J. Any use erected or maintained by a public agency.†

K. Parking facilities.

L. Public utility structures and equipment necessary for the operation thereof.

M. Transmitting stations and towers.

N. Dumping of non-combustible materials for landfill purposes.

O. Railroad right-of-way.

2. Accessory Uses.

A. Accessory buildings and uses customarily incidental to any of the above uses.

B. Bulletin boards and signs appertaining to the lease, hire, or sale of a building or premises, or signs appertaining to any material that is mined, grown, or treated within the district; provided, however, such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed, or stored.

3. Height Regulations. Any building hereafter erected or structurally altered may be erected to any height not in conflict with other existing or future ordinances of the City.

4. Lot Area, Lot Frontage, Yard, and Site Requirements. The following minimum requirements shall be observed:

U-1 District Use *2	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
Dwellings	3 acres	200 feet	3 acres	30 feet	10% of lot width	50 feet	30 feet
Other Permitted Used					25 feet		50 feet

*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

*2 The Planning and Zoning Commission may require the proponent for development to submit a statement from the appropriate State or federal agency as to the composition of the soils in the vicinity of the site (Soil Conservation Service) and/or the effect of the proposed development in relation to flood-prone areas, as described on the official City Flood-Prone Area Map, and as reviewed and approved by the Iowa Natural Resources Council.

Notes

† Subject to the provisions of Section 170.25 of this chapter.

170.12 R-1 RESIDENCE DISTRICT.

The regulations set forth in this section and the regulations contained in Section 170.10 shall apply in the R-1 Residence District. The R-1 is the most restrictive Residential District. The principal use of land is for low density residential dwellings and related recreational, religious, and educational facilities normally required to provide an orderly residential area. These residential areas are intended to be defined and protected from encroachment of uses which are not appropriate to a residential environment.

1. Principal Permitted Uses.

- A. One- and two-family dwellings.
- B. Churches and accessory buildings, after recommendation of the City Planning and Zoning Commission and upon approval of the City Council.† 12
- C. Public and parochial schools, elementary and high schools, and other educational institutions having an established current curriculum the same as ordinarily given in public schools.†
- D. Private non-commercial recreational areas and facilities, swimming pools, institutional or community recreation centers including country clubs and golf courses.†
- E. Manufactured housing.
- F. The taking of borders or the leasing of rooms by a resident family, providing total number does not exceed two per building.
- G. Farming and truck gardening, but not on a scale that would be obnoxious to adjacent areas because of noise or odors.
- H. Any use erected or maintained by a public agency.†
- I. Single-family bi-attached dwelling.

2. Accessory Uses:

- A. Accessory uses that are customarily incidental to any of the above stated uses, but not involving the conduct of business. Accessory uses shall include private garages and carports, and private greenhouses not operated for commercial purposes.
- B. Private garages and tool storage buildings.
- C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- D. One bulletin board or sign not exceeding 50 square feet in area pertaining to the construction, lease, hire, or sale of a building or premises and sale of land or lots, which board or sign shall be removed as soon as the premises are leased, hired, sold, or construction is completed.
- E. Church bulletin boards.

F. Home occupations, and permitting one non-illuminated sign not to exceed four square feet attached to the front of the principal dwelling.

3. Height Regulations. No principal building shall exceed two and one-half stories or 35 feet in height, whichever is lower, and no accessory structure shall exceed 15 feet in height except as provided in Section 170.25.

4. Lot Area, Frontage and Yard Requirements - R-1. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 170.25.

R-1 District Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
One-Family Dwellings	8,400 square feet	70 feet	8,400 square feet	30 feet	lesser of 10 feet or 10% of lot width		30 feet
Two-Family Dwelling	10,000 square feet	80 feet	5,000 square feet	30 feet	lesser of 10 feet or 10% of lot width		35 feet
Single-Family, Bi-Attached Dwelling	5,000 square feet	40 feet	5,000 square feet	30 feet	lesser of 10 feet or 20% of lot width		35 feet
Other Permitted Used	10,000 square feet	80 feet		30 feet	10% of lot width		35 feet

*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

Notes

¹² † Subject to the provisions of Section 170.25 of this chapter.

170.13 R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT.

The regulations set forth in this section and contained in Section 170.10 shall apply in the R-2 Medium Density Residential District. The intent of the R-2 District is to provide for single-family and medium high population density. The principal use of land may range from single-family to multiple-family dwelling units. Certain uses are permitted which are more compatible functionally with intensive residential uses than with commercial uses. The recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area are included. Internal stability, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

1. Principal Permitted Uses.

- A. Any use permitted in the R-1 District.
- B. Multiple dwellings (maximum eight families).
- C. Boarding and lodging houses.
- D. Institutions of a religious, educational, or philanthropic nature, including libraries.^{† 13}
- E. Hospitals, day nurseries, nursing and convalescent homes, clinics, excepting animal hospitals.[†]

F. Private clubs, fraternities, sororities, and lodges, excepting those the principal activity of which is a service customarily carried on as a business.†

2. Accessory Uses.

A. Accessory uses permitted in the R-1 District.

B. Other accessory uses and structures, not otherwise prohibited, customarily accessory and incidental to any permitted principal use, including an indirectly lighted, non-flashing sign not to exceed one square foot for every five feet of frontage of property occupied by the use in question.

C. Storage garages where the lot is occupied by multiple dwellings, hospital, or institutional buildings.

3. Height Regulations. No principal building shall exceed three stories or 45 feet in height at the required front, side, and rear yard lines, but above the height permitted at said yard lines, two feet may be added to the height of the building for each one foot that the building or portion thereof is set back from the required yard lines, except as further provided in Section 170.25.

4. Lot Area, Frontage, and Yard Requirements - R-2. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 170.25.

R-2 District Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
One-Family Dwellings	7,200 square feet	60 feet	7,200 square feet	25 feet	5 feet		30 feet
Two-Family Dwelling	8,000 square feet	70 feet	4,000 square feet	25 feet	5 feet		30 feet
Single-Family, Bi-Attached Dwelling	4,000 square feet	35 feet	4,000 square feet	25 feet	5 feet		30 feet
Multi-Family Dwellings	10,000 square feet	80 feet	2,500 feet	30 feet	10% lot width		30 feet
Other Permitted Used	10,000 square feet	80 feet		30 feet	10% of lot width		35 feet

*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

Notes

13 † Subject to the provisions of Section 170.25 of this chapter.

170.14 R-3 HIGH DENSITY RESIDENTIAL DISTRICT.

The regulations set forth in this section and contained in Section 170.10 shall apply in the R-3 High Density Residential District. The R-3 High Density Residential District is to provide for single- and multiple dwelling structures and medium to high population density. The principal use of land may range from single-family to multiple-family dwelling units including condominiums and row housing. Certain uses are permitted which are more compatible functionally with intensive residential uses than with commercial uses. Internal stability, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

1. Principal Permitted Uses.

A. Any use permitted in the R-2 District.

B. Funeral homes and mortuaries.

C. Offices such as:

Accountants

Architects

Art Schools

Barber Shops

Beauty Shops

Church Offices

Civil Engineers

Collection Agency

Credit Bureau

Dental Offices

Entertainment Bureau

Insurance

Medical Offices with Dispensary

Nurses Registry

Psychologists

Public Stenographers

Real Estate

Other uses similar to the foregoing designated uses, but subject to review by the City Planning and Zoning Commission and approval by the City Council.

D. Tourist homes.

E. Veterinary, clinic or animal hospital, provided all phases of the business conducted upon the premises are within a building where noises and odors are not evident to adjacent properties.

2. Accessory Uses.

A. Accessory uses permitted in the R-2 District.

B. Signs for the above permitted uses same as provided in the R-2 District.

3. Height Regulations. No principal buildings shall exceed three stories or 45 feet in height at the required front, side, and rear yard lines, except two feet may be added to the height permitted at said yard lines for each one foot that the building or portion thereof is set back from the required yard lines, except as further provided in Section 170.25.

4. Lot Area, Frontage, and Yard Requirements - R-3. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 170.25.

R-3 District Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
One-Family	6,000 square	60 feet	6,000 square	20 feet	5 feet		30 feet

Dwellings	feet		feet				
Two-Family Dwelling	8,000 square feet	70 feet	4,000 square feet	20 feet	5 feet		30 feet
Single-Family, Bi-Attached Dwelling	4,000 square feet	35 feet	4,000 square feet	20 feet	5 feet		30 feet
Multi-Family and Other Permitted Uses:							
1 and 1½ stories	8,000 square feet	65 feet	2,000 square feet for the first 4 units, plus 850 square feet per unit on the first, second, and third floors, plus 450 square feet per unit above the third floor	20 feet	5 feet	10 feet	35 feet
2 and 2½ stories	8,000 square feet	65 feet		20 feet	5 feet	10 feet	35 feet
3 stories	8,000 square feet	70 feet		20 feet	5 feet	10 feet	35 feet
4 stories or more*2	10,000 square feet	80 feet		20 feet	5 feet	10 feet	35 feet
*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.							
*2 Subject to the further requirements of subsection 3 of this section.							

