

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 5 - ZONING CODE

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TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 5 - ZONING CODE

ARTICLE 1/SHORT TITLE AND JURISDICTION

Section 1. SHORT TITLE. This ordinance shall be known and may be cited and referred to as the "Zoning Ordinance of the City of Estherville," to the same effect as if the full title were stated.

Section 2. JURISDICTION. In accordance with the provisions of Chapter 414 of the Code of Iowa and amendatory acts thereto, this ordinance is adopted by the City of Estherville, Iowa, governing the zoning of all lands within the corporate limits of the city.

***Section 3. REVIEW.** All subdivisions, plats, or plats of survey for divisions or subdivisions of land lying within two (2) miles of the corporate limits of the City of Estherville, Iowa, as now or hereinafter established, shall be subject to review and approval by the City of Estherville, Iowa, in the same manner as is required for land lying within the corporate boundaries of the city, all in accordance with Section 354.9 of the 2001 Code of Iowa, as amended.

ARTICLE 2/INTERPRETATION OF REGULATIONS

Section 1. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Where this ordinance imposes a greater restriction than is imposed or required by other provisions of law or other rules or regulations or ordinances, the provisions of this Ordinance shall govern.

ARTICLE 3/DEFINITIONS

Section 1. For the purpose of this ordinance, certain 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 number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

- 1.1 Accessory Use or Structure:** A use or structure on the same lot with or an adjacent lot, and of a nature customarily incidental and subordinate to the principal use or structure, only where a principal use exists.
- 1.2 Alley:** A public or private thoroughfare which affords only a secondary means of access to abutting property.
- 1.3 Apartment:** A single room or set of rooms occupied as a dwelling which is part of a multi-family structure.
- 1.4 Basement:** A story having more than one-half (1/2) of its height below grade as measured at the front of the structure. A basement shall not be counted as a story for the purpose of height regulations.
- 1.5 Billboard:** "Billboard" as used in this ordinance shall include all structures, regardless of the material used in the construction of the same that are erected, maintained, or used for public display of posters, painted signs, or wall signs, whether the structure be placed on the wall or painted itself, pictures or other pictorial reading material which advertise a business or attraction which is not carried on, manufactured, grown, or sold on the premises which said signs or billboards are located.
- 1.6 Block:** That property abutting on one side of a street, and lying within the two nearest intercepting or intersecting streets or lying within the nearest intercepting or intersecting streets and unsubdivided acreage or railroad right-of-way.
- 1.7 Boarding or Lodging House:** A building other than a hotel where for compensation, and by arrangement, lodging is provided for six (6) or more persons.
- 1.8 Building:** A structure having a roof supported by columns or walls for shelter, support, or enclosure of persons, animals, or chattels, with a floor area exceeding 100 square feet. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such open structures with a roof, shall make them one building. Such structures attached to the principal building shall be deemed a part of the principal building.

- 1.9 Building, Height of:** The perpendicular distance measured in a straight line from the curb level to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the roof in the case of pitched roofs; the measurement in all cases to be taken through the center of the front of the house. Where a dwelling is situated on ground above the curb level, such height shall be measured from the level of the adjoining ground. Where a dwelling is on a corner lot and there is more than one grade or level, the measurements shall be taken from the main entrance elevation.
- 1.10 Building, Principal:** The principal building is a nonaccessory building in which a principal use of the lot, on which it is located, is conducted.
- 1.11 Buildable Area:** The portion of a lot remaining after required yards have been provided.
- 1.12 Business:** The word "business" or "commercial" when used herein refers to the engaging in the purchase, sale, or exchange of goods or services, or the operation for profit of offices or recreational amusement enterprises.
- 1.13 Carport:** Space for the housing or storage of motor vehicles and enclosed on not more than two (2) sides by walls, and is attached to and considered a part of the principal building.
- 1.14 City:** City of Estherville, Iowa.
- 1.15 Club or Lodge (Private):** An association of persons for the promotion of some nonprofit object, who are bona fide members paying annual dues, which owns, hires, or leases a building, or portion thereof. The use of such premises being restricted to members and their guests. It shall be permissible to serve food and meals to members and their guests on such premises, provided adequate dining room space and kitchen facilities are available and are operated in compliance with state and municipal laws.
- 1.16 Commission:** The Estherville Planning and Zoning Commission.
- 1.17 Cottage:** A small single unit structure used for vacation or vacationers occupancy.
- 1.18 Council:** The Estherville City Council.
- 1.19 Day Nursery or Nursery School:** Any private agency, institution, establishment, or place which provides for compensation, supplemental parental care, and/or educational work, other than overnight lodging, for six (6) or more unrelated children of preschool age.

- 1.20 Deck:** A structure erected above ground level, attached or unattached, with a roof or without, with a horizontal platform exceeding 48 square feet in area. An attached deck is an addition to the building.
- 1.21 District:** Any part or parts of Estherville, Iowa, wherein regulations of this ordinance are uniform.
- 1.22 Dwelling:** Any building or portion thereof designed or used for residential purposes, but not including a tent, camper, camping trailer, or motor home.
- 1.23 Dwelling, Single Family:** A detached residence designed for or occupied by one (1) family only.
- 1.24 Dwelling, Two Family:** A residence designed for or occupied by two (2) families, with separate entrances, housekeeping, and cooking facilities for each.
- 1.25 Dwelling Unit:** A room or group of rooms which are arranged, designed, or used as living quarters for the occupancy of one (1) family and contain independent cooking facilities for the family.
- 1.26 Engineer, City:** The city administrator or other duly qualified individual or firm designated by the City Council.
- 1.27 Essential Services:** The erection, construction, alteration, or maintenance by developers, public utilities, or governmental agencies of underground or overhead gas, telephone, television, electrical, wastewater, water transmission or distribution 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 governmental agencies or for public health or safety or general welfare, but not including buildings.
- 1.28 Family:** One (1) or more persons who are related by blood, adoption, or marriage living together and occupying a single dwelling unit, or a group of not more than five (5) persons living together by joint agreement and occupying a single dwelling unit, on a nonprofit cost-sharing basis.
- 1.29 Farm:** An area which is used for the growing of the usual farm products such as vegetables, fruits and grains, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided however, that the operation of any such accessory uses shall be secondary to that of the

normal farming activity and such accessory uses do not include feeding of garbage or offal to swine or other animals, or commercial feeding of animals or poultry in confined lots or buildings.

- 1.30 Floor Area:** The square feet of floor space within the outside line of walls and/or supports, including the total of all space on all floors of a building. Floor area shall not include space in a basement or cellar.
- 1.31 Frontage:** All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street. The front of a double-fronted lot shall face the street upon which the lot will be addressed.
- 1.32 Garage, Private:** An accessory building or portion of a building and/or used only for the shelter or storage of personal property by the occupants of the premises, including covered parking space or carport.
- 1.33 Garage, Commercial:** A building or portion thereof, other than a private garage, designed, intended, or used for the equipping, servicing, selling, hiring, storing, care, or repair of motor vehicles which is operated for commercial purposes.
- 1.34 Gasoline Service Station:** Any building or premises used for the retail sale of automotive fuels, oils, and other items customarily associated with the sale of such products, but not for the purpose of making other than minor repairs. When the dispensing, retail sale, or offering for retail sale is incidental to the conduct of a commercial garage, the premises shall be classified as a commercial garage.
- 1.35 Grade:** The average level of the finished surface of the ground adjacent to the exterior walls of the building except when any wall approximately parallels and is not more than five (5) feet from a street line, then the elevation of the curb at the center of the wall adjoining the street shall be grade.
- 1.36 Home Occupation:** An occupation or a profession conducted in a dwelling unit, including a garage, which:
 - A.** Is carried on by a member of the family residing in the dwelling unit, and;
 - B.** Is incidental and secondary to the use of the dwelling unit for residential purposes, and;

- C.** Does not employ more than one (1) person outside the immediate family, and;
- D.** Has no exterior display, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building, other than one sign mounted flush with the face of the building, which sign shall not exceed four (4) square feet in area, and;
- E.** Does not occupy more than the basement and thirty (30) percent of the area of one (1) floor of the dwelling unit, and;
- F.** Produces no offensive noise, vibration, smoke, dust, odors, heat, or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood, and;
- G.** Does not generate traffic in substantially greater volumes than would normally be expected in a residential area.
- H.** Further, a Home Occupation or profession shall not be limited to such uses as are "customarily incidental" to the use of a dwelling as a residence.

1.37 Hotel: A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation and which is open to a transient guest in contradistinction to a boarding house or lodging house as herein defined.

1.38 Institution: A building or premises occupied by a nonprofit corporation or establishment for public use.

1.39 Junk Yard or Salvage Yard: Any open area of any lot or parcel where discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, kept, stored, or handled, including scrap metals or scrap materials, or the abandonment or dismantling of machinery, motor vehicles, or parts thereof. A solid waste transfer station is not considered a junk yard or salvage yard for purposes of this ordinance.

"Junk Vehicle or Junk Machinery" shall mean any motor vehicle or piece of machinery stored within the corporate limits of the city, not licensed for the current year as required by any law, and which because of any one of the following characteristics, constitutes a threat to the public health and safety:

- 1. Broken Glass.** Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.

2. **Broken or Loose Part.** Any vehicle with a broken or loose fender, door, bumper, hood, hood ornament, door handle, window handle, running board, steering wheel, trunk top, trunk handle, radio aerial, tail pipe, or decorative piece.
 3. **Habitat for Nuisance Animals or Insects.** Any vehicle or piece of machinery which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
 4. **Flammable Fuel.** Any vehicle or machinery which contains gasoline or any other flammable fuel.
 5. **Defective or Obsolete Condition.** Any other vehicle or piece of machinery which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.
 6. Any motor vehicle if it lacks an engine or two (2) or more wheels.
 7. Any motor vehicle that remains inoperable for a continuous period of more than 120 days.
- 1.40 Kennel:** A lot or building in which four (4) or more nonhoofed animals at least four (4) months of age are kept for board, propagation, or sale.
- 1.41 Lot:** A parcel of land under one (1) ownership on which a principal building and its accessories are, or may be placed, together with the required open spaces, having its frontage upon one (1) or more streets accessible to the public. Adjacent lots of record may be considered to be separate lots.
- 1.42 Lot Area:** The area of a horizontal plane bounded by the front, side, and rear lot lines.
- 1.43 Lot, Corner:** A lot fronting on two (2) intersecting streets.
- 1.44 Lot Depth:** The mean horizontal distance between the front and rear lot lines.
- 1.45 Lot, Interior:** A lot other than a corner lot.
- 1.46 Lot Lines:** The lines bounding a lot.
- 1.47 Lot of Record:** A lot which is a part of a legal subdivision of the City of Estherville, Iowa, the plat of which has been recorded in the office of the county recorder of Emmet County, Iowa.
- 1.48 Lot, Through:** An interior lot having frontage on two parallel, or approximately parallel streets and also known as a double-fronted lot.

- 1.49 Lot Width:** The distance between the side lot lines. In the case of a lot of irregular shape, the mean width shall be the lot width.
- 1.50 Lot Line, Front:** The front line is (are) the street line(s) of such lot.
- 1.51 Lot Line, Rear:** That boundary line which is opposite and most distant from the street line.
- 1.52 Lot Line, Side:** Any boundary line not a front lot line or a rear lot line.
- 1.53 Manufactured Home:** Residential unit built off-site, designed to meet HUD Code standards (effective June 15, 1976), and transported to installation location. Required to display a seal from HUD.
- 1.53A Mobile Home:** Residential unit built off-site and transported to installation location that was constructed prior to the implementation of HUD Code standards (effective June 15, 1976).
- 1.54 Mobile Home Park:** The term "mobile home park" shall mean site, lot, field, or tract of land upon which two (2) or more occupied mobile or manufactured homes are parked and connected to utilities, either free of charge or for revenue purposes, and shall include any buildings, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of such mobile home park.
- 1.55 Modular Home:** Residential unit built off-site and transported to installation location that is designed to meet state or local building codes rather than the HUD Code. In Iowa, the home is required to display a seal issued by the state building code commissioner.
- 1.56 Hotel, Motor Court, Motor Lodge, or Tourist Court:** Any building or group of buildings containing guest rooms primarily for temporary occupancy, so laid out as to provide space for parking vehicles used by the traveling public. Such building or group of buildings may include quarters for the use of the operating personnel.
- 1.57 Nursing or Convalescent Home:** A building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled or injured persons, in which three (3) or more persons not of the immediate family are received, kept, and provided with food and shelter, for compensation; this shall not include insane, mental cases, inebriate, or contagious cases.
- 1.58 Parking Lot:** A parcel of land devoted to unenclosed parking spaces.

