

Early Zoning Ordinance Table of Contents

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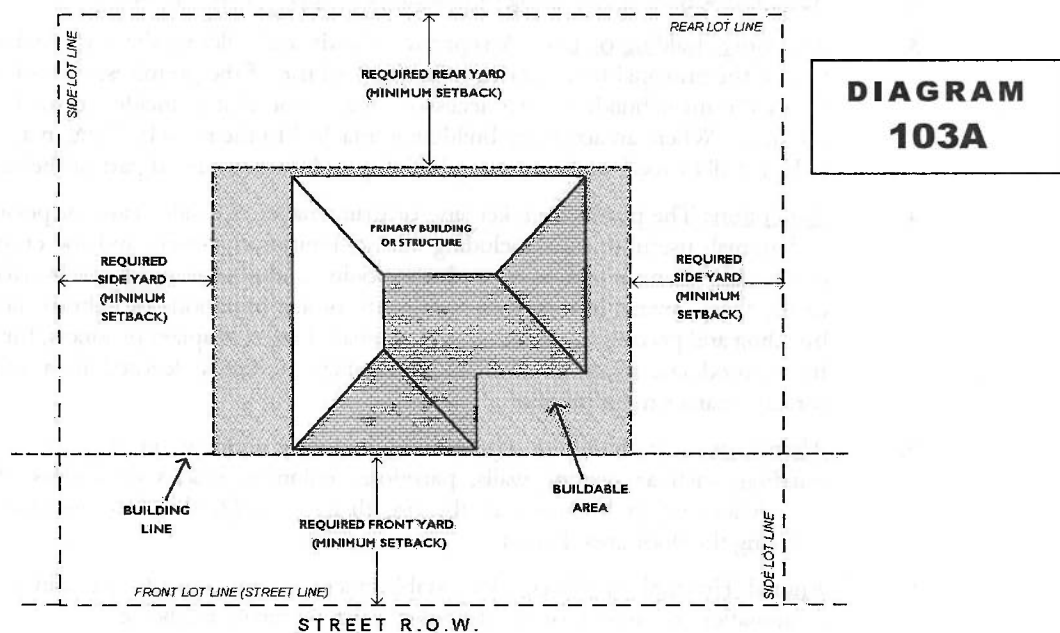
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CHAPTER 1: GENERAL PROVISIONS

- 101 **SHORT TITLE.** This Ordinance shall be known and may be cited as the “City of Early, Iowa Zoning Ordinance”.
- 102 **PURPOSE.** The purpose of this Ordinance is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and promote the health, safety, and general welfare in the City of Early, Iowa.
- 103 **DEFINITIONS.** For the purpose of interpreting this Ordinance, certain items, terms, and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural shall include the singular. The word “shall” is mandatory; the word “may” is permissive. The words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as the individual. The words “application” and “request” may be used interchangeably.
1. **Abutting:** Having property or district lines in common.
 2. **Access:** A way of approaching or entering a property from a public street.
 3. **Accessory Building or Use:** A separate subordinate building, the use of which is incidental to that of the principal building or to the principal use of the premises, and is located on the same lot as the main building. An accessory use is one that is incidental to the main use of the premises. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.
 4. **Agriculture:** The production, keeping or maintenance, for sale, lease, or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, mules, or goats, or any mutations or hybrids thereof including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds; vegetables; or lands devoted to a soil conservation or forestry management program.
 5. **Alterations:** Any change in any building, including a change in the supporting members of a building, such as bearing walls, partitions, columns, beams or girders, that will (1) upon completion, affect a change in the use thereof, or (2) that has the effect of enlarging or reducing the floor area thereof.
 6. **Animal Hospital or Clinic:** An establishment where animals are admitted principally for examination, treatment, or care by a doctor of veterinary medicine.
 7. **Alley:** A public way, other than a street, 20 feet or less in width, affording secondary means of access to abutting property.
 8. **Automobile Repair (Major):** General repair, rebuilding or reconditioning of engines, motor vehicles or trailer; collision service, including body, frame or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning.
 9. **Automobile Repair (Minor):** Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and trucks, but not including any operation specified under "Automobile Repair-Major".

10. Automobile Wrecking Yard: An area outside of an enclosed building where motor vehicles are disassembled, dismantled, or junked, or where vehicles not in operable condition, or used parts of motor vehicles, are stored.
11. Basement: That portion of a building at least partly underground but having at least 50% or one-half of the height or one or more walls below the grade.
12. Billboard: A sign which has a flat surface sign space upon which advertising may be posted, painted, or affixed, and which is primarily designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists.
13. Bed & Breakfast Houses: A house, or portion thereof, where short-term lodging, rooms, and meals are provided.
14. Board: The Board of Adjustment of the City of Early, Iowa.
15. Boarding, Lodging, or Rooming House: A building (other than a hotel) where lodging is provided for compensation for 4 or more persons.
16. Buildable Area: The area of a lot remaining after the minimum yard and open space requirements have been met, on which permitted buildings or other structures can be erected (See Diagram 103A for illustration).



17. Building: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property, but not including signs or billboards and not including structures, or vehicles originally designed for transportation purposes.
18. Building Height of: The vertical distance from the average natural grade at the building line to the highest point of the roof adjacent to the street wall in the case of a flat roof, to the deck line of a ridge for gable, hip, and gambrel roofs.
19. Building Line: A line other than a lot line, used to regulate the location of a building or structure in relationship to the abutting street or streets. This line is generally the same as a minimum setback line (See Diagram 103A for illustration).

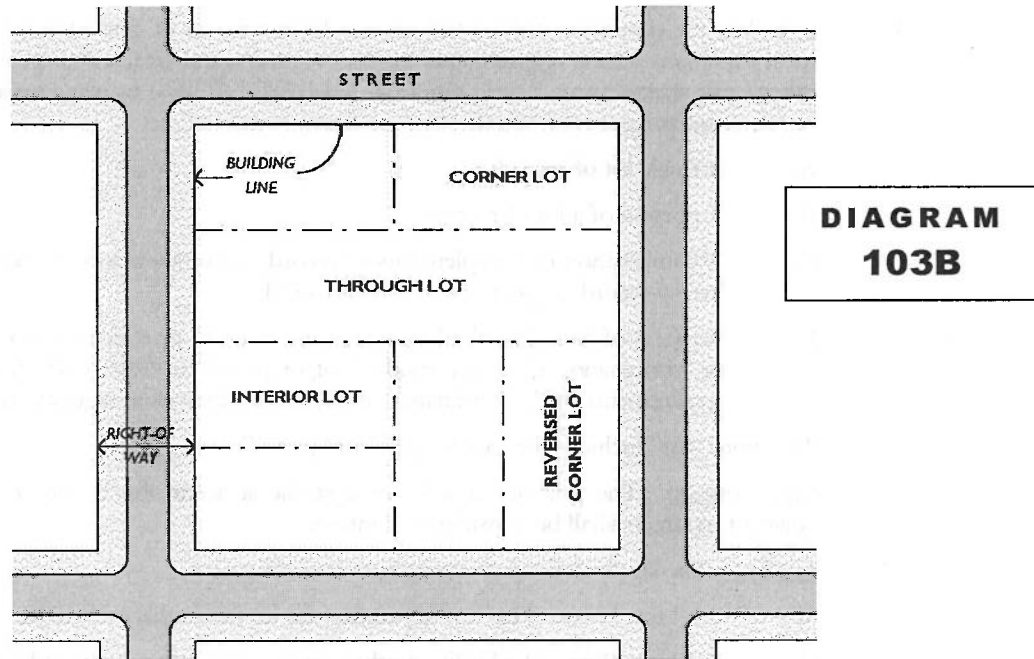
20. Business. An engagement in the purchase, sale, barter, or exchange of goods, wares, merchandise or service or the maintenance or operation of offices or recreational or amusement enterprises.
21. Clerk: The City Clerk of the City of Early, Iowa.
22. Commission: The Planning and Zoning Commission of the City of Early, Iowa.
23. Common Wall: An unbroken wall shared by two or more separate buildings.
24. Condominium: A residential or commercial building consisting of multiple units, each under individual ownership of the space contained within each unit, and co-ownership of the remaining real property by the individual owners as tenants in common, but subject to certain joint agreements and regulations.
25. Council: The City Council of the City of Early, Iowa.
26. District: The area defined as a zoning district within which certain zoning provisions apply under this Ordinance.
27. Dwelling: Any building or portion thereof, which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.
28. Dwelling, Single Family: A detached building designed for or occupied exclusively by and for residence purposes by one family and having no party wall in common with an adjacent house or houses.
29. Dwelling, Multiple-Family: A building or portion thereof designed for or occupied exclusively by and for residence purposes by 2 or more families.
30. Essential Services: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.
31. Exception, or Special Exception: Modification of the general provisions of this Ordinance after it is determined by the Board of Adjustment that that strict compliance with the Ordinance would cause undue hardship on the applicant and said modification will not infringe upon the intent of the Ordinance.
32. Family: One or more persons related by blood, marriage, adoption, or legal guardianship occupying a single dwelling unit. A family may include 4, but not more than 4 persons not related by blood, marriage, or adoption but further provide that domestic employees employed on the premises may be housed on the premises without being counted as a family or families.
33. Family Home: A community-based residential home which is licensed as a residential care facility under Chapter 135C of the Iowa Code or as a child foster care facility under Chapter 237 of the Iowa Code to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, Family Home does not mean an individual foster care family home licensed under Chapter 237 of the Iowa Code.
34. Farming: The growth of agricultural products. Farming shall not include the commercial operation of stockyards, slaughterhouses, or feed lots.

35. Flood Area. Any land or portion of land, adjacent to a stream, river, or other natural drainage channels or basins, that is subject to overflow, inundation, or flood hazard from the unusual and rapid accumulation or runoff of surface water from any source.
36. Floor Area: The sum of the gross horizontal areas of the floors of a building, including interior balconies and mezzanines, but excluding exterior balconies.
37. Garage: A building or portion thereof in which a motor vehicle containing gasoline, distillate, or other volatile flammable liquid in its tank is stored, repaired, or kept.
38. Garage, Private: A building or part thereof accessory to the main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
39. Garage, Public or Storage: A building or part thereof other than a private garage used for the care, storage, and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire, or sale.
40. Grade: The average elevation of the finished ground at the exterior walls of the main building or structure.
41. Health Care Facility. Any residential care facility, intermediate care facility, or skilled nursing facility.
 - A. Residential Care Facility. Any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board personal assistance, and other essential daily living activities to 3 or more individuals, not related to the administrator or owner, who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis.
 - B. Intermediate Care Facility. Any institution, place, building or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physical, to 3 or more individuals, not related to the administrator or owner thereof, who by reason of illness, disease, or physical or mental infirmity require nursing services which can be provided only under the direction of a registered nurse or licensed practical nurse.
42. Home Occupation: An occupation or activity carried on by the immediate members of the family residing in the dwelling.
43. Hospital: Any institution, building, or other facility or place established for the maintenance, observation, medical, and dental care and supervision and skilled nursing care of persons afflicted with or suffering from sickness, disease or injury or for the convalescent or chronically ill persons.
44. Hotel: A building occupied as the more or less temporary residence of individuals who are lodged for compensation with or without meals, in which there are sleeping rooms or suites of rooms, and generally no provision made for cooking in any individual room, and entrance is made through a common lobby or office.
45. Junk Yard: Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including 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 the processing of used, discarded or salvaged materials as part of manufacturing operations.
46. Kenel (Commercial): Establishment in which dogs or domestic animals more than one year old are housed, groomed, bred, boarded, trained, or sold.

47. Lot: For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved 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, or complete lots of record and portions of lots of record, or 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 Ordinance or any other subdivision regulations of the City.

The word "lot" includes the words "plot" or "parcel".

48. Lot Frontage: The portion of a lot nearest the adjacent street. For corner lots, all sides adjacent to streets shall be considered frontage.
49. Lot Line: The legally defined property lines bounding a lot.
- A. Lot Line, Front. That line separating the lot from adjacent streets.
 - B. Lot Line, Rear. The lot line farthest from or opposite the front lot line. In the case of a corner lot, the rear lot line shall be considered the lot line opposite the adjacent street that is designated as the front street (the street upon which the property's address is assigned).
 - C. Lot Line, Side. A lot line other than the front or rear lot lines.
50. Lot Measurements:
- A. Depth. Depth of a lot shall be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
 - B. Width. The width of a lot shall be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the building line, provided, however, that width between side lot lines at their foremost points (where they intersect with the street line or front property line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where 80 percent requirements shall not apply.
51. Lot of Record: A lot which is 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.
52. Lot Types: (See Diagram 103B for illustration)
- A. "Corner" Lot. A lot located at the intersection of two or more streets.
 - B. "Interior" Lot. A lot other than a corner lot with only one frontage on a street other than an alley.
 - C. "Through" Lot. A lot other than a corner lot with frontage on two parallel or non-intersecting streets.
 - D. "Reversed Corner" Lot. A corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.



**DIAGRAM
103B**

53. Manufactured Home: a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. § 5403, that 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, and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A manufactured home shall be located and installed according to the same standards, including but not limited to, a permanent foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. A "mobile home" as defined in Section 435.1.1 of the Code of Iowa is not a manufactured home, unless it has been converted to real property as defined in Section 435.26 of the Code of Iowa, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.
54. Manufacturing: The use of land, buildings, or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing, or storing or adapting for sale of any goods, substance, article, thing, or service. Processing on farms is not classified as manufacturing if the raw material is grown on the farm.
55. Mobile Home: 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.
56. Motel (also Motor Hotel, Motor Court, Motor Lodge, or Tourist Court): A building or group of buildings designed to provide sleeping accommodations to transient guests for compensation, and provides near each guest room a parking space for the guests' vehicle. A swimming pool, restaurant, meeting rooms, management offices and other such accessory facilities may be included.

57. Non-Conforming Use (also Nonconformities): Lots, structures, uses of land and structures, or characteristics of uses, that are prohibited under the terms of the Zoning Ordinance but were lawful at the date of the Ordinance's enactment.
58. Nursing or Rest Home: A home for the aged, infirmed, invalid, convalescent, or physically disabled in which 3 or more persons not of the immediate family are received, kept, or provided with food and shelter, or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.
59. Parking Space: An area of not less than 180 square feet either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle.
60. Permitted Use: A use by right that is specifically authorized in a particular zoning district.
61. Principal Use: The main use of land or structures as distinguished from an accessory use.
62. Planned Development: A project located on a single tract, controlled by one owner, corporation or agency, including usable open space for the mutual benefit of the entire tract, designed to provide variety and diversity through the variance or normal zoning and subdivision standards, so that maximum long range benefit can be gained and unique features of the site preserved or enhanced.
63. Projections (into yards): Parts of buildings such as architectural features that extend beyond the building's exterior wall.
64. Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities. Examples include basketball courts, ball fields, tennis courts, trails, etc. Private recreational facilities are those that are located on private property for the exclusive use of the property owners. Public recreational facilities are those that are located on public property and available for use by the public.
65. Retaining Wall: Any structure designed and constructed to resist the lateral pressure of soil when there is a desired change in ground elevation.
66. Service Station: A building or premises used for dispensing or offering for sale at retail any automobile fuels, oils, or having pumps and storage tanks therefore, or where battery, tire, or any similar services are rendered, and where vehicles are not parked for purposes of inspection or sale.
67. Setback: The minimum required horizontal distance measured at right angles to the boundary of the lot or parcel between the farthest protruding point of the structure or building closest to the boundary.
68. Sign: Any object or device, or part thereof, situated outdoors or indoor, which is used to advertise, identify, display, direct, or attract attention to any object, person, institution, organization, business product, service, event, or location by any means including words, letters, figures, designs, symbols, fixtures, color, motion, illumination, or projected images. A sign includes any billboard but does not include the following: flags of nations, states, and cities, or merchandise, picture or models of products or services incorporated with an inside window display; or works of art, which in no way identify a product or service.
69. Special Use: A reasonable use that will not impair the public health, safety, or welfare in a zone but does not conform to the character of the zone in which it is located. Certain restrictions on the location, aesthetics, size, and other performance standards may be imposed. Said special use runs with the owner and not with the land.
70. Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof next above it. A half-story is a space under a sloping roof that has the line

of intersection of roof decking and wall face not more than 4 feet above the top floor level. A half story containing independent apartments or living quarters shall be counted as a full story.