170.15 R-MH PLANNED MOBILE HOME DISTRICT.

The regulations set forth in this section shall apply in the R-MH Planned Mobile Home District. The intent of the R-MH District is to provide sites only for the location of mobile homes which will allow the maximum amount of freedom possible in the design of mobile home parks and will provide for the related recreational, commercial, and other service facilities for the Planned Mobile Home Residential Developments.

1. Principal Permitted Uses.

- A. Single and double-wide mobile homes.
- B. Non-commercial community recreational facilities which are intended exclusively for the use of the residents and their guests of the mobile home development.
- C. Pedestrian-oriented personal service facilities which are intended exclusively for the use of the residents of the mobile home development, provided that such personal service facilities occupy not more than 10 square feet of gross floor area for each mobile home in the development.
- D. Buildings used for the management and maintenance of the development.
- E. Commercial mobile home sales.

2. Accessory Uses.

- A. Buildings and uses customarily accessory to mobile homes, such as garages and storage buildings.
- B. One indirectly lighted, non-flashing sign not to exceed one square foot for each five feet of frontage of said mobile home park.

3. Height Regulations. No principal building within this district shall exceed two stories or 25 feet in height, whichever is lower; and no accessory structure shall exceed one story or 15 feet in height, whichever is lower.

4. Procedure. The owner or owners of any tract of land comprising an area of not less than 10 acres shall submit to the Planning and Zoning Commission a plan for the use and development of the entire tract of land. This plan shall include the site location and uses of all buildings, the location of each single-wide and double-wide mobile home stand, the

locations and types of all community and recreational facilities; open spaces, including developed open spaces and those to be preserved in their existing state; points of access to vehicular circulation principal elements of the site, principal pedestrian and ways, parking facilities and other vehicular and pedestrian transportation systems. The Planning and Zoning Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principals of civic design, land use planning, and landscape architecture. The Planning and Zoning Commission may, after holding a public hearing and reviewing the development plan, recommend approval; approval with recommended modifications; or disapproval of the development plan which accompanies the application. The Planning and Zoning Commission shall forward its written recommendations to the City Council which shall after notice and public hearing, approve or disapprove said application and plan, or may require such changes thereto as it deems necessary to effectuate the intent and purpose of this Zoning Ordinance.

5. Standards. The land usage, minimum lot area, yard, height, and accessory uses shall be determined by the requirements set out as follows, which shall prevail over conflicting requirements of this Ordinance or the subdivision ordinance (Chapter 175 of this Code of Ordinances).

A. Uses along the project boundary lines shall not be in conflict with those allowed in adjoining or opposite property. To this end, the Planning and Zoning Commission may require, in the absence of an appropriate physical barrier, that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project.

B. A plat of the development shall be recorded, showing building locations, common land, streets, easements, and other applicable items required by Chapter 175.

C. No building permits shall be issued until the final plat of the development is approved and recorded, and the applicant must file with the Building Official of the City proof of compliance with all requirements of the Department of Health of the State.

6. Deed Restrictions. In its review of the plan, the Commission or Council may consider any deed restrictions or covenants entered into or contracted for by the developer concerning the use of common land or permanent open space. Common land as herein contained shall refer to land dedicated to the public use and to land retained in private ownership but intended for the use of the residents of the development unit or the general public.

7. Land Use and Density Requirements.

A. Seven mobile home stands shall be permitted for each acre of land contained in the usable area of the plan.

B. No part of any mobile home or other structure shall be located within 25 feet of any public road shown on the official Major Street Plan, or within 20 feet of any exterior boundary of the Planned Mobile Home Development.

C. Parking facilities shall be provided within the development at the rate of two spaces per mobile home.

D. Commercial uses and accessory uses within the R-MH District shall not consume more than 15 percent of the total district.

E. No permit for any commercial structure or building shall be issued until at least 25 percent of the mobile home sites is developed for residential uses.

170.16 C-1 RECREATIONAL-COMMERCIAL DISTRICT.

The regulations set forth in this section and contained in Section 170.10 shall apply in the C-1 Recreational Commercial District. The intent of the C-1 District is to provide for those commercial uses primarily oriented toward travel and/or light commercial uses.

1. Principal Permitted Uses.

A. Any use permitted in the R-3 District, but excluding R1 and R2 uses.

B. The following uses:

Hotels and motels.

Restaurants (including drive-in restaurants).

Bait and tackle shops.

Antique shop.

Apparel shop.

Bakery, whose products are sold only at retail and only on the premises.

Bicycle shop, sales or repair.

Book binding and book store.

Candy shops where products are sold only at retail and only on the premises.

Carpet and floor covering store.

Collection office of public utility.

Dairy store - retail

Drapery shop.

Drug stores.

Financial institutions.

Florist and nursery shop - retail.

Furniture store.

Gift shop.

Grocery stores and delicatessens.

Hardware and variety store.

Hobby shop.

Household appliances - sales and repair.

Jewelry shop.

Key shop.

Music store.

Museums.

Offices, business, government, and professional.

Office supply store.

Paint and wallpaper store.

Pet shop including aquariums.

Photographic studio.

Radio and television sales and service.

Shoe and shoe repair shop.

Sporting goods store.

Tailor shop.

Travel agency.

Upholstery establishments.

Variety stores.

C. No occupancy permit shall be issued for any of the following uses until and unless the location of such use shall have been authorized by the City Council after a report by the Planning and Zoning Commission.

(1) Recreational retail sales and services including rental, and servicing of boat, and outdoor equipment. This paragraph shall not be construed to include truck and farm implement establishments, or machinery wrecking and used parts yards.

(2) Overnight campgrounds (short term, non-residential, recreational use).

(3) Storage units.

(4) Service stations.

(5) Convenience stores.

(6) Retail auto sales - not to exceed 20 vehicles.

2. Accessory Uses.

A. Accessory uses permitted in the R-3 District.

B. Accessory uses and structures customarily incidental to any permitted principal uses.

C. Any exterior or roof sign, provided such sign shall not project more than 16 feet above the roof line.

3. Height Regulations. No building shall exceed three stories or 45 feet in height, whichever is lower, except as otherwise provided in Section 170.25.

4. Lot Area, Frontage, and Yard Requirements - C-1. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 170.25.

C-1 District Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
Dwellings	>>	>>	Same as R-3 District	<<	<<	<<	<<
Hotels and Motels	1 acre	100 feet		50 feet	See *3		
Overnight Campgrounds	3 acres	100 feet		50 feet	See *3		
Other Permitted Uses				50 feet*2	See *3		
Accessory Building				50 feet *5	10 feet	10 feet	4 feet

*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

*2 Where the frontage on one side of the street between two intersecting streets is located in the C-1 Recreational-Commercial District and an R Residence District, one-half of the front yard requirements of the R Residence District shall apply to the C-1 Recreational-Commercial District. Where a lot is located at the intersection of two or more streets, the front yard requirements stated above shall apply to each street side of the corner lot, except that the buildable width of such lot shall not be reduced to less than 28 feet. No accessory building shall project beyond the front yard line on either street.

*3 Side yards shall be no less than 10 feet except where vehicular service is required to the rear of the principal structure, in which case one side yard shall be no less than 20 feet.

*4 For every additional foot the front yard depth is increased over 50 feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than 25 feet.

*5 All accessory buildings shall not project beyond the front building line of the principal building if said principal building setback line is increased.

170.17 C-2 COMMERCIAL DISTRICT.

The regulations set forth in this section and contained in Section 170.10 shall apply in the C-2 Commercial District. The intent of the C-2 District is to provide for those commercial uses primarily oriented toward automobile traffic or requiring amounts of space too great to be located in the Central Business District.

1. Principal Permitted Uses.

A. Any use permitted in the C-1 and C-3 Districts.

B. The following uses:

Automobile, motorcycle, truck, trailer, boat, snowmobile, and farm implement establishments for display, hire, repair, and sales (including new and used sales lots). This paragraph shall not be construed to include automobile, tractor, or machinery wrecking and used parts yards.