- 1.59 Parking Space:** A surfaced area, enclosed or unenclosed, having an area of not less than two hundred (200) square feet plus necessary maneuvering space for the parking of a motor vehicle, and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles. Space for maneuvering, incidental to parking or unparking, shall not encroach upon any public right-of-way.
- 1.60 Patio, Ground Level:** An area covered with any material such as brick, stone, wood blocks, concrete, etc., with the material being placed directly on the ground and intended for an outdoor living space. Area may be built up with fill for the purpose of providing a level base. No vertical supports of any type are allowed.
- 1.61 Porch, Open:** Shall mean a roofed structure, open on two or more sides projecting from the front, side, or rear wall of the building.
- 1.62 Principal Use:** The main use of land or structures as distinguished from an accessory use.
- 1.63 Professional Office:** Any building or part thereof used by one (1) or more persons engaged in the practice of law, accounting, architecture, engineering, or other occupation customarily considered as a profession.
- 1.64 Retail Fuel Outlet:** Any building or premises used for the purpose of selling vehicle fuels to the general public that may or may not provide other vehicle services.
- 1.65 Retail Store:** An enterprise offering for sale to the ultimate consumer for direct consumption and not for resale.
- 1.66 Road or Street Line:** The dividing line between a lot, tract, or parcel of land and a contiguous road, street, or alley.
- 1.67 Roadside Stand:** A temporary structure, unenclosed, and so designed and constructed that the structure is easily portable or can be readily moved, and which is adjacent to a road and used for a sale of farm products produced or grown on the premises.
- 1.68 Sign:** An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, persons, institution, or business sold or offered on the premises; provided, however, that the following shall not be included in the application of the regulations herein:

 - A.** Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of the premises, or other identification of premises not having commercial connotation;

- B.** Flags and insignia of any government except when displayed in connection with commercial promotion;
- C.** Legal notices, identification, informational, or directional signs erected or required by government bodies;
- D.** Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, moving lights;
- E.** Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- F.** Political signs as allowed by Section 306C.22, Code of Iowa.

- 1.69 Sign Area:** The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.
- 1.70 Stable:** A structure including, but not limited to a corral or paddock for the keeping of one (1) or more hooved animals owned or controlled by the occupants of the premises and which are kept for pets, board, propagation, or sale.
- 1.71 Steps:** A projection from a structure to provide a transition between ground level and floor level for the purpose of entering or exiting a structure which may include a horizontal landing or platform of 48 square feet or less and not projecting more than six (6) feet into a required yard.
- 1.72 Story:** That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
- 1.73 Story, Half:** A space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level.
- 1.74 Street Line:** The right-of-way of a street, road, or highway.
- 1.75 Street, Public:** A public thoroughfare more than twenty-four (24) feet in width.
- 1.76 Structural Alteration:** Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs, and maintenance.

- 1.77 Structure:** The word structure shall mean that which is built or constructed and composed of parts joined together in a definite manner.
- 1.78 Structure, Accessory:** This shall refer to any structure subordinate to the principal building or other buildings or structures on the lot, not attached thereto and used for purposes incidental to those of the principal building. Examples include antennas, solar collectors, wind generators, satellite dishes, gazebos, storage racks, sheds, and buildings.
- *1.78a Swimming Pool:** The term “swimming pool” shall mean any artificially constructed structure or container capable of being used for swimming or bathing, having a depth of more than two (2) feet at any point or a circumference of more than five (5) feet at its widest point. This includes in-ground and above-ground swimming pools, hot tubs and spas. (Portable wading pools having a depth of less than two (2) feet and a circumference of less than five (5) feet shall not be considered to be “swimming pools.”)
- 1.79 Trailer Camp or Tourist Ground:** Any area providing spaces for two or more travel trailers, camping trailers, or tent sites for temporary occupancy with necessary incidental services, sanitation, and recreation facilities to serve the traveling public.
- 1.80 Utility, Public:** A utility owned and operated by the City of Estherville, Iowa.
- 1.81 Variance:** A variance is a relaxation of the terms of zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in adjoining zoning district.
- 1.82 Warehouse:** A building or part of one, for the storage of goods, merchandise, etc.
- 1.83 Yard:** An open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from forty-eight (48) inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the principal building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used. A yard shall be measured exclusive of any public right-of-way.

- 1.84 Yard, Front:** A yard extending across the full width of the lot and measured between the front lot line(s) and the principal structure or any projection thereof, other than the projection of the usual uncovered steps and eaves.
- 1.85 Yard, Rear:** A yard extending across the full width of the lot and measured between the rear lot line and the principal structure or any projections other than uncovered steps or eaves.
- 1.86 Yard, Side:** A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.
- 1.87 Zoning Administrative Officer:** The individual appointed by the City Council of Estherville, Iowa, to administer and enforce the provisions of this ordinance.
- 1.88 Zoning Compliance Permit:** A permit issued by the zoning administrative officer, authorizing the use of land in the manner and for the purposes specified in the application. The zoning compliance permit will be issued in conjunction with the building permit.

ARTICLE 4/DISTRICTS

Section 1. For the purpose and intent of this ordinance the City of Estherville, Iowa, is hereby divided into zoning district classifications as follows:

A - Agricultural District
A-2 - Green Belt District
R-1 - Single Family Residential District
R-3 - Multi-Family Residential District

GB - General Business District
HC - Highway Commercial District
LI - Light Industrial District
HI - Heavy Industrial District

Section 2. BOUNDARIES AND OFFICIAL MAP. The boundaries of these districts are indicated and established as shown upon maps designated as the Official Zoning Map of Estherville, Iowa, which, with all their notations, designations, references, and other matters shown thereon, shall be as much a part of this Ordinance as if fully described and set forth herein. The Official Zoning Maps shall be identified by the mayor and attested by the city clerk under the following words:

"This is to certify that this is the Official
 Zoning Map referred to in Article 4 of the
 Estherville Zoning Ordinance adopted on
 this ____ day of _____, 2000.

Amendments, supplements, or changes of the boundaries of districts as shown on the Official Zoning Map shall be made by an ordinance amending Title VI, Chapter 5. The amending ordinance shall refer to the Official Zoning Map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the city clerk as other ordinances and the ordinance number of the change shall be noted on the Official Zoning Map. 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 land and water areas, buildings, and other structures in the city.

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 supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Ordinance or any subsequent amendment thereof.

Section 3. INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 3.1** Boundaries indicated as approximately following the center lines of streets, highways, alleys, or other public right-of-ways shall be construed to follow such center lines;
- 3.2** Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 3.3** Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines;
- 3.4** Boundaries indicated as approximately following city limits shall be construed as following such city limits;
- 3.5** Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed as following such center lines;
- 3.6** Boundaries indicated as parallel to or extensions of features indicated in subsections 3.1 - 3.6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- 3.7** 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 3.1 - 3.7 above, the Board of Adjustment shall interpret the district boundaries.

Section 4. ROAD OR PUBLIC WAY VACATION. Whenever any road, street, or other public way is vacated by the official action of the City Council, the Zoning District(s) adjoining each side of such road or public way shall automatically extend to the center of such vacation and all area included in such vacation shall then and therefor be subject to all appropriate regulations of the extended district.

Section 5. ANNEXED TERRITORY. All territory which may hereafter be annexed to the city shall be in the Agricultural District.

Section 6. GENERAL REGULATIONS.

Except as herein provided:

- 6.1** No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used, which does not

comply with all of the district regulations established by this ordinance for the district in which the building or land is located.

- 6.2** No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum required by this ordinance. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard, open space, or off-street parking or loading space required under this ordinance for another building, structure, or use.
- 6.3** Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one principal building on one lot unless otherwise provided in this ordinance.
- 6.4** No building shall be erected or structurally altered to the extent specifically provided hereinafter except in conformity with the offstreet parking and loading regulations of this ordinance.
- 6.5** No yard or other open space provided about any building for the purpose of complying with the provisions of this Chapter shall be considered as providing a yard or open space for any other building.

ARTICLE 5/AGRICULTURAL DISTRICT (A)

Section 1. INTENT. The intent of the Agricultural District (A) is to preserve land best suited for agriculture from the encroachment of incompatible uses and to preserve in agricultural use land suited to eventual development in other uses until such time as streets, utilities, and other community facilities may be provided or programmed as to ensure the orderly and beneficial conversion of these lands to nonagricultural use.

***Section 2. PRINCIPAL USES PERMITTED.** Only the following uses and structures shall be permitted in the (A) District:

- 2.1 Agriculture including the raising of crops, horticultural uses, animal husbandry, poultry husbandry, but excluding commercial auction yards and barns and commercial feedlots;
- 2.2 Single family dwellings;
- 2.3 Railroads and public utilities;
- 2.4 Cemeteries;
- 2.5 Irrigation and flood control projects;
- 2.6 Publicly owned and operated buildings and facilities, including utility and service uses.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1 Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
- 3.2 Home Occupations;
- 3.3 One family residence if used by: the farm owner or operator; member of the immediate family; or an employee working on the premises;
- 3.4 Roadside stands for the sale of agricultural produce grown on the premises;
- 3.5 Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
- 3.6 Essential Services.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses may be permitted in the Agricultural District (A) subject to approval by the Board of Adjustment as provided for in Articles 17 and 21 of this ordinance.

*Revised 6-5-06; Ord. No. 669

- 4.1 Churches, chapels, temples, and similar places of worship;
- *4.2 Schools and colleges;
- 4.3 Private parks, playgrounds, recreation areas, camping grounds, golf courses, country clubs, golf driving ranges, archery ranges, and swimming pools;
- 4.4 Private airport and landing fields;
- 4.5 Agricultural service establishments primarily engaged in performing agricultural, animal husbandry, or horticultural services on a fee or contract basis including corn shelling, hay baling; horticultural services such as plant nurseries; landscape gardening, landscape contracting; farm equipment service and repair; veterinary services; commercial auction yards and barns; bulk storage of petroleum products for distribution or direct sales to agricultural consumers;
- 4.6 Private sewage treatment plants for primary and secondary treatment, gravel plants, and asphalt or concrete batch plants; sanitary landfill conducted in a manner and method approved by the Iowa State Health Department and utility substations;
- 4.7 Salvage yards;
- 4.8 Sand and gravel extraction and processing sites;
- 4.9 Radio and television broadcasting studios and transmitting structures;
- 4.10 Stables and kennels;
- 4.11 Fairgrounds and race tracks;
- 4.12 Drive in movie theaters.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 13:

- 5.1 **Lot Area:** The minimum lot area for nonagricultural uses shall be forty thousand (40,000) square feet;
- 5.2 **Lot Width:** The minimum lot width for nonagricultural uses shall be one hundred fifty (150) feet;
- 5.3 **Front Yard:** The minimum front yard for nonagricultural uses shall be fifty (50) feet;

- 5.4 Side Yard:** The minimum side yard for nonagricultural uses shall be twenty (20) feet;
- 5.5 Rear Yard:** The minimum rear yard for nonagricultural uses shall be fifty (50) feet;
- 5.6 Maximum Height:** No limitation; provided, however, that no structure shall be permitted to extend into the approach zones, clear zones, or other restricted air space required for the protection of any public airport.
- 5.7 Minimum Setback:** When an existing structure, except a billboard, is located closer to a property line than is permitted in this article, an addition to such structure shall be allowed and a building permit issued if the Board of Adjustment has not previously granted a variance for the existing structure and further, if any of the following three conditions exist:
 - A.** The addition will square up the existing structure, or
 - B.** The addition to either side of an existing structure will be no closer to the front or the rear property line than the existing structure and will meet all other setback requirements, or
 - C.** The addition to the front or the rear of an existing structure will be no closer to the side property line than the existing structure and will meet all other setback requirements.

Section 6. ZONING PERMITS REQUIRED. Zoning permits shall be required in accordance with the provisions of Article 19 of this ordinance.

ARTICLE 6/GREEN BELT DISTRICT (A-2)

Section 1. INTENT. The intent of the Green Belt District is to identify those portions of the city which are affected by seasonal flooding or can be considered environmentally sensitive areas and otherwise best suited as open space buffers or environmental corridors.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the Green Belt District (A-2);

- 2.1 Publicly owned and operated buildings and facilities, including utility and service uses;
- 2.2 Pasture or range land and cropland.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1 Accessory uses and structures normally incidental and subordinate to the principal uses and structures and to uses and structures permitted as exceptions;
- 3.2 Essential Services;
- 3.3 Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES: The following uses and structures may be permitted in the (A-2) District subject to the provisions of Articles 17 and 21 of this ordinance and with the approval of the Board of Adjustment:

- 4.1 Private campgrounds and recreational vehicle camps;
- 4.2 Private utilities and service uses substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage equipment buildings, garages, towers, or similar service uses;
- 4.3 Private flood control channels; water pumping stations and reservoirs; irrigation ditches and canals, and ditch canal rights-of-way; settling and water conservation recharging basins; parkways.

Section 5. SPECIAL CONDITIONS. The following requirements shall apply as minimum requirements in the (A-2) District.

- 5.1 Along critical portions of major water courses, no development shall be allowed within the floodway of any water course, excluding bridges, elevated roadways, open space parks, and flood control levees. Nor shall land so zoned be used to meet side or rear yard requirements of other zoning districts herein;

- 5.2 The Green Belt Districts shall include all areas designated as flood hazard areas by the Federal Insurance Administration, Department of Housing and Urban Development.