71. Street: The entire width between the boundary lines of a public right-of-way which provides for public means of access to abutting property or for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms “road”, “highway”, “lane”, “place”, “avenue”, and other similar designations.
72. Street Line: The dividing line between a lot and a street.
73. Structure: Anything constructed or erected that requires location on the ground or attached to something having location on the ground, but not including pavements, curbs, walks, or open-air surfaced areas. For the purposes of this Ordinance, fences & signs shall be considered structures.
74. Subdivision: The division of land into 2 or more lots of other division of land for the purpose, whether immediate or future, or transfer of ownership or building development. The term, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, or, the re-subdivision of land theretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.
75. Temporary Use: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period or completion of an activity for which the temporary use is incidental.
76. Tent: A portable or temporary cover of shelter with or without side panels, which is supported by poles and is made of canvas, plastic, or similar materials, that is not permanently affixed to the site and is not considered a structure.
77. Use: The purpose or activity for which a piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained.
78. Variance: A modification of the special regulations of this Ordinance granted by resolution of the Board of Adjustment in accordance with the provisions and terms of this Ordinance, which grants a property owner relief from certain provisions of the Ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property (which condition is not of the owner’s making), compliance would result in particular hardship on the owner, as distinguished from a mere inconvenience or desire to make more money.
79. Yard: The unoccupied or unobstructed open space on a lot with a main building.
80. Yard, Front: The yard extending the full width of the lot between a building and the front lot/property line, unoccupied and unobstructed from the ground upward. In the case of a corner lot, both yards adjoining the street shall be considered front yards. For the purposes of designating a rear lot (i.e., opposite the front yard, as described below), the main front yard shall be along the street upon which the property’s address is assigned.
81. Yard, Rear: On open space extending the full width of a lot between a building and the rear lot/property line, unoccupied and unobstructed from the ground upward, except as hereinafter specified. On corner lots, the rear yard shall be considered opposite the adjacent street that is designated as the front street (the street upon which the property’s address is assigned).
82. Yard, Side: An open space extending from the front yard to the rear yard between a building and the side lot/property line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.

104 **DISTRICTS ESTABLISHED.** The City of Early, Iowa is hereby divided into the following zoning districts:

A-1	Agricultural
R-2	One and Two Family Residential
R-4	Multi-Family Residential
B-1	Retail Business
B-2	General Business
I-1	Industrial
F-1	Flood Plain
C-1	Conservation

105 **ZONING MAP.**

105.01 **Provision for Official Zoning Map.** The location and boundaries of the districts are hereby established as shown on the Official Zoning Map of the City of Early, Iowa. Said Map, including all designations, notations, references, amendments and other information shown thereon shall be and are hereby made a part of this Ordinance by reference. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of the City of Early, Iowa", together with the date of adoption. The Official Zoning Map shall remain on file in the Office of the City Clerk.

105.02 **Changes or Amendments to Official Zoning Map.** Changes or amendments in district boundaries shall be made by an ordinance amending the Zoning Ordinance, and shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council with an entry notation on the Official Zoning Map identifying the change (including the changes by ordinance number and date of adoption). The amending ordinance shall refer to the Official Zoning Map and shall set out the identification of the area affected by the legal description and identify the zoning district as the same exists and the new district designation applicable to said property. **Such amendatory ordinance shall, however, not repeal or reenact 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 the land and water areas, buildings, and structures in the city.**

105.03 **Replacement of Official Zoning Map.** 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 may by Resolution Adopt a new Official Zoning Map, which shall supercede 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 Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the Seal of the City under the following words: "This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted DATE as part of the Zoning Ordinance of the City of Early, Iowa". Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior Map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendments.

105.04 **Interpretation of District Boundaries.** The following rules shall aid in the interpretation of the Official Zoning Map:

- A. Boundaries appearing to follow the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
- B. Boundaries appearing to follow platted lot lines shall be construed as following such lines;
- C. Boundaries appearing to follow City Limits shall be construed as following such City Limits;
- D. Boundaries appearing as parallel to or extensions of features indicated in Subsections A-C above shall be so construed. The scale shown on the map shall determine distances not specifically indicated on the Official Zoning Map.
- E. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections A-D above, the Board of Adjustment shall interpret the district boundaries.
- F. Where a district boundary line divides a lot that was in single ownership at the time of passage of this Ordinance, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
- G. Whenever the City Council vacates and disposes of a Street or Alley, adjacent districts shall extend to the centerline of the vacation.
- H. Whenever a variance exists between the Zoning Map and the legal description on an amendment to this Ordinance, the legal description applies.

106 APPLICATION OF DISTRICT REGULATIONS. The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class of land except as hereinafter provided:

- A. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- C. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- D. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

107 CLASSIFICATION OF NEWLY ANNEXED LAND. All newly annexed territory shall be considered a part of the AG (Agricultural) district until zoned by the Planning and Zoning Commission and the City Council.

108 NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, AND NONCONFORMING USES OF STRUCTURES AND PREMISES.

108.01 Statement of Intent. Within the districts established by this Ordinance, there exist lots, structures, and uses of land and structures that were lawful before this Ordinance was passed or amended, but that are prohibited, regulated or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

108.02 Nonconforming Uses of Land (or Land with Minor Structures Only). Where at the time of passage or amendment of this Ordinance lawful use of land exists that would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel.
- C. If any such nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.
- D. No structure or building shall be constructed on or moved onto the land, unless the use is changed to a use permitted in that district.

108.03 Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. Any non-conforming building or structure which has been or may be damaged by fire, flood, explosion, earthquake, war, riot, or other act of God, may be reconstructed and used as before if it be done within 12 months of such calamity, unless damaged more than 50% of its fair market value, as determined by the board of adjustment, at the time of such damage, in which case reconstruction shall be in accordance with the provisions of this ordinance.
- B. No building, structure or premises where a non-conforming use has been or may be discontinued for more than one year, or has been or may be changed to a use permitted in the district in which it is located, shall again be devoted to a non conforming use.

- C. Any non-conforming use of land not involving any structure, and any non conforming outdoor advertising sign or outdoor advertising structure may be continued for a period not to exceed three years after enactment of the ordinance, whereupon such non-conforming use shall cease or structure shall be removed.
- D. Any building or structure devoted to a non-conforming use with a fair market value of less than \$500.00, as determined by the board of adjustment, may be continued for a period not to exceed three years after enactment of the ordinance, whereupon such non-conforming use shall cease and thereafter such building or structure shall be removed or changed to a conforming use.
- E. The foregoing provisions under Subsections (a) (b), (c) and (d), insofar as these limit reconstruction or require certain uses to cease or buildings or structures to be removed or changes, shall not be applicable where any such building, structure or use would be conforming under the land use plan as herein before defined.

108.04 Maintenance and Repair to Vested Nonconforming Structures. Nothing in this section shall prohibit the maintenance and repair of vested nonconforming structures to keep such structures in sound and safe condition, provided that no structural enlargement, extension, alteration, or change shall be made to increase the degree of nonconformity.

108.05 Change of Tenancy, Ownership, or Management. There may be change of tenancy, ownership, or management of any existing nonconforming use of land, structure, or land and structure providing there is not a change in the nature or character of said nonconforming use.

108.06 Special Exceptions not Nonconforming Uses. Any use that is permitted as a special exception in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a nonconforming use.

109 General Provisions.

109.01 Street Frontage - Minimum Requirement. No lot created after the adoption of the ordinance shall contain any building used as a dwelling unless it abuts at least 37.5 feet on a street or has a permanent exclusive non obstructed easement of access not less than 37.5 feet wide to a dedicated public street.

109.02 Lot Area Requirements.

- A. Existing Lots of Record - In any district where dwellings are permitted, a one-family detached dwelling may be constructed on any lot of official record at the time of enactment of the ordinance, the owner of which does not own any adjoining property, provided that proposed yard spaces satisfy requirements stipulated for the district in which said lot is located, or requirements as may be modified by the board of adjustment.
- B. Lots Not Served by Sewer and/or Water - In any district, where neither water supply nor public sanitary sewer is accessible, the otherwise specified lot area and width requirements shall be a minimum of 40,000 square feet, and 200 feet; provided, however, that where a public water supply system is accessible and will be installed, these requirements shall be 20,000 square feet, and 120 feet respectively; provided further that the engineer has certified that said areas will be large enough to satisfy all applicable requirements concerning water supply and the disposal of sanitary wastes.

109.03 Number of Uses on One Lot. No lot shall contain more than one principal use.

109.04 Accessory Buildings in Residence Districts.

- A. No accessory building shall be erected in any yard other than a rear yard and it shall occupy less than 30% of a required rear yard. Accessory buildings shall be limited to 15 feet in height, and shall be distant at least 3 feet from all lot lines of adjoining lots which are in residential district and at least 6 feet from alley lines and 6 feet from any other building or structure on the same lot.
- B. Where the natural grade of a lot at the front wall of the principal building is more than 8 feet above the average established curb grade in front of the lot, a private garage may be erected within any yard or court, but not within 10 feet of any street line, provided that at least one-half of the height of such private garage shall be below the level of the yard or court.

109.05 Conversion of Dwellings. The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under the ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, dimensions of yards and other open spaces, and off-street parking. Each conversion shall be subject also to such further requirements as may be specified hereinafter applying to such districts.

109.06 Minimum Ground Floor Area for Dwellings.

- A. A one-story dwelling shall contain not less than 600 square feet of usable ground floor area, exclusive of open porches, garages or steps.
- B. A 1 1/2 or two-story dwelling shall contain not less than 600 square feet of ground floor area, exclusive of open porches, garages or steps.

109.07 Traffic Visibility Across Corner Lots. In any residential district on any corner lot, no fence, structure or planting shall be erected or maintained within 20 feet of the "corner" so as to interfere with traffic visibility across the corner.

109.08 Essential Services. Essential services shall be permitted as authorized and regulated by law and other ordinances of the community, it being the intention hereof to exempt such essential services from the application of the ordinance.

109.09 Off-street Parking and Loading. In any district spaces for off-street parking and for loading or unloading shall be provided in accordance with the provisions of Section 204.01.

109.10 Fences. No fence or hedge more than 30 percent solid or more than three (3) feet may be located within 30 feet of a street or intersection. Fences shall be made of wood, chain-link, PVC/resin, stone, or masonry. All fences should be finished side out with all supporting structure facing into the owner's yard. The construction of all fences shall require a building permit.

- A. **Fences and Hedges in Residential Front Yards.** Fences in residential front yards must be decorative only and not able to confine humans or animals of any size. At least 60% of the total surface area must be open, and it shall not exceed 36" in height, except for decorative posts, which may reach 42" in height. If a sidewalk exists, the fence shall be set back at least 12", and in instances where no sidewalk exists, shall be set back at least 12" in the front property line. Hedges are subject to a

maximum height of 30" and must be maintained so that they do not encroach upon the sidewalk or public right-of-way.

B. Fences in Residential Rear and Side Yards. Fences behind the front of the house shall be subject to a maximum height of 6' but do not have any openness requirement.

C. Fences on Non-Residential Lots. Fences on all lots that are not used for residential purposes shall be subject to a maximum of eight feet in height using the allowed materials above. Barbed wire may only be used in industrial districts or for essential services but the first strand must be at least six feet above the ground. Electric fences are prohibited within the city.

D. The Board of Adjustment may approve greater fence heights on a case-by case basis if it is in the interest of the health, safety, or public welfare of the city residents.

109.11 Liquid Propane Fuel Tanks. All liquid propane fuel tanks shall be placed in rear or side yards. LP fuel tanks holding under 125 gallons may be placed in any part of the rear or side yard. LP fuel tanks holding between 125 and 500 gallons shall be placed a minimum of ten (10) feet from any building or lot/property line. LP fuel tanks holding over 500 gallons shall be placed a minimum of 25 feet from any building or lot/property line.

109.12 Validity of Existing Building Permits. Nothing herein contained shall require any change in the overall layout, plans, construction, size, or designated use of any development, building, structure, or part thereof, for which official approvals and required building permits have been granted before the enactment of the ordinance, the construction of which, conforming with such plans, shall have been started prior to the effective date of the ordinance and completion thereof carried on in a normal manner within the subsequent six months' period, and not discontinued until completion, except for reasons beyond the builders control.

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CHAPTER 2: DISTRICT REGULATIONS

201 INDIVIDUAL DISTRICT REGULATIONS.

201.01 AG-Agricultural District. This district is intended to provide for areas predominantly agricultural in character or undeveloped for urban use. The following tables detail principal and accessory uses in agricultural districts; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.01A	USES IN THE AG-AGRICULTURAL DISTRICT	
Permitted Principal Uses Principal uses that are permitted in the agricultural district.	Permitted Accessory Uses Uses customarily incidental and subordinate to permitted principal uses.	Special Exceptions Uses that may be authorized only by the Board of Adjustment per Section 302.09. Specific conditions may be applied to special exceptions if they are approved.
<ul style="list-style-type: none"> • Agriculture and agricultural buildings except as provided by Subsection 2 (d) below and provided that livestock shall not be housed or fed within 200 feet of any lot in a residential district. • Public parks, playgrounds, and recreational areas. • Essential services as defined in 1.3 and municipal administrative or public service building or properties, except such uses as storage yards, warehouses, garages, or other uses customarily conducted as gainful business, provided any building is located not less than 20 feet from any lot in a residential district. • Cemeteries or 10 acres or more in size. • Churches, chapels, or parish houses located not less than 20 feet from any side lot line in any residential district. • Any building or structure occupied or used for nursery, elementary, junior high or high schools, public libraries, and similar public cultural uses located not less than 20 feet from any side lot line. • Sale of nursery and greenhouse products. • Single-family detached dwellings on lots of 5 acres or more. • Transformer stations and booster or pressure regulating stations, without service yard or storage. 	<ul style="list-style-type: none"> • Buildings, structures, and uses accessory to agricultural uses including roadside stands, selling produce grown on the premises, provided such roadside stands are located not less than 20 feet from a street or highway right-of-way line. • Private garages or parking areas. • Living quarters of persons employed on the premises. • Office of a physician, dentist, lawyer, architect, engineer, clergyman or accountant within his dwelling. • Customary incidental home occupations such as handicraft, dressmaking, millinery and preserving, but not including beauty shop, barber shop, dancing or music school with more than one pupil at a time, or similar activity carried on solely by resident occupants within their residence, subject to the following provisions: that no more than one room is used for such purposes by any resident family; that no such use shall require internal or external alterations or involve construction features or the use of mechanical equipment not customary in dwellings; that anything not produced on the premises is sold or offered for sale; and that no display of goods or services pertaining to such is visible from the street or road. • Signs as regulated by 203. 	<ul style="list-style-type: none"> • Sanitary Landfills, in accordance with county and state regulations except that no sanitary landfill shall be operated within 1,320 feet of any residential district. • Privately operated country clubs, golf courses, swimming clubs, riding stables, and similar recreation uses provided that any accessory building in connection therewith shall be located not less than 200 feet from any lot in a residential district. • Airports and landing fields. • Lots for confinement and feeding of livestock subject to controls of surface runoff and located at least 1,320 feet from any residential or business district.