Ballrooms and dance halls.

Bowling alleys.

Carpenter and cabinet shops, lumber yards, building material sales yard, sheet metal shop, sign construction and painting shop, storage warehouse or business, and wholesale warehouse or business, but not including any manufacturing or fabricating for wholesaling operations.

Drinking establishments.

Furniture stores.

Monument sales yards.

Tire shops (including vulcanizing and retreading).

Truck stops and terminals.

Race tracks (not including motorized vehicles).

2. Accessory Uses.

A. Accessory uses permitted in the C-1 District.

B. Accessory uses and structures customarily incidental to any permitted principal uses.

C. Any exterior or roof sign, provided such sign shall not project more than 16 feet above the roof line.

3. Height Regulations. No building shall exceed three stories or 48 feet in height, whichever is lower, except as otherwise provided in Section 170.25 of this chapter.

4. Lot Area, Frontage, and Yard Requirements - C-2. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 170.25.

C-2 District Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
Dwellings	>>	>>	Same as R-3 District	<<	<<	<<	<<
Hotels and Motels	1 acre	100 feet		50 feet	See *3		
Overnight Campgrounds	3 acres	100 feet		50 feet	See *3		
Other Permitted Uses				50 feet*2	See *3		

Accessory Building				50 feet *5	10 feet	10 feet	4 feet
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*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

*2 Where the frontage on one side of the street between two intersecting streets is located in the C-2 Commercial District and an R Residence District, one-half of the front yard requirements of the R Residence District shall apply to the C-2 Commercial District. Where a lot is located at the intersection of two or more streets, the front yard requirements stated above shall apply to each street side of the corner lot, except that the buildable width of such lot shall not be reduced to less than 28 feet. No accessory building shall project beyond the front yard line on either street.

*3 Side yards shall be no less than 10 feet except where vehicular service is required to the rear of the principal structure, in which case one side yard shall be no less than 20 feet.

*4 For every additional foot the front yard depth is increased over 50 feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than 25 feet.

*5 All accessory buildings shall not project beyond the front building line of the principal building if said principal building setback line is increased.

170.18 C-3 CENTRAL BUSINESS DISTRICT.

The regulations set forth in this section and contained in Section 170.10 shall apply in the C-3 Central Business District. The intent of the C-3 District is to provide for the grouping of the majority of commercial uses and services in the Central Business District.

1. Principal Permitted Uses.

A. Any use permitted in the R-3 District, except single-family dwellings.

B. The following uses:

Antique shop.

Apparel shop.

Automobile, motorcycle, truck, trailer, boat, snowmobile, and farm implement establishments for display, hire, repair, and sales (including new and used sales lots). This paragraph shall not be construed to include automobile, tractor, or machinery wrecking and/or used parts yards.

Bakery, whose products are sold only at retail and only on the premises.

Bicycle shop, sales or repair.

Billiard parlor and pool hall.

Book binding and book store.

Bowling alleys.

Bus and taxi depots.

Candy shops where products are sold only at retail and only on the premises.

Carpet and floor covering store.

Clothes cleaning and/or dyeing establishments.

Collection office of public utility.

Commercial parking lots for passenger vehicles.

Dairy store - retail.

Dance and/or music studio.

Department store.

Drapery shop.

Drinking establishment.

Drug stores.

Exterminator sales.

Financial institutions.

Florist and nursery shop - retail.

Fruit and vegetable market.

Furniture store.

Gift shop.

Grocery stores and delicatessens.

Hardware and variety store.

Hobby shop.

Hotels and motels.

Household appliances - sales and repair.

Ice storage and distributing of not more than five-ton capacity.

Jewelry shop.

Key shop.

Landscape gardener.

Laundries.

Lawn mower repair shop.

Liquor store.

Locker plant for storage and retail sales only.

Music store.

Museums.

Offices, business, government, and professional.

Office supply store.

Paint and wallpaper store.

Pet shop including aquariums.

Photographic studio.

Plumbing, heating, and electrical contractor shop.

Printing and/or publishing houses, newspapers.

Radio and television sales and service.

Restaurants.

Service stations.

Shoe and shoe repair shop.

Sporting goods store.

Tailor shop.

Theaters (excluding drive-in theaters), auditoriums.

Travel agency.

Upholstery establishments.

Variety stores.

Convenience stores (with principal building limited to 3,000 square feet).

2. Accessory Uses.

A. Residential units when located above first floor level of the above principal permitted uses.

B. Storage facilities related to the operation of the principal permitted use.

C. Any exterior or roof sign the height of which shall not exceed 40 percent of the building height above the roof line, but not to exceed 50 feet above the roof line in any case. For buildings less than 40 feet in height, the maximum height above the roof line for any exterior or roof sign shall be 16 feet.

3. Adult Businesses.

A. Definitions. The following definitions shall govern the interpretation of the regulations of adult uses:

(1) "Adult bookstore" means an establishment having 25 percent of the retail floor space presently being used by said business or 25 percent of the gross business income derived from or attributable to printed matter, pictures, slides, records, audio tapes, video tapes or motion picture films, which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as hereinafter defined.

(2) "Adult cabaret" means any establishment which excludes minors by virtue of age wherein the entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.

(3) "Adult conversation/rap parlor" means any establishment which excludes minors by reason of age and which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(4) "Adult health/sport club" means a health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) "Adult massage parlor" means a massage parlor which restricts minors by reason of age, or which provides the service of massage, wherein the massage is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) "Adult mini-motion picture theater" means a building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

(7) "Adult motion picture theater" means a building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

(8) "Adult steam room/bathhouse facility" means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(9) "Adult uses" include, but are not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, and other premises, enterprises, businesses, private clubs/establishments or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas which are capable of being seen by members of the public.

(10) "Protected uses" includes a building in which a majority of floor space is used for residential purposes; a day care center where such day care center is a principal use; a house of worship; a public library; a school (public, parochial or private; elementary, junior high or high school); public park, public recreation center or public specialized recreation facility as identified in the parks and recreation element of the Evansdale Comprehensive Plan; a civic/convention center; a community residential facility; a mission. However, this definition shall not apply if the protected use is a legal nonconforming use.

(11) "Specified anatomical areas" includes the following:

a. Less than completely and opaquely covered: (i) human genitals, (ii) pubic region, (iii) buttock, and (iv) female breast below a point immediately above the top of the areola; and

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(12) "Specified sexual activities" includes the following:

a. Human genitals in a state of sexual stimulation or arousal.

b. Acts of human masturbation, sexual intercourse or sodomy; or

c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

B. Regulations Governing the Location of Adult Uses.

(1) All adult uses shall be allowed in the C-3 zoning district as a principal permitted use, provided that the adult use complies with the minimum separation requirements, as specified in these subparagraphs.

(2) An adult use shall be located at least 600 feet from any other adult use measured in a straight line from the closest points of the property lines in which the adult uses are located.

(3) An adult use shall be located at least 600 feet from any residentially zoned property measured in a straight line from the closest point of the property line in which the adult use is located to the closest residentially zoned property line.

(4) An adult use shall be located at least 600 feet from any protected use as defined herein, which distance shall be measured in a straight line from the closest point of the property line in which the adult use is located to the closest point of the property line in which is located an aforementioned protected use. If a protected use is a legal nonconforming use, this provision shall not apply.

(5) The minimum separation requirements may be varied by the Board of Adjustments if the person applying for the variance files an application for a variance with the Building Official. Included with said application shall be a consent petition which indicates approval of the proposed adult use signed by 90 percent of the property owners within 600 radial feet of the lot on which the use would be located. The Board of Adjustment, in considering such a variance, shall make the following findings: (i) that the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of the ordinance will be observed; (ii) that the establishment of an additional use of this type in the area will not be contrary to the program of neighborhood conservation or improvement, either residential or nonresidential; and (iii) that all applicable regulations of this chapter will be observed.