Section 6. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 13:

- 6.1 **Lot Area:** None;
- 6.2 **Lot Width:** None;
- 6.3 **Front Yard:** The minimum front yard for all uses shall be fifty (50) feet;
- 6.4 **Side Yard:** The minimum side yard for all uses shall be fifteen (15) feet;
- 6.5 **Rear Yard:** The minimum rear yard for all uses shall be fifty (50) feet;
- 6.6 **Maximum Height:** No limitation; provided, however, that no structure shall be permitted to extend into the approach zone, clear zones, or other restricted air space required for the protection of any public airport.
- 6.7 **Minimum Setback:** When an existing structure, except a billboard, is located closer to a property line than is permitted in this article, an addition to such structure shall be allowed and a building permit issued if the Board of Adjustment has not previously granted a variance for the existing structure and further, if any of the following three conditions exist:
 - A. The addition will square up the existing structure, or
 - B. The addition to either side of an existing structure will be no closer to the front or the rear property line than the existing structure and will meet all other setback requirements, or
 - C. The addition to the front or the rear of an existing structure will be no closer to the side property line than the existing structure and will meet all other setback requirements.

Section 7. ZONING PERMITS REQUIRED. Zoning permits shall be required in accordance with the provisions of Article 19 of this ordinance.

ARTICLE 7/SINGLE FAMILY RESIDENTIAL DISTRICT (R-1)

Section 1. INTENT. The intent of the Single Family Residential District is to provide for low to medium density residential development with a limited number of institutional and recreational facilities permitted.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the (R-1) District:

- 2.1 Single family dwellings;
- 2.2 Churches, chapels, temples, and similar places of worship;
- 2.3 Schools and colleges;
- 2.4 Public parks, playgrounds, or other public recreational uses;
- 2.5 Publicly owned and operated buildings and facilities including utility and service uses.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1 Home occupations;
- 3.2 Private garage or carport;
- 3.3 Private swimming pools and tennis courts;
- 3.4 Private greenhouses not operated for commercial purposes;
- 3.5 Essential services;
- 3.6 Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
- 3.7 Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses and structures may be permitted in the (R-1) District subject to provisions of Articles 17 and 21 of this ordinance and with the approval of the Board of Adjustment:

- 4.1 Two family dwellings (duplexes);
- 4.2 Hospitals, sanitariums, rest homes, nursing homes, and convalescent homes;

- 4.3 Boarding or lodging houses;
- 4.4 Private clubs or fraternities;
- 4.5 Private utility and service uses, substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage equipment buildings, garages, towers, or similar service uses;
- 4.6 Planned unit development (PUD);
- 4.7 Day nursery or nursery school;
- 4.8 Private parking lot.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modification contained in Article 13:

- 5.1 **Lot Area:** The minimum lot area shall be:
 - A. Single family dwelling - seven thousand five hundred (7,500) square feet
 - B. Other uses - eight thousand (8,000) square feet.
- 5.2 **Lot Width:** The minimum lot width shall be seventy-five (75) feet;
- 5.3 **Front Yard:** The minimum front yard shall be thirty (30) feet;
- 5.4 **Side Yard:** The minimum side yard shall be six (6) feet;
- 5.5 **Rear Yard:** The minimum rear yard shall be twenty-five (25) feet;
- 5.6 **Maximum Height:** No building shall exceed a height of thirty-five (35) feet, unless otherwise provided.
- 5.7 **Minimum Setback:** When an existing structure, except a billboard, is located closer to a property line than is permitted in this article, an addition to such structure shall be allowed and a building permit issued if the Board of Adjustment has not previously granted a variance for the existing structure and further, if any of the following three conditions exist:
 - A. The addition will square up the existing structure, or
 - B. The addition to either side of an existing structure will be no closer to the front or the rear property line than the existing structure and will meet all other setback requirements, or

- C. The addition to the front or the rear of an existing structure will be no closer to the side property line than the existing structure and will meet all other setback requirements.

Section 6. ZONING PERMITS REQUIRED. Zoning permits shall be required in accordance with the provisions of Article 19 of this ordinance.

ARTICLE 8/MULTI-FAMILY RESIDENTIAL DISTRICT (R-3)

Section 1. INTENT. The intent of the Multi-Family Residential District is to provide for living areas within the city for development of multiple family dwellings and single family dwellings which are compatible in character and density with the multiple family residential environment.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the (R-3) District:

- 2.1 Single family dwellings;
- 2.2 Two family dwellings (duplexes);
- 2.3 Multi-family dwellings, townhouses, condominiums;
- 2.4 Boarding or lodging houses;
- 2.5 Hospitals, sanitariums, rest homes, or nursing homes;
- 2.6 Private clubs or fraternities whose chief activity is not carried on as a business;
- 2.7 Churches, chapels, temples, and similar places of worship;
- 2.8 Schools and colleges;
- 2.9 Public parks, playgrounds, or other recreational uses;
- 2.10 Publicly owned and operated buildings and facilities, including utility and service uses;

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1 Home occupations;
- 3.2 Private garage or carport;
- 3.3 Private swimming pools and tennis courts;
- 3.4 Private greenhouses not operated for commercial purposes;
- 3.5 Essential services;
- 3.6 Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
- 3.7 Accessory uses and structures normally incidental and subordinate to the permitted uses and structures permitted as exceptions;

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses and structures may be permitted in the (R-3) District subject to provisions of Articles 17 and 21 of this ordinance and with the approval of the Board of Adjustment:

- 4.1 Planned Unit Development (PUD);
- 4.2 Medical or dental clinics;
- 4.3 Mortuaries or funeral parlors;
- 4.4 Private utility and service uses, substations, distribution centers, regulator stations, pumping stations, water treatment plants, storage equipment buildings, garages, towers, or other similar public service uses;
- 4.5 Day nursery or nursery school;
- 4.6 Mobile Home Subdivisions;
- 4.7 Private parking lot.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 13:

- 5.1 **Lot Area:** The minimum lot area shall be:
 - A. Single family dwelling - seven thousand five hundred (7,500) square feet
 - B. Two family dwelling - eight thousand (8,000) square feet
 - C. Multi-family dwelling - one thousand (1,000) square feet per dwelling unit, but in no case less than a total of eight thousand (8,000) square feet
 - D. Other uses - eight thousand (8,000) square feet.
- 5.2 **Lot Width:** The minimum lot width shall be seventy-five (75) feet;
- 5.3 **Front Yard:** The minimum front yard setback shall be thirty (30) feet;
- 5.4 **Side Yard:** For buildings not exceeding two and one-half (2 1/2) stories there shall be a side yard on each side of a building not less than six (6) feet. For three (3) story buildings there shall be a side yard on each side of the building having a width of not less than eight (8) feet.
- 5.5 **Rear Yard:** The minimum rear yard shall be thirty (30) feet;

- 5.6 Maximum Height:** No building shall exceed a height of thirty-five (35) feet unless otherwise provided.
- 5.7 Minimum Setback:** When an existing structure, except a billboard, is located closer to a property line than is permitted in this article, an addition to such structure shall be allowed and a building permit issued if the Board of Adjustment has not previously granted a variance for the existing structure and further, if any of the following three conditions exist:
- A.** The addition will square up the existing structure, or
 - B.** The addition to either side of an existing structure will be no closer to the front or the rear property line than the existing structure and will meet all other setback requirements, or
 - C.** The addition to the front or the rear of an existing structure will be no closer to the side property line than the existing structure and will meet all other setback requirements.

Section 6. ZONING PERMITS REQUIRED. Zoning permits shall be required in accordance with the provisions of Article 19 of this ordinance.

ARTICLE 9/GENERAL BUSINESS DISTRICT (GB)

Section 1. INTENT. The intent of the General Business District is to provide for a commercial area to serve the general shopping needs of the trade area and to permit uses which will strengthen the central business area as the center of trade, service, governmental, and cultural activities.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the (GB) District:

- 2.1** General Retail Sales: Sale or rental of commonly used goods, merchandise or services for personal or household use, but excludes those individually listed as permitted uses in other districts. Typical uses include establishments providing the following products or services: household maintenance products; drugs, cards and stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel, jewelry, fabrics, and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, floor covering, interior decorating services, office supplies; bicycles; and automotive parts and accessories (excluding service and installation).
- 2.2** Banks and other financial institutions;
- 2.3** Barber and beauty shops;
- 2.4** Indoor-recreation, entertainment, amusement;
- 2.5** Broadcasting and receiving station;
- 2.6** Catering;
- 2.7** Conservatory, commercial;
- 2.8** Convention building for private display;
- 2.9** Dry cleaning and laundry;
- 2.10** Eating and drinking establishments;
- 2.11** Grocery store, supermarket;
- 2.12** Gymnasium, private;
- 2.13** Hospitals, clinics, and infirmaries;
- 2.14** Office equipment and supply store;
- 2.15** Plumbing, heating, and sheet metal shops;
- 2.16** Publicly owned buildings and facilities, including utility and service uses;
- 2.17** Printing, newspaper, commercial;
- 2.18** Upholstery shop;
- 2.19** Grain, feed, seed, retail and wholesale;
- 2.20** Professional offices;
- 2.21** Auto sales and/or service and retail fuel outlets (excluding property adjacent to the portions of streets bordering the two blocks known as Library and Courthouse Square, which are bounded by Central Avenue, North Sixth Street, Second Avenue North, and North Seventh Street).

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1** Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
- 3.2** Accessory uses and structures normally incidental and subordinate to the permitted uses and to uses and structures permitted as exceptions;
- 3.3** Essential service;
- 3.4** Multi-family residential uses provided that such uses be prohibited from occupying any basement, ground, or first floor of any structure.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses and structures may be permitted in the (GB) District subject to provisions of Articles 17 and 21 of this ordinance and with the approval of the Board of Adjustment:

- 4.1** RESERVED FOR FUTURE USE;
- 4.2** RESERVED FOR FUTURE USE;
- 4.3** Private parking lots;
- 4.4** Private utility and service uses, substations, distribution centers, regulator stations, pumping stations, water treatment plants, storage equipment buildings, garages, towers, or other similar services;
- 4.5** Churches, chapels, temples, and similar places of worship;
- 4.6** Day nursery or nursery school.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 13:

- 5.1 Lot Area:** No minimum lot area shall be required;
- 5.2 Lot Width:** No minimum lot width shall be required;
- 5.3 Front Yard:** No minimum front yard shall be required;
- 5.4 Side Yard:** No minimum side yard shall be required.
- 5.5 Rear Yard:** No minimum rear yard is required unless there is no dedicated alley on the rear lot line in which case a rear yard of five (5) feet shall be provided;
- 5.6 Maximum Height:** No building shall exceed a height of thirty-five (35) feet unless otherwise provided.

5.7 Minimum Setback: When an existing structure, except a billboard, is located closer to a property line than is permitted in this article, an addition to such structure shall be allowed and a building permit issued if the Board of Adjustment has not previously granted a variance for the existing structure and further, if any of the following three conditions exist:

- A.** The addition will square up the existing structure, or
- B.** The addition to either side of an existing structure will be no closer to the front or the rear property line than the existing structure and will meet all other setback requirements, or
- C.** The addition to the front or the rear of an existing structure will be no closer to the side property line than the existing structure and will meet all other setback requirements.

Section 6. ZONING PERMITS REQUIRED. Zoning permits shall be required in accordance with the provisions of Article 19 of this ordinance.

ARTICLE 10/HIGHWAY COMMERCIAL DISTRICT (HC)

Section 1. INTENT. The intent of the Highway Commercial District is to provide for areas adjacent to major traffic arteries where commercial uses catering to the motoring public are permitted.

Section 2. PRINCIPAL USES PERMITTED. All principal uses permitted in the General Business (GB) District and the following principal uses and structures shall be permitted in the (HC) District:

- 2.1 Academy, riding, dancing, etc.
- 2.2 Auditorium, exhibition hall, club;
- 2.3 Automobile laundry;
- 2.4 Book, magazine publishing;
- 2.5 Bowling alley;
- 2.6 Commercial nurseries and greenhouses;
- 2.7 Drive-in theater;
- 2.8 Garden supplies store;
- 2.9 Lumber and building materials;
- 2.10 Mobile homes and recreational vehicle sales;
- 2.11 Motels and motor lodges;
- 2.12 Open-air display of auto, implements, trucks;
- 2.13 Private club;
- 2.14 Private parking lots;
- 2.15 Sign painting and manufacture;
- 2.16 Veterinary and veterinary clinic;
- 2.17 Day Nursery, or Nursery School, or Pre-school.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1 Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
- 3.2 Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
- 3.3 Essential services.

***Section 4. SPECIAL EXCEPTION USES AND STRUCTURES.** The following uses and structures may be permitted in the (HC) District subject to provisions of Articles 17 and 21 of this ordinance and with the approval of the Board of Adjustment:

- 4.1 Churches, chapels, temples, and similar places of worship;
- 4.2 Mortuary;

- 4.3 Mobile home parks;
- 4.4 Radio and television towers and transmitter or receiver facilities;
- 4.5 Private utility and service uses, substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage facilities, garages, towers, or similar service uses;
- 4.6 Warehouses, Storage Facilities (Public and Private);
- *4.7 Schools and colleges;
- 4.8 Open-air Storage (Public and Private).

