TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 1 RESERVED
TITILE VI PHYSICAL ENVIRONMENT
CHAPTER 2 UTILITIES - SANITARY SYSTEM

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6-2-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter or parts per million.

2. "Builder" shall mean the owner of land who causes sanitary sewer to be installed under the provisions of this chapter, and shall also include the owner’s heirs, successors, or assigns.

3. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall. (IAC 567-69.3(1))

4. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal. (IAC 567-69.3(1))

5. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

6. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sales of produce.

7. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" shall mean the person duly authorized by the council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural Outlet" shall mean any outlet into watercourse, pond, ditch, or other body of surface or groundwater.

10. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

11. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. “Private Sewage Disposal System” shall mean a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than sixteen (16) individuals on a continuing basis.
13. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

14. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

15. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

16. "Semi-Public Sewage Disposal System" shall mean a system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary sewer district, or a designated and approved management agency under Section 1288 of the Federal Water Pollution Control Act.

17. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

18. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

19. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

20. "Sewer" shall mean a pipe or conduit for carrying sewage.

21. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

22. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

23. "Superintendent" shall mean the Superintendent of Sewage Works and/or of Water Pollution Control of the City of Ely or the Superintendent's authorized deputy, agent, or representative.

24. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

25. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

6-2-2 USE OF PUBLIC SEWERS REQUIRED.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

   (Code of Iowa, Sec. 364.12(3)(f))

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
4. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, provided that said public sewer is within one hundred fifty (150) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer. However, the requirement for connection of toilet facilities to the public sewer shall not apply to buildings erected prior to March 9, 1981, being served by an adequate septic system.

(Code of Iowa, Sec. 364.12(3)(f))
(IAC 567-69.3(3))

5. It shall be unlawful to open or enter any manhole of the sewer system, except by authority of the superintendent.

6-2-3 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the city so situated that it may be served by the city sewer system may apply to the council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the council.

6-2-4 PRIVATE AND SEMI-PRIVATE SEWAGE DISPOSAL.

1. Where a public sanitary or combined sewer is not available under the provision of Section 6-2-2(4), the building sewer shall be connected to a private or semi-private sewage disposal system complying with the provisions of this section.

2. Before commencement of construction of a private or semi-private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of $25.00 dollars shall be paid to the City at the time the application is filed.

3. A permit for a private or semi-private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent.

4. The type, capacities, location, and layout of a private or semi-private sewage disposal system shall comply with all recommendations of the Department of Natural Resources of the State of Iowa and the County Health Department. No permit shall be issued for any private or semi-private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

5. At such times as a public sewer becomes available to a property served by a private or semi-private sewage disposal system, as provided in 6-2-2(4), a direct connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools, and similar private or semi-private sewage disposal facilities shall be abandoned and filled with suitable material.

(Code of Iowa, Sec. 364.12(3)(f))

6. The owner shall operate and maintain the private or semi-private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.

8. When a public sewer becomes available, the building sewer shall be connected at the building owner's expense, to said sewer within sixty (60) days and the private or semi-private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.
9. It shall be unlawful for any person to place any effluent or waste from cesspools, septic tanks or privy vaults in any other location in the city except in such location as may be designated by the superintendent. The rate or charge for receiving such waste shall be determined by resolution of the council.

6-2-5 BUILDING SEWERS AND CONNECTIONS.

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. No person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the clerk in accordance with the following:

   a. Any person desiring to make a connection with the sewer system shall first file with the clerk an application therefor, on blanks furnished by the city, setting forth the location and description of the property to be connected with the sewer system and for what purpose the sewer is to be used.

   b. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the council.

   c. All applications for sewer connections shall be accompanied by the payment of the following fees:
      Residential Service: $350.00 Single-family
      Residential Service: $400.00 Multi-family for each hook up per building
      Commercial Service: $600.00
      Industrial Waste Service: $1,000.00

   d. All permits to connect with sewer shall be given upon the express condition that the council may at any time before the work is completed revoke and annul the same and no party interested shall have a right to claim damages in consequence of any such permits being revoked or annulled.

Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the City of Ely and deposited with the City Clerk a corporate surety in the sum of five thousand dollars ($5,000.00) conditioned that the applicant will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any Ordinances of the City of Ely pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Ely and the owner of the premises against all damages, costs, expenses, outlay and claims of every nature and kind arising out of unskillfulness or negligence on the applicant's part in connection with plumbing or excavating for plumbing as prescribed in this Ordinance. Such bond shall remain in force and must be executed for a period of two (2) years except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

3. All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located,
and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.

6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9."

   a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

   b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

      Vitrified Clay Pipe VCP


      Extra Heavy Cast Iron Soil Pipe


      Polyvinyl Chloride (PVC)

      Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers' recommendations and shall conform to:

      (1) Pipe - A.S.T.M. D-3034, "Type P.S.M. Poly (PVC) and Fittings."

      Minimum wall thickness:

      4" - 0.125"
      6" - 0.180"
      8" - 0.240"
      10" - 0.300"


   c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

   d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.

   e. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, course sand or similar material so as to provide a firm foundation and uniform support for
the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Backfilling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

14. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

15. Any connection to a public sewer shall be made by a plumber approved by the city. The superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter; a suspension, unless revoked, shall continue until the next regular meeting of the council. The superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the council meeting at which he will be granted a hearing. At this council meeting the superintendent shall make a written report to the council stating his reasons for the suspension, and the council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.

16. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
17. Should any excavation in any street or alley be left open or unfinished, for a period of twenty-four (24) hours or should the work be improperly done, the superintendent shall have the right to finish or correct such work and the expense shall be charged to the property owner.

18. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.

19. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.

20. No sewer connection shall be laid so that it is exposed when crossing any water course. Where an old water course must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

21. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the superintendent. Any accumulation of water in any excavation of basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

22. All interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water-tight and equipped with easily removable covers that shall be gas-tight and water-tight.

23. All interceptors of grease, oil, sludge and sand shall be maintained by the owner at his expense in continuously efficient operations at all times.

24. Connection of the building sewer into the public sewer shall be made at the “Y” branch, if such branch is available at a suitable location. If the public sewer is twelve (12) inches in diameter or less and no properly located “Y” branch is available, the owner shall at his own expense install a “Y” branch in the public sewer at the location specified by the city. Where the public sewer is greater than twelve (12) inches and no properly located “Y” branch is available, a neat hole may be cut into the public sewer to receive the building sewer with entry in the downstream direction at an angle of approximately forty-five (45) degrees. A forty-five (45) degree ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the private sewer at the point of connection shall be at the same, or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and water tight by encasement in concrete. Special fittings may be used for the connection only when approved by the city. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the superintendent and in accordance with his direction if such connection is approved.

25. All approved connection permits shall require the owner to complete construction and connection of the building sewer to the public sewer within thirty (30) days from the approval of the permit, except that when, in the judgment of the superintendent, a property owner on application has made sufficient showing that due to conditions beyond his control or peculiar hardship, the period of time set forth for the completion of the connection shall be inequitable or unfair to him, an extension of time within which to comply with the provisions herewith may be granted.

26. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner’s expense, within thirty (30) days after date of official notice from the council of such violation. If not made within such time the council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.
USE OF THE PUBLIC SEWERS.

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be canceled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:
   a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.
   b. Non-payment of bills.
   c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

   Special permits for discharging surface waters to a public sanitary sewer may be issued by the council upon recommendation of the superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
   a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
   b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
   c. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
   d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
   e. Any water or wastes having (1) a 5-day biochemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers,
materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).

b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).

c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.

g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

h. Any waters or wastes having a pH in excess of 9.5.

i. Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.

j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

k. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

l. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-2-5(4), and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
a. Reject the wastes,

b. Require pretreatment to an acceptable condition for discharge to the public sewers.

c. Require control over the quantities and rates of discharge, and/or

d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, Ordinances, and laws.

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.
9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).

10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

6-2-7 SEWER EXTENSIONS.