C. Termination of Nonconforming Adult Uses. Any such adult use that, at the time of the adoption of the Zoning Ordinance, becomes nonconforming because it does not meet the minimum separation requirements between it and any other such establishment, or between it and any residential zoning district shall terminate all uses herein defined no later than one year after the date of the adoption of the Zoning Ordinance. However, if in the opinion of the owner of the business involved in such use, the termination would create an undue hardship, the owner may appeal to the Board of Adjustment for an extension of time for the termination. It shall be the responsibility of the owner to show just cause for a time extension based upon evidence submitted by the owner which demonstrates by the greater weight of evidence that one year was not an adequate length of time to amortize the owner's investment in such establishment. The Board shall determine whether such a time extension shall be granted and how long such extension shall be, based upon the evidence

presented. However, no establishment shall be granted more than one time extension and no such extension shall be for longer than the minimum time determined necessary by the Board for the owner to amortize the investment which existed at the time of the adoption of the Zoning Ordinance. Any investments in said nonconforming establishment subsequent to the adoption of the Zoning Ordinance shall not be included for such amortization value purposes. Such nonconforming establishment shall not increase, enlarge, expand, extend or alter such land area, building, or structure involved in such establishment except by changing the use to another use which is permitted in that zoning district by the terms of the Zoning Ordinance. If the owner of the nonconforming establishment desires to increase, enlarge, expand, extend or alter such land area, building or structure involved in such establishment, the owner shall be required to apply for a special permit under the provisions of the Zoning Ordinance. In determining whether an adult use is nonconforming, especially in relation to another adult use, the Board shall take into account the length of time that said adult use has been operating at its present location and shall consider the oldest adult use as a conforming use.

D. Violation and Penalty. Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this subsection shall be guilty of a simple misdemeanor, and upon conviction, shall be fined not more than \$100.00 for the first offense, \$250.00 for the second offense, and \$500.00 for the third and subsequent offenses.

(1) Any violation of the provisions of this subsection may also be considered a municipal infraction. If a municipal infraction citation is served, the procedures for enforcement of that civil offense shall be governed by Chapter 4 of this Code of Ordinances.

(2) Each day that a violation is permitted to exist shall constitute a separate offense.

(3) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Zoning Ordinance, the City Council, in addition to other remedies, may institute any proper action or proceedings, including an action to enjoin such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, in the name of the City, to restrain, correct or abate such violations, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

4. Height Regulations. No building shall exceed four stories or 50 feet in height, whichever is lower, except as otherwise provided in Section 170.25.

5. Lot Area, Lot Frontage, and Yard Requirements - C-3. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 170.25.

C-3 District Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
Hotels and Motels	1 acre	100 feet		50 feet	See *3		
Other Permitted Uses				30 feet*5	See *4		

*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

*2 Where the frontage on one side of the street between two intersecting streets is located in the "C-1" Commercial District and a "R" Resident District, one-half (50%) of the front yard requirements of the "R" Residence District shall apply to the "C-1" Commercial District. Where a lot is located at the intersection of two or more streets, the front yard requirements stated above shall apply to each street side of the corner lot, except that the buildable width of such lot shall not be reduced to less than twenty-eight (28) feet. No accessory building shall project beyond the front yard line on either street.

*3 Side yards shall be no less than 10 feet except where vehicular service is required to the rear of the principal structure, in which case one side yard shall be no less than 20 feet.

*4 None except adjacent to an R District, in which case not less than 15 feet.

*5 Except when a proposed building is to be located between two developed lots, the minimum setback shall be the average of the two existing setbacks or 30 feet, whichever is greater.

170.19 M-1 INDUSTRIAL DISTRICT.

The regulations set forth in this section and contained in Section 170.10 shall apply in the M-1 Industrial District. The intent of the M-1 District is to provide areas for light industrial uses.

1. Principal Permitted Uses.

A. Any use permitted in the C-2 District, except that no occupancy permit shall be issued for any dwelling, school, hospital, clinic, or other institution for human care, except where incidental to a permitted principal use.

B. Any use permitted in a C-3 District.

C. The following uses:

Automobile assembly.

Carpet and rug cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.

Bakeries, other than those whose products are sold at retail only on the premises.

Welding or other metal working shops, excluding shops with presses over 20-ton rated capacity, drop hammers and the like.

Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors, storage and sale of feed and/or fuel, provided dust is effectively controlled, and storage yards for vehicles of a delivery or draying service.

Carting, express, hauling or storage yards.

Circus, carnival, or similar transient enterprise, provided such structures or buildings shall be at least 200 feet from any R District.

Coal, coke, or wood yard.

Cooperage works.

Creamery, bottling works, ice cream manufacturing (wholesale), ice manufacturing, and cold storage plant.

Enameling, lacquering, or japanning.

Foundry casting lightweight non-ferrous metals or electric foundry not causing noxious fumes or odors.

Flammable liquids, underground storage only, not to exceed 25,000 gallons, if located not less than 200 feet from any R District.

Junk, iron or rags, storage or baling, where the premises upon which such activities are conducted are wholly enclosed within a building, wall or fence, not less than six feet in height, completely obscuring the activity. but not including automobile, tractor, or machinery wrecking or used parts yards.

Laboratories—experimental, film, or testing.

Machine shop.

Manufacture of musical instruments and novelties.

Manufacture or assembly of electrical appliances, instruments and devices.

Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns.

Manufacture and repair of electric signs, advertising structures, sheet metal products, including heating and ventilating equipment.

Milk distributing station other than a retail business conducted on the premises.

Sawmill, planing mill, including manufacture of wood products not involving chemical treatment.

The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals, and food products except fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour, and the rendering or refining of fats and oils.

The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastics, metals or stones, tobacco, wax, yarns, and wood.

Facility for transportation, storage, processing, shipping and incineration of medical supplies or wastes.

Locker facility for the storage, processing, distribution and manufacturing of Iowa products, for both retail and wholesale industry.

Facility for commercial parking and storage of passenger vehicles, campers, boats, trailers, tractor trailers, and other vehicles and seasonally stored items and products both within buildings and within a fenced secured area.

Facility for warehousing of wholesale or retail products, that may require certain minor assembly, subassembly or processing.

Facility for manufacturing, processing, distribution, and storage of material and products involving laser technology, circuit board assembly, micro-chips and other aero-space technologies.

2. Accessory Uses.

A. Any accessory uses permitted in the C-2 Commercial District.

B. Any accessory uses customarily accessory and incidental to a permitted principal use.

3. Required Conditions. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibrations, refuse matter, or water-carried waste.

4. Height Regulations. No building shall exceed four stories or 50 feet in height, whichever is lower, except as otherwise provided in Section 170.25.

5. Yard Requirements. The following minimum requirements shall be observed subject to the modified requirements contained in Section 170.25.

M-1 District Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
Dwellings	>>	>>	Same as R-2 District	<<	<<	<<	<<
Motels and Auto Courts	>>	>>	Same as C-1 District	<<	<<	<<	<<
Other Permitted Uses				25 feet	*2		40 feet *3

*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

*2 None required except adjacent to an R District, in which case not less than 25 feet.

*3 For every additional foot the front yard depth is increased over 25 feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than eight feet; and in addition, if any portion of this rear yard area is used for an enclosed off-street loading space, the area above such an enclosure may be used for building purposes.

170.20 M-2 HEAVY INDUSTRIAL DISTRICT.

The regulations set forth in this section and contained in section shall apply in the M-2 Heavy Industrial District. The intent of the M-2 District is to provide areas for heavy industry, which, because of its location, transportation requirements, and demands on public services, exerts a pronounced impact on the City.

1. Principal Permitted Uses.

A. A building or premises may be used for any purpose whatsoever except those listed in paragraphs (1), (2), and (3) below:

(1) No occupancy permit shall be issued for any use in conflict with any ordinance of City or law of the State regulating nuisances.

(2) No occupancy permit shall be issued for any dwelling, school, hospital, clinic, or other institution for human care, except where incidental to a permitted principal use.

(3) No occupancy permit shall be issued for any of the following uses until and unless the location of such use shall have been authorized by the City Council after report by the Fire Department.

B. The following uses:

Slaughter houses or stock yards, storage and sale of livestock.

Acid manufacture or wholesale storage of acids.

Automobile, tractor, or machinery wrecking and used parts yards.

Cement, lime gypsum, or plaster of Paris manufacture, concrete mixing, concrete products manufacture.

Distillation of bones.

Explosive manufacture or storage.

Fertilizer manufacture.

Garbage, offal or dead animal reduction or dumping.

Gas manufacture and cylinder recharging.

Glue, size or gelatine manufacture.

Manufacturing, compounding, processing, packaging or treatment of fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour, and the rendering or refining of fats and oils.

Petroleum or its products, refining or wholesale storage of.

Rubber goods manufacture.

Sand or gravel pits.

Smelting of tin, copper, zinc, or iron ores.

Transmitting stations.

Waste paper yard.

Wholesale storage of gasoline.

2. Required Conditions.

A. The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance, shall be employed.

B. All principal buildings and all accessory buildings or structures, including loading facilities, shall be located at least 200 feet from any R District and not less than 100 feet from any other district except an M-1 District.