TABLE 201.01B		MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE AG-AGRICULTURAL DISTRICT**			
Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
5 acres	300 feet	PRINCIPAL USES			
		80 feet on state and federal roads; 60 feet all other public roads	30 feet	100 feet	The lesser of 2 ½ stories or 30 feet
		ACCESSORY BUILDINGS & STRUCTURES			
					15 feet

**See Section 103 for explanations regarding setback & yard measurement. See Section 204.09 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

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201.02 **“R-2” One or Two Family Residential District.** This district is intended to provide for large lot residential areas where public utilities and services are available, and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Criteria such as topography, soil types, access, and traffic load on streets, schools, utilities, recreation, and other public facilities shall be taken into consideration when lot area requirements are established in various residential areas of the City. The following tables detail principal and accessory uses in R-2 districts; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.02A		USES IN THE R-2 RESIDENTIAL DISTRICT
<p>Permitted Principal Uses Principal uses that are permitted in the R-3 district.</p>	<p>Permitted Accessory Uses Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use **NO MORE THAN 3 ALLOWED PER LOT**</p>	<p>Special Exceptions Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.</p>
<ul style="list-style-type: none"> • Single-family detached dwellings • Public Parks, playgrounds, and recreational areas • Churches, chapels, or parish houses located not less than 20 feet from any side lot/property line a residential district • Cemeteries of 10 acres or more in size • Any building or structure occupied or for nursery, elementary, junior high, or high schools, public libraries, and similar public cultural uses located not less than 20 feet from any side lot/property line • Transformer stations and booster or pressure regulating stations, without service yard or storage • Essential services as defined in Section 103 and municipal administrative or public service buildings or properties, except such uses as storage yards, warehouses, garages, or other uses customarily conducted as gainful business, provided any building is located not less than 20 feet for any lot line a residential district • Two family dwellings 	<ul style="list-style-type: none"> • Private garages or parking areas • Living quarters of persons employed on the premises • Office of a physician dentist, lawyer, architect, engineer, clergymen or accountant within his dwelling • Customary incidental home occupations such as handcraft, dressmaking, millinery and preserving, but not including beauty shops, barber shops, dancing or music schools with more than one pupil at a time, or similar activity carried on solely by resident occupants within their residence, subject to the following provisions: no more than one room is used by any resident family; that no such use shall require internal or external alterations or involve construction features or use of mechanical equipment not customary in dwellings; that nothing produced on the premises is sold or offered for sale; and that no display of goods or service pertaining to such is visible from the street or road. • Kindergartens, day nurseries, or nursery schools, provided that any play lot used in connection therewith be suitably fenced and screened in accordance with requirements of the board. • Signs as regulated by Section 203. 	<ul style="list-style-type: none"> • Privately operated country clubs, golf courses, swimming clubs, riding stables, and similar recreation uses provided that any principal building in connection therewith shall be located not less than 200 feet from any lot in a residential district. • Dwelling groups • Parking areas accessory to a use in an adjoining, less restricted district, when abutting or directly across an alley, subject to the applicable conditions stipulated by the Board. • Nursing homes provided that any such buildings shall be at least 50 feet from any lot in any residential district and on lots of 20,000 square feet or more. • Residence development projects exempt from district height regulations.

TABLE 201.02B**MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE
R-2 RESIDENTIAL DISTRICT***

Minimum Lot Area	Minimum Lot Width (by story)	Minimum Front Yard Setback	Minimum Side Yard Setback		Minimum Rear Yard Setback	Maximum Height
			Least Width	Sum of Least Widths		
6,000 square feet for single family dwellings; 10,000 square feet for each two-family residence		PRINCIPAL USES				
	1 and 1 ½ stories: 60 feet	30 feet	6 feet	14 feet	30 feet	2 ½ stories or 30 feet in height
	2 and 2 ½ stories: 60 feet	32 feet	8 feet	18 feet	30 feet	
		ACCESSORY BUILDINGS & STRUCTURES				
	Prohibited	Prohibited	3 feet from all lot lines, 6 feet from alley lines and 6 feet from any other buildings or structure on the same lot**		One story or 15 feet	

*See Section 103 for explanations regarding setback & yard measurement. See Section 204.09 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

**See Section 109.04 for additional accessory building and structure requirements.

201.03

“R-4” Multi-Family Residential District. This district is intended to provide for large lot residential areas where public utilities and services are available, and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Criteria such as topography, soil types, access, and traffic load on streets, schools, utilities, recreation, and other public facilities shall be taken into consideration when lot area requirements are established in various residential areas of the City. The following tables detail principal and accessory uses in R-4 districts; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.03A		USES IN THE R-4 RESIDENTIAL DISTRICT
Permitted Principal Uses Principal uses that are permitted in the R-3 district.	Permitted Accessory Uses Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use **NO MORE THAN 3 ALLOWED PER LOT**	Special Exceptions Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.
<ul style="list-style-type: none"> • Any structure as permitted in 201.02 except as hereinafter modified. • Dwellings for any number of families • Boarding or lodging houses 	<ul style="list-style-type: none"> • Same as permitted in R-2 Residence District • Signs as regulated by Section 203. 	<ul style="list-style-type: none"> • Any use as regulated in 201.02, except as hereafter modified • Tourist homes; motels or motor hotels on lots abutting on state or federal highways; subject to the special provisions on motels or motor hotels. • The following lots abutting on State and Federal highways: Office or civic, religious or charitable organizations and financial or insurance institutions conducting their activities primarily by mail and not handling merchandise or rendering services on the premises; offices devoted to real estate, insurance, management, and similar enterprises when conducting their activities primarily by mail or telephone and not displaying or handling merchandise on the premises; professional offices of architects, engineers, and lawyers. Any use as regulated in 201.04, except as hereafter modified • Office of civic, religious, or charitable organizations and financial institutions conducting their activities primarily by mail and not handling merchandise or rendering services on the premises • Physician and dentist offices and private clinics for human care, professional offices or architects, engineers, lawyers, and the like; offices devoted to real estate, insurance, management, and similar enterprises when conducting their activities primarily by mail or telephone and not displaying or handling merchandise on the premises. • Mobile home parks subject to the following conditions: <ul style="list-style-type: none"> ▪ Mobile home park shall be located on a parcel of ground of at least five (5) acres in size and each boundary line of the park shall be at least 100 feet from any residential structure located outside park unless separated there from by a natural or artificial barrier. ▪ The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools

		<p>of water.</p> <ul style="list-style-type: none"> ▪ Each mobile home space shall be large enough to provided a distance of 10 feet between any residence unit or structure on the space and the lot line, a front yard of 15 feet and a rear yard of 10 feet. ▪ All mobile home spaces shall abut upon a driveway of not less than 20 feet in width which shall have unobstructed access to a public street. ▪ Walkways not less than two feet wide shall be provided to service the buildings. ▪ All driveways and walkways in the park shall be hard surfaces and lighted at night. ▪ Each mobile home park shall provide service buildings to house such toilet, bathing and other sanitary facilities and such laundry facilities as may be prescribed. ▪ An electrical outlet supplying at least 220 volts shall be provided to each trailer space. ▪ Adequate sanitary facilities and supply of pure water shall be provided to each trailer space. ▪ Each park shall comply with the regulations set forth by competent authority.
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TABLE 201.03B

**MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE
R-4 RESIDENTIAL DISTRICT***

Minimum Lot Area	Minimum Lot Width (by story)	Minimum Front Yard Setback	Minimum Side Yard Setback		Minimum Rear Yard Setback	Maximum Height
			Least Width	Sum of Least Widths		
Each lot with a structure in this district shall be at least 6,000 square feet. Each structure designed to house more than one family shall have a minimum area of 3,000 square feet per unit.	PRINCIPAL USES					
	1-1½ story: 50 feet	30 feet	6 feet	12 feet	30 feet	6 stories or 75 feet in height*
	2-2½ stories: 52 feet	32 feet	8 feet	17 feet	30 feet	
	3 stories: 55 feet	35 feet	10 feet	22 feet	35 feet	
	4 stories: 65 feet	40 feet	12 feet	27 feet	40 feet	
	5 stories: 75 feet	45 feet	14 feet	33 feet	45 feet	
	6 stories: 85 feet	50 feet	16 feet	40 feet	50 feet	
	Over 6 stories*	*	*	*	*	
	ACCESSORY BUILDINGS & STRUCTURES					
		Prohibited	Prohibited	3 feet from all lot lines, 6 feet from alley lines and 6 feet from any other buildings or structure on the same lot***		One story (15 feet)

*Other than the height restriction of 75 feet, one foot may be added to the height permitted for each one foot that the building is set back from the required yard lines and that one foot be added to the minimum lot width for each one foot that the building exceeds 75 feet in height.

**See Section 103 for explanations regarding setback & yard measurement. See Section 204.09 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

***See Section 109.04 for additional accessory building and structure requirements.

201.04 "B-1" Retail Business District. This district is intended to provide for certain areas of the city for the development of retail, service, and other non-residential uses which, because of certain locational requirements and operation characteristics, are appropriately located in close proximity to arterial and other main thoroughfares. The following tables detail principal and accessory uses in B-1 districts; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.04A		USES IN THE B-1 RETAIL BUSINESS DISTRICT	
Permitted Principal Uses	Permitted Accessory Uses	Special Exceptions	
Principal uses that are permitted in the B-1 district.	Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use, including signs regulated in Section 203.	Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.	
<ul style="list-style-type: none"> • Any use or structure permitted and as regulated in Sections 201.03 except as hereinafter modified. • Any retail business establishment, such as appliance store, auto accessory store, bakery with baking limited to goods for retail sales on the premises, book or stationery store, cafe or restaurant, camera or photographic supply shop, candy or ice cream store, delicatessen, drug store, fabric shop, floor covering store, florist shop, furniture store including incidental upholstery, gift shop, grocery store, haberdashery or women's ready-to-wear shop, hardware or paint store, hobby shop, jewelry store, meat market, shoe store and variety store. • Any service establishment, such as auto repair, bank or other financial enterprise, barber or beauty shop, business or professional office, clothes cleaning or laundry pick-up station, funeral home, theater, and self-service laundry • Bus Station • Business or trade school • Commercial parking lot • Department store • Hotels and motor hotels • Meeting hall, club, and fraternal organization • Music and dancing studio • Public parking lot, customer and other accessory parking area, subject to the applicable provisions of Section 204.01. • The following uses when occupying a completely enclosed building located at least 100 feet from any residential district: <ul style="list-style-type: none"> ▪ Dance hall, bar or cocktail lounge, night club, and similar enterprise. ▪ Furniture upholstery shop only when operated in conjunction with a retail business on the premises. ▪ Printing, publishing, engraving or lithographing shop. ▪ Laundry and dry cleaning shop. • Other business, professional or service establishment. 			

TABLE 201.04B		MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE B-1 RETAIL BUSINESS DISTRICT*			
Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
None	None	PRINCIPAL USES			
		None	None, except where adjoining a residential district then same as the least width required in that residential district.	10 feet, except where adjoining a residential district then same as the least width required in that residential district.	Three stories or 45 feet, except as provided in Section 204.09.
		ACCESSORY BUILDINGS & STRUCTURES			

**See Section 103 for explanations regarding setback & yard measurement. See Section 204.09 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

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201.05 "B-2" General Business District. This district is intended to provide for certain areas of the city for the development of retail, service, and other non-residential uses which, because of certain locational requirements and operation characteristics, are appropriately located in close proximity to arterial and other main thoroughfares. The following tables detail principal and accessory uses in B-2 districts; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.05A		USES IN THE B-2 GENERAL BUSINESS DISTRICT	
Permitted Principal Uses	Permitted Accessory Uses	Special Exceptions	
<p>Principal uses that are permitted in the B-1 district.</p> <ul style="list-style-type: none"> • Any use or structure permitted and as regulated in Sections 201.04 except as hereinafter modified. • Building material sales yards, if enclosed on all sides by an eight foot high solid fence • Motels or motor hotels, subject by the provisions of 204.04. • Drive-in dining establishments • Motor fuel stations subject to the conditions stipulated in Section 204.02. • Animal hospitals and veterinary clinics provided that buildings or enclosures in which animals are kept shall be at least 100 feet away from any "R" District • Commercial baseball field, bath house, or boat house, golf driving range, skating rink, swimming pool, or smaller open air recreational use and facilities, but not within 200 feet of any "R" Districts • The following uses provided no part of a building where any activity is conducted shall have any openings other than stationary windows or required fire exits within 100 feet of any "R" District. <ul style="list-style-type: none"> ▪ Automobile. Truck, trailer, and garden and farm equipment establishments for display, hire, sales, including sales lots ▪ Bottling of soft drinks or milk or distribution systems ▪ Bowling alley, pool hall or billiard parlor, dance hall, bar or cocktail lounge, night club and similar enterprises ▪ Carpenter shop, electrical, heating, ventilating or plumbing shop, furniture upholstery shop, printing, publishing, engraving or lithographing plant, laundry and dry cleaning shop, sign painting shop, and similar establishments. ▪ Any other use that is determined by the Board of Adjustment to be of the same general character as the foregoing permitted uses, but not including any use which may become noxious or offensive in a "B-2" District. 	<p>Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use, including signs regulated in Section 203.</p>	<p>Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.</p>	

TABLE 201.05B**MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE
B-2 GENERAL BUSINESS DISTRICT***

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
Dwellings: Same as R-4 District Other Permitted Uses: None	50 feet†	PRINCIPAL USES			
		25 feet†	None, except where adjoining a residential district then same as the least width required in that residential district.	10 feet, except where adjoining a residential district then same as the least width required in that residential district.	Three stories or 45 feet, except as provided in Section 204.09.
	ACCESSORY BUILDINGS & STRUCTURES				

†Dwellings in the B-2 District shall be required to follow the specifications of the R-4 District.

*See Section 103 for explanations regarding setback & yard measurement. See Section 204.09 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

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201.06 "I-1" Industrial District. This district is intended to provide for areas of development by industrial firms that have high standards of performance and that can locate in close proximity to residential and business uses. The district regulations are designed to permit the development of any manufacturing or industrial operations which on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole, by reasons of noise, dust, smoke, odor, traffic, physical appearance, or other similar factors. Outdoor storage is allowed in this district when the material is enclosed within a fence (solid or otherwise impenetrable, such as chain link) at least 6 feet high and said fence is within required setback lines. All industrial operations must be in an enclosed building. No residential uses are permitted in the Light Industrial District. The following tables detail principal and accessory uses in the I-1 district; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.06A		USES IN THE I-1 INDUSTRIAL DISTRICT
Permitted Principal Uses Principal uses that are permitted in the LI district.	Permitted Accessory Uses Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use	Prohibited Uses Uses that are not permitted in the L1 district.
<ul style="list-style-type: none"> • Any use or structure permitted and as regulated in 201.05, except as hereinafter modified. • The following uses if located not less than 100 feet from any residential district, provided any such operations are enclosed by a solid wall or fence not less than six feet in height: <ul style="list-style-type: none"> ▪ Builder or contractor's plant or storage yard. ▪ Building material sales and storage yard, including concrete mixing. ▪ Lumber yard, including millwork. ▪ Open yard for storage and sale of feed, fertilizer, or fuel. • The following uses, providing no part of a building occupied by such uses shall have openings other than stationary windows or required fire exits within 100 feet of a residential district: <ul style="list-style-type: none"> ▪ Automobile repair garage doing major repair, including tire retreading or recapping, battery service, and repair. ▪ The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries, milk, and food products. ▪ The manufacture, compounding, assembling, or treatment of articles or merchandise from the following previously prepared material: canvas, cellophane, cloth, fiber, glass, leather, paper, plastics, precious or semi-precious metals or stone, rubber, textiles, wood and yarn. ▪ The manufacture or assembly of electrical appliances, electronic instruments and devices, phonographs, radio and television sets, (continued on next page) 	<ul style="list-style-type: none"> • "B-1" Business District accessory uses. • Other accessory uses customarily incidental to a permitted principle use, including signs as regulated by Section 203. 	<ul style="list-style-type: none"> • Residential Dwellings, except for watchman or caretaker on the premises. • Schools, hospitals, clinics, and other institutions for human care, except when incidental to a permitted principal use. • Auto salvage and wrecking operations, industrial metal and waste salvage operations, and junk yards.