1. An owner of land abutting or adjoining a public street where no sanitary sewer has been installed, may make application to the council for the installation of a sanitary sewer in said street for the purpose of serving said property in accordance with the following:

   a. A written request for such installation, and a sum equal to the cost as estimated by the city of construction from the point where the sanitary sewer is presently installed and terminates to the point where the most distant boundary of the owner’s lot abuts the said public street shall be submitted to the council.

   b. Upon receipt of the tender of the said sum, the city shall construct the said sanitary sewer for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.

   c. In the event the actual cost to the city of installation of the sanitary sewer is in excess of the estimated costs, the builder agrees to reimburse the city for such actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.

   d. In the event of the failure of the builder to reimburse the city, as specified in subsection c above, the total of the additional cost shall be certified to the county treasurer as a special assessment lien against the builder’s real estate. In his written request for installation of the sanitary sewer the land owner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

   e. The expense of connecting the property of the builder to the sewer laid in the public street shall be borne by the builder, in addition to the cost of constructing said sewer, but such connection shall be under the supervision of the city.

2. In the event an owner of land abutting or adjoining a public street in which no sewer has been previously installed desires to construct said sewer at his own expense, he may do so, after making proper application to the city and receiving a permit to install such a sewer in accordance with the following:

   a. The installation of such a sewer by a land owner at his own expense shall be under the strict supervision of the city and shall, in all ways, conform to the requirements and specifications of the city.

   b. When making application to the city for a permit to install such a sewer, the applicant shall post with the city a surety bond in an amount to be set by the council and made a matter of record in the minutes of said council which shall be an amount equal to not less than 110 percent of the estimated cost as approved by the council for construction for the full distance from the termination point of the presently existing sewer to the point where the furthest boundary of the applicant’s land abuts the public street and which bond shall guarantee the installation of sewer in as short a time as reasonably possible, and shall further indemnify the city for the cost of completing the said project in the event the applicant fails to complete the same within a reasonable time, and shall further hold the city harmless for any and all other damages arising from the installation of the said sewer.
c. After said sewer has been installed, the same shall become the property of the city.

3. Following the installation of a sanitary sewer under the provisions of this chapter, owners of land abutting or adjoining a public street in which such sewer has been installed, being persons other than the builder, shall be obliged to connect sewerage generating facilities into said sanitary sewer, as required in this chapter.

4. Upon receipt by the city of a connection charge in an amount equal to one-half of the actual per foot construction cost of said sewer for the full frontage of each lot so connected, the city shall deduct and retain the fees as provided for in Section 6-2-4(2)(c) and shall remit to the builder the balance of said connection charge. As successive sewerage generating facilities are connected to the said sanitary sewer installation, like sums from each connection charge shall be remitted by the city to said builder, until said builder has been reimbursed for the expense of such installation of sewer, less the non-refundable connection charge provided herein.

5. Each sanitary sewer constructed in a public street or right-of-way, whether constructed by the city or by a private party shall include a stub to each abutting or adjoining lot line of the street of right-of-way on which the sewer is installed. Each party responsible for installing such sewer shall provide the city with an accurate map showing the location of each of such stubs within thirty (30) days of the completion of the installations.

6-2-8 PROTECTION FROM DAMAGE.

1. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.  
   (Code of Iowa, Sec. 716.1)

6-2-9 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

2. While performing the necessary work on private properties referred to in 6-2-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).

3. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

6-2-10 PENALTIES.

1. Any person found to be violating any provision of this Ordinance except Section 6-2-6 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.
Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

Editor’s Note: Rates and billing procedures for the Sanitary System as set by the City Council may be found in Title VI, Chapter 5, Utilities - Billing Charges.
6-3-1 DEFINITIONS. For use in this chapter the following terms are defined:

1. “Builder” shall mean the owner, heirs, successors or assigns of land who causes a water main to be installed under the provisions of this chapter.

2. “Consumer” shall mean in addition to any person receiving water service from the city the owner of the property served, as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

3. “Estimated Cost” shall mean a cost estimate prepared by a registered professional engineer or qualified contractor experienced in the installation of water main pipe and appurtenances.

4. “Superintendent” shall mean the superintendent of the city water system or his duly authorized assistant, agent or representative.

5. “Water Main” shall mean a water supply pipe provided for public or community use.

6. “Water Service Pipe” shall mean the pipe from the water main to the building served.

7. “Water System” or “Water Works” shall mean all public facilities for securing, collecting, storing, pumping, treating and distributing water.

6-3-2 ENFORCEMENT. The Superintendent of the city water system shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks, subject to the approval of the City Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the City Council may be had.

(Code of Iowa, Sec. 372.13(4))

6-3-3 ADOPTION OF STATE PLUMBING CODE. The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code as amended and as published by the Iowa Department of Public Health, which is hereby adopted.

6-3-4 BONDED PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a competent plumber bonded by the city. The bond shall be a surety bond in the sum of one thousand dollars ($1,000.00) secured by a responsible surety bonding company authorized to operate within the state, conditioned
to indemnify and save the city harmless against all losses or damages that may arise from or be occasioned by the making of connections with the public sewers or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

6-3-5 MANDATORY CONNECTIONS. All buildings or portions of buildings used for residential, commercial or industrial purposes; except for accessory buildings primarily used for storage; for equipment, vehicle or animal shelter; or as a small workshop, if no portion is used as a human dwelling, shall contain suitable water service facilities. All water service facilities within a building shall be connected to the public water system, at owner’s expense, if an adequate public water main is located within one hundred fifty (150) feet of any boundary line of the property upon which the building is situated. Otherwise, the water service facilities shall be connected to a private water system which supplies water meeting minimum standards of purity and wholesomeness established by the Iowa Department of Natural Resources, if the building is not furnished with pure and wholesome water from some other source.

6-3-6 PERMIT. Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Clerk. The application for the permit shall be filed with the Clerk on blanks furnished by the Clerk. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses shall be allowed except by written permission of the Superintendent. The Clerk shall issue the permit, bearing the Clerk’s signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued. The Superintendent may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-3-3 of this Ordinance.

(Code of Iowa, Sec. 372.13(4))

6-3-7 FEE FOR PERMIT. Before any permit is issued the person who makes the application shall pay $25.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating and inspecting the work. (See footnote at end of chapter)

6-3-8 WATER SUPPLY CONTROL. The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground. In case any curb stop cock box or any equipment connected therewith becomes covered up so it can not readily be seen, or the top of any curb stop cock box is lost or broken, the Superintendent shall order the owner or agent to repair and replace the same in the proper condition, and if the same is not repaired and placed in proper condition, in the time fixed by the order, the Superintendent shall repair and place the same in proper condition, and charge such expense to the property supplied by such service and report such charge to the clerk. In case such bill is not paid within ten (10) days from presentation, the water may be shut off on order of the clerk.

The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves inside the building for each customer so that service to one customer can be shut off without interfering with service to the others.

6-3-9 MAKING THE CONNECTION. Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. All taps into water mains shall be made by the superintendent and in accord with the following:

1. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the council and unless a provision is made so that each house, building or premise may be shut off independently of the other.

2. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the water main must be at least 18 inches apart and on the side and near the top and not in any case within 2 feet of the hub.
3. A brass corporation cock, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one size smaller than the service pipe.

4. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as he shall require.

5. The fee for tapping the main and putting in the corporation cock shall be fifteen dollars ($15.00) for each tap.

6. Water service pipes from the main to the meter setting shall be standard weight type K copper or approved PVC or cast iron. Pipe must be laid sufficiently waving, and to such depth as to prevent rupture from settlement or freezing.

6-3-10 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers.

6-3-11 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

6-3-12 COMPLETION BY THE CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond required by the Plumbing Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

6-3-13 PROPERTY OWNER’S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

6-3-14 FAILURE TO MAINTAIN. When any corporation cock, water service pipe or curb stop becomes defective or creates a nuisance and the owner fails to correct such nuisance the city may do so and assess the costs thereof to the property.

6-3-15 OPERATION OF CURB STOP. It shall be unlawful for any person except the water Superintendent to turn water on at the curb stop.

6-3-16 CROSS CONNECTION PROHIBITED. There shall be no cross-connections permitted between any existing private water system and the Municipal Waterworks Plant and System.