3. Height Regulations. No structure shall exceed in height the distance measured to the centerline of the nearest street from any portion of the proposed building or structure, except as provided in Section 170.25 of this chapter.

4. Yard Requirements. The following minimum requirements shall be observed subject to the modified requirements contained in Section 170.25.

M-2 District Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
Permitted Uses				25 feet	None required except adjacent to an R District, in which case not less than 200 feet		40 feet
*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.							

170.21 P-D PLANNED DEVELOPMENT DISTRICT.

The regulations set forth in this section shall apply in the P-D Planned Development District. The purpose of the P-D District is to permit the development of large tracts of residential, commercial, or industrial land or viable combinations thereof in an orderly meaningful fashion. It is intended that such development should maximize the potentials of the area and minimize any adverse effects upon adjacent properties.

1. Procedure. The owner or owners of any tract of land comprising an area of not less than 10 acres may submit to the City Council a plan for the use and development of the entire tract of land. Said development plan shall be referred to the Planning Commission for study and for report after public hearing. The Planning Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principles of civic design, land use planning, and landscape architecture. The Commission may approve the plan as submitted, or before approval may require that the applicant modify, alter, adjust, or amend the plan as the Commission deems necessary to the end that it preserves the intent and purpose of this chapter to promote public health, safety, morals, and general welfare. The development plan as approved by the Commission shall then be reported to the City Council, whereupon the City Council may, after notice and public hearing, approve or disapprove said plan as reported or may require such changes thereto as it deems necessary to effectuate the intent and purpose of this Zoning Ordinance.

2. Standards. The land usage, minimum lot area, yard, height, and accessory uses shall be determined by the requirements set out below, which shall prevail over conflicting requirements of this Zoning Ordinance or the Subdivision Ordinance (Chapter 175 of this Code of Ordinances).

A. The minimum yard and height requirements of the zoning district in which the development is located shall not apply except that minimum yards specified in the district shall be provided around the boundaries of the area being developed.

B. Uses along the project boundary lines shall not be in conflict with those allowed in adjoining or opposite property. To this end, the Commission may require, in the absence of an appropriate physical barrier, that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project.

C. A plat of the development shall be recorded regardless of whether a subdivision is proposed, showing building lines, building locations, common land, streets, easements, and other applicable items required by the Subdivision Ordinance.

D. No building permits shall be issued until the final plat of the development is approved and recorded.

3. Deed Restrictions. In its review of the plan, the Commission or Council may consider any deed restriction or covenants entered into or contracted for by the developer concerning the use of common land or permanent open space. Common land as herein contained shall refer to land dedicated to the public use and to land retained in private ownership but intended for the use of the residents of the development unit or the general public.

4. Changes from Original Use. Any subsequent change in the initial permitted use or uses shall be approved by the City Council upon the recommendation of the City Planning Commission prior to the issuance of an occupancy permit.

5. Changes and Modifications. No change or modification of the plat of any such Planned District as to land use, density, and street location or size shall be permitted except by the procedure providing for amendments to this Zoning Ordinance in Section 170.29. Other changes or modifications, such as locations of buildings, parking lots, common areas except streets, etc., may be made upon application to and approval of the City Planning and Zoning Commission.

170.22 OFF-STREET PARKING AND LOADING AREAS.

1. Off-Street Loading Spaces Required. In any district, in connection with every building or part thereof hereafter erected, having a gross floor area of 10,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution of merchandise, there shall be provided and maintained on the same lot with such building, at least one off-street loading space plus one additional such loading space for every 20,000 square feet or major fraction thereof of gross floor area so used in excess of 10,000 square feet.

A. Each loading space shall be not less than 10 feet in width.

B. Such space may occupy all or any part of any required yard or court space or as specifically provided in the district in which it is located.

2. Off-Street Parking Area Required.

A. In all districts, in connection with every industrial, commercial, business, trade, institutional, recreational, or dwelling use, and similar uses, space for parking and storage of vehicles shall be provided for each permitted use in accordance with the following schedule; however, no parking area required hereunder shall be less than 1,000 square feet in area except in the case of dwellings and retail stores and shops under 1,000 square feet.

- (1) Automobile sales and service garages - 50 percent of floor area.
- (2) Automotive service stations - two spaces for each gas pump, plus three spaces for each enclosed garage stall.
- (3) Banks, business and professional offices - 75 percent of floor area.
- (4) Bowling alleys - five spaces for each alley.
- (5) Churches - one space for every six seats in a principal auditorium.
- (6) Dance halls, assembly halls - 200 percent of floor area used for dancing or assembly.
- (7) Dwellings:
 - a. One- and two-family dwellings - two spaces for each family or dwelling unit.
 - b. Multiple dwellings:
 - one space for each efficiency (studio) unit.
 - one and one-half space for each one-bedroom unit.
 - two spaces for each two or more bedroom unit.
 - c. Multiple dwellings for the elderly - one space per unit.
- (8) Funeral homes, mortuaries - one parking space for every five seats in the principal auditorium.
- (9) Furniture and appliance stores, household equipment or furniture repair shops over 2,000 square feet of floor area - 50 percent of floor area.
- (10) Hospitals - one and one-fifth space for each bed.
- (11) Hotels and motels - one space for each rentable unit plus one-half space for each employee.
- (12) Manufacturing plants - one space for every two employees on the maximum working shift.
- (13) Mobile home park - two spaces for each mobile home unit.

(14) Nursing, convalescent, and retirement homes - one space for every four beds plus one-half space for each employee, plus one space for every two residents.

(15) Restaurants, beer parlors, and night clubs, over 1,000 square feet floor area - 200 percent of floor area.

(16) Retail stores, super markets, etc., over 2,000 square feet floor area - 250 percent of floor area.

(17) Retail stores, shops, etc., under 2,000 square feet - 100 percent of floor area.

(18) Schools - one space for every four seats in the principal auditorium.

(19) Sororities, fraternities, and lodging houses - one space for every 300 square feet of gross floor area.

(20) Sports arenas, auditoriums, other than in schools - one parking space for every three seats.

(21) Theaters, assembly halls with fixed seats - one parking space for every three seats.

(22) Wholesale establishments or warehouses - one space for every two employees.

B. In case of any building, structure or premises, the use of which is not specifically mentioned herein, and provisions for a use which is so mentioned and to which said use is similar, shall apply.

C. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than eight feet in width in the case of a dwelling, and not less than 16 feet in width in all other cases leading to the loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question, except where provided in connection with a use permitted in a Residence District, such easement of access or access drive shall not be located in any Residence District.

D. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

(1) No part of any parking space shall be closer than five feet to any established street right-of-way or alley line. In case the parking lot adjoins an R District, it shall be set back at least five feet from the R District boundary and shall be effectively screen-planted.

(2) All off-street vehicular use and parking areas, except for single-family and two-family residential uses, shall be surfaced with a minimum of a two and one-half inch Hot Mix Asphalt (HMA) or four inches of Portland Cement Concrete (PCC), or other surfacing materials approved by the City Engineer. Rock treated with oil or emulsion products shall not be approved. This shall include any and all access to the site. All parking areas shall be graded and drained as to dispose of all surface water accumulation within the area, and shall be so arranged as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.

(3) Any existing parking lot that is being reconstructed must be properly graded, drained, and hard surfaced as outlined in the preceding paragraph.

(4) Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any R District.

E. In any R District abutting a C or M District, off-street parking lots shall be permitted in accordance with the following requirements:

(1) Said off-street parking lot shall not extend farther than 200 feet into an R Residence District or to the nearest street, whichever is closer.

(2) Off-street parking lots located in an R Residence District shall provide front and side yards in accordance with the district in which it is located. Provided further, front or side yards shall be used for fences, walks, or landscaping only, with no vehicular parking in said yard area. Provided further, where a contiguous development of lots is used for parking purposes, no side yard shall be required for abutting parking lots having a common side lot line.

(3) Off-street parking lots in any R Residence District shall provide a permanent fence or shrubbery screen on all side yards of the abutting R Residence District. Such screen to be located in the provided side yard.

(4) Off-street parking lots in any R Residence District shall be developed with an all-weather, dust free surface. Such surfacing shall be approved by the City Engineer. Provided further, such parking lots shall be maintained in an orderly manner free from refuse or debris.

(5) All lighting for said off-street parking lots shall be such that no light is directed or reflected on adjacent residential properties.

F. Any motorized vehicles parked on residential property outside an approved garage shall be parked on concrete, asphalt, gravel, or similar surface. Grass is not an approved parking surface.