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 13:

- 5.1 **Lot Area:** Minimum lot area shall be seven thousand five hundred (7,500) square feet;
- 5.2 **Lot Width:** Minimum lot width shall be seventy-five (75) feet;
- 5.3 **Front Yard:** The minimum front yard shall be forty (40) feet;
- 5.4 **Side Yard:** The minimum side yard requirement shall be ten (10) feet;
- 5.5 **Rear Yard:** The minimum rear yard requirement shall be twenty (20) feet;
- 5.6 **Maximum Height:** No building shall exceed a height of thirty-five (35) feet unless otherwise provided.
- 5.7 **Minimum Setback:** When an existing structure, except a billboard, is located closer to a property line than is permitted in this article, an addition to such structure shall be allowed and a building permit issued if the Board of Adjustment has not previously granted a variance for the existing structure and further, if any of the following three conditions exist:
 - A. The addition will square up the existing structure, or
 - B. The addition to either side of an existing structure will be no closer to the front or the rear property line than the existing structure and will meet all other setback requirements, or
 - C. The addition to the front or the rear of an existing structure will be no closer to the side property line than the existing structure and will meet all other setback requirements.

Section 6. ZONING PERMITS REQUIRED. Zoning permits shall be required in accordance with the provisions of Article 19 of this ordinance.

*Revised 9-18-06; Ord. No. 671

**Revised 7-7-08; Ord. No. 685 (All of Section 4)

ARTICLE 11/LIGHT INDUSTRIAL DISTRICT (LI)

Section 1. INTENT. The intent of this District is to provide space for certain commercial and a wide range of industrial uses and structures which are able to meet certain performance standards to protect nearby noncommercial and nonindustrial uses from undesirable environmental conditions.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the (LI) District, except those uses which by reason of the emission of odor, dust, fumes, smoke, noise, and other obnoxious characteristics would be injurious to the public health, safety, and general welfare of the community:

- 2.1 Light Manufacturing: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
- 2.2 Auto-truck repair, including body shop;
- 2.3 Baggage, transfer, storage warehouse;
- 2.4 Bakery, wholesale;
- 2.5 Beverage, bottling, manufacture;
- 2.6 Blacksmith; welding shop;
- 2.7 Cabinet maker; carpentry shop, woodworking shop;
- 2.8 Cement warehouse;
- 2.9 Coal yard;
- 2.10 Cold storage warehouse;
- 2.11 Dry goods, wholesale or storage;
- 2.12 Enameling and painting establishments;
- 2.13 Express storage and delivery station;
- 2.14 Flour and grain storage and elevators;
- 2.15 Edible food products manufacturing and processing for human consumption
- 2.16 Fruit and vegetable drying;
- 2.17 Hatchery;
- 2.18 Moving company;
- 2.19 Popcorn processing;
- 2.20 Private parking lot;
- 2.21 Publicly owned buildings and facilities, including utility and service uses;
- 2.22 Sheet metal shop;
- 2.23 Shoe store wholesale;
- 2.24 Storage, warehouse, yard;
- 2.25 Transfer company, storage warehouse;
- 2.26 Warehouse;
- 2.27 Wood products, manufacture.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1 Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
- 3.2 Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
- 3.3 Essential services.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses and structures may be permitted in the (LI) District subject to provisions of Articles 17 and 21 of this ordinance and with the approval of the Board of Adjustment:

- 4.1 Fertilizer manufacture, storage, or processing;
- 4.2 Fuel storage;
- 4.3 Salvage yard;
- 4.4 Used farm implement and equipment, auto, and truck open air display, sales, and storage;
- 4.5 Private utility and service uses, substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage facilities, garages, towers, and similar service uses;
- 4.6 All uses permitted in the Highway Commercial District;
- *4.7 Schools and colleges.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 13:

- 5.1 **Lot Area:** Minimum lot area shall be ten thousand (10,000) square feet;
- 5.2 **Lot Width:** Minimum lot width shall be seventy-five (75) feet;
- 5.3 **Front Yard:** Minimum front yard shall be forty (40) feet;
- 5.4 **Side Yard:** The minimum side yard shall be ten (10) feet;
- 5.5 **Rear Yard:** The minimum rear yard shall be twenty-five (25) feet;
- 5.6 **Maximum Height:** No building shall exceed a height of thirty-five (35) feet unless otherwise provided.
- 5.7 **Minimum Setback:** When an existing structure, except a billboard, is located closer to a property line than is permitted in this article, an addition to such structure shall be allowed and a building permit issued if the Board of Adjustment has not previously granted a variance for the existing structure and further, if any of the following three conditions exist:

*Revised 9-18-06; Ord. No. 671

- A.** The addition will square up the existing structure, or
- B.** The addition to either side of an existing structure will be no closer to the front or the rear property line than the existing structure and will meet all other setback requirements, or
- C.** The addition to the front or the rear of an existing structure will be no closer to the side property line than the existing structure and will meet all other setback requirements.

Section 6. ZONING PERMITS REQUIRED. Zoning permits shall be required in accordance with the provisions of Article 19 of this ordinance.

ARTICLE 12/HEAVY INDUSTRIAL DISTRICT (HI)

Section 1. INTENT. The intent of the Heavy Industrial District is to provide space for those industrial uses which are most hazardous, and undesirable for locations in other districts and adjacent residential land uses.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the (HI) District, except those uses which by reason of the emission of odor, dust, fumes, smoke, noise, and other obnoxious characteristics would be injurious to the public health, safety, and general welfare of the community:

- 2.1 Basic Industry: A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes utilizing flammable or explosive materials, or storage or manufacturing processes utilizing flammable or explosive materials, or storage or manufacturing processes which potentially involve hazardous or commonly recognized offensive conditions.
- 2.2 Building material storage and sales yard;
- 2.3 Commercial or industrial storage buildings;
- 2.4 Processing of bones;
- 2.5 Fat rendering;
- 2.6 Meat products manufacture;
- 2.7 Solid waste transfer station;
- 2.8 Smelting;
- 2.9 Stockyards or slaughter of animals;
- 2.10 Storage of farm and agricultural products;
- 2.11 Tannery;
- 2.12 Truck and freight terminals;
- 2.13 Food products manufacturing (inedible or edible);
- 2.14 All principal uses permitted in the Light Industrial District.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1 Accessory uses and structures normally incidental and subordinate to the permitted uses and to uses and structures permitted as exceptions;
- 3.2 Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
- 3.3 Essential services;
- 3.4 Living quarters used by custodians or watchmen of the property.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses and structures may be permitted in the (H-I) District subject to provisions of Articles 17 and 21 of this ordinance and with the approval of the Board of Adjustment:

- 4.1 Agricultural farming and the usual agricultural and farming buildings and structures, including the residences of the owners or their tenants;
- 4.2 Radio and television towers and transmitter or receiver facilities;
- 4.3 Open-air new and used auto trucks, farm implement, and machinery sales and storage;
- 4.4 Rendering plant;
- 4.5 Gas manufacture;
- 4.6 Salvage yard;
- 4.7 Private utility and service uses, substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage facilities, garages, towers, or similar service uses;
- *4.8 Schools and colleges.

Section 5. BULK REGULATION. The following minimum requirements shall be observed subject to modifications contained in Article 13:

- 5.1 **Lot Area:** The minimum lot area shall be ten thousand (10,000) square feet;
- 5.2 **Lot Width:** The minimum lot width shall be seventy-five (75) feet;
- 5.3 **Front Yard:** The minimum front yard shall be fifty (50) feet;
- 5.4 **Side Yard:** The minimum side yard shall be ten (10) feet;
- 5.5 **Rear Yard:** The minimum rear yard shall be twenty-five (25) feet;
- 5.6 **Maximum Height:** No building shall exceed a height of thirty-five (35) feet, unless otherwise provided.
- 5.7 **Minimum Setback:** When an existing structure, except a billboard, is located closer to a property line than is permitted in this article, an addition to such structure shall be allowed and a building permit issued if the Board of Adjustment has not previously granted a variance for the existing structure and further, if any of the following three conditions exist:

- A. The addition will square up the existing structure, or

- B.** The addition to either side of an existing structure will be no closer to the front or the rear property line than the existing structure and will meet all other setback requirements, or
- C.** The addition to the front or the rear of an existing structure will be no closer to the side property line than the existing structure and will meet all other setback requirements.

Section 6. ZONING PERMITS REQUIRED. Zoning permits shall be required in accordance with the provisions of Article 19 of this ordinance.

ARTICLE 13/ADDITIONAL AREA AND HEIGHT REGULATIONS

Section 1. INTENT. The regulations set forth in this Article qualify, supplement, or modify the area and height regulations set forth elsewhere in this ordinance.

Section 2. LOT AREA AND WIDTH. Any lot of record at the time of passage of this ordinance having less area or width than herein required may be used for a single family dwelling where such uses are permitted as provided in this Ordinance and subject to further provisions of Article 18, Section 2.

Section 3. YARDS.

- 3.1** Where thirty (30) percent or more of the block front is improved with buildings, then no part of any new building shall project beyond a line joining the two adjacent corners of the buildings on either side thereof, or, where there is a building on only one side, beyond a line projected from the corresponding adjacent corners of the two nearest buildings, except that no building shall be required to provide a front yard greater than forty (40) feet. Where an official line has been established for future widening or opening of a street upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line;
- 3.2** Front yards shall not be used in excess of 72 hours for storage of items, including but not limited to, assembly parts, raw materials, building materials, firewood, lumber, trailers, campers, and recreational vehicles. This subsection shall not apply to the display of items offered for sale as permitted in commercial districts or to construction materials during a construction project when a valid building/use permit exists for that location.
- 3.3** Buildings on through lots, extending from street to street shall provide the required front yard on both streets;
- 3.4** Buildings on corner lots shall provide the required front yard on both streets.
- 3.5** A lot of record at the time of passage of this ordinance having a lot depth of one hundred (100) feet or less may have the required rear yard reduced to twenty (20) feet.
- 3.6** On a corner lot in any district, except the General Business District (GB), no fence, wall, hedge, tree, or other planting or structure that will obstruct vision between a height of two (2) feet and ten (10) feet above the ground shall be erected, placed, or maintained within the triangular area formed, by connecting the back of curb lines at points which are forty (40) feet distant from the intersection of the extended curb lines, and measured along the curb lines; or the edge of the traveled portion of the street where there are no curbs.

- 3.7** The ordinary projections from buildings including eaves, sills, cornices, or other similar architectural features (but not including concrete slab structures) may project or extend not more than two (2) feet into a required yard.

- 3.8 Minimum Setback:** When an existing structure, except a billboard, is located closer to a property line than is permitted in this article, an addition to such structure shall be allowed and a building permit issued if the Board of Adjustment has not previously granted a variance of the existing structure and further, if any of the following three conditions exist:
 - A.** The addition will square up the existing structure, or
 - B.** The addition to either side of an existing structure will be no closer to the front or the rear property line than the existing structure and will meet all other setback requirements, or
 - C.** The addition to the front or the rear of an existing structure will be no closer to the side property line than the existing structure and will meet all other setback requirements.

Section 4. HEDGES AND FENCES. Fences or hedges in residential districts shall not exceed four (4) feet in height in any front yard, and shall not exceed eight (8) feet in height in any side or rear yard, subject to the further restriction of Section 3, paragraph 3.6 of Article 13.

Fences shall not be closer than six (6) inches to any property line. Hedges and permanent plantings shall not be planted closer than three (3) feet to any property line.

Section 5. BUILDINGS TO HAVE ACCESS. Every principal use building hereafter erected or structurally altered, shall be on a lot or parcel having a minimum of thirty (30) feet frontage on a street or road accessible to the public with a right-of-way width of not less than fifty (50) feet.

Section 6. USE OF PUBLIC RIGHT-OF-WAY. No portion of the public road, street, or alley right-of-way shall be used, or occupied by an abutting use of land or structure for storage or display purposes, or to provide any parking or loading space required by this ordinance.

Section 7. TEMPORARY BUILDING. Temporary building(s) with construction work may be permitted in any district during the period that the construction work is in progress, but such temporary building(s) shall be removed within thirty (30) days after completion or abandonment of the construction work.

Section 8. ACCESSORY STRUCTURES. Accessory structures and uses customarily incidental to that of the principal building may be erected or established as permitted, provided they comply with the following:

- *8.1** No accessory structure, except for a detached garage located at least fifty (50) feet from the front property line and approved by the Board of Adjustment, shall be erected in any front yard. Such structure shall not be nearer than six (6) feet to any side lot line. A detached accessory building located entirely within the rear

yard of a principal building shall be located no less than five (5) feet from the side lot line and five (5) feet from the rear lot line. If any portion of a detached accessory building is within a side yard of the principal building it shall not be located nearer to a side lot line than the permitted distance for the principal building on the same lot.

- 8.2** Accessory buildings for single family dwellings in residential districts may not exceed a cumulative total of 900 square feet per residential lot and may not exceed the height of the principal use building.
- 8.3** No accessory building shall be used for dwelling purposes;
- 8.4** Fences, lawn ornaments, open unenclosed uncovered steps, ground level patios, concrete slab driveways, and signs as permitted by this Ordinance may project into a required yard;
- 8.5** No permanent structure shall be erected within a required lot line easement.
- *8.6** **Swimming Pool Requirements:** Swimming pools, hot tubs and spas shall be allowed as an accessory use in all zoning districts unless otherwise specifically prohibited in this Zoning Ordinance. All swimming pools, hot tubs and spas located on property used for residential purposes shall be located in the side or rear yard and shall observe setback requirements for accessory uses in the zoning district in which such pool is located.

Section 9. BUILDING HEIGHT.