6-3-17 SUPPLY NOT GUARANTEED. The Municipality does not guarantee a constant supply of water to any consumer and shall not be liable for any damages for any failure to supply the same if for any cause the supply of water shall be shut off to make repairs, connections, or extensions or for any other purpose that may be found necessary. The right is reserved to cut off the supply of water at any time.

6-3-18 ENFORCEMENT. The provisions pertaining to enforcement of sanitary sewer regulations shall be applicable to any violations of this chapter.
6-3-19  ABANDONED CONNECTIONS. When an old water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation cock and made absolutely water-tight.

6-3-20  WATER METERS.

1. All water shall be supplied through meters that accurately measure the amount of water supplied to any building, except fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

2. All meters shall be so located that they are easily accessible to meter readers and repair personnel and protected from freezing.

3. The property owner shall have provided all necessary piping and fittings for proper setting of the meter by the city including a check valve on the discharge side and a gate valve on the internal side of the meter. Meter pits may be used only upon approval of the Superintendent and of a design and construction approved by him. All new water meter settings shall be installed with an outside reading device.

4. The Superintendent shall keep all water meters in repair and in working order. The consumer shall be charged for repairs. The cost of any repairs and the removal and replacing of any meter in need of repairs, shall be included in the next bill for water and in case the bill for repairs is not paid with the bill for water, the water shall be shut off from the consumer. All meters shall be tested for accuracy of measurement and if necessary the meters shall be cleaned and any meter that shows a substantial variation shall be condemned or repaired or a new meter placed as the Superintendent decides.

5. The Superintendent shall be permitted to enter the premises of any consumer at any reasonable time to remove of change a meter.

6. There shall be a fee charged to the property owner for each new installation of a water meter in accordance with the schedule of such fees approved by resolution of the Council.

6-3-21  WATER LINE EXTENSIONS.

1. All estimated costs for the installation of water main pipe and appurtenances shall be subject to the approval of the Council and in the event of any disagreement as to the amount of estimated costs, materials to be used or installation methods the determination of the Council shall be final and conclusive.

2. An owner of land abutting or adjoining a public street where no water main has been installed, may make application to the Council for the installation of a water main in said street for the purpose of serving said property in accordance with the following:

   a. A written request for such installation, and a sum equal to the total estimated cost of such installation from the point where the water main is presently installed and terminates to the point where the most distant boundary of the owner’s lot abuts the said public street, shall be submitted to the council.

   b. Upon receipt of the deposit, the city shall construct the said water main for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.

   c. In the event the actual cost to the city of installation of the water main is in excess of the estimated cost, the builder agrees to reimburse the city for such actual additional cost within thirty days after the presentation of a bill for such additional cost.

   d. In the event of the failure of the builder to reimburse the city, as specified in Subsection c above, the total of the additional cost shall be certified to the county auditor as a special assessment lien against the builder’s real estate. In his written request for installation of the water main the land owner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.
e. The additional cost of installation, as contemplated in Subsections c and d above, shall not exceed one hundred ten (110) percent of the estimated cost.

f. The expense of connecting the property of the builder to the water main laid in the public street shall be borne by him, in addition to the cost of constructing said water main, but such connection shall be under the supervision of the city.

3. In the event an owner of land abutting or adjoining a public street in which no water main has been previously installed desires to construct said water main at his own expense, he may do so, after making proper application to the city and receiving a permit to install such a water main, in accordance with the following:

a. The installation of such a water main by a land owner at his own expense shall be under the strict supervision of the city and shall, in all ways, conform to the requirements and specifications of the city.

b. When making application to the city for a permit to install such a water main, the applicant shall post with the city a surety bond in an amount to be set by the council and made a matter of record in the minutes of said council which shall be an amount equal to not less than one hundred ten (110) percent of the total estimated cost of such installation for the full distance from the termination point of the presently existing water main to the point where the furthest boundary of the applicant’s land abuts the public street, and which bond shall guarantee the installation of the water main in as short a time as reasonably possible, and shall further indemnify the city for the cost of completing the said project in the event the applicant fails to complete the same within a reasonable time, and shall further indemnify the city for all damages to public property incurred in such installation, and shall further hold the city harmless for any and all other damages arising from the installation of the said water main.

c. After the said water main has been installed, the same shall become the property of the city.

d. For purposes of determining connection charges and reimbursement under Sections 6-3-13(4) and (5) below, costs incurred by the owner shall be certified to the city and only so much of said costs as are approved by the city shall be used in determining connection charges and reimbursement as provided hereafter.

4. Following the installation of an extension to the water system under the provisions of this chapter, there shall be paid to the city a connection charge in an amount equal to one-half (1/2) the lineal construction cost for the full width of any lot, tract or parcel of ground to be served by a connection to such water main. Such connection charge shall be paid to the city prior to making any connection to said water main.

5. Upon receipt by the city of any connection charges under Section 6-3-13(4) above, the city shall deduct and retain an amount equal to one-half (1/2) the lineal construction cost for the full width of the builder’s property served by the water main and shall then remit to the builder the balance of such connection charges until said builder has been reimbursed for the expense of such installation less cost attributable to the property of the builder.

6. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the city and such extension shall be the property of the city and no other person shall have any right, title or interest therein.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

Editor’s Note: Rates and billing procedures for the Water System as set by the City Council may be found in Title VI, Chapter 5, Utilities - Billing Charges.
TITLE VI  PHYSICAL ENVIRONMENT

CHAPTER 4  UTILITIES - RESOURCE RECOVERY AND REFUSE DISPOSAL

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6-4-1 TITLE.  This chapter shall be known as the Ely Resource Recovery and Refuse Disposal Ordinance of 1992.

6-4-2 PURPOSE.  The purpose of this chapter is to provide for the sanitary storage, collection, and disposal of solid wastes and, thereby, to protect the citizens of the this city from such hazards to their health, safety, and welfare as may result from the uncontrolled disposal of solid wastes.

6-4-3 DEFINITIONS.

1.  “Aluminum cans” means large aluminum beverage containers.

2.  “Approved incinerator” means equipment or facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine to prevent ejection of particles of burning materials as approved by the Iowa Air Quality Bureau of the Iowa Department of Natural Resources.

3.  “Back yard burning” means the disposal of residential waste by open burning on the premises of the property where such waste is generated.

4.  “Bulky waste” means large household appliances such as stoves, refrigerators, television sets, washing machines, dryers, logs, and other items of similar size, and fixtures and materials too large to fit into a bag or rigid container. Bulky waste does not include tires, hazardous substances, dead animals, and batteries.

5.  “Collection bag” means a plastic, water tight bag securely tied or sealed. The bag shall not exceed 40 lbs. or 33 gallons when full. Collection bags may be used only for refuse.

6.  “Construction and demolition waste” means lumber, roofing material, sheathing, rubble, broken concrete, plaster and brick, conduit, pipe, wire insulation, and similar material which results from a construction, demolition, or remodeling process.

7.  “Curbside” means the area next to the curb or the traveled portion of the roadway.

8.  “Discard” means to place, cause to be placed, throw, deposit, or drop.

9.  “Dwelling unit“ means any room or group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.
10. “Director” or “executive director” means the director of the State Department of Natural Resources or his designee.

11. “Glass containers” means clean bottles and jars made from clear glass. Expressly excluded are window and other non-container glass, porcelain and ceramic products.

12. “Hauler” means the person, firm, or corporation under contract with the City of Ely to collect, convey, and dispose and market recyclables and refuse.


15. “Milk jug plastic” means #2 clear plastic of the type used for milk.

16. “Newspaper” means paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Soiled newspapers are excluded.

17. “Non-collectable waste” includes paint in liquid form, poisons, acids, caustics, explosives, and other hazardous substance that may cause damage or injury to collection equipment or personnel; human or animal excrement and dead animals.

18. “Open burning” means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

19. “Open dumping” means the depositing of solid wastes on the surface of the ground or into a body or stream of water.

20. “Owner” shall mean in addition to the record title-holder any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.

21. “Recyclables” mean designated consumer wastes which are collected and marketed for resource recovery. They include newspaper, tin and steel cans, aluminum beverage containers, container glass, and milk jug plastic.

22. “Recycling container” means the identifiable rigid container including lid, designated by the City of Ely for the collection, co-mingling, and disposal of recyclables.