170.23 FILLING STATIONS, PUBLIC GARAGES, AND PARKING LOTS.

1. No gasoline filling station or a commercial customer or employee parking lot for 25 or more motor vehicles, or a parking garage or automobile repair shop, shall have an entrance or exit for vehicles within 200 feet along the same side of a street of any school, public playground, church, hospital, public library, or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut.

2. No gasoline filling station or public garage shall be permitted where any oil draining pit or fuel filling appliance is located within 12 feet from any R District, except where such appliance or pit is within a building.

170.24 OUTDOOR ADVERTISING SIGNS AND BILLBOARDS.

In all districts where permitted, billboards shall be set back from the right-of-way line of any street or highway at least as far as the required front yard depth for a principal building in such districts; however, the setback of any outdoor advertising sign or billboard (not including, however, business identification and directional and other incidental signs otherwise permitted under the provisions of this Zoning Ordinance) on corner lots, in the triangle formed by the lines of streets intersecting at an angle of less than 60 degrees and a line joining points on such lines 100 feet distant from their point of intersection, no outdoor advertising sign or billboard shall be permitted. No such sign or billboard shall be permitted which faces the front or side lot line of any lot in any R District used for residential purposes within 100 feet of such lot lines or which faces any public parkway, public square, or entrance to any public park, public or parochial school, church, cemetery or similar institution, within 300 feet thereof.

170.25 EXCEPTIONS AND MODIFICATIONS.

The regulations specified in this Zoning Ordinance shall be subject to the following exceptions and interpretations:

1. Use of Existing Lots of Record. In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of this Zoning Ordinance irrespective of its area or width; and in addition, any two-family dwelling may be located on any lot or plot in an R-1 Residence District that has a lot width of not less than 60 feet and is of official record as of the effective date of this Zoning Ordinance; provided, however:

A. The sum of the side yard widths of any such lot or plot shall not be less than 10 feet, but in no case less than five feet for any one side yard.

B. The depth of the rear yard of any such lot need not exceed 20 percent of the depth of the lot, but in no case less than 10 feet.

C. In the case of a lot of record where the above requirements are greater than those of the district in which it is located, the lesser requirement shall apply.

D. In the case of building setback lines established on lots of record, as of the effective date of this Zoning Ordinance, such setback lines may apply in lieu of those required by this Ordinance unless existing adjacent building setbacks are greater than specified on the plat of record, in which case the provisions of Section 170.10 shall apply.

2. Structures Permitted Above Height Limit. The building height limitations of this Ordinance shall be modified as follows:

A. Chimneys, cooling towers, elevator bulk-heads, fire towers, monuments, penthouses, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, and spires, radio or television towers, or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances of the City.

B. Public, semi-public or public service building, hospitals, sanatoriums, or schools, when permitted in a district may be erected to a height not exceeding 60 feet, and churches and temples, when permitted in a district, may be erected to a height not exceeding 75 feet if the building is set back from each property line at least one foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.

C. Single-family dwellings and two-family dwellings in the dwelling districts may be increased in height by not more than 10 feet when two side yards of not less than 15 feet each are provided, but they shall not exceed three stories in height.

3. Area Requirements. In any district where neither public sanitary sewers or a private sanitary sewage treatment system serving three or more lots is accessible, the lot area requirement shall be one acre.

4. Double Frontage Lots. Buildings on through lots and extending through from street to street shall provide the required front yard on both streets.

5. Rear and Side Yards. In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens on an alley, one-half of the alley width may be included as a portion of the rear or side yard, as the case may be.

6. Fences.

A. Permit. No person, firm, or corporation shall construct, erect or alter a fence in the City without first obtaining a separate permit for each such fence from the Building Inspector. Each person, firm, or corporation shall, prior to issuance of a permit, provide the Building Inspector with a diagram showing location and height of such fence and a description of materials to be used. Issuance of the permit and payment of fees shall conform with the resolution passed by the City Council.

B. Definitions. For the purposes of this section, the following words are defined.

(1) "Alter" or "alteration" means any change or modification in construction.

(2) "Fence" means a structure more than 24 inches in height erected as a barrier for separating or enclosing all or a portion of a field, yard, or other area from adjoining real property.

(3) "Height" means the plumb vertical distance from the grade line to the top of a given point, exclusive of ornamental objects, such as post caps.

(4) "Screen" means a structure of obstruction designed and located to restrict vision, ventilation, to an area or space.

(5) "Yard, front" means a yard extending across the full width of the lot and measured between the front lot line and the residence, excluding garages, enclosed porches, patios, decks, etc., other than the projection of the steps. On corner lots each yard adjacent to a street is front yard and shall comply with the regulations for front yards.

(6) "Yard, rear" means a yard extending across the full width of the lot and measured between the rear lot line and the residence, excluding garages, enclosed porches, patios, decks, etc., or any projections other than steps, unenclosed balconies, or unenclosed porches. On corner lots, one of the lot lines which is not adjacent to a street shall be designated as the rear lot line.

(7) "Yard, side" means a yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

7. Fence Regulations.

A. Residential. In any R Residential District, the following shall apply:

(1) No fence or wall in any front yard shall exceed four feet in height. Fences located in the side yard or along the dwelling's frontal boundary shall not exceed eight feet in height. It is recommended, however, that a six-foot wide portion of fence along this boundary line shall not exceed four feet in height in order to remain accessible for public safety personnel. It is further recommended that three sides of the dwelling should remain accessible to public safety personnel and only one side of the house should be totally restricted by use of a fence over four feet in height. (See diagram Fence Examples)

(2) Fences or walls along interior lot lines within the limits of the side yard of the adjoining lot shall not exceed eight (8) feet in height. Residential fences or landscape features such as sculpture or walls may be erected or constructed with the centerline of said barrier to be located within the property with no portion of the fence extending on to adjacent property or right-of-way. (See diagram of Fence Examples.)

(3) No fence or wall in any rear yard shall exceed eight feet in height; except on double frontage lots where the fence or wall will not exceed four feet in height from the building setback line to the lot line. (See diagram.)

(4) Any fence or wall on a corner lot shall conform to the 30-foot vision clearance triangle requirement. (See diagram.)

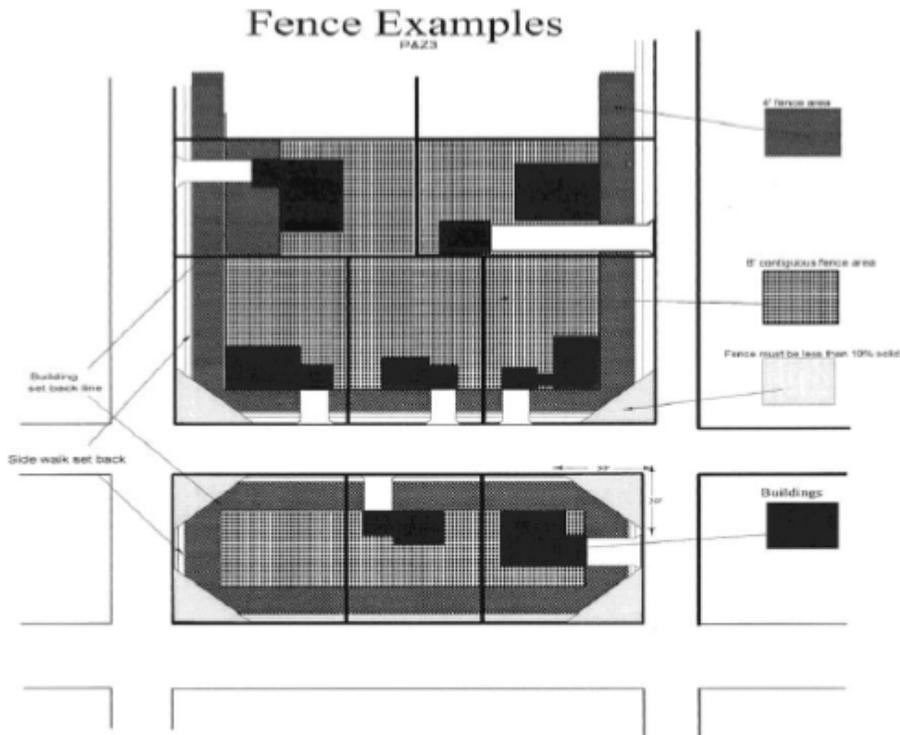
(5) No person shall place, construct, or maintain any electric or barbed wire fence.

(6) No person shall place, construct, or cause to be placed or constructed any fence or wall utilizing materials not designed, manufactured, or suitable for such use. The Building Inspector will deem what is suitable.