- 9.1** In the thirty-five (35) foot height district, public or semipublic buildings, churches, hospitals, sanitariums, or schools may be erected to a height not exceeding seventy-five (75) feet when the front, side, and rear yards are increased an additional foot for each foot such buildings exceed thirty-five (35) feet in height.
- 9.2** The height regulations shall not apply to television and radio towers, church spires, belfries, monuments, farm buildings, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, grain elevators, ornamental towers and spires, chimneys, elevator bulkheads, drilling rigs, conveyors, flagpoles and other pertinent mechanical apparatus which may be erected to any height not in conflict with any other applicable regulations.
- 9.3** The grade at foundation of any building hereafter constructed shall not exceed five (5) percent slope as measured from the top of curb (or center line of street where no curb exists in front of the lot) to a point in the center of the lot width. This regulation does not apply where the existing grade is above five (5) percent slope.

Section 10. DWELLINGS.

- 10.1 Modular Home:** "Modular home" means a factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, and must display the seal issued by the state building code commissioner. If a modular home is placed in a mobile home park, the home is subject to the annual tax as required by Section 435.22. If a modular home is placed outside a mobile home park, the home shall be considered real property and is to be assessed and taxed as real estate.
- 10.2 Manufactured Home:** "Manufactured home" is a factory-built structure built under authority of 42 U.S.C., Section 5403, is required by federal law to display a seal from the United States department of housing and urban development, and was constructed on or after June 15, 1976. If a manufactured home is placed in a mobile home park, the home must be titled and is subject to the mobile home square foot tax. If a manufactured home is placed outside a mobile home park, the home is to be assessed and taxed as real estate.
- 10.2A Mobile Home:** "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designated, 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.
- 10.3 Townhouse:** A dwelling unit having a common wall with or abutting one or more adjoining dwelling units in a townhouse group.
- 10.4 Townhouse Lot:** That portion of the total development site of a townhouse residential use intended for separate ownership as the location of a single townhouse and associated private yard area.
- 10.5 Minimum Width of All Dwellings:** All site-built dwellings, factory-built (modular) houses, manufactured and mobile homes located outside of mobile home parks or mobile home subdivisions and converted to real estate shall have a minimum width of twenty-four (24) feet on its shortest side and shall be placed on a permanent full foundation with concrete footings twelve (12) inches wide by six (6) inches thick at a depth of four (4) feet below final finish grade at the foundation. Manufactured homes designed and approved to use a pier footing foundation are permitted providing visual compatibility with surrounding residential structures. This provision shall be in addition to all other provisions of this ordinance.

***Section 11. SMALL WIND ENERGY SYSTEMS.** It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity. These regulations shall not apply to wind farms, which are prohibited within the city limits.

Definitions.

- A.** "Small wind energy system" means a wind energy system consisting of a wind turbine, a tower and associated control or conversion electronics, which is intended to primarily reduce on-site consumption of utility power.
- B.** "Total height" means the vertical distance of small wind energy system measured from adjacent grade of the fixed portion of the tower to the tip of the wind turbine portion of the system at its highest point.
- C.** "Wind farms" means one or more wind turbines in the same location used for production of electric power for use off site.

11.1 General regulations – Small wind energy systems.

- A.** A small wind energy system may be permitted in the agricultural, light and heavy industrial zoning districts with a special exception use permit obtained in accordance with Article 17 of the Zoning Code. The height of the support structure cannot be greater than 1½ times the maximum building height allowed in the district. The lowest sweep of the blades must be at least 20 feet above the ground.
- B.** Small wind energy systems are prohibited in all other zoning districts.
- C.** All small wind energy systems shall be subject to regulations set forth below.
 - 1.** A small wind energy system shall only be permitted on lots that measure one (1) acre or more.
 - 2.** There shall be only one small wind energy system for each assessor parcel number.
 - 3.** The small wind energy system is considered an accessory use, must be located behind the principal structure, and is permitted only in conjunction with a permitted primary use.
 - 4.** The minimum setback from the tower to the property boundaries of the installation site shall be at least 1½ times the total height of the system from all adjacent property lines.
 - 5.** A small wind energy system shall be designed, installed, and operated so that the noise generated does not make any loud or unnecessary or offensive noise or any noise which may reasonably be anticipated to annoy, disturb, injure or endanger the comfort, slumber, peace, health or safety of any reasonable person or persons of normal sensitivity, whether due to volume or duration or both and shall not exceed sixty (60) dBA, as measured at ground level outside the nearest inhabited dwelling unit, except during short-term events such as utility outages and/or severe wind storms.

6. Small wind energy systems shall remain painted or finished the color or finish that was originally applied by the manufacturer.
7. The installation of small wind energy systems shall require a zoning compliance permit and comply with all applicable provisions of the City Code.
8. Small wind energy systems shall comply with all applicable FAA regulations, including any necessary approvals for installations close to any airport or heliport.
9. No small wind energy system shall be installed until evidence in writing from the appropriate utility company has been provided to the city during the permit process. Off-grid systems shall be exempt from this requirement.
10. There shall be no signage on the small wind energy system.

11.2 Maintenance, removal and violations.

- A. Any small wind energy system that is not operated for a continuous period of twelve months shall be considered a public nuisance, and the owner of such system shall remove the same within ninety days of receipt of notice from the city notifying the owner of such nuisance. Failure to remove an abandoned system within such ninety days shall be grounds to remove the system at the owner's expense in accordance with Title III, Chapter 1, Article 2 of the city code.
- B. All small wind energy systems shall be maintained in a safe and attractive manner, including the replacement of defective parts, painting, repainting, cleaning and other acts which may be required for the maintenance of such system. The city may compel removal of any system which is abandoned, dangerous, defective (either materially, electrically or structurally) or which fails to comply with the requirements of this chapter.
- C. All violations of this chapter shall be processed in accordance with Title III, Chapter 1, Article 2 of the city code.

ARTICLE 14/OFF-STREET PARKING

Section 1. INTENT. The intent is the regulation of off-street parking. After the effective date of this ordinance, in all districts except the General Business District (GB), there shall be provided at the time any new building or structure is erected, off-street parking spaces in accordance with the requirements set forth herein:

Section 2. GENERAL PROVISIONS:

- 2.1 All buildings and structures erected and all uses of land in all districts established after the effective date of this ordinance shall provide accessory parking as required under this section, unless a building permit has been issued and construction is begun at least two (2) months prior to the effective date of this ordinance.
- 2.2 The provisions of this section shall not apply to areas in the General Business District (GB);
- 2.3 All off-street parking spaces required by this regulation shall be located on the same lot of the use it serves or on some land adjacent to or within three hundred (300) feet of the principal use lot;
- 2.4 Owners of two (2) or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use;
- 2.5 All yard area except the front yard for single family residential districts may be used for off-street parking, except that portion of the driveway lying within the front yard may be used to satisfy the off-street parking requirements of this ordinance;
- 2.6 A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled, shall accompany an application for a building certificate. The plan shall show all elements necessary to indicate that the requirements are being fulfilled;
- 2.7 Whenever a building or use constructed or established after the effective date of the ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of fifty (50) percent or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein;

- 2.8 Vehicles, travel trailers, camper trailers, and other trailers shall not be parked within a front yard except in the driveway portion in any single family residential district for a period in excess of seventy-two (72) hours;
- 2.9 Motor vehicles or machinery shall not be parked outside a garage or other enclosed structure in an R-1 or R-3 Residential District of the city for a period in excess of forty-five (45) days.

(City of Cedar Falls vs. Flett, 330 N.W. 2d 251 [Iowa, 1983])

Section 3. OFF-STREET PARKING REQUIREMENTS: At the time of construction, alteration, moving in, enlargement of a structure or building, or change in the use of the land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

	<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
3.1	Residential or multiple	Two (2) spaces per dwelling unit
3.2	Mobile Home Park	Two (2) spaces per trailer unit
3.3	Hotel and Motel	One (1) space per sleeping unit
3.4	Hospitals, nursing homes, rest homes, or similar use	One (1) space for every four (4) patient beds
3.5	Places of public assembly such as auditoriums, theaters, stadiums, churches, community hall, public buildings, etc.	One (1) space for every four (4) seats or one (1) space per five hundred (500) square feet of gross floor area
3.6	Bowling Alley	Five (5) spaces for each alley
3.7	Retail sales and service uses such as stores, restaurants, taverns, banks, professional offices, etc.	One space per three-hundred (300) square feet of gross floor area
3.8	Schools - elementary and junior high	One (1) space per classroom and one (1) space for every six (6) seats in the auditorium
3.9	High School and College	Two (2) spaces per classroom and one (1) space for every four (4) seats in the largest facility for public assembly

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| 3.10 | Manufacturing, wholesale warehouses, and similar uses. | One (1) space for every two (2) employees on the largest working shift |
| 3.11 | Salvage yards. | One (1) space per one hundred (100) square feet of display or floor area |

Section 4. COMPUTATION OF SPACES:

- 4.1** In case of any building structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply, as determined by the Planning and Zoning Commission;
- 4.2** Where fractional spaces occur, the parking spaces required shall be construed to be the nearest whole number;
- 4.3** In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

ARTICLE 15/OFF-STREET LOADING

Section 1. REQUIREMENTS. At the time of construction, alteration, or enlargement of a structure or building having a gross floor area of five thousand (5,000) square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

<u>Loading Area</u>	<u>Gross Floor Area</u>
One (1) two hundred fifty (250) square foot area	For five thousand (5,000) to twenty thousand (20,000) square feet
One (1) two hundred fifty (250) square foot area	For each additional twenty thousand (20,000) square feet or fraction thereof.

***ARTICLE 16/BILLBOARDS AND SIGNS**

Billboards and signs are allowed according to the following regulations:

Section 1. GENERAL BUSINESS DISTRICT:

- **1.1** One sign per frontage, incorporated as a part of the building facade, or attached flush to the building will be permitted for each business use.
- **1.2** One permanent pole or ground type sign will be permitted if located entirely on the property of the business(es) it advertises. Placement is also subject to the further restrictions of Article 13, Section 3.6 of the Zoning Code of the City of Estherville, Iowa.
- **1.3** One temporary sign of up to thirty-two (32) square feet each side is permitted if located entirely on the property of the business it advertises and subject to further restrictions of Article 16, Section 5.2 of the Zoning Code of the City of Estherville, Iowa.
- 1.4** Sign Permit required.

Section 2. HIGHWAY COMMERCIAL, INDUSTRIAL DISTRICTS, AND AGRICULTURAL DISTRICTS:

- 2.1** One sign per frontage will be permitted on the principal use structure, and one on an independent structure located not more than one hundred fifty (150) feet from the principal use building and not containing more than one hundred fifty (150) square feet.
- 2.2** In a multi-business structure, one sign may be placed on the principal use structure for each business and one sign per business may be placed on one independent structure located not more than one hundred fifty (150) feet from the principal use structure, no one sign larger than one hundred fifty (150) square feet.
- 2.3** One portable or changeable type sign of up to thirty-two (32) square feet each side is permitted if located entirely on the property of the business it advertises and subject to the further restrictions of Article 13, Section 3.6.
- 2.4** Sign Permit required.

Section 3. RESIDENTIAL DISTRICTS:

- 3.1** Home occupation signs are permitted subject to the following regulations:
 - A.** They must be mounted flush with the face of the building.
 - B.** They shall not exceed four (4) square feet in area (two-foot maximum vertical dimension).

*Revised 8-15-05; Ord. No. 659 (All of Article 16)

**Revised 12-19-05; Ord. No. 665

- 3.2** No other signs are allowed in residential districts except those permitted under Section 5 of this Article.

Section 4. In all districts, for uses permitted as exceptions, signs and billboards will be allowed only through Board of Adjustment approval.

Section 5. EXCEPTIONS:

- 5.1** Real estate signs advertising for sale, rental, or lease only, the premises, lots, or tracts on which they are located, will be allowed in all districts. Real estate signs in residential districts shall not exceed nine (9) square feet in area. Real estate signs in business districts shall not exceed thirty-two (32) square feet in area. Real estate signs in agricultural, highway commercial, or industrial districts shall not exceed one hundred fifty (150) square feet in area. Illuminated real estate signs are not permitted.
- 5.2** Temporary signs and banners advertising special events on an occasional basis are permitted five (5) days prior to the event and must be removed the day following the event. Not to exceed a total of seven days.
- 5.3** A sign up to thirty-two (32) square feet denoting the architect, engineer, or contractor placed upon a construction site when a valid building use permit exists for that location is permitted.

Section 6. No intermittent flashing type signs or billboards are permitted, except those which are also public service informational type signs in any district.

Section 7. Billboards will be permitted only as follows. The owner of a business may erect one (1) and only one (1) billboard under the following conditions:

- 7.1** The billboard must be in a nonresidential district.
- 7.2** It must be incorporated as a part of the building facade or attached flush to the building.
- 7.3** It must be erected on property owned by the owner of the business and such property must be occupied or ready for occupancy.
- 7.4** The billboard must advertise the owner's principal business only, and shall not be illuminated.
- 7.5** It is subject to the following size restrictions:
 - A.** It cannot be greater than thirty-two (32) square feet in area in a business district.
 - B.** It cannot be greater than one hundred fifty (150) square feet in area in an agricultural, highway commercial, or industrial district.