(continued from previous page) electric and neon signs, refrigerators and stoves. <ul style="list-style-type: none"> ▪ Laboratory experimental, film or testing. • Trucking or motor freight terminals, provided that service yards or docks are at least 100 feet from any lot in any residential district. • Any other use that is determined by the Board of Adjustment to be of the same general character as the foregoing permitted uses, but not including any use which may become noxious or offensive in an "I-1" District. 		
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TABLE 201.06B		MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE I-1-INDUSTRIAL DISTRICT*			
Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height of Permitted Uses
None	None	PRINCIPAL USES			
		25 feet	Equal to building height	Equal to building height, but not less than 20 feet	3 stories of 50 feet
		ADDITIONAL BUILDINGS & STRUCTURES			

*See Section 103 for explanations regarding setback & yard measurement. Subject to the additional requirements, exceptions and modifications in Section 204. See Section 204.09 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

201.07 “C-1” Conservation District. This district is intended to provide for areas of low-density public and recreational land uses within the City of Early. The following tables detail principal and accessory uses in the I-1 district; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.07A		USES IN THE C-1 CONSERVATION DISTRICT	
Permitted Principal Uses Principal uses that are permitted in the LI district.		Permitted Accessory Uses Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use	
<ul style="list-style-type: none"> • Agriculture and agricultural buildings including farm houses • Public parks, playgrounds, and recreation areas • Essential services as defined in Section 103. 		<ul style="list-style-type: none"> • Other accessory uses customarily incidental to a permitted principle use, including signs as regulated by Section 203. 	
		Special Exceptions Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.	
		<ul style="list-style-type: none"> • Sanitary landfills, in accordance with county and state regulations exempt that no sanitary land fill shall be operated within 1,320 feet from any “R” District • Mining, removal and loading of sand or gravel, including equipment, buildings or structures for screening, crushing, mixing, washing, or storage located not less than 500 feet from any “R” District. • Privately operated country clubs, golf courses, marinas, or docking facilities, guest ranches, swimming clubs, riding stables, lakes, resorts, and similar recreational uses provided that any principal or accessory building in connection therewith shall be located not less than 200 feet from any lot in an “R” District. 	

TABLE 201.07B		MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE C-1-CONSERVATION DISTRICT*			
Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height of Permitted Uses
None	300 feet	PRINCIPAL USES			
		Along State and Federal roads: 80 feet; along all other public roads: 60 feet	30 feet	100 feet	2 ½ stories or 30 feet
		ADDITIONAL BUILDINGS & STRUCTURES			
					15 feet

*See Section 103 for explanations regarding setback & yard measurement. Subject to the additional requirements, exceptions and modifications in Section 204. See Section 204.09 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

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201.08 “F-1” Flood Plain District. This district is intended to provide for the safety of life and property by discouraging intensive development in areas prone to flooding. The following tables detail principal and accessory uses in the I-1 district; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.08A		USES IN THE F-1 FLOOD PLAIN DISTRICT	
Permitted Principal Uses Principal uses that are permitted in the LI district.	Permitted Accessory Uses Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use	Special Exceptions Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.	
<ul style="list-style-type: none"> • Agriculture, including customary agriculture buildings and structures but not including permanent dwellings; nurseries and greenhouses • Baseball or football fields, provided that the location of such field shall comply with the distance requirements of this section, provided in Table 201.08B. • Public parks, playgrounds and community centers; private recreation areas and facilities, including country clubs, golf courses, and riding stables. • Essential services as provided in Section 103. 	<ul style="list-style-type: none"> • Other accessory uses customarily incidental to a permitted principle use, including signs as regulated by Section 203. • Any accessory use that is determined by the Board of Adjustment to be necessary and incidental to any aforesaid permitted use and located on the same lot therewith, but not including any permanent residence except for a watchman or caretaker employed on the premises. 	<ul style="list-style-type: none"> • Outdoor rifle or skeet shooting ranges; on premises located as to comply with three times the distance required in section 4.3 and which premises are suitable for such use, for reason, among others of topography, screening by trees or other features, and also in consideration of the present and potential use of adjacent properties • Gravel pits, mines, and stone quarries located as to comply with two times the distance required in this section, provided in Table 201.10B. • Any other use which, in the opinion of the Board of Adjustment, will not, when located, constructed, and operated as proposed, be inconsistent with the purposes intended to be served by the provisions prescribed in this article for the "F-1" District—Among others protecting human life, preventing material losses and reducing the cost to the public of relief or rescue efforts considered by the unwise occupancy of areas subject to floods; and which use, at the same time, will not impair the present or potential use of adjacent properties. 	

TABLE 201.08B**MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE
F-1-FLOOD PLAIN DISTRICT***

Distance condition	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height of Permitted Uses
All uses, buildings or premises, for which compliance is with the distance requirement in this section is stipulated in the foregoing sections of this article, shall be at least 200 feet from any lot in a "R" District, or any lot occupied by a dwelling or by any school, church, or institution for human care.	300 feet	PRINCIPAL USES			
		Along State and Federal roads: 80 feet; along all other public roads: 60 feet	30 feet	100 feet	2 ½ stories or 30 feet
		ADDITIONAL BUILDINGS & STRUCTURES			
					15 feet

*See Section 103 for explanations regarding setback & yard measurement. Subject to the additional requirements, exceptions and modifications in Section 204. See Section 204.09 for modifications and exceptions of setback, area, & height requirements as well as other requirements that may apply to principal and accessory uses.

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201.09 Planned Developments. The owner or owners of any tract of land comprising an area of not less than 3 acres may submit to the City Council a plan for the use and development of the entire tract of land, commonly referred to as a "Planned Unit Development" (or P.U.D.). A P.U.D. is intended to provide a means of the development or redevelopment of tracts of ground on a unit basis, allowing greater flexibility and diversification of land uses and building locations than the conventional single-lot method provided in other sections of the Ordinance.

TABLE 201.09A	HEIGHT, YARDS AND LOT COVERAGE REQUIREMENTS IN PLANNED DEVELOPMENTS		
	Detached One-Family	Town House	High-Rise Apartment
Minimum size of development	3 Acres	5 Acres	10 Acres
Garage and Parking Unit (per dwelling unit)	600 sq. ft.	600 sq. ft.	600 sq. ft.
Land Coverage (maximum % of land coverage)	20%	20%	10%
Height of main building	30 feet	35 feet	80 feet
Set-back from any dedicated right-of-way	25 feet	25 feet	Height of Building
Distance between building and any adjoining property line	10 feet	15 feet	Height of Building
Distance between buildings face to rear or face to side	60 feet	80 feet	150% of Building Height
Distance between buildings face to face	80 feet	120 feet	150% of Building Height
Distance between buildings side to side	20 feet	30 feet	Height of Building
Distance between buildings rear to rear	80 feet	50 feet	Height of Building

202.01 Planned Unit Developments.

It is further the intent of this section that the basic principles of good land use planning, including an orderly and graded relationship between various types of uses, be maintained and that the zoning standards as set forth in this Ordinance be preserved. Normal permitted uses are those of a primarily residential character including single-family and multiple-family dwellings; usual accessory buildings such as garages; storage space; maintenance structures; and buildings for recreational purposes. Commercial uses in such developments are limited to those that are primarily for the service and convenience of the residents of the development.

A. Dwelling Groups.

1. In the case of a project consisting of a group of two or more buildings to be constructed on a plot of ground not subdivided into the customary streets and lots and which will not be so subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of the ordinance to the individual building units in such project, the applying of such requirements to such project shall be done by the board of adjustment in a manner that will ensure substantially the same character of occupancy, maximum intensity of use, and minimum standard of open spaces as permitted by the ordinance in the district in which the proposed project is to be located.
2. In no case shall the board authorize a use or a building height prohibited in the district in which the project is to be located, or a smaller lot area per family than the minimum required under the ordinance in such district. Nor shall the board authorize a building coverage exceeding that which would be obtained were the same area to be developed by the customary subdivision thereof into streets and lots in conformance with the adopted subdivision regulations, and by the type of buildings customary in the district and in compliance with the requirements of the ordinance. The board shall not authorize the erection of a project on a parcel of ground occupied by another principal structure.

B. Residence Development Projects. A residence development project consisting of any number of buildings, the contemplated arrangement of which makes it impossible to apply the requirements of the ordinance to the individual buildings, may be authorized by the board of adjustment in districts in which such projects are permitted under the ordinance. In so doing, the board shall first refer the plans for such project to the planning commission for study, public hearing and report upon finding that the plans of such project meet the following conditions:

1. That the tract of land on which the project is to be erected is of sufficient size and has appropriate topography and sufficient access to service to support the project.
2. That the buildings are to be used primarily for residential purposes and the customary accessory uses, such as private garages, storage spaces, recreational and community activities.
3. That the average lot area per family or dwelling unit on the site, exclusive of the area occupied by drives or streets, will not be less than 90% of the lot area per family required in the residential district in which the project is to be located.
4. That there is to be provided within the tract, or immediately adjacent thereto, parking spaces in private garages or off-street parking areas, as specified in Section 204.01.

5. That there are to be provided, as a part of the project, adequate recreation facilities to serve the needs of the anticipated population to be housed therein.
6. That drives, access ways and parking areas are developed to a standard equal to that required for public use.
7. That such drives and access ways are protected by recorded deed covenants assuring their availability to all residents of the project.
8. That the proposed project will constitute a residential environment of a sustained desirability and stability; that it will be in harmony with the character of the surrounding neighborhood and ensure substantially the same type of occupancy as obtained or may be expected to be obtained in said neighborhood; that it will result in intensity of land utilization no higher, and standards of open spaces at least as high as permitted or specified in the ordinance in the district in which the project is to be located.
9. That the project will be consistent with the intent and purpose of the ordinance to promote public health, safety, and general welfare.

B. Approval by City Council. After review by the Planning & Zoning Commission, the City Council may then consider the P.U.D. proposal. If the City Council approves the plan, building permits may be issued even though the use of the land, location of buildings, and yards and open spaces detailed by the plans do not conform in all respects to the district regulations of the district in which it is located. Upon approval, said area shall be designated on the official zoning map.

203

SIGNS. The following regulations shall apply to signs in all districts.

A. The total area of all signs permitted on a lot shall include:

1. The total area of the faces visible from a public way of all permanent exterior signs, plus
2. The area of permanent signs placed upon the surface of windows and doors, plus
3. The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.
4. A building or use having frontage on a second street may include 20% of the length of the lot facing the second street.
5. Signs not exceeding four sq. ft. in area indicating the brand of seed or the type of fertilizer being used.
6. Signs not exceeding 20 sq. ft. in area pertaining to a permitted recreation use or areas of scenic beauty provided such signs shall be set back at least 30 feet from any right-of-way and there shall be a distance of 300 feet between any such signs.
7. Real estate signs of a temporary nature, not exceeding two in number per lot nor larger than 12 sq. ft. set back 20 feet from any highway, street, or road.
8. Signs accessory to roadside stands shall be limited to two signs per lot with no sign being larger than 10 sq. ft. in area and set back at least 10 feet from the right-of-way of a street, highway, or road.

9. Small announcement or professional signs, not over six sq. ft. in area, except that an announcement sign or bulletin board not over 18 sq. ft. in area, set back at least 20 feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of a non-residential nature.

203.01 Signs Permitted in Residential Districts.

- A. Real estate signs of a temporary nature, not exceeding two in number per lot nor larger than six sq. ft. set back 20 feet from any highway, street or road.
- B. A sign or signs flat against a building appertaining to a nonconforming use on the premises, not exceeding the aggregate 50 sq. ft. in area except as may be authorized by the board of adjustment.
- C. Small announcement or professional signs, not over six sq. ft. in area, except that an announcement sign or bulletin board not over 18 sq. ft. in area, set back at least 20 feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of nonresidential nature.
- D. One name plate not exceeding two sq. ft. for each dwelling.
- E. Signs flat against the building, appertaining to any of the permitted principal uses of a non-residential character.

203.02 Signs Permitted in the "B-1" District.

- A. Signs as permitted and regulated in Subsection 2 above except as hereinafter modified.
- B. The total area of all signs permitted on any one lot shall not exceed two times the number of linear feet the lot abuts on the street.

203.03 Signs Permitted in the "B-2" District.

- A. Signs as permitted and regulated in 203.02, except as hereinafter modified.
- B. Billboards and signboards subject to the same height and location requirements as other structures in the "B-2" District and also subject to the following conditions and restrictions:
 1. No billboard, signboard or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
 2. No billboard, signboard, or similar advertising signs shall be located within 40 feet of any lot in an "R-2" District.
 3. No billboard or signboard shall exceed 300 square feet in area.
 4. No billboard, signboard, or similar advertising signs shall be so constructed or located in an area where it will unreasonably interfere with the use and enjoyment of adjoining property.
 5. Elevated signs at least five feet from any lot line.
 6. Projecting signs at least eight feet above the sidewalk and extending no further than five feet from the building to which it is attached.

203.04 Signs Permitted in the "I-1" District.

- A. Signs as permitted and regulated in Subsection 3 above except as hereinafter modified.
- B. Billboards and signboards subject to the same height and location requirements as other structures in the "B-1" District and also subject to the following conditions and restrictions:

1. No billboard, signboard or similar advertising signs shall be located at intersections so as to obstruct vision, hearing or interfere with pedestrian or vehicular safety.
 2. No billboard, signboard or similar advertising signs shall be located within 50 feet of any lot in a residential district.
 3. No billboard or signboard shall exceed 300 sq. ft. in area.
 4. No billboard, signboard or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- C. Elevated signs at least five feet from any lot line.
- D. Projecting signs at least five feet from any lot line.
- E. Projecting signs at least eight feet above the sidewalk and extending no further than five feet from the building to which it is attached.