B. Nonresidential. Nonresidential fences located in a district other than an R district must be located with the centerline of the said fence at least six inches from the property line and cannot exceed eight feet in height.

C. Nonconforming Fences. The lawful use of a fence existing at the effective date of this Zoning Ordinance may be continued, although such fence does not conform to the provision of this Ordinance. The extension or alteration of an existing nonconforming fence shall be governed by the provisions of this Ordinance as for new fences.

D. Appeal. An appeal regarding the suitability of materials or methods of construction or the location or height of a fence may be made to the Board of Adjustment.



8. Remodel of Open Porch. An existing open porch may be remodeled or rebuilt to an enclosed non-habitable vestibule entranceway (which may include closet space) when projecting not more than one fourth the distance of the front yard setback and extending in width not more than one-fourth of the width of the residence.

9. Special Permit Required. A special permit for the location of any of the following buildings or uses in any district where permitted in this Zoning Ordinance must be obtained from the City Council after public hearing thereon.

A. Any public building erected and used by any department of the City, Township, County, State or Federal government.

B. Public and parochial schools.

C. Hospitals, non-profit fraternal institutions (provided they are used solely for fraternal purposes), and institutions of an educational, religious, philanthropic or charitable character, provided that the building shall be set back from all yard lines a distance of not less than two feet for each foot of building height.

D. Public and private recreational uses.

E. Cemeteries (minimum 10 acres).

F. Mining and extraction of minerals or raw materials.

G. Airports and landing fields.

H. Circus, carnival, or similar transient enterprises.

I. Adult entertainment establishments.

Before the issuance of any special permit for any of the above buildings or uses, the City Council shall refer the proposed application to the Zoning Commission, which shall be given 45 days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities, and other matters pertaining to the general welfare. No action shall be taken upon any application for a proposed building or use above referred to until and unless the report of the Zoning Commission has been filed; provided however, that if no report is received from the Zoning Commission within 45 days, it shall be assumed that approval of the application has been given by the Zoning Commission.

10. Enforcement. The Building Inspector is hereby designated enforcement officer and authorized to enforce all provisions of this section.

170.26 BOARD OF ADJUSTMENT.

1. Appointment; Membership. A Board of Adjustment is hereby established, which shall consist of five members, each to be appointed by the Mayor, and subject to confirmation by the City Council, for a term of five years. No member shall serve more than two consecutive terms. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

2. Rules; Meetings; General Procedure. The Board shall adopt rules in accordance with the provisions of this Zoning Ordinance. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson or, in the absence of the Chairperson, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office the City Clerk and shall be a public record. The City Clerk shall serve as Secretary of the Board. In the absence of the Secretary, the Chairperson of the Board may appoint one of the members of the Board to act as Secretary Pro Tem for the meeting. The Board shall have the power to call on any City Department for assistance in the performance of its duties, and it shall be the duty of such department to render such assistance as may reasonably be required. The Board shall also receive and consider recommendations submitted by the Planning and Zoning Commission.

3. Jurisdiction; Powers. The Board shall have the following powers and duties.

A. The Board of Adjustment may in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of the ordinances in harmony with its general purpose and intent. Any property owner aggrieved by the provisions of this Zoning Ordinance or any regulations or restrictions thereunder may petition the said Board of Adjustment direct to modify said regulations and restrictions as applied to such property owner and the following rules shall apply:

(1) The Board of Adjustment shall have a public hearing on said petition under the same terms and conditions as hereinafter provided for the hearing of the appeals by the Board of Adjustment.

(2) The Board of Adjustment, in making any exception to the Zoning Ordinance, shall be guided by the general rule that the exceptions shall by their design, construction, and operation adequately safeguard the health, safety, and welfare of the occupants of adjoining and surrounding property, shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire and safety and shall not diminish or impair established property values in surrounding areas.

(3) The Board of Adjustment is specifically authorized to permit erection and use of a building or the use of premises or vary the height and area regulations in any location for a public service corporation for public utility purposes or for purposes of public communication, including the distribution of newspapers, which the Board determines reasonably necessary for public convenience or welfare.

(4) The Board of Adjustment is specifically authorized to permit the extension of a district where the boundary line of a district divides a lot in a single ownership as shown of record or by existing contract or purchase at the time of the passage of this Zoning Ordinance, but in no case shall extension of the district boundary line exceed 40 feet in any direction.

B. The Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirements, decision, or determination made by the Building Official in the enforcement of this Zoning Ordinance.

C. The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of the Zoning Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. Special conditions shall include but not be limited to a property owner who can show that his or her property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations the strict application of the terms of this Ordinance actually prohibits the use of such property in a manner reasonably similar to that of other property in the district. Nothing in this section shall be construed to permit the extension or expansion of a nonconforming use located in an R or U District.

4. Appeals. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the Building Official. Such appeal shall be taken within a reasonable time as provided by the rules of the Board by filing with the Building Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Building Official shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken, and shall further transmit a copy of the notice of appeal and the record to the Planning and Zoning Commission. Upon receipt of the notice of appeal, the Board shall hold a public hearing on said appeal and shall publish notice of said hearing in a newspaper of general circulation in the City. Said notice shall specify the time, place, and purpose of said public hearing and said public hearing shall not be less than two days or more than 10 days after the publication of said notice. The Board shall also give prompt notice of such hearing to the Building Inspector and the Planning and Zoning Commission. The final disposition of any appeal after public hearing shall be in the form of a resolution by the Board and copy of such resolution shall be filed with the Building Inspector, the Planning and Zoning Commission, and the City Clerk. An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official certifies to the Board, after notice of appeal shall have been filed with said official, that by reason of the facts stated in the certificate a stay would, in the official's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application, on notice to the Building Official, and on due cause shown. The Board of Adjustment shall give a reasonable time for the hearing on the appeal, give public notice thereof and decide the same within a reasonable time. At the hearing any party may appear in person or by agent, or by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay to the City Treasurer, to be credited to the General Fund of the City, the cost of publishing said notice and the administrative cost of said appeal as determined by the Board. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as it believes proper, and to that end shall have all the powers of the Building Official. The concurring vote of three of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance; provided, however, the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein, has been spread upon the minutes. Such resolution, immediately following the Board's final decision, shall be filed in the office of the City Clerk, and shall be open to public inspection.

5. Review by Council. The Council may provide for its review of variances granted by the Board of Adjustment before their effective date. The Council may remand a decision to grant a variance to the Board of Adjustment for further study. The effective date of the variance is delayed for 30 days from the date of the remand.

170.27 OCCUPANCY PERMITS.

Certificates for occupancy and compliance shall be applied for coincidentally with the application for a building permit for the construction, expansion, or renovation of any structure and shall be issued within 10 days after the lawful erection or alteration of the building is completed. A record of all certificates shall be kept on file in the office of the Building Official, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been made for certificate of occupancy and compliance; and no building or premises shall be occupied until that certificate and permit are issued. A certificate of occupancy shall be maintained by the Building Official for all nonconforming uses and shall verify that such nonconforming use was not established in violation of Section 170.10 or amendments thereto. Nothing in this section shall prevent the continuance of a nonconforming use as hereinbefore authorized, unless a discontinuance is necessary for the safety of life or property. This section shall not be construed to allow the occupancy or use of land or structures in a manner which does not comply with the terms of the Zoning

Ordinance. In the event that an illegal use is established under circumstances not requiring a building permit, the Building Official is empowered to take action as provided in Section 170.30.

170.28 PLATS.

Each application for a building permit shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of this chapter. A record of application and plats shall be kept in the office of the Building Official.

170.29 AMENDMENTS.

The City Council may from time to time on its own action or on petition, after public notice and hearings as provided by law and after report by the Zoning Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established; and such amendment shall not become effective except by the favorable vote of a majority of all the members of the City Council.

1. Prior to, and in addition to, the above requirements, whenever any person, firm, or corporation desires that any amendment or changes be made in this Zoning Ordinance as to any property in the City, there shall be presented to the Commission a petition requesting such change or amendment and clearly describing the property and its boundaries as to which change or amendment is desired duly signed by the owners of 50 percent of the area of all real estate included within the boundaries of said tract as described in said petition. A plat shall be submitted showing the name and address of the owners of record as found in the County Assessor's record of all property lying within 250 feet of the boundaries of the proposed property to be rezoned. If the petition is requesting a P-D Planned Development District, it shall also have attached to it such proposed plan.