23. “Refuse” means putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid wastes, and sewage treatment wastes in dry or semi-solid form. Recyclables shall be treated as refuse if not properly disposed of as set forth in Section 6-4-14. Refuse excludes household generated hazardous substances.

24. “Rigid container” means a closed, waterproof container not exceeding 33 gallons and 40 lbs. in capacity. It will be a type with tapered sides and handles for easy emptying. Rigid containers may be used for refuse.

25. “Rubble” means stone, brick, or similar inorganic material.

26. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass bedding, crockery, or litter of any kind.

27. “Salvage operation” means any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any product or material, including, but not limited to, chemicals, drums, metals, motor vehicles, or shipping containers.
28. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

29. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.

30. “Solid waste” shall mean garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the Code of Iowa.

31. “Tags” mean the tag designated by the City of Ely which is placed on refuse and bulky waste to indicate that the disposal fee has been paid.

32. “Tin and steel cans” mean a clean container made of tin coated iron or steel in which food or beverages were preserved.

33. “Toxic and hazardous wastes” mean waste materials, including but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials, and similar harmful wastes which require special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

34. “Yard wastes” means organic debris, e.g., grass clippings, leaves, small hedge or brush trimmings up to 1/4 inch maximum in diameter (for bagging), bark, branches, tree limbs (for bundling), flowers, etc. which are produced as part of yard and garden development and maintenance.

6-4-4 COMPLIANCE REQUIRED. All persons residing in dwelling units located within the city limits of Ely shall dispose of refuse and bulky waste in compliance with the provisions of this ordinance. Recyclables may be diverted from each dwelling unit’s refuse and disposed of in compliance with 6-4-14. All residential solid waste shall be prepared for disposal as set forth in this ordinance. The hauler may refuse to collect improperly prepared material.

6-4-5 HEALTH HAZARD. It shall be unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.

6-4-6 FIRE HAZARD. It shall be unlawful for any person to permit to accumulate quantities of solid waste or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.

6-4-7 COLLECTOR’S LICENSE. No person shall engage in the business of collecting, transporting, processing, or disposing of solid waste other than his own within the city without first obtaining from the city an annual license in accordance with the following:

1. Application. Application for a solid waste collector’s license shall be made to the clerk and provide the following:

   a. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

   b. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

   c. Collection Program. A complete description of the frequency, routes, and method of collection and transportation to be used.

   d. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.
2. Insurance. No collector’s license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the city evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

- Bodily Injury: $100,000 per person.
- Bodily Injury: $300,000 per occurrence.
- Property Damage: $50,000.

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the city of the expiration, cancellation, or other termination of coverage not less than ten (10) days prior to the effective date of such action.

3. License Fee. A license fee in the amount of twenty-five (25) dollars shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant.

4. License Issued. If the council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process, or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested license shall be issued to be effective for a period of one year from the date approved.

5. License Renewal. An annual license may be renewed simply upon payment of the required fee if operated in substantially the same manner as provided in the original application and by providing the clerk with a current listing of vehicles, equipment, and facilities in use.

6. License Not Transferable. No license authorized by this article may be transferred to another person.

7. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied, or used by him, provided such refuse is disposed of properly in an approved sanitary disposal project.

8. Grading or Excavation Excepted. No license or permit shall be required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, however, all such materials shall be conveyed in tight vehicles, trucks, or receptacles so constructed and maintained that none of the material being transported shall spill upon the public right of way.

6-4-8 COLLECTION SCHEDULE.

1. Refuse shall be prepared as set forth in Section 6-4-13 and collected weekly at the curbside. The City shall determine the weekday and hours of collection and may substitute for holidays.

2. Recyclables shall be prepared as set forth in Section 6-4-14 and will be collected weekly on the same day as refuse.

3. Bulky waste shall be collected by arrangement with the hauler.

6-4-9 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable, and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding, and shall be maintained in good order.

6-4-10 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to he vehicle or container and the area properly cleaned.
6-4-11 SANITARY DISPOSAL PROJECT DESIGNATED. The official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the city will be as designated by resolution.

6-4-12 PRIVATE SANITARY DISPOSAL PROJECT. No person may establish and operate a private sanitary disposal project within the city.

6-4-13 REFUSE.

1. Refuse shall be drained of liquid and placed within an approved collection bag or rigid container.

2. A tag shall be prominently attached to each collection bag or rigid container set on the curb side for collection.

3. Full rigid containers or collection bags shall be placed on the curb side for collection on and no sooner than twelve hours before the next scheduled collection date. Emptied containers should be removed from the curb side the day of collection.

6-4-14 RECYCLABLES.

1. Each dwelling unit shall be provided with a recycling container. (The recycling container is and remains the property of the City).

2. Recyclables shall be co-mingled and must be placed in the recycling container and the lid shall be firmly affixed, if possible. The container shall be placed on the curb side for collection.

3. Only items designated as recyclables shall be included within the container.

4. Each dwelling unit is responsible for the security of the recycling container. Lost or stolen containers may be replaced at the expense of the owner or renter of the property from City Hall.

6-4-15 BULKY WASTE.

1. The City Clerk shall maintain a schedule of fees for the collection of bulky waste.

2. Bulky waste shall be collected by arrangement with the hauler.

6-4-16 YARD WASTE.

1. All yard wastes shall be separated by the owner from all other solid waste accumulated on the premises and disposed of according to procedures required by the City from time to time in appropriate resolutions.

2. Tree limbs less than four (4) inches in diameter and brush shall be securely tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in storage containers. The weight of any individual bundle or container shall not exceed seventy-five (75) pounds.

3. Bags and bundles containing yard waste must be placed three (3) to six (6) feet from other garbage in refuse containers.

4. Yard waste shall not be placed at the curb side more than twelve (12) hours in advance of the regularly scheduled collection date.

6-4-17 TOXIC AND HAZARDOUS WASTES. The collection, storage, and disposal of toxic and hazardous wastes shall be subject to the following:

1. Labeling. All containers used for the storage, collection, or transportation of toxic or hazardous wastes shall be plainly marked so as to provide adequate notice of the contents thereof.
2. Vehicles and Containers. All vehicles and containers used for the storage, collection, and transportation of toxic and hazardous wastes shall be so constructed that they can be loaded, moved, and unloaded in a manner that does not create a danger to public health or safety and in compliance with federal and state laws, rules, and regulations.

3. Disposal. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous wastes. Such materials shall be transported by the owner, responsible person, or his agent, to a place of safe deposit or disposal as prescribed by the director of the State Department of Natural Resources.

6-4-18 RADIOACTIVE MATERIALS. Materials that are radioactive shall not be disposed of in a sanitary disposal project. Luminous timepieces are exempt.

6-4-19 STORAGE OF WASTE. Residential solid waste shall be stored in a manner so as not to create a nuisance or endanger the public.

6-4-20 ANTI-SCAVENTING. From the time of placement of the recycling container on the curbside, the contents thereof shall become the property of the City of Ely. The contents shall be collected only by the hauler or his designee. Unauthorized collection of said contents shall be a violation of this ordinance and punishable as set forth in Chapter 3, Title I of the City Code.

6-4-21 DUMPING PROHIBITED. There shall be no dumping of residential solid waste, construction and demolition waste, or non-collectable waste within the City of Ely or within privately owned dumpsters.

6-4-22 EXCEPTIONS. Nothing in this chapter shall prohibit the filling, leveling, or grading of land with earth, sand, dirt, stone, brick, gravel, rock, rubble, or similar inert wastes provided the materials are not contaminated or mixed with combustible, putrescible, or other waste materials, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

6-4-23 SANITARY DISPOSAL REQUIRED. It shall be the duty of each owner to provide for the sanitary disposal of all refuse accumulating on his premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the city may proceed to abate such nuisances in accordance with the provisions of Chapter 2 of Title III of the City Code, or by initiating proper action in district court.

6-4-24 PROHIBITED PRACTICES. It shall be unlawful for any person to:

1. Deposit refuse in any solid waste containers other than his own without the written consent of the owner of such containers.

2. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the city, or those of any other authorized waste collection service.

3. Dispose of refuse at a facility or location which is not an approved sanitary disposal project.

4. Engage in the business of collecting, transporting, processing, or disposing of refuse within the city without a contract therefor with the city or a valid permit therefor.

5. Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter.

6-4-25 OPEN BURNING RESTRICTED. No person shall allow, or cause to permit open burning of combustible materials, except that the following shall be permitted:

1. Disaster Rubbish. The open burning of rubbish, including yard waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.
2. Trees and Tree Trimmings. The open burning of trees and tree trimmings not originated on the premises provided that the burning site is operated by a local governmental entity, the burning site is fenced and access is controlled, burning is conducted on a regularly scheduled basis and is supervised at all times, burning is conducted only when weather conditions are favorable with respect to surrounding property, and the burning site is limited to areas at least one-quarter mile from any inhabited building. However, when the open burning of trees and tree trimmings causes air pollution as defined in Iowa Code Section 455B.131(3), the department may take appropriate action to secure relocation of the burning operation. Rubber tires shall not be used to ignite trees and tree trimmings.

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

4. Yard Waste. The disposal by open burning of yard waste originating on the premises. However, the burning of yard waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any inhabited building. Rubber tires shall not be used to ignite yard waste.

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources.


7. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided the director of the State Department of Natural Resources receives notice in writing at least one week before such action commences.

8. Variance. Any person wishing to conduct open burning of materials not exempted herein may make application for a variance to the executive director of the State Department of Natural Resources.

6-4-26  LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act and in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

Editor’s Note: Ordinance No. 129, Ely Resource Recovery and Refuse Disposal Ordinance of 1992, was passed and approved by the Ely City Council on September 28, 1992. Provisions relating to billing and rates for collection of refuse and recyclables is included in Chapter 5 of Title VI for the purposes of the City Code.
6-5-1 Utility Defined. For use in this chapter, utility is the sewer and water systems operated by the City, and refuse collection which may or may not be operated by the city.

6-5-2 Districts. There shall be one sewer and water district which encompasses all of the City of Ely, Iowa.

6-5-3 Disposition of Fees and Charges. All money received under this chapter shall be deposited in the City treasury not later than the last day of the month in which it was received and a written report of the amount and source of the fees and charges shall be on file with the City Clerk.

6-5-4 Water Rates.

1. Each consumer shall pay for water service provided him by the city based upon his use of water as determined by meters provided for in Chapter 3 of this Title. Each location, building, premises or connection shall be considered a separate and distinct consumer whether owned or controlled by the same person or not.

2. Water shall be furnished at the following monthly rates:

   a. Resident Customers.

      1,000 gallons or less: $9.25 (minimum charge)
      1,001 to 3,999 gallons: $9.25 + $0.75 per 1,000 gallons over 1,000 gallons
      4,000 to 7,999 gallons: $10.00 + $1.00 per 1,000 gallons over 2,999 gallons
      8,000 gallons or more: $15.00 + $1.50 per 1,000 gallons over 7,999 gallons

   b. Non-resident Customers and Bulk Purchasers. Non-resident customers of water service and bulk purchasers of city water shall be charged a sum equal to one and one-half (1 1/2) times the monthly rate charged to resident customers above. For bulk purchasers, this charge is for each purchase.

3. Water service shall be provided any consumer located outside the corporate limits of the city which the city has agreed to serve at the rates provided in 6-5-4(2). No such consumer, however, will be served unless he shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the council.

4. Water meters shall be read monthly.

5. Bills for water service (and other services described in this chapter) shall be due and payable monthly on or before the 15th day after the end of each month. All billings for water (and other services as described in this chapter) shall be due and payable at the office of the clerk. If any water bill is not paid within the fifteen (15) day period referenced above, it shall be considered delinquent and shall be assessed a penalty to be added to the water bill consisting of the larger of either two dollars ($2.00) or one and one-half (1 1/2) percent of the unpaid balance. If more than one billing is necessary on delinquent bills, they will be added to subsequent billings along with the penalties. The penalty for subsequent bills, if they become delinquent, shall be assessed upon the unpaid balance which shall include all previously assessed penalties.
6. The owner of a property which receives water service shall be responsible for the payment of all charges and fees associated with the provision of water service for such property.

7. At its sole option and as a convenience to property owners that lease or rent property to others, the city may, by written agreement, bill lessees or tenants for charges for water delivered to a property during such rental or lease period. Billing of lessees or tenants as authorized in this chapter shall not be initiated until executed agreements with the property owner and tenant have been filed with the city.

8. If the meter fails to register the quantity of water, the quantity shall be determined and the charge made, based upon the average quantity registered during such preceding period of time, prior to the date of failure to register as the superintendent of the water department shall decide.

9. No reduction will be made on account of leakage after the water has passed through the meter.

10. After the initial water connection in accordance with the application, permit, and other requirements of Chapter 3 of Title VI, water service and charges for such service shall begin and terminate as follows:

   a. Every person desiring a new water service, a resumption of water service, or a termination of water service shall make application therefor to the city clerk on a form provided by the clerk specifying the location of the premises for which and the date upon which water service of the termination thereof is desired. Each application shall be accompanied by a fee in the amount of ten dollars ($10.00) for either turning on or off the water supply to the described premises. Applications will be accepted only from current occupants or owners of the premises described in the application in the case of applicants for new service. Applications to terminate service will be accepted only from those persons who have been paying the water bills for the premises in the past, except in the case of an owner who can establish that a change in occupancy has occurred.

   b. In the case of applications for new service or resumption thereof, the application shall also be accompanied by a deposit in the amount of twenty dollars ($20.00) by the applicant. The city clerk shall hold same as security for the future payment of water, sewer, and garbage bills. This deposit shall be returned to the applicant upon termination of service in accordance with the above requirements if all bills are paid. Otherwise, upon termination of service, the balance of the deposit, if any, will be returned to the applicant after applying the deposit towards outstanding bills.

   c. Water service may be involuntarily terminated by the City of Ely for any consumer who has allowed any water, sewer or garbage bill to become delinquent in the following manner:

      (1) The city clerk shall notify each delinquent consumer that water service will be discontinued if payment, including late payment charges, upon all delinquent bills is not received within fifteen (15) days of the date of the notice. The notice shall be in writing and sent by regular first class mail to the delinquent customer at the premises served by the water system or to the customer’s last known address, if different from the served premises.

      (2) The superintendent shall shut off the supply of water to any delinquent consumer who has received the above required notice and who, not having contested the amount billed in good faith, has failed to make payment by the time demanded in the notice.
(3) Delinquent consumers who have had their water service involuntarily terminated in accordance with this paragraph shall be treated as if they were new applicants for service should they desire a resumption of service except that in addition to the payment of the turn on fee and a new deposit, all past delinquent bills and charges, including fee for turning off the water service must be paid before the application for resumption can be accepted.

d. Upon notice by the City Clerk that all of the above requirements have been complied with, the superintendent shall either begin or terminate water service by either turning on or turning off the water supply at the curb stop, or other stop appropriate to the type of premises served in accordance with the applicant’s desires as set forth in the application submitted under 6-5-4(10)(a).

6-5-5 REFUSE COLLECTION RATES AND MANNER OF COLLECTION.

1. Manner of Collection.

   a. The City of Ely shall bill the record owner of each property for the basic service fee for each dwelling unit. The charges will be billed monthly with the sewer and water bills.

   b. The owner of any property whose basic service fee account becomes delinquent and unpaid for a period of one month from the due date thereof shall be automatically subject to suspension of service for that property.

   c. If unpaid, those charges shall be a lien on the property in question. They may be collected in the same manner as delinquent taxes.

   d. Tags may be purchased at City Hall or from participating merchants.

   e. Hauler shall weigh in and out at Krob Elevator in such a way to generate separate data for residential and commercial data.

2. Rates.

   a. The owner of record shall pay a basic solid waste collection service fee of $7.00 per month for each dwelling unit.

   b. Tags shall cost $1.00 each. Tags may be purchased at City Hall or from participating merchants. They must be used for refuse and bulky waste as follows:

   
   (1) Regular Trash: 1 tag to each container, with a limit of 40 pounds per container.