204 Special Provisions.

204.01 Off-Street Parking Areas and Loading Spaces.

- A. In all districts, in connection with every building or part thereof hereafter erected, having a gross floor area of 2,500 sq. ft. or more, which is to be occupied by uses requiring the receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained on the same premises with such building at least one off-street loading space accessible from an alley, easement of access, or, when there is no such alley or easement of access, from a street, plus one additional such loading space for each 10,000 sq. ft. or major fraction thereof of gross floor area so used in excess of 15,000 sq. ft. Such space may occupy all, or any part of a required rear yard, or, with authorization of the board of adjustment, part of any other yard or court space on the same premises.
1. Loading Space - Each loading space shall not be less than 10 ft. wide, 40 ft. in length and 14 ft. in height, exclusive of access and turning area.
 2. In all districts except "B-1", off-street accessory parking areas, in the open or in a garage shall be provided in addition to the above required loading and unloading spaces. Such areas, in the case of residential districts and for dwellings in other districts, shall be on the premises intended to be served; and in the case of "I-1" districts, and in connection with uses other than dwellings, such areas shall be on the premises intended to be served or on adjoining or nearby property within 100 feet of any part of said premises and in the same or less restricted district.
- B. Development Standards. Off-street accessory parking areas shall be of useable shape, and shall be improved, in accordance with requirements of the Council, with a durable and dustless surface and so graded and drained as to dispose of all surface water accumulation within the area. Any lighting used to illuminate such parking areas shall be so arranged as to reflect the light away from adjoining premises in any "R" District.
- C. Parking Requirements. The following minimum off-street parking requirements shall apply:

TABLE 202.03A

OFF-STREET PARKING REQUIREMENTS

Zoning District	Use	Off-Street Spaces Required
<p>R RESIDENTIAL (ALL R DISTRICTS)</p>	Single-family Detached	2 for each dwelling unit
	All other Dwellings	1½ for each dwelling unit
	Churches & Schools	1 for every 4 seats in the main auditorium
	Hospitals, Nursing Homes, and Similar Care Centers	1 for each 5 beds plus 1 for each 2 doctors and employees
<p>B-1 Business and I-1 Industrial</p>	Automobile or Machinery Sales	1 for each 1,000 square feet of floor area plus 1 for each full-time employee
	Banks, Business & Professional Offices	1 for every 200 square feet of floor area
	Bowling Alleys	6 for each alley
	Convenience Stores (drug, grocery, hardware, and similar stores)	1 for every 300 square feet of floor area devoted to sales plus 1 for each full-time employee
	Dance Halls & Assembly Halls without fixed seats	1 for each 300 square feet of floor area used for assembly or dancing
	Drive-In Eating Establishments	Not less than ¼ of the total ground area to be devoted exclusively to parking and accessways
	Food Pick-Up Establishments	Minimum of 2 plus 1 for each 100 square feet of floor area
	Funeral Homes & Mortuaries	6 per chapel room or parlor or 1 per 50 square feet of rooms used for services, whichever is greater
<p>B-1 Business and I-1 Industrial (continued)</p>	Manufacturing Plants, Research or Testing Laboratories, Bottling Plants	2 for each employee on maximum shift
	Medical or Dental Clinics	1 for each 200 square feet of floor area plus 1 for each full-time employee and 1 for each doctor
	Motels or Motor Hotels	1 for each unit plus 1 for each 2 employees on maximum shift
	Motor Fuel Stations	1 for each employee on duty plus 1 for each service bay
	Barber Shops	2 for each chair plus 1 for each 2 employees on maximum shift
	Beauty Shops	1 for each dryer plus 1 for each 2 employees on maximum shift
	Coin-Operated Laundries and/or Dry-cleaning Establishments	1 for each 3 washers and/or cleaning machines plus 1 for each 2 employees on maximum shift
	Restaurants	1 for each 3 seats plus 1 for each 2 employees on maximum shift
	Shopper's Goods-Appliance, Household Equipment, Furniture & Similar Stores	1 for each 500 square foot of floor area plus 1 for each full-time employee
	Taverns or Bars	1 for each 2 seats plus 1 for each 2 employees on maximum shift
	Theatres	1 for each 4 seats
	Wholesale Establishments	1 for each 4 employees on maximum shift

In the case of any use which is not specifically mentioned herein, the provisions for a similar use which is mentioned shall apply.

C. Units of Measurement.

1. Parking Space - Each parking space rectangular in shape shall not be less than 8 1/2 feet wide and 20 feet long, or not less than 170 square feet in area exclusive of access drives or aisles

204.02 Garages, Motor Fuel Stations, and Car Washes.

- A. No building, structure or premises shall be used, erected or altered which is intended or designed to be used as a public garage, automobile repair shop, motor fuel station or car wash having an entrance or exit for which vehicles in the same block front within 100 feet of any school, public playground, church, hospital, public library or institution for dependents or for children, and no such entrance or exit shall be located within the same block-front and within 20 feet of any residential district; nor shall any part of such public garage, automobile repair shop, motor fuel station, or car wash be located within 100 feet of any building or grounds of any of the aforesaid public or institutional uses.
- B. All activities incidental to the sale of gasoline or oil such as battery and tire repair, car washing and greasing shall be conducted within the building and there shall be no storage or accumulation of miscellaneous equipment, machinery or motor vehicles, disabled or otherwise, outside of the principal structure.

204.03 Trailers and Mobile Homes. Driveways in residential areas that lead directly to a garage attached to a house, or that lead to a detached garage located in a side yard shall be hard-surfaced. Driveways leading to garages or sheds in rear yards shall not require specific surfacing.

204.04 Motels or Motor Hotels. No vehicular entrance to or exit from any motel or motor hotel wherever such may be located shall be within 200 feet along streets from any school, public playground, church, hospital, library or institution for dependents or for children, except where such property is in another block or on another street, which the premises in question do not abut. Additionally, the following conditions shall be met:

- A. Any lot to be used for a motel or motor hotel shall be not less than 15,000 square feet in area and shall contain not less than 1,000 square feet of lot area per sleeping unit. All buildings and structures on the lot shall occupy in the aggregate not more than 25% of the lot.
- B. All areas used for automobile access parking shall comply with the provisions of 204.01 (B).
- C. All areas not used for access, parking, circulation, buildings and services shall be completely landscaped and the entire site maintained in good condition.
- D. No enlargement or extensions to any motel or motor hotel shall be permitted unless the existing one is made to conform substantially with all the requirements for new construction for such an establishment.

204.05 Floor Area. In the case of merchandising or service types of uses, "floor area" shall mean the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons or clients, but shall not include areas used principally for non-public purposes, such as toilet or rest rooms, utilities, or dressing rooms.

204.06 Benches in Place of Public Assembly. In stadiums, sports arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under the ordinance.

204.07 Exceptions. The board of adjustment may authorize on appeal a modification, reduction or waiver of the foregoing requirements, if it should find that in the particular case the peculiar nature of the use, or other exceptional situation or condition would justify such modification, reduction or waiver.

The planning commission, in consultation with other municipal departments and agencies, shall make studies as found advisable of various areas in the community for the purpose of determining areas within which there is need for off-street parking facilities to be provided by the municipality and to be financed wholly, or in part, by a special assessment district or other means. Where such need is found, the planning commission shall report its recommendation for the acquisition of such off-street parking facilities to the council. Each report shall include recommendations on the type, size, location and other pertinent features of the proposed off-street parking facilities and the area they are intended to serve. Required spaces shall be available for the parking of licensed and operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business of use.

204.08 Protection of City Wells.

- A. No person shall be permitted to maintain any of the following items within 200 feet from a city well site:
1. Sanitary and industrial discharges to surface;
 2. Sewers of unknown construction for the following:
 - a. Well house floor drains discharging from sewers;
 - b. Water plant wastes; or
 - c. Sanitary and storm sewers, drains.
 3. Sewer force mains of sewer pipe construction;
 4. Mechanical wastewater treatment plants;
 5. Cesspools and earth pit privies;
 6. Soil absorption fields;
 7. Lagoons;
 8. Chemical or mineral storage on or underground;
 9. Animal wastes – solid stockpile;
 10. Animal wastes – storage basin or lagoon;
 11. Private wells;
 12. Cemeteries;
 13. Solid waste disposal sites;
 14. Land application of solid wastes;
 15. Irrigation of wastewater;
 16. Concrete vaults and septic tanks;
 17. Chemical application to ground surface;
 18. Chemical or mineral storage above ground;
 19. Animal enclosure;
 20. Land application of animal waste solids;
 21. Land application of animal wastes liquid or slurry;

22. Animal wastes storage tank;
23. Earthen silage storage trench or pit;
24. Sewers of unknown construction for well house floor drains discharging to surface;
25. Sewers of sewer pipe construction for the following:
 - a. Well house floor drains discharging to sewers;
 - b. Water plant wastes;
 - c. Sanitary and storm sewers, drains. or
 - d. Sewer force mains of water main construction.
26. Water treatment plant wastes discharged to surface;
27. Animal pasturage;
28. Flowing streams or other surface water bodies;
29. Cisterns;
30. Sewers of water main construction for well house floor drains discharging to the surface;
31. Basements, pits, or sumps;
32. Well house floor drains discharging to the surface; or
33. Sewers encased in 4" of concrete for well house floor drains discharging to the surface.

204.09 Additional Requirements, Exceptions & Modifications.

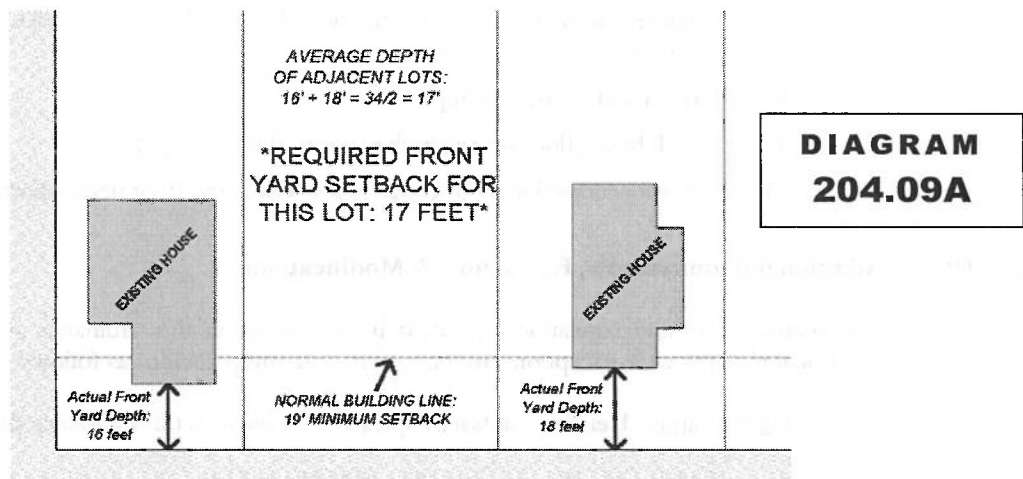
The requirements and regulations specified herein before in this ordinance shall be subject to the additional requirements, exceptions, modifications and interpretations as follows:

- A. Height Limits: Height limitations stipulated elsewhere in this ordinance shall not apply:
 1. To barns, silos, or other farm buildings or structures on farms, provided these are not less than 50 feet from every lot line; to church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, masts and aerials; to parapet walls extending not more than 4 feet above the limiting height of the building. However, if, in the opinion of the building official, such structures would adversely affect adjoining or adjacent properties, such greater height shall not be authorized except by the board of adjustment.
 2. To place of public assembly such as churches, schools, and other permitted public and semi-public buildings not to exceed six stories or 75 feet, provided that for each foot by which the height of such building exceeds the maximum height otherwise permitted in the district its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.
 3. To bulkheads, conveyors, derricks, elevator penthouses, water tanks, monitors and scenery lofts; to monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height. Where a permitted use requires greater heights than specified, such may be authorized by the board of adjustment.
- B. Front Yard Exceptions and Modifications.

1. Front Yard Requirements Do Not Apply - to bay windows or balconies occupying in the aggregate not more than 1/3 of the front wall, provided that these projections come entirely within planes drawn from either main corner of the front wall, making an interior angle of 22 1/2 degrees in the horizontal plane with the front wall; to chimneys, flues, belt courses, leaders, sills, pilasters, uncovered porches, planting, or similar features not over three feet high above the average finished grade and distant five feet from every lot line.

2. In any district where the average depth of two or more existing front yards on lots within 100 feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed, front yards may be varied.

The depth of the front yard on such lot shall not be less than the average of said existing front yards or the average depth on the two lots immediately adjoining, or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of front yard on a lot in any residential district shall be at least 15 feet and need not exceed 60 feet.



C. Side Yard Exceptions and Modifications.

1. Along any district boundary line, any abutting side yard on a lot in the less restricted district shall have at least width equal to that required in the more restrictive district. Where a lot in an industrial or business district abuts a lot in a residential district, the side yard shall be increased by three feet for each story that the building proposed on such lot exceeds the height limit of the said residential district.

2. Side yards shall be increased - in width by two inches for each foot by which the length of the side wall of the building, adjacent to the side yard, exceeds 50 feet in any residential district.

3. Side yards may be reduced - By three inches from the otherwise required least width of each side yard for each foot by which a lot of record at the time of enactment of the ordinance is narrower than the lot width specified for the district in which the lot is located, in the case of buildings not higher than 2 1/2 stories, and in the case the owner of record does not own any adjoining property; provided, however and irrespective of the provisions of Subsection f below that no side yard shall be narrower at any point than three feet. (Example available in Table 202.06B1 below)

4. Side yards may be measured to the center-line of adjoining alleys - But in no case shall a building or structure for which a side yard is required be erected within ten feet of such alley.
5. On a corner lot - The least width of a side yard along the side street lot line shall be equal to the required front yard along the side street.
6. Structures or projections into side yards may be permitted as follows - Fences, planting or walls not over five feet above the average natural grade. Fire escapes, three feet from side lot line. Bays and balconies not more than three feet from the building, provided these projections are entirely within planes drawn from either main corner of the side wall, making an interior angle of 22 1/2 degrees in the horizontal plane with the side wall. The sum of the lengths of such projection shall not exceed 1/3 of the length of the wall of the main building.
 - a. Chimneys, flues, belt courses, leaders, sills, pilasters and lintels, ornamental features, cornices, eaves, gutters, and the like, into or over a required side yard not more than 1 1/2 feet.
 - b. Terraces, steps, uncovered porches, stoops, or similar features, not higher than the elevation of the ground story of the building and distant three feet from a side lot line.

TABLE 204.09B		SAMPLE CALCULATION OF SIDE YARD SETBACK REDUCTIONS FOR EXISTING LOTS SMALLER THAN MINIMUM REQUIREMENTS OF THIS ORDINANCE			
Actual Lot Width	Minimum Required	Difference	X 3 inches =	60 inches ÷ 12 inches (1 foot) =	
50 feet	70 feet	20 feet	60 inches	5' (total reduction in side yard setback, or 2 1/2 feet for each side yard)	

D. Rear Yard Exceptions and Modifications.

1. Rear Yards May be Reduced - By three inches from the required least depth for each foot by which a lot at the time of enactment of the ordinance is less than 100 feet deep, in the case of a building not higher than two stories, and in case the owner of record does not own adjoining property to the rear; provided, however, that no required rear yard shall be less than 10 feet deep.
2. Rear Yards May be Measured to the Centerline of Adjoining Alleys -But in no case shall a building or structure be erected within 10 feet of such an alley.
3. Structures or Projections into Rear Yards May be Permitted as Follows: Fences, plantings or walls not over five feet above the average natural grade. Fire escapes, six feet. Bays and balconies, not more than three feet provided these projections are entirely within planes drawn from either main corner of the rear wall, making an interior angle of 22 1/2 degrees in the horizontal plane with the rear wall. The sum of the lengths of such projections shall not exceed 1/2 the width of the rear wall.
 - a. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, into or over a required rear yard not more than 1 1/2 feet.