2. Before any action shall be taken as provided in this section, the party or parties proposing or recommending a change in the district regulations or district boundaries shall deposit with the City Clerk the sum of \$75.00 to cover the costs of this procedure and under no condition shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

3. The Zoning Commission shall, upon receipt of said petition and plat, notify through publication of legal notice and if deemed necessary by direct mail, all parties concerned as shown on said plat of a hearing to be held by said Commission. The notice of hearing shall be printed and mailed at least 15 days prior to the hearing and shall contain a description of the proposed property to be rezoned and the present and proposed zoning classification. The Zoning Commission may, upon the unanimous approval of members present at a regular meeting, suspend the above hearing requirement and initiate the rezoning request.

4. In case the proposed amendment, supplement, or change be disapproved by the Zoning Commission, or a protest be presented duly signed by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending the depth of one lot or not to exceed 200 feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. Whenever any petition for an amendment, supplement, or change of the zoning or regulations herein contained or subsequently established shall have been denied by the City Council, then no new petition covering the same property and additional property shall be filed with or considered by the City Council until six months shall have elapsed from the date of the filing of the first petition.

5. The zoning district classification of each lot, tract, or parcel of land hereafter rezoned to a less restrictive classification as herein provided shall after a period of two years be considered by action of the Zoning Commission or the City Council for re-zoning to the zoning district classification as established at the date of passage of this Zoning Ordinance unless an application for an occupancy permit and building permit has been approved and construction has commenced and is being done in an orderly and progressive manner without undue delay indicating good faith to complete such construction. Notice to property owners and public hearing would be required prior to passage of said ordinance to rezone.

6. Publication of the legal description of the property or properties zoned or rezoned shall constitute an official amendment to the official zoning map; and as such, said map or portion of said map need not be published.

A. Changes; Protest. The regulations, restrictions, and boundaries may from time to time, be amended, supplemented, changed, modified or repealed, changing land from one zoning district to another zoning district, or by adoption of an ordinance approving a site development plan, the Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property

owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change.

B. Change; Requirement for Sign for Zoning Change. The Zoning Commission shall, upon receipt of said petition and plat, notify, through publication of legal notice and by direct mail, all parties concerned as shown on said plat of a hearing to be held by said Commission. The notice of hearing shall be printed and mailed at least 15 days prior to the hearing and shall contain a description of the proposed property to be rezoned and the present and proposed zoning classification. In addition, a sign of 16 square feet, using letters at minimum of three inches shall be erected on the site of the planned zoning change in a clearly readable location, and it shall state:

NOTICE OF PUBLIC HEARING

EVANSDALE CITY HALL

(DATE) AT 7:00 P.M.

PROPOSED ZONING CHANGE

FROM (CURRENT) TO (PROPOSED)

The sign shall be erected at least 15 days prior to the public hearing. The Zoning Commission may upon the unanimous approval of members present at a regular meeting, suspend the above hearing requirement and initiate the rezoning request.

170.30 VIOLATION, PENALTIES, AND ENFORCEMENT.

1. Any person who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this Zoning Ordinance shall, upon conviction, be fined not more than \$100.00 for the first offense, \$250.00 for the second offense, and \$500.00 for the third and subsequent offenses. Each day that a violation is permitted to exist constitutes a separate offense. The Building Official is hereby designated and ordered to enforce this Zoning Ordinance.

2. Enforcement. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Zoning Ordinance, the Building Official, in addition to other remedies, shall institute any proper action or proceedings in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business, or use in or about said premises.

170.31 VALIDITY.

Should any section or provision of this Zoning Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Residential Districts							
District/Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
U-1 – Unclassified District							
Dwellings	3 acres	200 feet	3 acres	30 feet	10% of lot width	50 feet	30 feet
Other Permitted Used				30 feet	25 feet	50 feet	50 feet
R-1 – Low Density Residential District							
One-Family Dwellings	8,400 square feet	70 feet	8,400 square feet	30 feet	lesser of 10 feet or 10% of lot width		30 feet
Two-Family	10,000 square	80 feet	5,000 square	30 feet	lesser of 10		35 feet

Dwelling	feet		feet		feet or 10% of lot width	
Single-Family, Bi-Attached Dwelling	5,000 square feet	40 feet	5,000 square feet	30 feet	lesser of 10 feet or 20% of lot width	35 feet
Other Permitted Used	10,000 square feet	80 feet		30 feet	10% of lot width	35 feet

R-2 – Medium Density Residential District

One-Family Dwellings	7,200 square feet	60 feet	7,200 square feet	25 feet	5 feet		30 feet
Two-Family Dwelling	8,000 square feet	70 feet	4,000 square feet	25 feet	5 feet		30 feet
Single-Family, Bi-Attached Dwelling	4,000 square feet	35 feet	4,000 square feet	25 feet	5 feet		30 feet
Multi-Family Dwellings	10,000 square feet	80 feet	2,500 feet	30 feet	10% of lot width		30 feet
Other Permitted Used	10,000 square feet	80 feet		30 feet	10% of lot width		35 feet

District/Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
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R-3 – High Density Residential District

One-Family Dwellings	6,000 square feet	60 feet	6,000 square feet	20 feet	5 feet		30 feet
Two-Family Dwelling	8,000 square feet	70 feet	4,000 square feet	20 feet	5 feet		30 feet
Single-Family, Bi-Attached Dwelling	4,000 square feet	35 feet	4,000 square feet	20 feet	5 feet		30 feet

Multi-Family and Other Permitted Uses:

1 and 1½ stories	8,000 square feet	65 feet	2,000 square feet for the first 4 units, plus 850 square feet per unit on the first, second, and third floors, plus 450 square feet per unit above the third floor	20 feet	5 feet	10 feet	35 feet
2 and 2½ stories	8,000 square feet	65 feet		20 feet	5 feet	10 feet	35 feet
3 stories	8,000 square feet	70 feet		20 feet	5 feet	10 feet	35 feet
4 stories or more*2	10,000 square feet	80 feet		20 feet	5 feet	10 feet	35 feet

*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

*2 Subject to the further requirements of subsection 3 of this section.

Commercial and Industrial Districts							
District/Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Area Per Family	Minimum Front Yard *1	Minimum Side Yard	Minimum Sum of Both Side Yards	Minimum Rear Yard Depths
C-1 – Recreational-Commercial District							
Dwellings	>>	>>	Same as R-3 District	<<	<<	<<	<<
Hotels and Motels	1 acre	100 feet		50 feet	See *3		
Overnight Campgrounds	3 acres	100 feet		50 feet	See *3		
Other Permitted Uses				50 feet *2	See *3		
Accessory Building				50 feet *5	10 feet	10 feet	4 feet
C-2 – Commercial District							
Dwellings	>>	>>	Same as R-3 District	<<	<<	<<	<<
Hotels and Motels	1 acre	100 feet		50 feet	See *3		
Overnight Campgrounds	3 acres	100 feet		50 feet	See *3		
Other Permitted Uses				50 feet *2	See *3		
Accessory Building				50 feet *5	10 feet	10 feet	4 feet
C-3 – Central Business District							
Hotels and Motels	1 acre	100 feet		50 feet	See *3		
Other Permitted Uses	1 acre	100 feet		30 feet *6	See *7		
M-1– Industrial District							
Dwellings	>>	>>	Same as R-2 District	<<	<<	<<	<<
Motel and Auto Courts	>>	>>	Same as C-1 District	<<	<<	<<	<<
Other Permitted Uses				25 feet	See *4		40 feet *2
M-2– Heavy Industrial District							
Permitted Uses				25 feet	None required except adjacent to an R District, in which case not less than 200 feet		40 feet

*1 The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

*2 Where the frontage on one side of the street between two intersecting streets is located in any commercial or industrial district and an R Residence District, one-half of the front yard requirements of the R Residence District shall apply to any commercial or industrial district. Where a lot is located at the intersection of two or more streets, the front yard requirements stated above shall apply to each street side of the corner lot, except that the buildable width of such lot shall not be reduced to less than 28 feet. No accessory building shall project beyond the front yard line on either street.

- *3 Side yards shall be no less than 10 feet except where vehicular service is required to the rear of the principal structure, in which case one side yard shall be no less than 20 feet.
- *4 For every additional foot the front yard depth is increased over 50 feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than 25 feet.
- *5 All accessory buildings shall not project beyond the front building line of the principal building if said principal building setback line is increased.
- *6 Except when a proposed building is to be located between two developed lots, the minimum setback shall be the average of the two existing setbacks or 30 feet, whichever is greater.
- *7 None except adjacent to an R District, in which case not less than 25 feet.