Section 8. Nonconforming signs shall be brought to compliance upon change of ownership or occupancy of the premises.

Section 9. Churches and schools for the purpose of this Article, will be treated as if they are zoned Highway Commercial.

Section 10. All pole signs (any sign on an independent structure with a height in excess of ten (10) feet above the ground) and signs projecting out from buildings shall have a minimum clearance of eight (8) feet above the ground.

Section 11. Ground signs (any sign on an independent structure that is not a pole sign) must be erected with the bottom edge of the sign within three (3) feet of the ground unless landscaping or structure is below the sign and the top edge a maximum of ten (10) feet above ground. Ground signs shall have the address included within the sign face (message area).

Section 12. Removal of Certain Signs. Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or structure upon which such sign may be found within ten (10) days after written notification from the zoning administrative officer is hereby authorized to cause removal of such signs, and any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached. Signs in need of repair (i.e. missing letters, illegible message, broken parts, etc.) shall be repaired, replaced, or removed within thirty (30) days after written notification from the zoning officer.

Section 13. SIGN PERMITS:

13.1 A sign permit shall be required for any sign to be erected, constructed, altered, or relocated within the General Business, Highway Commercial, and Industrial or Agricultural Districts in the city.

13.2 An application for a sign permit shall be submitted to the zoning officer and shall include the following:

- A.** Name, address, and telephone number of the applicant, property owner, and owner of the sign.
- B.** Location (address or legal description) of the building, structure, or parcel of property to which or upon which the sign is to be attached or erected.
- C.** A site plan detailing the position of the sign in relation to nearby buildings, structures, property lines, and rights of way.
- D.** A description or sketch of the construction, size, and support structure (if any).

- E.** Ground signs must have the address of the property included in the sign face.
 - F.** A sketch showing sign faces, exposed surfaces, and proposed materials accurately represented in scale as to size, area, proportion, and color.
 - G.** Name of person, firm, corporation, or association erecting or installing sign.
 - H.** Such other information as the zoning officer shall require to show full compliance with all ordinances of the city.
- 13.3** A permit fee in the amount of twenty-five dollars (\$25) shall be charged to cover administrative cost of reviewing and processing the permit application.
- 13.4** If a sign is constructed, erected, installed, or altered without the issuance of a permit required under this Article, the permit fee shall be increased to one hundred dollars (\$100).
- 13.5** Upon the determination by the zoning officer that the proposed sign complies with Sections 1 through 12 of this Article, the zoning officer shall place the item on the next City Council meeting agenda for determination that the proposed sign meets the “Standards of the Community.”
- 13.6** The “Standards of the Community” includes meeting all of the following criteria:
- A.** The sign must be compatible with its surroundings and the zoning district.
 - B.** Fosters high quality commercial development.
 - C.** Protects the public by reducing the obstructions and distractions, which might cause traffic accidents.
 - D.** Protects the physical and mental well being of the general public by recognizing and encouraging a sense of aesthetic appreciation for the visual environment.
 - E.** Preserves and enhances the natural beauty and unique character of the city.
- 13.7** If the majority of the City Council members present agree that the proposed sign meets the standards of the community, the sign permit shall be approved by the City Council.

Section 14. NONCONFORMING SIGNS:

- 14.1** Signs existing at the time of the enactment of this Ordinance (August 15, 2005) and not conforming to its provisions, but which were constructed in compliance with previous regulations and ordinances shall be regarded as nonconforming signs. Nonconforming signs shall not be:
- A.** Changed to another nonconforming sign.
 - B.** Structurally altered so as to prolong life of the sign.
 - C.** Expanded.
 - D.** Reestablished after discontinuance of the sign use for a period of thirty (30) days.
 - E.** Moved in whole or in part to another location unless said sign, and the use thereof, is made to conform to all regulations of this Article.
 - F.** Reestablished after damage or destruction by any means, including an “act of God,” exceeding fifty percent (50%) of the estimated value of that sign.
- 14.2** Amortization Nonconforming Signs.

- A.** Signs which do not conform to the provisions of this Article, but which lawfully existed and were maintained prior to August 15, 2005, shall be removed or made to conform on or before August 15, 2007, a period of approximately two (2) years from the effective date of this Ordinance.

****Section 15. VARIANCES:**

- 15.1** The City Council of the City of Estherville, Iowa, may, upon request, grant a variance from technical requirements of this Article of the Code of Ordinances where the proposed sign complies with the standards of the community set forth in Section 13.6 herein and where unique circumstances render technical compliance with this ordinance impractical.

*Revised 8-15-05; Ord. No. 659 (All of Article 16)

**Revised 2-6-06; Ord. No. 667

ARTICLE 17/SPECIAL EXCEPTION USES

Section 1. PROCEDURES AND REQUIREMENTS. Allowable special exception uses may be permitted, enlarged, or altered upon application for a special exception use permit in accordance with the rules and procedures of the Board of Adjustment. The Board of Adjustment will grant or deny a special exception use permit in accordance with the standards set forth herein and with the intent and purpose of this ordinance. In granting a special exception use permit, the Board of Adjustment will authorize the issuance of a special exception use permit and may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the special exception use permit.

Section 2. APPLICATION FOR SPECIAL EXCEPTION USE PERMIT. A request for a special exception use permit for a special exception use or modification of a special exception use may be initiated by a property owner or his authorized agency by filing an application with the zoning administrator upon forms prescribed for the purposes. The application shall be accompanied by a site plan and other such plans and data showing the dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein. The application shall also be accompanied by a fee as determined by resolution of the City Council.

Section 3. PROCEDURE. A special exception shall not be granted by the Board of Adjustment unless and until the following procedures have been fulfilled:

- 3.1 The Board of Adjustment shall provide a copy of the application for special exception for review and comment of the Planning and Zoning Commission;
- 3.2 The Planning and Zoning Commission shall provide the Board of Adjustment with their recommendations;
- 3.3 After receipt of the Planning and Zoning Commission's recommendations, the Board of Adjustment shall schedule a public hearing in relation to the special exception request. Notice shall be given to the public hearing as required by state statute by publication in a newspaper of general circulation in the city. Adjacent property owners shall be notified in writing of the public hearing;
- 3.4 The Board of Adjustment shall determine that it is empowered under this ordinance to grant the special exception as described in the application, and the granting of the special exception will not adversely affect the public interest pursuant to testimony presented at the public hearing and the review by the Planning and Zoning Commission;
- 3.5 In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this ordinance and punishable under Article 20 of this ordinance;

- 3.6 The concurring vote of three members of the Board of Adjustment grants a special exception use permit. No order of the Board of Adjustment granting a special exception use permit shall be valid for a period longer than six (6) months from the date of such order, unless the Board of Adjustment specifically grants a longer period of time or a building permit is obtained within the six (6) month period and construction is commenced.

Section 4. STANDARDS. No special exception use permit shall be granted by the Board of Adjustment unless such Board shall find:

- 4.1 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;
- 4.2 That the special exception 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 values within the neighborhood.
- 4.3 That the establishment of the special exception use will not impede the normal and orderly development in improvement of the surrounding property for uses permitted in the district;
- 4.4 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
- 4.5 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;
- 4.6 The use shall not include any activity involving the use or storage of flammable, or explosive material unless protected by adequate fire fighting and fire suppression equipment and by such safety devices as are normally used in handling of any such material;
- 4.7 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled;
- 4.8 The use shall not include vibration which is discernible without instruments on any adjoining lot or property;
- 4.9 The use shall not involve any malodorous gas or matter which is discernible on any adjoining property;
- 4.10 The use shall not involve any pollution of the air by fly-ash, dust, vapors, or other substance which is harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation;

- 4.11** The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway;
- 4.12** The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestions;
- 4.13** The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments;
- 4.14** That the use will not be in major conflict with the Comprehensive City Plan.

Section 5. SUPPLEMENTAL STANDARDS. In addition to the general standards outlined in Section 4 above, specified uses shall adhere to standards as follows:

- 5.1 Salvage Yards:** All salvage yards, including any area where waste, junk, discarded or wrecked and salvaged materials are bought, sold, stored, exchanged, baled or packed, disassembled or handled, including dismantling or "wrecking" of automobiles or machinery or other vehicles, shall be located in the Heavy Industrial, Light Industrial, and the Agricultural Districts under a special exception use permit;

The application for a special exception use permit shall be accompanied with a proposed intent or covenant to meet the minimum requirements described herein:

- A.** The yards shall be at least five hundred (500) feet distance in all directions from any residential building;
 - B.** The out-of-doors yards shall be screened by a solid wall or uniformly painted solid fence not less than eight (8) feet in height, or in lieu thereof, a landscape buffer strip fifty (50) feet wide with deciduous and evergreen trees and large shrubs to provide a landscape screen at least ten (10) feet high, may be planted;
 - C.** An off-street parking or service area in connection with the yards may be located outside of the screened in area.
- *5.2 Open-Air Sales Display and/or Storage:** Open-air sales display and/or storage, including used auto sales and/or storage, new auto sales and/or storage, new and used farm implement and equipment sales and/or storage, new and used truck machinery, or equipment sales and/or storage, shall require a Special Exception Use Permit.

The application shall be accompanied with drawings and other documents describing the intent, layout, and construction or installation in accordance with the following minimum requirements:

*Revised 7-7-08; Ord. No. 685 (All of Section 5.2)

- A.** The open-air sales, display, and storage area shall be surfaced at a minimum with granular, aggregate, or crushed stone or rock material for a uniform depth of at least three (3) inches;
- B-1.** The sides and rear lot lines, when abutting properties used for residential dwellings, may be required to be screened with a wall or fence with its surface at least fifty (50) percent solid and at least eight (8) feet in height. The fence shall not be required to extend beyond the front yard set back line;
- B-2.** Front lot lines may be required to be screened with a wall or fence with its surface at least fifty (50) percent solid and at least eight (8) feet in height.
- C.** All lighting and lighted facilities shall be designed and arranged so that they do not focus or glare directly on adjacent residential properties, or public streets, thereby creating traffic hazards.
- D.** No lighted signs shall be permitted closer than seventy-five (75) feet to any residential properties and less than fifteen (15) feet above the ground or more than thirty-five (35) feet above the ground;
- E.** The open-air area shall be maintained to be reasonably free of weeds, debris, trash, and other objectionable materials.

5.3 Planned Unit Development:

- A. Purpose:** The purpose of Planned Unit Development (PUD) regulations is to encourage flexibility in the design and development of land in order to promote its most appropriate use; to facilitate the adequate and economical provision of streets, utilities, and public spaces; and to preserve the natural and scenic qualities of open areas.

The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety and welfare, and convenience both in the use and occupancy of buildings and facilities in planned groups. A planned unit development to be, eligible under this Article must be:

- (1)** In accordance with the Comprehensive Plan of the city and with the regulations of this ordinance;
- (2)** An effective and unified means of treating possible development providing for preservation of scenic features and amenities of the site and the surrounding area;

*Revised 7-7-08; Ord. No. 685 (All of Section 5.2)

- (3) So designed in its space allocation, orientation, landscaping, circulation system, materials and other features as to produce an environment of stable and desirable character, complementing the design and values of the neighborhood.

B. Tract and Land Use

- (1) **Minimum Area.** A planned unit development shall include no less than five (5) acres of contiguous land;
- (2) **Open Space.** A minimum of twenty-five (25) percent of planned unit site area shall be developed as public open space. Parking areas and vehicle access facilities shall not be considered in calculating open space;
- (3) **Land Use.** At least ninety (90) percent of the PUD site exclusive of open space shall be devoted to those uses permitted in the zone district in which the PUD is located. In the Agriculture or R-1 District, at least fifty (50) percent of the dwelling units shall be one family detached units. Proposed land uses shall not adversely affect surrounding development and shall be in accordance with the objectives and policies of the General Plan;
- (4) **Unity of Control.** In order that the purpose of these regulations may be realized, the land and buildings and appurtenant facilities shall be in single ownership, or under management or supervision of a central authority, or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions herein.

C. Application Procedures: Planned Unit Developments shall be subject to the approval of the Zoning Board of Adjustment based upon review and recommendations by the Planning and Zoning Commission.

- (1) **General Development Plan.** The Applicant shall file a General Development Plan which shall include the following information:
 - (a) A statement describing the general character of the intended development.

- (b) An accurate map of the project area including its relationship to surrounding properties, existing topography, and key features.
- (c) A plan of the proposed project showing at least the following information in sufficient detail to make possible the evaluation of the criteria for approval, as follows:
 - 1) The pattern of proposed land use including shape, size, and arrangement of proposed use areas, density, and environmental character.
 - 2) The pattern of public and private streets.
 - 3) The location, size, and character of recreational and open space areas reserved or dedicated for public uses such as schools, parks, greenways, etc.
- (d) Appropriate statistical data on the size of the development, ratio of various land uses, percentage of multi-family units by number of bedrooms, economic analysis of the development, expected staging, and any other plans or data pertinent to evaluation by the city.
- (e) General outline of intended organizational structure related to property owners association, deed restrictions, and private provision of common services.