E. Additional Requirements, Exceptions & Modifications.

1. Extension of older garages within the city maintaining the same side widths as the existing structure is permitted.
2. New homes or additions to residences in a developed area may be placed as close to the street as the closest existing house on the same block front. If more than one house on the block front, the house shall be lined up being no closer nor no further than the existing residences, at the discretion of the board.
3. If there is no alley, construction can be 7 feet from property line (like a side-yard). If alley is platted but not open, the building must be 10 feet from alley.
4. If a building that does not meet the requirements of being 10 feet from alley, the City of Early is not liable if the building is damaged in snow removal.
5. Garages must be placed back from the front far enough so that a car parked in front of the garage will not be on the sidewalk.
6. Utility buildings must be securely tied down.
7. Persons putting concrete for driveways on parking (city property) are required to sign a maintenance contract with the city stating that they will be responsible if the concrete has to be removed for a variety of reasons or if the concrete breaks up, etc.

CHAPTER 3: ADMINISTRATION

301 BUILDING PERMITS.

- 301.01 Application Required.** No building, structure, or other physical improvement (i.e., fences, sidewalks, driveways, porches, decks, gazebo, etc.) shall be erected, constructed, moved, added to, or demolished without a building permit. Said building permit shall be approved as specified below **before** any work commences on any project. **Any person commencing work without an approved permit shall be subject to penalties as defined in Section ~~302.03~~ 303.03 in addition to the required permit application fees.**
- 301.02 Application Form Approved/Information Required.** Building permits in a form so approved by the City Council shall be available from the City Clerk. Every application for a permit shall be accompanied by a detailed drawing or plan drawn to scale, or a blueprint, showing the actual shape and dimensions of the lot to be built upon, the exact location, size and height of the building or structure to be erected or altered, the location of all lot/property lines, streets, and alleys, the required setbacks (based on the zoning district requirements), the existing and intended use of each building or part, the proposed number of units, the approximate cost of the project; types and kinds of material to be used. Building permit applicants are required to set stakes showing their property line boundaries, and stakes where the proposed building will be placed, prior to the inspection and before any action on the permit is taken. Such other information with regard to the lot and neighboring lots as may be necessary for the enforcement of the ordinance shall also be provided.
- 301.03 Fees.** Fees for building/zoning permits shall be set by Resolution of the City Council. The fees shall be contained in the application forms as available from the City Clerk.
- 301.04 Procedure for Application.** Completed building/zoning permits shall be submitted to the City Clerk. Upon receipt of all building permit applications, the City Clerk shall review said application for completeness and forward to the Planning and Zoning Commission for review. Upon determination, the following shall occur:
- A. If additional information is required, the application shall be returned to the applicant for clarification.
 - B. If the application does not meet the requirements of this Ordinance (i.e., setbacks are not sufficient), a variance or special exception may be required, in which case the applicant will be required to request a variance or special exception per the provisions of this Ordinance.
 - C. If the application does meet the requirements of this Ordinance, the application shall be approved by the Clerk or forwarded to the City Council for final review. The final review shall be placed on the Council agenda when necessary and copies of the completed applications are forwarded to the Council for review prior to the meeting.
- 301.05 Final Review of Application by City Council.** The City Council shall make final review of all building/zoning applications. If an application is approved, the Zoning/Building Administrator shall be notified by the Clerk so that inspection of the project can be scheduled. If an application is returned for further information, the Planning and Zoning Commission shall review the additional information according to Section 306.04 (above). If an application is denied, the Council shall provide the applicant with its reasons for denial. If the initiation of a project is imminent to the extent that the applicant desires to request a special Council meeting to review the application, the Council may, by resolution, determine that there be an additional fee to the applicant for the special meeting. Building permits are good for one (1) year following the date of approval.

- 302 **SPECIAL USE PERMITS.** Allowable special uses may be permitted, enlarged, or altered upon submission of an application for a special use permit to the Board of Adjustment. The Board may grant or deny a special use permit in accordance with the standards set forth herein and the intent and purposes of this ordinance. In granting special use permits, the Board shall authorize the issuance of a special use permit and may prescribe and impose appropriate conditions and safeguards for the performance of the special use permit. Special use permits shall always have specified time limits, and therefore may also be referred to as “temporary use permits”.
- 302.01 **Application Form/Information Required.** A request for a special use permit for a special use or modification of a special use may be initiated by a property owner or his authorized agent by filing an application with the City Clerk upon forms prescribed for the purpose. The application shall be accompanied by a site plan and such other plans and data showing the dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use or proposed modification in relation to the standards set forth herein.
- 302.02 **Meeting.** Before issuance of any special use permit, the Board of Adjustment will consider the application at a meeting held at the call of the chairman within 30 days after the filing of the application.
- 302.03 **Decisions.** The concurring vote of 3 members of the Board of Adjustment shall be necessary to grant a special use permit. Special use permits may generally be granted by the Board for no longer than 6 months, unless the Board specifically grants a longer period of time or a building permit is obtained within the 6 month period and construction is started.
- 302.04 **Standards.** No special use permit shall be granted by the Board unless the Board finds:
- A. That the establishment, maintenance, or operation of the special use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare of the community.
 - B. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property valued within the neighborhood.
 - C. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - D. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided, but that the use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustment.
 - E. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets, and that the use will not involve any activity substantially increasing the movement on public streets unless procedures are instituted to limit traffic hazards and congestion.
 - F. The use shall not include any activity involving the use or storage of flammable, or explosive materials unless protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
 - G. The use shall not include noise that is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled, nor vibration that is discernable without measuring instruments on any adjoining lot or property.
 - H. The use shall not involve any malodorous gas or matter which is discernable on any adjoining lot or property, nor any pollution of the air by fly ash, dust, vapors, or other substance which may be harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

- I. The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public street, road, or highway.

303 ADMINISTRATION AND ENFORCEMENT.

This ordinance shall be enforced by the Clerk acting as Zoning Administrator. No building permit or certificate of occupancy shall be issued except where the provisions of this ordinance have been complied with.

303.01 Powers and Duties of the Administrator. The administrator shall:

- A. Be familiar with the Zoning Ordinance and all provisions contained herein;
- B. Work with the Planning and Zoning Commission to review all completed building permit applications and forward to the City Clerk for presentation to the City Council for final approval;
- C. Conduct inspections of buildings, structures, and the use of land to determine compliance with the terms of the Ordinance, including setback provisions; and
- D. Initiate, direct, and review from time to time a study of the provisions of the Ordinance and make report of recommendations to the Planning Commission and Council.

303.02 Powers and Duties of the City Clerk. In regards to the administration of this Zoning Ordinance, the City Clerk shall:

- A. Make available building permits and applications;
- B. Receive all completed building permit applications and forward to the Administrator for review, and receive reviewed applications and forward to the City Council for approval;
- C. Assist the Administrator in arranging the inspection of buildings, structures and use of land to determine compliance with the terms of this Ordinance.
- D. Maintain permanent and correct records of the Ordinance, including, but not limited to, all maps, amendments, uses on review, variances, appeals and application thereof;
- E. Provide and maintain a public information service relative to all matters rising out of the Ordinance;
- F. Forward to the Council and the Planning Commission all applications for amendments to the Ordinance; and
- G. Transmit to the Board of Adjustment applications for appeals, variances, uses on review, or other matters on which the Board of Adjustment is required to pass under this Ordinance.

303.03 Penalties. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of the ordinance shall, upon conviction, be fined not less than \$50.00 nor more than \$100.00 for each offense. Each day that a violation continues shall constitute a separate offense.

303.04 Remedies. 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 the provisions of the ordinance, the municipal attorney, in addition to other remedies under the Code of Iowa is hereby authorized to institute an action to enjoin, or any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, repair, conversion, maintenance or use. Along any district boundary line, any abutting side yard setback on a lot in the less restricted district shall have at least width equal to that required in the more restrictive district.

1. Side yard setbacks may be reduced by three inches from the otherwise required least width of each side yard setback for each foot by which a lot of record at the time of enactment of this Ordinance is narrower than the minimum lot width specified for the district in which the lot is located, provided the owner of record does not own any adjoining property, and provided that no side yard shall be narrower at any point than three feet. (See following below for sample)

304 PLANNING & ZONING COMMISSION.

304.01 Commission Created. There is hereby created a city planning and zoning commission composed of five residents if the City of Early, Iowa, who shall be qualified by knowledge and experience to act in matters pertaining to the development of city planning and zoning, none of whom shall hold any elective position in said city. Such members shall be appointed by the city council.

304.02 Term of Office. The term of office of said members shall be five years, except that the members first named shall hold office for such terms, not exceeding five years, that the term of not more than 1/3 of the members will expire in any one year. Any vacancy occurring on the commission, caused by resignation or otherwise shall be filled by the city council for the un-expired term. All members of such commission shall serve without compensation except their actual expenses which shall be subject to the approval of the council.

304.03 Selection of Officers. The commission shall choose annually at its first regular meeting of the year, one of its members to act as chairperson, another to act as secretary and another as vice-chair, who shall perform all the duties of the chairperson during their absence or disability. The chairperson shall have the right to express their opinion, make recommendations, and has the right to vote as any other member of the commission. The city clerk shall prepare the agendas for the meetings and see that they are delivered to the members prior to the meetings and posted as required by law. The city clerk shall also take the minutes of the meeting, type them for the minute book and send copies of the minutes as soon after the meetings as possible.

304.04 Compensation. All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to approval of the Council.

304.05 Meetings/Quorum. Meetings of the Commission shall be open to the public. Three members of the Commission shall constitute a quorum. Without a quorum, no business will be transacted and no official action on any matter will take place. An affirmative vote of three members of the Commission will be required for the exercise of powers or functions conferred or imposed on the commission.

304.06 Vacancies. Vacancies caused by resignation or otherwise shall be filled by a successor appointed by the Council in the same manner as the original appointee for the remainder of the original term.

304.07 Powers & Duties. Such commission shall have and possess the following powers, and such other powers as may be incidental to its successful carrying out of the powers as may be incidental to its successful carrying out of the powers vested in it herein or such as may be expressly conferred upon it by law.

- A. To make such surveys, studies, maps, plans or plats of the whole or any portion of the city and of any land outside thereof, which in the opinion of the commission bears relation to a comprehensive plan, and shall submit such plan to the council with its studies and recommendations and it may publish the same.
- B. To prepare a comprehensive plan regarding the height, number of stories, and size of buildings and other structures; the percentage of ground that may be occupied; the size of yards, courts and other open spaces; the density of population; and the location and use of buildings, structures and land for trade, industry, residence or other purposes; and to this end shall prepare a preliminary report and hold public meetings thereon and after such meetings have been held, to submit its final report and recommendations to the City Council.
- C. To recommend to the city council, from time to time, as conditions require, amendments, supplements, changes or modifications in the comprehensive plan prepared by it.
- D. When the comprehensive plan as herein before provided has been adopted no substantial amendment or modification thereof shall be made without such proposed change first being referred to the commission for its recommendations. If the commission disapproves the proposed change it may be adopted by the council only by the affirmative vote of at least three-fourths of the members of the said council.
- E. All plans, plats or re-plats of subdivision or re subdivision of land embraced in the city or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the city, shall first be submitted to the commission and its recommendations obtained before approval by the council.
- F. No plan for any street, park, parkway, boulevard, traffic way, river front, or other public improvement affecting the city plan shall be finally approved by the city or the character or location thereof determined, unless such proposal shall first have been submitted to the commission and the latter shall have had thirty days within which to file its recommendations thereon.
- G. The commission shall have and exercise all the powers and duties and privileges in preparing and amending the city zoning code as provided by law.

304.08 Debts. The Commission shall have no power to contract debts.

305 BOARD OF ADJUSTMENT.

305.01 Board Created. A board of adjustment is hereby created. The board of adjustment shall consist of five (5) members, each to be appointed by the council for a term of five (5) years, excepting that when the board shall first be created one member shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three (3) years, one for a term of two (2) years, and one for a term of one (1) year. The board shall elect a chairman from its membership, and appoint a secretary. Matters of procedure, powers, and judicial review relating to this board are regulated by statute.

- A. Creation, Membership and Procedure. A board of adjustment consisting of five members shall be appointed by the council in accordance with the provisions of Chapter 414 of the Code of Iowa. The appointing authority may remove any member of the board for cause and after public hearing.
- B. Chairperson. The board shall elect its own chairperson annually and shall have the power to adopt rules and regulations for its own government, not inconsistent with law or with the provisions of any ordinance. Meeting shall be held at the call of the chairperson and at such

other times as the board may determine. The chairperson, or in his absence, the acting chairperson, may administer oaths and compel attendance of witnesses.

- C. Quorum. Three members of the board shall constitute a quorum. The board shall act by resolution, and the concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator, or to decide in favor of an applicant any matter upon which it is required to pass under the ordinance, or to effect any variation in the requirements of the ordinance.
- D. Assistance of Municipal Departments. The board may call on the municipal departments for assistance in the performance of its duties, and it shall be the duty of such departments to render such assistance to the board as may reasonably be required.

305.02 Applications and Appeals.

- A. Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning/Building Administrator in the enforcement of this Ordinance or any amendment thereto. Appeals shall be reviewed according to the following provisions:
 - 1. Procedure. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, or board of the City affected by any decision of the Zoning/Building Administrator. Such appeal shall be taken within 60 days by filing with the Zoning/Building administrator and the Board a notice of appeal specifying the grounds thereof. The Zoning/Building Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.
 - 2. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning/Building Administrator certifies to the Board that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the Zoning/Building Administrator from whom the appeal was taken on due cause shown.
 - 3. Hearing. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within 30 days. At said hearing, any party may appear in person, by agent, or by attorney.
- B. Special Exceptions. To hear and decide only such special exceptions as the Board is specifically authorized to pass as detailed in by the terms of this Ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance. The board shall review requests for special exceptions according to the following provisions:
 - 1. Application. A written application for special exception shall be submitted to the Board indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.

2. Hearing. The Board shall fix a reasonable time for the hearing of the special exception, give public notice thereof, as well as due notice to the parties in interest and decide the same within 30 days. At said hearing, any party may appear in person, by agent, or by attorney. The public hearing shall be held.

3. Findings and Standards. The special exception shall not be granted unless the Board finds that it is empowered under the section of this Ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest based on the following standards:

a. The establishment, maintenance, or operation of the special exception will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare of the community.

b. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for a purpose already permitted, nor substantially diminishes and impairs property values within the neighborhood.

c. The approval of the special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

d. Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided, and adequate measures have been taken or will be taken to provide ingress and egress so designed to minimize traffic congestion on public streets.

e. The special exception will not cause noise or other vibration which is objectionable due to volume, frequency, or beat unless muffled, damped, or otherwise controlled.

f. The special exception will not cause any emission of malodorous gas or other pollution of the air by ash, dust, vapors, or other substance which is harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation.

g. The special exception will not involve any direct or reflected glare which is visible from any adjoining property or from other public street or highway.

h. The special exception will not involve any activity that would substantially increase the burden on any public utilities or traffic congestion on a public street unless measures are taken to provide relief for the affected utility or street.

C. Variations. To authorize upon appeal, in specific cases, such variance from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done. However, no variance shall permit the use of the property for purposes not authorized within the district. The board shall review applications for variations according to the following provisions:

1. Initiation. A property owner or his authorized agent may initiate a request for variance. The City Council or Planning & Zoning Commission may also initiate a request where a City property is involved.
2. Application. A written application by a property owner or his authorized agent for variance, in form approved by the City Council, shall be filed with the Zoning/Building Administrator. Adequate drawings and other descriptive materials

essential to understanding the variance requested shall accompany the application. The application shall include evidence demonstrating the following:

- a. That there are special, exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district.
 - b. That the special circumstances or conditions did not result from actions of the applicant;
 - c. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.
 - d. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the ordinance or the public interest.
3. Hearing. The Board shall fix a reasonable time for the hearing of the variance request, give public notice thereof, as well as due notice to record owners of property abutting the lot or parcel of land on which the variance is requested or record owners of any other lot or land parcel which may be affected by the proposed variance. Decisions by the Zoning/Building Administrator as to those persons affected by the proposed variance shall not be subject to appeal.