   (2) Tags for large items: The following items will require a different colored tag so marked for special pick-up:

<table>
<thead>
<tr>
<th>Item</th>
<th>Tags</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stove</td>
<td>6</td>
</tr>
<tr>
<td>Water heater</td>
<td>6</td>
</tr>
<tr>
<td>Refrigerator or freezer</td>
<td>10</td>
</tr>
<tr>
<td>Washer</td>
<td>8</td>
</tr>
<tr>
<td>Dryer</td>
<td>6</td>
</tr>
<tr>
<td>Air conditioner</td>
<td>6</td>
</tr>
<tr>
<td>Straight-back chair</td>
<td>1</td>
</tr>
<tr>
<td>Stuffed chair</td>
<td>2</td>
</tr>
<tr>
<td>Lamp</td>
<td>1</td>
</tr>
<tr>
<td>Sofa</td>
<td>4</td>
</tr>
<tr>
<td>Sofa Bed</td>
<td>6</td>
</tr>
<tr>
<td>Carpet (12’ x 12’)</td>
<td>4</td>
</tr>
<tr>
<td>Mattress</td>
<td>3</td>
</tr>
<tr>
<td>Box springs</td>
<td>3</td>
</tr>
<tr>
<td>Dresser</td>
<td>4</td>
</tr>
<tr>
<td>All other items</td>
<td>1</td>
</tr>
</tbody>
</table>

(3) Each tag shall cost $1.00.
6-5-6 RATE OF SEWER RENTAL AND MANNER OF PAYMENT. Each premise shall pay a sewer rental in the amount of eighty-five (85) percent of the bill for water and water service attributable to the premises for the premises served. Premises having more than one family or business unit located thereon and served by the sewer system, but having only one water bill for the entire premises shall be charged the normal rent as set forth above and, for each additional family or business unit located thereon and served by a connection to the sewer system, an additional amount of eighty-five (85) percent of a minimum water bill under the water works ordinances and amendments thereto, of the City of Ely, Iowa. Home operated businesses which are permitted under residential zoning ordinances of the City of Ely shall not be considered as an additional business unit under the provisions of this section. The rent shall be paid with the water bill at the same time as payment of the water bill is due and under the same condition as to penalty for late payment, at the office of the City Clerk, beginning with the next payment after the enactment of this Ordinance, or, if connection has not been made, after the connection to the sewer system is made. The provisions stated herein shall apply to each and every premises within the corporate limits of the City of Ely, except where, in the judgment of the superintendent and the council, special conditions exist to the extent that the application of the sewer rental provided herein would be inequitable or unfair to either the city or the premises, a special rate shall be proposed by the superintendent and submitted to the council for approval by resolution.

(Code of Iowa, Sec. 384.84(1))

6-5-7 DETERMINATION AND PAYMENT OF SEWER RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS. Users whose premises have a private water system shall pay a sewer rent set by the council by an estimate agreed to by the user or by metering the water system. The rates shall be the same as provided in Section 6-5-8 applied as if a City water bill were to be paid. Rent shall be paid at the same time and place as provided in Section 6-5-8.

(Code of Iowa, Sec. 384.84(1))

6-5-8 LIABILITY FOR SANITARY SEWER SERVICE. The owner of the premises served and the occupant thereof and the user of the sanitary sewer service shall be jointly and severally liable for the sewer service provided said premises.

6-5-9 SPECIAL AGREEMENTS FOR SEWER SERVICE PERMITTED. No statement in this chapter shall be construed as preventing a special agreement, arrangement or contract between the council, and any industrial concern whereby industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the council.

6-5-10 LIENS FOR NON-PAYMENT. Water service, refuse collection, and sewer rental balances remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the clerk to the county auditor for collection in the same manner as property taxes.

Footnote: See Code of Iowa, Sec. 384.38(3) concerning establishing districts and connection fees.
6-6-1 Excavation Permit Required

6-6-2 Permit Application

6-6-3 Traveling on Barricaded Street Prohibited

6-6-4 Use of Parkings

6-6-5 Use of Streets for Business Purposes

6-6-6 Washing Vehicle on Streets Prohibited

6-6-7 Burning Prohibited

6-6-8 Maintenance of Parking or Terrace

6-6-9 Failure to Maintain Parking or Terrace

6-6-10 Dumping of Snow

6-6-11 Driveway Culverts

6-6-12 Rules and Regulations

6-6-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

(Code of Iowa, Sec. 364.12(2))

6-6-2 PERMIT APPLICATION.

1. Application. Before such permit shall be granted, the person shall file with the city a written application. The application shall give an exact description of the property, by lot and street number, in front of or along which it is desired to excavate, state the purpose and for whom and by whom the excavation is to be made, and who will be responsible for the refilling of said ditch and restoration of the street surface.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades and Lighting. Adequate barricades and warning lights meeting standards specified by the city shall be so placed as to protect the public from hazard. Any costs incurred by the city in providing or maintaining adequate barricades or warning lights shall be paid to the city by the permit holder.

4. Bond Required. The applicant shall post with the city a penal bond in the sum of one thousand dollars ($1,000) issued by a surety company authorized to issue such bonds in the State of Iowa. The bond shall guarantee the permittee’s payment for any damage done to the city or to public property, and payment of all costs incurred by the city in the course of administration of this section.

5. Restoration of Public Property. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city, at the expense of the property owner.

6. Inspection. All work shall be subject to inspection by the city. Backfill shall not be deemed completed, nor resurfacing of any improved street surface begun, until such backfill is inspected and approved by the city. The permit holder shall provide the city with notice at least twenty-four hours prior to the time when inspection of backfill is desired.

7. Completion by the City. Should any excavation in any street or alley be left open or unfinished, for a period of twenty-four hours or should the work be improperly done, the city shall have the right to finish or correct such work and the expense shall be charged to the permit holder and/or property owner.

8. Property Owner’s Responsibility. All costs and expenses incident to the excavation shall be borne by the permit holder and owner. The permit holder and owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by such excavation.

9. Permit Issued. Upon approval of the application and filing of bond, a permit shall be issued.
6-6-3 TRAVELING ON BARRICADED STREET PROHIBITED. It shall be unlawful for any person to travel or operate any vehicle on any street or public way temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any city official, police officer, or member of the fire department.

6-6-4 USE OF PARKINGS. It shall be unlawful to temporarily or permanently park, store, or place any car, truck, vehicle, junk, or any other goods, wares, and merchandise of any kind upon any street parking without permission of the council.

6-6-5 USE OF STREETS FOR BUSINESS PURPOSES. It shall be unlawful to park, store, or place machinery, or any other goods, wares, and merchandise of any kind upon any street for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the council.

6-6-6 WASHING VEHICLE ON STREETS PROHIBITED. It shall be unlawful for any person to use any public sidewalk or street for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This shall not be construed to prevent any person from washing or cleaning his own vehicle or equipment when it is lawfully parked in the street.

6-6-7 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street.

6-6-8 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way.

(Code of Iowa, Sec. 364.12(c))

6-6-9 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12(e))

6-6-10 DUMPING OF SNOW. It shall be unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of streets so as to obstruct gutters, or impede the passage of vehicles upon the street or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the streets temporarily, such accumulation shall be removed promptly by the property owner or his agent, and only after first making arrangements for such prompt removal at the owner’s cost of the accumulation within a reasonably short time.

6-6-11 DRIVEWAY CULVERTS. The property owner shall, at his own expense, install any culvert deemed necessary under any driveway or any other access to his property, and before installing a culvert, permission must first be obtained from the city. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event he fails to do so, the city shall have the right to make the repairs. If the property owner fails to reimburse the city for the cost of said repairs, the cost shall be certified to the county auditor and specially assessed against the property as by law provided.

6-6-12 RULES AND REGULATIONS. The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.
6-7-1 Established Grades

6-7-1 ESTABLISHED GRADES. The grades of all streets, alleys, and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified, and established as official grades.