(2) **Specific Implementation Plan.** A specific and detailed plan for implementation of all or a part of a proposed PUD after approval of the General Development Plan must be submitted within a reasonable period of time as determined by the Zoning Board of Adjustment. The specific implementation plan shall be submitted for review by the Planning and Zoning Commission and approval or disapproval by the Zoning Board of Adjustment and shall include the following detailed construction and engineering plans and related detailed documents and schedules:

- (a)** An accurate map of the area covered by the plan including the relationship to the total general development plan.
- (b)** The pattern of public and private roads, driveways, walkways, and parking facilities.
- (c)** Detailed lot layout and subdivision plat where required.
- (d)** The arrangement of building groups and their architectural character.
- (e)** Sanitary sewer and water mains.
- (f)** Grading plan and storm drainage.
- (g)** The location and treatment of open space areas and recreational or other special amenities.
- (h)** The location and description of any areas to be dedicated to the public.
- (i)** General landscape treatment.
- (j)** Proof of financing capability.
- (k)** Analysis of economic impact upon the community.
- (l)** A development schedule indicating (1) the approximate date when construction of the project can be expected to begin; (2) the stages in which the project will be built and the approximate date when construction of each stage can be expected to begin; (3) the anticipated rate of development; (4) the approximate date when the development of each of the stages will be completed; and (5) the area and location of common open space that will be provided at each stage.
- (m)** Agreements, bylaws, provisions, or covenants which govern the organizational structure, use, maintenance, and continued protection of the PUD and any of its common services, common open areas or other facilities.
- (n)** Any other plans, documents, or schedules requested by the city.

D. Criteria for Approval: As a basis for determining the acceptability of a PUD application, the following criteria shall be applied to the precise development plan for such district with specific consideration as to whether or not it is consistent with the spirit and intent of this ordinance, has been prepared with competent professional advice and guidance, and produces significant benefits in terms of environmental design.

(1) Character and Intensity of Land Use. In a PUD, the uses proposed, and their intensity and arrangement on the site, shall be of visual and operational character which:

(a) Is compatible to the physical nature of the site with particular concern for preservation of natural features, tree growth, and open space.

(b) Would produce an attractive environment of sustained aesthetic and ecological desirability, economic stability and functional practicality compatible with the general development plans for the area as established by the community.

(c) Would not adversely affect the anticipated provision for school or other municipal services.

(d) Would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.

(2) Economic Feasibility and Impact. The proponents of a PUD application shall provide evidence satisfactory to the Zoning Board of Adjustment of its economic feasibility, of available adequate financing, and that it would not adversely affect the economic prosperity of the city or the values of surrounding properties.

(3) Engineering Design Standards. The width of street rights-of-way, width and location of street or other paving, location of sewer and water lines, provision for storm water drainage or other similar environmental engineering consideration shall be based upon determination as to the appropriate standards necessary to implement the specific function in the specific situation; provided, however, that in no case shall standards be less than those necessary to ensure the public safety and welfare as determined by the city.

- (4) Preservation and Maintenance of Open Space.** In a PUD, adequate provision shall be made for the permanent preservation and maintenance of common open space either by private reservation or dedication to the public:
- (a)** In the case of private reservation, the open area to be reserved shall be protected against building development by conveying to the city as part of the conditions for project approval an open space easement over such open areas restricting the area against any future building or use except as is consistent with that of providing landscaped open space for the aesthetic and recreational benefit of the development. Buildings or uses for non-commercial, recreational, or cultural purposes compatible with the open space objective may be permitted only where specifically authorized as part of the development plan or subsequently, with the express approval of the Zoning Board of Adjustment following approval of building site and operational plans by the Planning Commission. All easements are subject to acceptance by the City Council.
 - (b)** The care and maintenance of such open space reservation shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be included in any contractual agreement with the city and shall be included in the title to each property.
 - (c)** Ownership and tax liability of private open space reservation shall be established in a manner acceptable to the city and made a part of the conditions of the plan approval.
- (5) Implementation Schedule.** The proponents of a PUD shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Zoning Board of Adjustment including suitable provisions for assurance that each phase could be brought to completion in a manner which would not result in adverse effect upon the community as a result of termination at that point.

E. Approval of the Specific Implementation Plan

- (1) Following a review of the specific implementation plans, the Planning and Zoning Commission shall recommend to the Zoning Board of Adjustment that they be approved as submitted, approved with modifications, or disapproved.
- (2) Upon receipt of the Planning and Zoning Commission recommendation, the Zoning Board of Adjustment may approve the plan and authorize the development to proceed accordingly or disapprove the plan.
- (3) In the event of approval of the Specific Implementation Plan, the building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the city offered or required with regard to project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans, shall be recorded by the developer within ninety (90) days in the county recorder's office. This shall include posting a performance bond or certified check with the City of Estherville, Iowa, guaranteeing that required improvements will be constructed according to the approved implementation schedule. This shall be accomplished prior to the issuance of any building permit.
- (4) Any subsequent change or addition to the plans or use shall first be submitted for approval to the Zoning Board of Adjustment and Planning Commission and if such change or addition constitutes a substantial alteration of the original plan, the procedures in the above shall be required.
- (5) If construction of the PUD does not commence and continue in reasonable accordance with the development schedule, then the PUD shall be voided.

5.4 Mobile Home Parks: All mobile home parks shall be located within the (HC) Highway Commercial District subject to the following requirements and the issuance of a Special Exception Use Permit:

- A.** No mobile home shall be connected to water, sewer, or electrical services unless the mobile home complies with the standards and requirements of the National Fire Protection Association, the City of

Estherville, and state and local Departments of Health. Compliance with these standards shall be determined by the administrative officer.

B. No mobile home shall be located in any Mobile Home Park, until a Mobile Home Park Development Plan is officially approved by the Board of Adjustment, and the required licensing provisions of the Code of Iowa are complied with.

(1) The owner or owners of any tract of land comprising an area of not less than five (5) acres may submit to the Board of Adjustment a plan for the use and development of all of such tract of land for Mobile Home Park purposes. Such development plan shall be referred to the Planning and Zoning Commission for study and report.

(2) In acting upon and approving mobile home parks, the Board of Adjustment shall consider the location, size, height, spacing, use of any mobile homes, and their appurtenances, access and circulation for vehicles and pedestrians, streets, parking areas, yards and open spaces, and the relationship to adjacent property. The Board of Adjustment shall not recommend a mobile home park development plan unless such plan conforms to all applicable provisions provided in this ordinance, and any state, federal, or local city policy.

C. If said mobile home park development plan contains no dedication to the city of streets or utilities, or should it be contemplated that the facilities of the city shall not be used for maintenance of streets, sidewalks, and water and sewer lines, garbage collection, or other related functions, then the owner shall be required to record with the Mobile Home Park Plan a covenant, as follows:

"That (name of owner), being the owner or owners of the real estate contained in the above attached mobile home park development plan, hereby consent that if they or their assignees, heirs, or those holding or owning said land through owners, fail to maintain the streets, sidewalks, water or sewer mains according to and in compliance with the minimum standards for the maintenance of streets, sidewalks, water or sewer mains as established by the City of Estherville, Iowa, that after twenty-four (24) hours notice in writing to the owner of said land as shown upon the records in the county auditor's office of Emmet County, Iowa, and at the address therein shown, then said owner, assignees, heirs, and those holding or owning through said owners, hereby authorize the City of Estherville, Iowa, to make all

necessary repairs and perform all necessary maintenance, and further authorize the City of Estherville, Iowa, to file a mechanic's lien, other lien, or encumbrance against said real estate, and enforce said lien pursuant to laws then applicable."

- D.** Exposed ground surfaces in all parts of every mobile home park shall be paved, covered with stone screening, or other solid material, or protected with a vegetative growth or other material capable of preventing soil erosion and objectionable dust.
- E.** Adequate provisions shall be made to handle all surface and storm drainage water as determined by the city administrator or his agent.
- F.** The limits of each mobile home lot shall be clearly marked on the ground by permanent steel or iron rods driven into the ground with the top of said rods flush with the finish lot grade. Location of lot limits in the ground shall be approximately the same as shown on the approved plans. The degree of accuracy obtainable by working with a scale on the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground. This is not to be construed as permitting lots of a lesser size than the required minimum, or permitting lesser yard or separation dimensions than set forth elsewhere in this ordinance.
- G.** No part of any mobile home park shall be used for nonresidential purposes, except such uses that are required for services, well-being of park residents, and for the management and maintenance of the park. Nothing contained in this section shall be deemed to prohibit the sale by an owner of a mobile home located on a mobile home stand connected to the pertinent utilities. Any sale of mobile homes in places on the mobile home stand shall in no way relieve any parties involved from complying with all regulations of this ordinance.
- H.** In all mobile home parks there shall be one or more recreation areas which shall be safe and easily accessible to all park residents. The size of such recreation areas shall be based upon a minimum of two hundred-fifty (250) square feet for each lot. No outdoor recreation area shall contain less than five thousand (5,000) square feet. The required recreational area shall be computed in addition to any other common open space required by this ordinance.
- I.** All mobile home parks shall conform to the above requirements in addition to all current city specifications and standards.

J. Minimum Lot Area for Mobile Home Park:

- (1) **Lot Area:** The minimum park area shall be five (5) acres;
- (2) **Lot Width:** The minimum park width shall be three hundred (300) feet;
- (3) **Front Perimeter:** The minimum front perimeter shall be thirty-five (35) feet;
- (4) **Side Perimeter:** The minimum side perimeter shall be thirty (30) feet;
- (5) **Rear Perimeter:** The minimum rear perimeter shall be thirty (30) feet;
- (6) **Maximum Height:** The maximum height shall be thirty-five (35) feet unless otherwise provided.

K. Individual Trailer Lot Requirements:

- (1) **Lot Area:** The minimum lot area shall be four thousand (4,000) square feet; or a maximum of six (6) mobile home units per gross acre, whichever is greater.
- (2) **Lot Width:** The minimum lot width shall be thirty-five (35) feet;
- (3) **Front Yard:** The minimum front yard shall be thirty (30) feet unless the trailer borders the perimeter, in which the front yard is not required;
- (4) **Side Yard:** The minimum side yard shall be seven and one-half (7½) feet unless the trailer borders the perimeter, in which case the side yard is not required;
- (5) **Rear Yard:** The minimum rear yard shall be twenty-five (25) feet unless the trailer borders the perimeter, in which case the rear yard is not required;
- (6) **Maximum Height:** The maximum height shall be thirty-five (35) feet;

L. Minimum Design Criteria:

- (1) Roads and streets shall be at least twenty-five (25) feet wide;

(2) All streets shall be hard surface;

(3) The minimum space between trailers shall be fifteen (15) feet;

5.5 Mobile Home Subdivision: All mobile home subdivisions shall be located within the (R-3) Multi-Family Residential District subject to the following requirements and the issuance of a Special Exception Use Permit:

A. No mobile home shall be connected to water, sewer, or electrical services unless the mobile home complies with the standards, and requirements of the National Fire Protection Association, the City of Estherville, and state and local Departments of Health. Compliance with these standards shall be determined by the administrative officer.

B. No mobile home shall be located in any Mobile Home Subdivision, until a Mobile Home Subdivision Development Plan is officially approved by the Board of Adjustment, and the requirements of the subdivision regulations of the City of Estherville have been complied with.

C. All mobile homes located within the mobile home subdivision shall be converted to real estate. The mobile home must be attached to a permanent foundation on real estate owned by the mobile home owner, has had its vehicular frame modified or destroyed rendering it impossible to reconvert to a mobile home, has been inspected by the county assessor, and has had the mobile home title, registration, and license plates collected from the owner, and the property entered on the tax rolls of the county.

(1) The owner or owners of any tract of land comprising an area of not less than five (5) acres may submit to the Board of Adjustment a plan for the use and development of all of such tract of land for Mobile Home Subdivision purposes. Such development plan shall be referred to the Planning and Zoning Commission for study and report according to the requirements of the subdivision regulations.

(2) In acting upon and approving a mobile home subdivision, the Board of Adjustment shall consider the location, size, height, spacing, use of any mobile homes and their appurtenances, access and circulation for vehicles and pedestrians, streets, parking areas, yards and open spaces, and the relationship to adjacent property. The Board of Adjustment shall not recommend a mobile home

subdivision development plan unless such plan conforms to all applicable provisions provided in this ordinance, and any state, federal, or local city policy, and the provisions of the subdivision regulations.

- D. Exposed ground surfaces in all parts of every mobile home subdivision shall be paved, covered with stone screening, or other solid material, or protected with a vegetative growth or other material capable of preventing soil erosion and objectionable dust.
- E. Adequate provisions shall be made to handle all surface and storm drainage water as determined by the city administrator or his agent, and in accordance with the subdivision regulations.
- F. All mobile home subdivisions shall conform to the above requirements all current city specifications and standards, in addition to the provisions of the subdivision regulations of the City of Estherville.
- G. **BULK REGULATION.** The following minimum requirements shall be observed subject to modifications contained in Article 13:
 - (1) **Lot Area:** The minimum lot area shall be five thousand (5,000) square feet;
 - (2) **Lot Width:** The minimum lot width shall be fifty (50) feet;
 - (3) **Front Yard:** The minimum front yard shall be twenty (20) feet;
 - (4) **Side Yard:** The minimum side yard shall be five (5) feet;
 - (5) **Rear Yard:** The minimum rear yard shall be fifteen (15) feet;
 - (6) **Maximum Height:** No building shall exceed a height of twenty (20) feet, unless otherwise provided.
 - (7) **Lot Depth:** The minimum lot depth shall be one hundred (100) feet;

ARTICLE 18/NONCONFORMING USES

Section 1. INTENT. Within the various districts established by this ordinance or amendments that may later be adopted there exist structures and uses of land and structures which were lawful prior to the adoption of this ordinance or amendments thereto, but which would be prohibited, regulated, or restricted under provisions of this ordinance. It is the intent of this ordinance to permit these nonconformities to continue until they are discontinued, but not to encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that such nonconformities shall not be enlarged upon, expanded, or extended.