At said hearing, any party may appear in person, by agent, or by attorney. The variance may be granted, refused, or tabled subject to further investigation.

4. Findings. The Board shall make their final decision within 30 days of the hearing. The variance shall not be granted unless the Board finds beyond a reasonable doubt that the conditions detailed in the application actually exist, that reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure. The Board shall, in order to grant the variance, further find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting the variance, the Board may attach conditions that it feels are necessary to protect the public interest and carry out the purposes of this Ordinance. A concurring vote of three members of the Board shall be necessary to grant a variance and the Zoning/Building Administrator shall notify the applicant in writing of the Board's action within 7 days after the Board has rendered its decision.

5. Condition not Recurrent or Typical. No variance shall be granted unless the board specifically finds the condition or situation of the specific piece of property for which the variance is sought is not of so typical or recurrent a nature as to make reasonably practicable the formulation of a general regulation, under an amendment of the ordinance, for such conditions or situations.
6. No Power to Establish Variance for Non-conforming use. The board shall have no power to authorize a variance for the establishment of a non-conforming use where none previously existed.
7. 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, in such case, delayed for 30 days from the date of remand.

305.03 Judicial Review. All final administrative decisions of the board of adjustment shall be subject to judicial review pursuant to the provisions of Chapter 414, Code of Iowa, and all amendments and modifications thereof, and the rules adopted pursuant thereto.

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CHAPTER 4: SUBDIVISION REGULATIONS

400 GENERAL PROVISIONS

400.01 Short Title. This ordinance shall be known as the "Subdivision Ordinance" of the City of Early, Iowa.

400.02 Definitions. The purpose of this ordinance is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety and general welfare of the citizens of the City of Early, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

400.03 Improvements. Every owner who divides any original parcel of land, forty (40) acres or part thereof, entered of record in the office of the County Recorder as a single lot, parcel or tract on or before the effective date of these regulations (date of original subdivision ordinance) into three or more lots, parcels, or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the city or within two (2) miles of the corporate limits of the city shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

(Code of Iowa, Sec. 354.9)

400.04 Amendment. When necessary to further its purpose, this ordinance shall be amended in accordance with the text amendment procedure for the Zoning Ordinance by the Planning Commission and the Governing Body.

400.05 Recording of Plat. No subdivision plat, resubdivision plat or street dedication within the City of Early, Iowa, or within two (2) miles of the corporate limits of the City as recorded in the office of the County Recorder and filed with the County Auditor, as provided in Section 354.9, Code of Iowa, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this ordinance.

Upon the approval of the final plat by the Governing Body, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the City Clerk within such thirty (30) days.

(Code of Iowa, Sec. 354.9)

400.06 Fees Established. The Governing Body shall, from time to time establish by resolution, fees for the review of plats. No plat for any subdivision or resubdivision shall be considered

filed with the City Clerk, unless and until said plat is accompanied by the fee, as established by resolution of the Governing Body, and as required by this ordinance.

400.07 Penalties. Any person who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this ordinance, until the plat thereof has been approved by the Governing Body, and recorded as required by law, shall forfeit and pay one hundred dollars (\$100.00) for each lot or part of lot sold, disposed of or offered for sale. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this ordinance.

400.08 Building Permits to be Denied. No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this ordinance, unless and until a final plat of such subdivision has been approved and recorded in accordance with this ordinance, and until the improvements required by this ordinance have been accepted by the City.

401 DEFINITIONS

401.01 Terms Defined. For the purposes of this ordinance, certain words herein shall be defined as and interpreted as follows. Words used in this present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term "shall" is always mandatory, and the term "may" is permissive.

1. "Acquisition Plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

(Code of Iowa, Sec. 354.2(1))

2. "Aliquot Part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.

(Code of Iowa, Sec. 354.2(2))

3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

4. "Auditor's Plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the auditor.

(Code of Iowa, Sec. 354.2(3))

5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.

6. "Building Lines" means a line on a plat between which line and public right-of-way no building or structures may be erected.

7. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the Governing Body or other hiring authority.

8. "Comprehensive Plan" means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the Governing Body. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
9. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.
(Code of Iowa, Sec. 354.2(5))
10. "Cul-de-Sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.
11. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.
(Code of Iowa, Sec. 354.2(6) and 355.1(2))
12. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.
13. "Flood Hazard Area" means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.
14. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.
15. "Forty-Acre Aliquot Part" means one-quarter of one-quarter of a section.
(Code of Iowa, Sec. 354.2(7))
16. "Governing Body" means the City Council of the City of Early, Iowa.
(Code of Iowa, Sec. 354.2(8))
17. "Government Lot" means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.
(Code of Iowa, Sec. 354.2(9) and 355.1(3))
18. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and appurtenances.
19. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.
(Code of Iowa, Sec. 354.2(10))
20. "Lot, Corner". The term "corner lot" means a lot situated at the intersection of two streets.

21. "Lot, Double Frontage". The term "double frontage lot" means any lot that is not a corner lot that abuts two streets.

22. "Metes and Bounds Description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

(Code of Iowa, Sec. 354.2(11))

23. "Official Plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.

(Code of Iowa, Sec. 354.2(12))

24. "Original Parcel" means forty acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before (date of original subdivision ordinance).

25. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.

26. "Parcel" means a part of a tract of land.

(Code of Iowa, Sec. 354.2(13))

27. "Performance Bond" means a surety bond or cash deposit made out to the City of Early, Iowa, in an amount equal to the full cost of the improvements which are required by this ordinance, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this ordinance.

28. "Permanent Real Estate Index Number" means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the Code of Iowa.

(Code of Iowa, Sec. 354.2(14))

29. "Planning Commission" means the appointed commission designated by the Governing Body for the purpose of this ordinance, and may also be the Zoning Commission, in which case such commission shall be known as the Planning and Zoning Commission.

30. "Plat" means a map drawing, or chart on which a subdivider's plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.

31. "Plats Officer" means the individual assigned the duty to administer this ordinance by the Governing Body or other appointing authority.

32. "Plat of Survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

(Code of Iowa, Sec. 354.2(15) and 355.1(9))

33. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

(Code of Iowa, Sec. 354.2(16))

34. "Resubdivision" means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.

35. "Street" means public property, not an alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.

36. "Street, Arterial" means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.

37. "Street, Collector" means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.

38. "Street, Local" means a street primarily designed to provide access to abutting property.

39. "Subdivider" means the owner of the property being subdivided, or such other person or entity empowered to act on the owner's behalf.

40. "Subdivision" means the accumulative effect of dividing an original lot, tract, or parcel of land, as of (date of original subdivision ordinance), into three (3) or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a resubdivision or replatting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided.

Any person not in compliance with the provisions of the subdivision definition at the time of its effective date (date of passage of this subdivision ordinance), shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.

(Code of Iowa, Sec. 354.2(17) and

355.1(10))

41. "Subdivision Plat" means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.

(Code of Iowa, Sec. 354.2(18) and 355.1(11))

42. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the Code of Iowa.

(Code of Iowa, Sec. 354.2(19) and 355.1(12))

43. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

(Code of Iowa, Sec. 354.2(20))

44. "Utilities" means systems for the distribution or collection of water, gas, electricity, wastewater, and storm water.

402 IMPROVEMENTS

402.01 Improvements Required. The subdivider shall, at subdivider's expense, install and construct all improvements required by this ordinance. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

402.02 Inspection. All improvements shall be inspected to insure compliance with the requirements of this ordinance. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

402.03 Minimum Improvements. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.

(Code of Iowa, Sec. 364.1)

1. **Streets.** The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley or public place and provide appropriate paving, including curb and gutter on all streets. All streets or alleys shall be of such width and shall be so constructed as to meet the standards of the City. Under some circumstances the City may require, as a condition for approval of the plat, dedication and improvement of a street having a width greater than necessary to meet the needs of the platted area, but necessary to complete the City street system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of improving the wider street and the street width reasonable to meet the foreseeable needs of the subdivision taken alone. The streets shall, upon final approval and acceptance by the City, become the property of the City.

2. **Sanitary Sewer System.** The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. There shall be constructed, at the subdivider's expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, sewer access holes, and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City's sanitary sewers. The sanitary sewer system shall be constructed in accordance with the plans and specifications of the City and at the sewer grades as established by the City.

Under some circumstances the City may require, as a condition for approval of the plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the platted area, but necessary to complete the City sanitary sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area.

The above mentioned facilities for the collection and disposal of sanitary sewage from the platted area shall, upon final approval and acceptance by the City, become the property of the City.

3. Storm Sewer System. The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas. The storm sewer system shall be constructed in accordance with plans and specifications of the City and at sewer grades established by the City.

Under some circumstances the City may require, as a condition for approval of the plat, installation of a storm sewer system that is larger than necessary to meet the needs of the platted area, but necessary to complete the city storm sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area.

The sewers shall, upon inspection, approval and acceptance by the City, become the property of the City. In the storm sewer design phase, consideration shall be given to alternatives and principles of storm water management, or the provisions of a storm water management plan if such plan has been adopted by the City.

4. Water Main System. The subdivider of land being platted shall install and construct a water main system to adequately serve all lots or parcels of land within the platted area, with due regard to the present and reasonably foreseeable needs of the entire area, and shall connect the same to the City's existing water mains.

Under some circumstances the City may require, as a condition for approval of the plat, installation of a water main that is larger than necessary to meet the needs of the platted area, but necessary to complete the City water distribution system as it relates to both the area being platted and other areas. In such event the City will pay the subdivider the difference in cost of pipe and installation between the larger water main and the diameter of water main reasonable to meet the foreseeable needs of the area.

The water mains shall, upon inspection, approval, and acceptance by the City, become the property of the City.

5. Other Improvements. The owner and subdivider of the land being platted shall be responsible for the installation of sidewalks within the street area; the installation of walkways as necessary; grading, seeding or sodding of all lots; the planting of any required trees in the parking area; the installation of street signs, and the provision of street lighting. All such improvements shall be under the direction of the City Engineer or director of the electric utility, as appropriate.

402.04 Easements Required.

1. Public Utilities. Where alleys are not provided, or where otherwise required by the present or future placement of public utilities, easements of not less than ten (10) feet in width shall be granted by the owner along rear, and where necessary, along side lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines, or across, lots when necessary

for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.

2. **Easements Along Streams and Watercourses.** Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at said subdivider's expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement along said stream or watercourse as necessary for the proper maintenance of the watercourse, and as approved by the City.

402.05 Maintenance Bond Required. The owner and subdivider of the land being platted shall be required to provide to the City, proper maintenance bonds satisfactory to the City, so as to insure that for a period of one (1) year from the date of acceptance of any improvement, the owner and subdivider shall be responsible to maintain such improvement in good repair.

402.06 Alternative Systems for Water and Sewer. Where connection to the City sewer or water system cannot reasonably be made the City may approve alternate facilities for the distribution of water or the collection and disposal of sanitary wastes. Such alternate systems shall be designed to fully protect the public health safety and welfare, and shall meet all requirements of state, county, or other applicable health regulations. Prior to granting approval of such alternate systems, the City shall require that the owner and subdivider provide to the City a waiver of assessment protest or such other legally binding documents necessary to protect the City from the expense of the subsequent installation of sewer or water facilities.

403 MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

403.01 Standards Prescribed. The standards set forth in this ordinance shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.
(Code of Iowa, Sec. 364.1)

403.02 Land Suitability. No land shall be subdivided that is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City.

If land is found to be unsuitable for subdivision for any of the reasons cited in this Section, the Governing Body shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Governing Body may reaffirm, modify or withdraw its determination regarding such unsuitability.

403.03 Lands Subject to Flooding. No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City without the approval of the Iowa Department of Natural Resources. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the floodway or flood hazard area, suitable for development as allowed by the Zoning Ordinance for the zone in which the lot is located.

Land located within a flood hazard area or a floodway may be included within a plat as follows, subject to the approval of the City:

1. Included within individual lots in the subdivision, subject to the limitations of this Section.
2. Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners.
3. If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.

403.04 Plat to Conform with Comprehensive Plan. The arrangement, character, extent, width, grade and location of all streets and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan of the City, provided such plan has been adopted by the City; and shall conform to such other plans, including but not limited to a Major Street Plan, a Sanitary Sewer System Plan, or a Parks and Open Space Plan, provided such plan has been adopted by the City.

(Code of Iowa, Sec. 354.8)

403.05 Construction Standards for Improvement. In addition to the Standards set forth in this ordinance, the City Engineer shall from time to time prepare, and the Governing Body shall from time to time adopt by resolution, technical standards for public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of public improvements. Such technical standards may vary for classes of improvements, giving due regard to the classification of streets or other improvements, and the extent and character of the area served by the improvements.

Upon adoption by the Governing Body by resolution, such technical standards for public improvements shall have such force and effect as if they were fully set forth herein.

403.06 Street Standards. The following standards shall apply to all streets to be located within the subdivision:

1. Streets shall provide for the continuation of arterial and collector streets from adjoining platted areas, and the extension of such streets into adjoining unplatted areas. Where a plat encompasses the location for an arterial or collector street proposed in the Comprehensive Plan or the Street Plan, the plat shall provide for such street.
2. Street grades shall align to existing streets, and all grades for streets shall be as approved by the City.
3. Arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.
4. Street right-of-way widths and pavement widths shall be as specified in the Comprehensive Plan, the Streets Plan, or technical standards for public improvements.
5. Half-streets are prohibited, except, where an existing platted half-street abuts the subdivision, a platted half-street to complete the street shall be required.

6. Local streets should be designed to discourage through traffic while safely connecting to collector or arterial streets.

7. Street jogs with centerline offsets of less than one hundred twenty five feet shall be prohibited, except where topography, or other physical conditions make such jogs unavoidable.

8. Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than sixty (60) degrees.

9. At intersections of major streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

10. Dead end streets are prohibited, except where a street is planned to continue past the subdivider's property, a temporary dead end may be allowed.

11. Streets that connect with other streets, or loop streets, are preferable for maintenance, fire protection, and circulation, but cul-de-sacs may be permitted. Cul-de-sacs should not exceed 500 feet in length unless a greater length is unavoidable.

12. In general, alleys shall be permitted in residential areas and required in commercial areas with normal street frontage. Dead end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of one hundred (100) feet.

13. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Governing Body, be made a requirement of the plat.

14. Streets that are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the Governing Body.

15. Private streets, not dedicated to the City, shall be avoided. The Governing Body may approve a private street where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.

403.07 Block and Lot Standards. The following standards shall apply to the layout of blocks and lot in all subdivisions, and to the extent possible, in all resubdivisions:

1. No residential block shall be longer than twelve hundred (1,200) feet or shorter than three hundred (300) feet measured from street line to street line. The width of blocks should be arranged so as to allow two tiers of lots, with utility easement.

2. In blocks over seven hundred (700) feet in length, the Governing Body may require a public way or an easement at least ten (10) feet in width, at or near the center of the block, for use by pedestrians.

3. The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements for such uses contained in the zoning ordinance.

4. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.

5. The size and shape of all lots shall comply with all requirements of the Zoning Ordinance for the zone in which the lot is located.

6. All lots shall abut a public street, or upon an approved private street, with a minimum frontage of at least thirty-five (35) feet measured as a straight line between the two front lot corners.