6-7-2 Record Maintained. The clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

Editor’s Note: The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

Ordinance history unknown.
TITLE VI PHYSICAL ENVIRONMENT
CHAPTER 8 SIDEWALK REGULATIONS

6-8-1 Purpose
6-8-2 Definitions
6-8-3 Cleaning Snow, Ice, and Accumulations
6-8-4 Maintenance Responsibility
6-8-5 Liability of Abutting Owner
6-8-6 City May Order Repairs
6-8-7 Ordering Sidewalk Improvements
6-8-8 Repairing Defective Sidewalks
6-8-9 Notice of Inability to Repair or Barricade
6-8-10 Standard Sidewalk Specifications
6-8-11 Permits for Construction or Removal
6-8-12 Indemnification
6-8-13 Failure to Obtain Permit; Remedies

6-8-14 Inspection and Approval
6-8-15 Barricades and Warning Lights
6-8-16 Interference with Sidewalk Improvements
6-8-17 Special Assessments for Construction and Repair
6-8-18 Notice of Assessment for Repair or Cleaning Costs
6-8-19 Hearing and Assessment
6-8-20 Billing and Certifying to County
6-8-21 Awnings
6-8-22 Encroaching Steps
6-8-23 Openings and Enclosures
6-8-24 Fires on Sidewalks
6-8-25 Fuel on Sidewalk
6-8-26 Defacing
6-8-27 Merchandise Display
6-8-28 Sales Stands or Vending Machines
6-8-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-8-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:
   a. vertical separations equal to three-fourths (3/4) inch or more.
   b. horizontal separations equal to three-fourths (3/4) inch or more.
   c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
   d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
   e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
   f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
   g. a sidewalk with any part thereof missing to the full depth.
   h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

4. Established Grade. That grade established by this city for the particular area in which a sidewalk is to be constructed.

5. Once-course Construction. Placing the full thickness of the concrete at one time, using the same mixture throughout.


7. Sidewalk. All permanent public walks in business, residential, or suburban areas.

6-8-3 CLEANING SNOW, ICE, AND ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Auditor for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(2b) and (2e))
6-8-4 MAINTENANCE RESPONSIBILITY. The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.

(Code of Iowa, Sec. 364.12(2c))

6-8-5 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend.

A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or condition or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

6-8-6 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required the council may serve notice on such owner, by certified mail, requiring him to repair, replace, or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice the council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12(2d, e))

6-8-7 ORDERING SIDEWALK IMPROVEMENTS. The City Council may by resolution order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. If the owners of a majority of the linear feet of the property fronting on the improvement, petition the council therefore, new permanent sidewalks shall not be required unless three-fourths (3/4) of all the members of the council, by resolution, order the making thereof, all in accordance with state law for special assessments. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

(Code of Iowa, Sec. 364.12(e))

6-8-8 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(e))

6-8-9 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

6-8-10 STANDARD SIDEWALK SPECIFICATIONS. Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:
1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.

2. Sidewalks shall be on one-course construction.

3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) or a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the city engineer.

4. The sidewalk bed shall be graded to the established grade.

5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.

7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works on a case-by-case basis.

8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.

9. All sidewalks shall have a finish according to standard sidewalk specifications in standard engineering practices.

10. Ramps for the handicapped. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk.

(Code of Iowa, Sec. 216C.9)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City, and in accordance with the standard sidewalk specifications set forth in this chapter.

12. Grade. Curb tops shall be on level with the center line of the street which shall be the established grade.

13. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (1/2) inch above the curb for each foot between the curb and the sidewalk.

6-8-11 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done with the approval of the City. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to
determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-8-12 INDEMNIFICATION. Any person securing a permit as required above shall agree to hold the city free from all liability for damages on account of injuries received by anyone through negligence of such person of his agents or employees in making the sidewalk improvements, or by reason of such person’s failure to properly guard the premises.

6-8-13 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

6-8-14 INSPECTION AND APPROVAL. Upon final completion, the City shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the City shall indicate this on both copies of the permit.

6-8-15 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind shall be deposited on any street, avenue, highway, passageway, or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the constructor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

6-8-16 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice or warning device provided by this chapter.

6-8-17 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR. The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.

(Code of Iowa, Sec. 384.38)

6-8-18 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)
HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds $100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

AWNINGS. It shall be unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven (7) feet above the surface of the street or sidewalk and the roof or covering is made of duck, canvas, or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

ENCROACHING STEPS. It shall be unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the council.

OPENINGS AND ENCLOSURES. It shall be unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the council.

2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

FIRES ON SIDEWALKS. It shall be unlawful for a person to make a fire of any kind on any sidewalk.

FUEL ON SIDEWALK. It shall be unlawful for a person to place or allow any fuel to remain upon any sidewalk.

DEFACING. It shall be unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

MERCHANDISE DISPLAY. It shall be unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

SALES STANDS OR VENDING MACHINES. It shall be unlawful for a person to erect or keep any stand or vending machines for the sale of fruit, vegetables, candy, soft drinks, or other substances or commodities on any sidewalk without first obtaining a written permit from the council.
6-9-1 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the city that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Ordinance. All street names, except streets named as a part of subdivision or platting procedure, shall be named by ordinance.

3. Planning Commission. Proposed street names shall be referred to the planning commission for review and recommendation.

6-9-2 CHANGING NAME OF STREET. The council may change the name of a street.

6-9-3 RECORDING STREET NAMES. Following adoption of an ordinance naming or changing the name of a street, the mayor and clerk shall certify and file a copy thereof with the county recorder and county auditor.

6-9-4 OFFICIAL STREET NAME MAP. Streets within the city are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the mayor and bearing the seal of the city under the following words: “This is to certify that this is the Official Street Name Map referred to in Section 6-9-4 of the City Code of Ely, Iowa.”

6-9-5 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after amendment has been approved by the council with an entry on the Official Street Name Map as follows: “On (date), by official action of the city council, the following changes were made in the Official Street Name Map: (brief description),” which entry shall be signed by the mayor and attested by the clerk. No amendment to this article which involves naming or changing the name of a street shall become effective until after such change and entry has been made on said map.
6-10-1 POWER TO VACATE. When, in the judgment of the council, it would be in the best interest of the city to vacate a street or alley or portion thereof, they may do so in accordance with the provisions of this chapter.  
(Code of Iowa, Sec. 364.12 (2)(a))

6-10-2 PLAN COMMISSION. Any proposal to vacate a street or alley shall be referred by the council to the planning commission for its study and recommendation prior to further consideration by the council. The planning commission shall submit a written report including recommendations to the council within thirty (30) days of the date the proposed vacation was referred to it.  
(Code of Iowa, Sec. 392.1)

6-10-3 NOTICE OF VACATION HEARING. The council shall cause to be published a notice of public hearing at which time the proposal to vacate shall be considered.

6-10-4 FINDINGS REQUIRED. No street or alley, or portion thereof, shall be vacated unless the council finds that:

1. Public Use. The street or alley proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.  
(Code of Iowa, Sec. 364.15)

6-10-5 DISPOSAL OF STREETS OR ALLEYS. When in the judgment of the council it would be in the best interest of the city to dispose of a vacated street or alley, or portion thereof, they may do so by resolution following notice and hearing.  
(Code of Iowa, Sec. 364.7)

6-10-6 DISPOSAL BY GIFT LIMITED. The city may not dispose of a vacated street or alley, or portion thereof, by gift except to a governmental body for a public purpose.  
(Code of Iowa, Sec. 364.7(3))

Editor’s Note: The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets and/or alleys and remain in full force and effect.

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<td>73</td>
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6-11-1 PURPOSE. This chapter hereby allows the City of Ely, Iowa to establish rates for the provision of certain services to its residents.

6-11-2 SERVICES AND FEE. The City Council shall establish by resolution the fee to be charged for each service.

6-11-3 SERVICES TO BE PERFORMED BY CITY EMPLOYEES. All services in which equipment belonging to the city is used shall be performed by persons employed by the City of Ely, Iowa. Equipment belonging to the City of Ely, Iowa, may not be operated, moved, used, or otherwise manipulated by anyone except by persons employed by the City of Ely, Iowa.

6-11-4 COLLECTION OF FEE. At the time an authorized service is performed by the City, payment of the fee, as established by resolution, shall be made by the property owner to the City Clerk.