Section 2. NONCONFORMING LOT OF RECORD. In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record as of January 15, 1979. Such lot must be in separate ownership and not contiguous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of any other requirements shall be obtained only through action of the Board of Adjustment.

Section 3. NONCONFORMING USES OR STRUCTURES IN ANY "A" OR "R" DISTRICTS. No existing structure or premises devoted to a use not permitted by this ordinance in the district in which such structure or premises is located, except when required by law, shall be enlarged, extended, reconstructed, substituted, or structurally altered, unless the use thereof is changed to a use permitted in the district in which such structure or premises is located, except as follows:

- 3.1 Substitution:** If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of the same or more restrictive classification. Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not hereafter be changed to a less restrictive use.
- 3.2 Discontinuance:** In the event that a nonconforming use of any structure or premises is discontinued for a period of ninety (90) days, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

Section 4. NONCONFORMING USES OR STRUCTURES IN ANY DISTRICT OTHER THAN AN "A" OR "R" DISTRICT. The regulations described in Section 3 above shall also apply to this section with the following exceptions:

- 4.1 Structural Alterations and Enlargements:** Any building in districts other than an "A" or "R" District devoted to a use made nonconforming by this ordinance

may be structurally altered or enlarged in conformity with the lot area, lot width, yard and height requirements of the district in which situated, provided such construction shall be limited to buildings on land owned of record by the owner of the land devoted to the nonconforming use prior to the effective date of this ordinance. In the event of such structural alteration or enlargement of structures, the premises involved may not be used for any nonconforming use other than the use existing on the effective date of this ordinance, other provisions of this ordinance notwithstanding.

4.2 Discontinuance: In the event that a nonconforming building or structure or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

4.3 Mobile Home Park Expansion: The requirements of Article 17, Section 5.4 shall apply to any expansion of an existing mobile home park.

***Section 5. REPLACING DAMAGED BUILDINGS.** Any nonconforming building or structure, except as provided for in Section 5.1, damaged more than fifty (50) percent of its assessed value by fire or any reason beyond the control of the property owner shall not be restored or reconstructed and used as before such happening, but if less than fifty (50) percent damage occurs above the foundation it may be restored, reconstructed, or used as before provided that construction be started within six (6) months of such happening and construction diligently pursued to completion. An extension of the six (6) month period may be reviewed and approved by the zoning officer if the applicant can prove extenuating circumstances beyond the applicant's control exist.

5.1 Replacing Damaged Single or Multi-Family Residences. Any nonconforming single or multi-family residence damaged more than fifty (50) percent of its assessed value by fire, or any reason beyond the control of the property owner may be reconstructed to the same square footage using the existing foundation and used as before provided that construction be started within six (6) months of such happening and construction diligently pursued to completion. An extension of the six (6) month period may be reviewed and approved by the zoning officer if the applicant can prove extenuating circumstances beyond the applicant's control exist.

Section 6. USES UNDER EXCEPTION PROVISIONS. Any use for which a special exception is permitted as provided in this ordinance shall not be deemed a conforming use. Any expansion shall be only with Board of Adjustment approval.

ARTICLE 19/ENFORCEMENT

Section 1. ADMINISTRATOR. The City Council of Estherville, Iowa, shall appoint a zoning administrative officer, and it shall be the duty of said officer to enforce this ordinance. Such officer may be a person holding other appointive office in the city or in another governmental agency.

Section 2. ZONING COMPLIANCE PERMITS. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a permit is issued by the zoning administrator, stating that the building and use comply with the provisions of this ordinance. For purposes of this ordinance, the Zoning Compliance Permit will be issued in conjunction with the building permit.

No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefore by the zoning administrative officer. No permit shall be issued to make a change unless the changes are in conformity with provisions of this ordinance.

Nothing in this part shall prevent the continuance of a nonconforming use as hereinbefore authorized, unless a discontinuance is necessary for the safety of life or property.

Section 3. APPLICATION FOR COMPLIANCE PERMIT. Compliance permits shall be obtained from the zoning administrative officer before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building or structure including billboards. Permits shall be kept on file in the office of the zoning administrative officer, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

Section 4. PLATS. Each application for a compliance permit shall be accompanied by a plat in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and such other information as may be necessary to provide for the enforcement of this ordinance.

Section 5. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION, PLANS, AND PERMIT. Compliance permits issued on the basis of plans and applications, approved by the zoning administrative officer, authorize only that use, arrangement, and construction. Use, arrangement, and construction at variance with that authorized shall be deemed a violation of this ordinance and punishable as provided by Article 20.

Section 6. FEES. Before receiving a compliance/building permit the owner or his agent shall pay to the city the permit fee as provided by resolution of the council. Such fee shall be based on valuation. City, county, state, and federal government shall be exempt from paying said fees.

Section 7. SPECIAL EXCEPTIONS. A compliance/building permit for a special exception may be issued by the administrative officer after review by the Planning and Zoning Commission and upon the order of the Board of Adjustment.

ARTICLE 20/VIOLATION AND PENALTY

Section 1. VIOLATION AND PENALTY. The violation of any of the provisions of this ordinance shall constitute a misdemeanor. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance, upon conviction, shall be subject to a fine of not more than one hundred dollars (\$100) or imprisonment of not more than thirty (30) days for each offense. Each day that a violation is permitted to exist constitutes a separate offense.

Section 2. RESTRAINING ORDER. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the city attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City of Estherville to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, conduct, business, or use in or about said premises.

ARTICLE 21/BOARD OF ADJUSTMENT

Section 1. BOARD APPOINTED. The Board of Adjustment shall consist of five (5) residents of the city, each to be appointed by the council, for overlapping terms of five (5) years. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after a public hearing. Vacancies shall be filled by the City Council, a majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate.

(Code of Iowa, 1999, Sections 414.7 and 414.8)

Section 2. MEETINGS.

- 2.1** Meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, shall administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings, show the vote of each upon each question, or if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the administrative officer and shall be a public record.
- 2.2** The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.
- 2.3** All meetings shall be open to the general public according to the Iowa Open Meeting Law.
- 2.4** Three members shall constitute a quorum.
- 2.5** The Board of Adjustment shall hold public hearings as required by state statutes and city ordinances and at any other times when it is determined that such hearings will be in the public interest.
- 2.6** Notice of such hearings shall be posted as required by state statutes or local ordinances. Requests for rescheduling, made for good cause, shall be made to the zoning administrator who will seek the Chairman's decision in the matter.
- 2.7** A record shall be kept of those speaking before the Board of Adjustment.
- 2.8** Meetings shall be held according to Roberts Rules of Order. Oral or written statements can be rendered to the Board by anyone interested in the particular item at issue. Parties may be represented by counsel, present evidence including testimony, parties may subpoena witnesses and make arguments. Verbatim

transcriptions of the proceedings may be made at any party's own expense. Tape recordings of the proceedings may be made by the parties at their own expense. Either party can ask questions of any witness produced by the other party. The chairman, with the support of two of the Board members, can impose time limits in cases deemed to be special cases so that the meeting can be held expeditiously. Parties may request that the Board visit the site. Such request must be made at the time the Application for Hearing is made. Site views may be made by the Board members individually at their discretion.

- 2.9 The Board will make written Findings of Fact and report its conclusions by showing the basis for its decision.
- 2.10 The zoning administrative officer may be an ex officio member and act as secretary for the Board of Adjustment.
- 2.11 **Order of Business.** The order of business at regular meetings shall be:
 - A. Roll call
 - B. Reading of minutes of previous meeting
 - C. Communications
 - D. Report of officers and committees
 - E. Old or unfinished business
 - F. New business
 - G. Approval of current minutes
 - H. Adjournment

Section 3. HEARINGS, APPEALS, NOTICE. Appeals to the Board of Adjustment concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the City of Estherville affected by a decision of the administrative officer. Such appeals should be taken within a reasonable time, not to exceed thirty (30) days, by filing with the administrative officer and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The administrative officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeals, give public notices thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person, by agent, or attorney.

A fee to be determined by resolution of the City Council shall be paid to the administrative officer at the time the notice is filed, which the administrative officer shall forthwith pay over to the credit of the General Fund of the city.

Section 4. STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed, unless the administrative officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such

case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the administrative officer from whom the appeal is taken and on due cause shown.

Section 5. POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

5.1 Administrative Review: To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the administrative officer in the enforcement of this ordinance.

5.2 Special Exceptions: To hear and decide only such exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance, and as provided for in Article 17.

A. See Article 17, Sections 3 and 4 of this ordinance for specific conditions for granting a special exception.

5.3 Variances: 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 the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

A. A written application for a variance is submitted demonstrating:

- (1)** That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- (2)** That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- (3)** That the special conditions and circumstances do not result from the actions of the applicant;
- (4)** That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and

no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

- B. Notice of public hearing shall be given as in Article 17, Section 3, Paragraph 3.3.
- C. The public hearing shall be held. Any party may appear in person, by agent, or by attorney.
- D. The Board of Adjustment shall make findings that the requirements of Article 21, Section 5.3A have been met by the applicant for variance.
- E. The Board of Adjustment shall further make a finding that the 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.
- F. The Board of Adjustment shall further make a finding 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.
- G. The application for a variance shall be accompanied by a fee to be determined by resolution of the City Council.
- H. Committees:
 - (1) Special or standing committees may be appointed by the chairman for purposes and terms which the Board of Adjustment approves.
 - (2) The standing committees shall be appointed for one year and shall consist of at least three members. If a vacancy is found to exist, the chairman of the Board of Adjustment shall immediately appoint a replacement.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article 20 of this ordinance.

Section 6. DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination as ought to be made and to that end shall have powers

of the administrative officer from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the administrative officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in application of this ordinance.

Section 7. APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, or any board, taxpayer, department, or bureau of the community aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board of Adjustment by a court of record in the manner provided by the laws of the state and particularly by Chapter 414, Code of Iowa.

ARTICLE 22/CHANGES AND AMENDMENTS

Section 1. This ordinance and the districts created by said ordinance may be amended from time to time. However, no amendment shall become effective unless it shall have been proposed by, or shall have been first submitted to the Planning and Zoning Commission for review and recommendation. The Planning Commission shall have forty-five (45) days in which to submit its report to the City Council. If the Commission fails to submit a report within the forty-five (45) day period, it shall be deemed to have approved the proposed amendment.

A public hearing shall be held by the City Council before adoption of any proposed amendment to this ordinance. A notice of such public hearing shall be published prior to the date established for such hearing as required by state law. Such notice shall include the time and place for the public hearing.

In case the Planning and Zoning Commission does not approve the change or, in the case of a protest filed with the City Council against a change in district boundaries signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one (1) lot or not to exceed two-hundred (200) feet therefrom, or of those directly opposite thereto, extending the depth of one (1) lot or not to exceed two-hundred (200) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of at least three-fourths (3/4) of all members of the council.

Section 2. APPLICATION FOR CHANGE IN ZONING DISTRICT BOUNDARIES. Any person may submit to the council an application requesting a change in the zoning district boundaries as shown on the official zoning map.

- 2.1** Such application shall be filed with the administrative officer accompanied by a fee as determined by resolution of the City Council and shall contain the following information:
- A.** The legal description and local address of the property.
 - B.** The present zoning classification and the zoning classification requested for the property.
 - C.** The existing use and proposed use of the property.
 - D.** The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.
 - E.** A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
 - F.** A plat showing existing and proposed locations, dimensions, and use of the applicant's property and all property within two hundred (200) feet thereof, including streets, alleys, railroads, and other physical features.

- G.** All fees shall be deposited to the General Fund of the city. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

2.2 Upon receipt of the application by the administrative officer, a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:

- A.** Whether or not the current district classification of the property to be rezoned is valid.
- B.** Whether there is a need for additional land zoned for the purpose requested.
- C.** Whether the proposed change is consistent with the current land use plan, considering such factors as:
 - (1)** Whether the rezoning would result in a population density or development which would in turn cause a demand for services and utilities in excess of the capacity planned for the area;
 - (2)** Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity.
- D.** Whether there is an intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

2.3 The Commission shall report its determinations and recommendations to the council within forty-five (45) days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Commission. The council shall then hold a public hearing as provided in Article 22, Section 1.

ARTICLE 23/SEVERABILITY CLAUSE

Section 1. Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

ARTICLE 24/REPEAL OF CONFLICTING ORDINANCES

Section 1. All zoning ordinances and parts of zoning ordinances in conflict herewith are repealed. This is Ordinance No. 116, adopted November 1, 1948, on page 326, Book 9 of the minutes of the Estherville City Council and all amendments thereto.

ZONING MAP HERE