7. Unless unavoidable, lots shall not front, or have direct access to arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.

8. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the Governing Body, a variation to this provision will provide a better street and lot layout.

9. Corner lots shall have sufficient extra width to permit the required front yard setback as specified in the zoning ordinance, oriented to either street.

10. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.

11. Any lot not to be served by a sanitary sewage system shall have sufficient area to allow for a satisfactory drainfield. No subdivision to be served by septic systems shall be approved by the Governing Body until percolation tests have been performed and the results of said tests have been provided to, and reported on, by the City Engineer.

403.08 Parks and Open Space. All residential subdivisions should be so designed as to meet the neighborhood park and open space needs of their residents. Such needs may be met by dedication and acceptance of public park land and/or by reservation by covenant of private open space, provided, there shall exist sufficient covenants, running with the land, to insure adequate maintenance by the property owners benefiting from such open space.

403.09 Parks and School Sites Reserved. When a tract being subdivided includes lands proposed to be parks or school sites in the Comprehensive Plan or other official plan of the City, the subdivider shall indicate such areas on the plat.

(Code of Iowa, Sec. 354.6(2))

1. Proposed park sites shall be reserved for three (3) years, giving the City or other authorized public agency the option to purchase the land at the appraised raw land value prior to the

subdivision as established by a certified land appraiser. The purchase price shall also include one-half (1/2) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the public agency. Should the park site not be purchased within three (3) years, the subdivider may then amend the final plat.

2. Proposed school sites shall be reserved for three (3) years, giving the appropriate school district the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (1/2) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the school district. Should the school sites not be purchased within three (3) years, the subdivider may then amend the final plat.

404 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

404.01 Pre-Application Conference. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the Plats Officer. The conference should be attended by the Plats Officer and such other City or Utility representative as is deemed desirable; and by the owner and said owner's engineer and/or planner, as deemed desirable.

The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

404.02 Sketch Plan Required. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

404.03 Presentation to Planning Commission or Governing Body. The subdivider may present the sketch plan to the Planning Commission and Governing Body for review, prior to incurring significant costs preparing the preliminary or final plat.

404.04 Subdivision Classified. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. Minor Subdivision. Any subdivision that contains not more than four (4) lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel shall be classified as a minor subdivision.
2. Major Subdivision. Any subdivision that, in the opinion of the Governing Body, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

404.05 Plats Required. In order to secure approval of a proposed subdivision, the owner and subdivider shall submit to the City, plats and other information as required by this ordinance. The owner and subdivider of any major subdivision shall comply with the requirements for a

preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

404.06 Requirements of the Preliminary Plat. The subdivider shall prepare and file with the City Clerk 3 copies of the preliminary plat, drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall not exceed twenty-four inches by thirty-six inches (24" x 36"). Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin.

The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

1. Title, scale, north point and date.

(Code of Iowa, Sec. 355.8(6))

2. Proposed name of the subdivision that shall not duplicate or resemble existing subdivision names in the county. The Plats Officer shall verify with the County Auditor that the proposed subdivision name is not duplicating an existing subdivision name in the county.

(Code of Iowa, Sec. 354.6(2) and 355.8(5))

3. The name and address of the owner and the name, address and profession of the person preparing the plan.

4. A key map showing the general location of the proposed subdivision in relation to surrounding development.

5. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located within two hundred (200) feet of the subdivision boundary shall be attached.

(Code of Iowa, Sec. 355.8(18))

6. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.

7. Existing and proposed zoning of the proposed subdivision and adjoining property.

8. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater.

9. The legal description of the area being platted.

10. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.

11. The layout, numbers and approximate dimensions of proposed lots.

12. The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.

13. The proposed names for all streets in the area being platted. The Plats Officer shall verify that the proposed street names do not duplicate existing street names in the City unless such names are a continuation of an existing street.

14. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities.

15. Proposed easements, showing locations, widths, purposes and limitations.

16. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the Comprehensive Plan or other adopted plans.

17. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

18. Any other pertinent information, as necessary.

19. The fee, as required by this ordinance.

404.07 Procedures for Review of Preliminary Plats.

1. The City Clerk, upon receipt of 4 copies of the preliminary plat, shall file one copy in the records of the City, shall retain one copy for public inspection, and shall forward the remaining copies of the plat to the Plats Officer.
2. The Plats Officer shall provide copies of the plat to the City Engineer, and such other persons as necessary to review the plat; and shall schedule the plat for consideration by the Planning Commission.
3. The Planning Commission shall examine the plat and the report of the City Engineer, and such other information as it deems necessary or desirable, to ascertain whether the plat conforms to the ordinances of the City, and conforms to the Comprehensive Plan and other duly adopted plans of the City. The Planning Commission shall, within forty-five (45) days of the filing of the plat with the City Clerk, forward a report and recommendation regarding the plat to the Governing Body. If such recommendation is to disapprove or modify the plat, the reasons therefor shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the applicant.
4. The Governing Body shall examine the plat, the report of the City Engineer, the report of the Planning Commission, and such other information as it deems necessary or desirable. Upon such examination, the Governing Body shall ascertain whether the plat conforms to the ordinances and standards of the City, conforms to the Comprehensive Plan and other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City; in order to protect the public health, safety, and welfare. Following such examination, the Governing Body may approve, subject to conditions, or disapprove the plat. If the decision of the Governing Body is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefor shall be set forth in writing in the official records of the Governing Body, and

such decisions shall be provided to the applicant. Action on the preliminary plat by the Governing Body shall be taken within sixty (60) days of the filing of the plat with the City Clerk.

- 404.08 Duration of Approval of Preliminary Plat.** The approval of a preliminary plat by the Governing Body shall be valid for a period of one (1) year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity, by the Governing Body.
- 404.09 Authorization to Install Improvements.** The approval of the preliminary plat shall constitute authorization by the Governing Body for the installation of improvements as required by this ordinance, and as shown on the preliminary plat; provided no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications for the construction of such improvement have been submitted to, and approved in writing by, the City Engineer.
- 404.10 Completion and Acceptance of Improvements.** Before the Governing Body will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the City Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between the subdivider and the City.
- 404.11 Performance Bond Permitted.** In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond with the City, guaranteeing that improvements not completed shall be completed within a period of two (2) years from the date of approval of such final plat; but such approval of the plat shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed.
- 404.12 Requirement of the Final Plat.** The subdivider shall, within one (1) year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the City Clerk, 4 copies of the final plat and required attachments, as set forth in this ordinance. Except for a final plat for a minor subdivision or an auditor's plat as set forth herein, no final plat shall be considered by the Governing Body until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above.

The final plat shall be drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall be no greater than eighteen inches by twenty-four inches (18" x 24") nor smaller than eight and one-half inches by eleven inches (8 1/2" x 11") and shall be of a size acceptable to the County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin.

The final plat shall be clearly marked "Final Plat" and show the following:

1. The name of the subdivision.

(Code of Iowa, Sec. 354.6(2) and 355.8(5))

2. Name and address of the owner and subdivider.
3. Scale, and a graphic bar scale, north arrow and date on each sheet.
(Code of Iowa, Sec. 355.8(4) and (6))
4. All monuments to be of record, as required by Chapter 355, Code of Iowa.
(Code of Iowa, Sec. 355.8(7))
5. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other area shown on the plat, as well as the outer boundaries of the subdivided lands.
(Code of Iowa, Sec. 355.8(12))
6. All distance, bearing, curve, and other survey data, as required by Chapter 355, Code of Iowa.
(Code of Iowa, Sec. 355.8)
7. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivision shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.
(Code of Iowa, Sec. 355.8(18))
8. Street names and clear designation of public alleys.
(Code of Iowa, Sec. 354.6(2))
9. Block and lot numbers.
(Code of Iowa, Sec. 354.6(2))
10. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
(Code of Iowa, Sec. 354.6(2))
11. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for trails, bikeways, ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
(Code of Iowa, Sec. 355.8(19))
12. All interior excepted parcels, clearly indicated and labeled, "not a part of this plat".
13. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Governing Body.
(Code of Iowa, Sec. 354.6(2))
14. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
(Code of Iowa, Sec. 355.8(15))

15. A statement by a registered land surveyor that the plat conforms to Section 409A.8 of the Code of Iowa, was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal, and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

(Code of Iowa, Sec. 355.8(21))

404.13 Attachments to the Final Plat. The following shall be attached to and accompany any final plat:

1. A certificate by the owner and said owner's spouse, if any, that the subdivision is with their free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.

(Code of Iowa, Sec. 354.11(1))

2. A complete abstract of title and an attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(3))

3. A certificate from the County Treasurer that the subdivision land is free from unpaid taxes.

(Code of Iowa, Sec. 354.11(5))

4. A certificate from the Clerk of the District Court that the subdivision land is free from all judgements, attachments, or mechanics or other liens of record in said Clerk of District Court's office.

5. A certificate from the County Recorder that the title in fee is in the owner and that it is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(2))

6. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, Code of Iowa.

(Code of Iowa, Sec. 354.11(2) and 354.12)

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

8. A certificate by the City Engineer that all required improvements have been satisfactorily completed in accordance with the construction plans as approved and in substantial compliance with the approved preliminary plat. Prior to such certification, "as built" plans for all improvements shall have been provided to the City Engineer. In lieu thereof, the City Clerk may certify that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Governing Body has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider of future property owners in the subdivision.

9. Where the improvements have been installed, a resolution accepting and approving such improvements along with the maintenance bond required by this ordinance.

10. If private streets or other private improvements have been approved, an agreement in the form of a covenant running with the land, in a form approved by the City Attorney, providing for the construction or reconstruction of any improvements to meet City standards, and the assessment of all costs to the property owners in the event of annexation and dedication and acceptance, shall be required.

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

(Code of Iowa, Sec. 354.11(4))

12. The applicable fee, if any.

404.14 Procedures for the Review of Final Plats.

1. The City Clerk, upon receipt of 4 copies of the final plat, shall file one copy in the records of the City, shall retain one copy for the public inspection, and shall forward the remaining copies to the Plats Officer.

2. The Plats Officer shall provide copies of the plat to the City Engineer, and such other persons as are necessary to review the plat; and shall schedule the plat for review by the Governing Body.

3. The Plats Officer and the City Engineer shall examine the plat as to its compliance with Section 409A.8 of the Code of Iowa, the ordinances and standards of the City, and its conformance with the preliminary plat; and shall set forth their findings in writing. A copy of the findings shall be provided to the subdivider.

4. If the plat is found to substantially conform to the preliminary plat as approved, the final plat shall be forwarded to the Governing Body for review. If the plat is found not to conform to the preliminary plat, it shall be referred to the Planning Commission for review, prior to review by the Governing Body. The Planning Commission shall then review the plat and shall forward a written recommendation thereon to the Governing Body within forty-five (45) days of the filing of the plat with the City Clerk. If the recommendation is to disapprove the plat, or to require modification of the plat, the reasons therefor shall be set forth in writing, and a copy of the recommendation shall be provided to the subdivider.

5. Upon receipt of the plat and written reports thereon, the Governing Body shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the City and the Comprehensive Plan and other duly adopted plans, all as of the date of approval of the preliminary plat, and is found to substantially conform to the preliminary plat, the Governing Body shall approve the plat, and shall cause its approval to be entered on the plat as required by law.

6. Action on the final plat by the Governing Body shall be taken within sixty (60) days of the date of filing of the plat with the City Clerk. If the action is to disapprove the plat, the reasons therefore shall be set forth in the official records of the Governing Body and such decision shall be provided to the subdivider.

405 OTHER PROVISIONS

405.01 Variances. Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Governing Body may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured, provided, however, that such variance modification or waiver will not have the effect of nullifying the intent and purpose of this ordinance. In no case shall any variance or modification be more than minimum easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Governing Body may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified, or waived.

CHAPTER 5: AMENDMENTS & CHANGES

501 DISTRICT CHANGES AND ZONING AMENDMENTS.

501.01 Amendments. In accordance with the provisions of Chapter 414, Code of Iowa, the council may from time to time amend or change by ordinance the number, shape, or area of districts established on the zoning map or the regulations set forth in the ordinance; but no such amendment or change shall become effective unless the ordinance proposing such amendment or change shall first be submitted to the planning commission for approval, disapproval or suggestions, and said commission shall have been allowed a reasonable time, not less than 30 days, for consideration and report.

501.02 Hearing. Before submitting its recommendations and report to the council, the planning commission may hold a public hearing on the proposed amendment, supplement or change. It shall give not less than 15 nor more than 30 days notice of the time and place of such hearing by publication in a newspaper having circulation in the community and by mailing notices to all property owners directly involved, contiguous to or directly across a street or alley from the area proposed to be altered.

501.03 Application for Change. Any person desiring a change in zoning of property may make application therefor, and in so doing shall accompany the petition for such change in zoning, or the ordinance introduced for the purpose of changing such zoning, with a fee in the amount of \$25.00 toward the cost of processing the application. Should the application be withdrawn prior to publication of legal notice thereon, such fee will be returned upon written request of the applicant.

501.04 Notice. During the 15 days prior to the public hearing, the text or copy of the text of such ordinance or petition, together with the maps or plans or copies thereof shall be on file, for public examination, in the office of the planning commission and in the municipality. No ordinance which differs from the recommendation made by the planning commission shall become effective except by the favorable vote of 3/4 of all members of council.

501.05 Written Protest. In case of a written protest against a proposed change in the boundaries of a district signed and acknowledged by the owners of 20% or more of either the frontage proposed to be altered, or of the frontage immediately adjoining or across an alley therefrom, or directly opposite the frontage proposed to be altered, is filed with the clerk, such amendment shall not be passed or become effective except by the favorable vote of 3/4 of all members of the council.

501.06 Notification. The failure to notify, as provided by this article, shall not invalidate an ordinance, provided such failure was not intentional, and the omission of the name of any owner or occupant of property who may, in the opinion of the planning commission, be affected by such amendment, supplement or change, unless such omission is intentional, shall not invalidate any ordinance passed hereunder, it being the intention of this article to provide so far as may be for notice to the persons substantially interested in the proposed change that an ordinance is pending before the council, proposing to make a change in zoning.

502 AMENDMENTS TO THIS ORDINANCE.

The boundaries of districts as now established and the regulations thereof may be amended, supplemented, changed, or repealed by the city council from time to time, either upon its own motion, or upon a petition as herein provided for, or upon recommendation of the zoning and planning commission, provided:

- A. No such amendment, supplement or change shall be adopted until after a notice thereof is duly published as provided by state law.
- B. Any person desiring a change in zoning of property may file petition therefor, and in so doing shall accompany the petition for such change in zoning with a fee in the amount of \$25.00 toward the cost of processing the petition. The petition shall be filed with city clerk who shall refer the same to the planning and zoning commission. Should the petition be withdrawn prior to publication of legal notice thereon, such fee will be returned upon written request of the petitioner.
- C. When a proposed amendment, supplement or change does not originate with the planning and zoning commission, the same shall be submitted to said commission 30 days in advance of the date on which action is to be taken for its recommendation thereon.
- D. This requirement shall not act as a stay upon the proposed action by the council where said commission fails to submit its recommendation to the council within 30 days after receiving written notice requesting the same.

503 **REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

504 **SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

505 **EFFECTIVE DATE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

∴ ∴ ∴ ∴ ∴

ADOPTED AND APPROVED by the City Council of the City of Early, Iowa this _____
day of _____, _____.

(SEAL)

Mayor, City of Early

ATTEST:

City Clerk, City of Early