6-11-5 ADDITIONAL COMPENSATION OF EMPLOYEE. It shall be unlawful for any person employed by the City of Ely, Iowa, while providing authorized services to a resident or residents, to request, demand, or receive any compensation other than that fee collected by the City Clerk as set by resolution of the City Council. 
(Code of Iowa, Sec. 721.2(3))

6-11-6 USE OF CITY PROPERTY. It shall be unlawful for any person employed by the City of Ely, Iowa, to use or permit to be used by another person the property or equipment owned by the City of Ely, Iowa, for any private purpose or for personal gain, to the detriment of the City of Ely, Iowa.
(Code of Iowa, Sec. 721.2(5))
### TITLE VI PHYSICAL ENVIRONMENT

#### CHAPTER 12 PLANNING AND ZONING COMMISSION

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6-12-1 **PLANNING AND ZONING COMMISSION.** There shall be a city planning and zoning commission, hereinafter referred to as the commission, consisting of seven (7) members, who shall be citizens of the city and qualified by knowledge or experience to act in matters pertaining to the development of a city plan and who shall not hold elective office in the city government, appointed by the council.

6-12-2 **TERM OF OFFICE.** The term of office of the members of the commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

6-12-3 **VACANCIES.** If any vacancy shall exist on the commission caused by resignation, or otherwise, a successor of the residue of said term shall be appointed in the same manner as the original appointee.

6-12-4 **COMPENSATION.** All members of the commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the council.

6-12-5 **POWERS AND DUTIES.** The commission shall have and exercise the following powers and duties:

1. **Selection of Officers.** The commission shall choose annually at its first regular meeting one of its members to act as chairman and another as vice-chairman, who shall perform all the duties of the chairman during his absence or disability.

2. **Adopt Rules and Regulations.** The commission shall adopt such rules and regulations governing its organization and procedure as it may deem necessary.

3. **Annual Report.** The commission shall each year make a report to the mayor and council of its proceedings, with a full statement of its receipts, disbursements and the progress of its work during the preceding year.

4. **Appointment of Assistants.** Subject to the limitations contained in this chapter as to the expenditure of funds, it may appoint such assistants as it may deem necessary and prescribe and define their respective duties and fix and regulate the compensation to be paid to the several persons employed by it.

5. **Comprehensive Plan.** It shall have full power and authority to make or cause to be made such surveys, studies, maps, plans, or charts of the whole or any portion of the city or of any land outside thereof, which in the opinion of the commission bears relation to the comprehensive plan and shall bring to the attention of the council and may publish its studies and recommendations.

6. **Comprehensive Plan: Preparation.** For the purpose of making a comprehensive plan for the physical development of the city, the commission shall make careful and comprehensive studies of present conditions and future growth of the city and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the city and its environs which will, in accordance with the present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.
7. Comprehensive Plan: Public Hearing. Before adopting a comprehensive plan as referred to in the preceding paragraph, or any part of it, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time of which shall be given by one publication in a newspaper of general circulation in the city not less than seven (7) or more than twenty (20) days before the date of the hearing. However, in no case shall the public hearing be held earlier than the next regularly scheduled council meeting following the published notice. The adoption of the plan or part or amendment thereof shall be by resolution of the commission carried by the affirmative vote of not less than two-thirds of the members of the commission. After adoption of said plan by the commission an attested copy thereof shall be certified to the council and the council may approve the same. When said plan or any modification or amendment thereof shall receive the approval of the council, the said plan until subsequently modified of amended as herein authorized shall constitute the official city plan.

(Amended by Ordinance No. 117)

8. Comprehensive Plan: Amendments. When the comprehensive plan as herein before provided has been adopted no substantial amendment or modification thereof shall be made without such proposed change first being referred to the commission for its recommendations. If the commission disapproves the proposed change it may be adopted by the council only by the affirmative vote of at least three-fourths (3/4) of the members of said council.

9. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefore obtained, nor shall any permit be issued by any department of the city for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the commission after thirty (30) days’ written notice requesting such recommendations, shall have failed to file same.

10. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or re-subdivisions of land embraced in the city or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the city, shall first be submitted to the commission and its recommendations obtained before approval of the council.

11. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the city plan shall be finally approved by the city or the character or location thereof determined, unless such proposal shall first have been submitted to the commission and the latter shall have had thirty (30) days within which to file its recommendations thereon.

12. Zoning. The commission shall have and exercise all the powers and duties and privileges in preparing and amending the city zoning code as provided by Chapter 414 of the Code of Iowa.

13. Fiscal Responsibilities. The commission shall have full, complete and exclusive authority to expend for and on behalf of the city all sums of money appropriated to it, and to use and expend all gifts, donations or payments whatsoever which are received by the city for planning and zoning purposes.

14. Limitation on Entering Contracts. The commission shall have no power to contract debts beyond the amount of its income for the present year.
TITLE VI  PHYSICAL ENVIRONMENT  
CHAPTER 13  ZONING ORDINANCE  

6-13-1  Adoption and Repeal  
6-13-11  Non-Conforming Uses  
6-13-2  Short Title  
6-13-12  Administration and Enforcement  
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6-13-8  Fence and Hedge Regulations  
6-13-18  Effective Date  
6-13-9  Supplementary District Regulations  
6-13-10  Application of District Regulations  

6-13-1  ADOPTION AND REPEAL.  This is an Ordinance establishing comprehensive zoning regulations for the City of Ely, Iowa, and providing for the administrative enforcement, and amendment thereof; and to repeal all Ordinances or resolutions in conflict therewith.  This Ordinance is adopted by authority of, and for the purpose set forth in the Code of Iowa and shall be codified as Chapter 5 of the Municipal Code, City of Ely, Iowa.  

6-13-2  SHORT TITLE.  This Ordinance shall be known, cited, and referred to as the Ely Zoning Ordinance of 1992.  

6-13-3  INTENT AND PURPOSE.  The Ely Zoning Ordinance, as set forth in the text and map which constitute this Ordinance, is adopted with the purpose of improving and protecting the public health, safety, comfort, convenience, and general welfare of the people and in accordance with the Code of Iowa Chapter 414.3 (1991). The fulfillment of this purpose is to be accomplished by seeking:  

1. To lessen congestion on the public streets.  
2. To avoid undue concentration of population.  
3. To prevent the overcrowding of land, thereby ensuring proper living and working conditions and preventing the development of blight and slums.  
4. To establish adequate standards for the provision of light, air, and open spaces.  
5. To facilitate the provision of adequate transportation, and of other public requirements and services such as water, sewerage, schools, and parks.  
6. To zone all properties with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.  
7. To protect residential, business, commercial, and industrial areas alike from harmful encroachment by incompatible uses and to ensure that land allocated to a class of uses shall not be usurped by other inappropriate uses.  
8. To avoid the inappropriate development of lands and provide for adequate drainage, curbing of erosion, and reduction of flood damage.  
9. To fix reasonable standards to which buildings and structures shall conform.
10. To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions or limitations imposed herein.

11. To foster a more rational pattern of relationship between residential, business, commercial, and manufacturing uses for the mutual benefit of all.

12. To isolate or control the location of unavoidable nuisance-producing uses.

13. To prescribe penalties for any violation of the provisions of this Ordinance or of any amendment thereto.

6-13-4 RULES AND DEFINITIONS. In the interpretation of this Ordinance the rules and definitions of this Section shall be observed and applied, except when the context clearly indicates otherwise.

A. Rules:

1. Words used or defined in one tense or form shall include other tenses and derivative forms.

2. The word "shall" is mandatory.

3. The word "may" is permissive.

4. The words "municipal code" means the Municipal Code of the City of Ely.

5. The word "person" includes individuals, firms, corporations, associations, and any other similar entities.

6. The word "county" means the County of Linn, Iowa.

7. The word "City" means the City of Ely.

8. The words "City Council" mean the City Council of the City of Ely Iowa.

9. The word "state" means the State of Iowa.

10. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

B. Definitions:

1. Accessory Use or Structure -- A use or structure subordinate to the principal use of a building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land.

2. Agriculture -- Farms and general farming, including horticulture, floriculture, dairying, livestock and poultry raising, farm forestry and other similar enterprises or uses, but no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals, except such animals as have been raised on the premises or have been maintained on the premises for the use and consumption of persons residing on the premises. No land use may be classified as Agriculture unless the said parcel is of at least ten (10) acres in size.

3. Alley -- Any dedicated public way affording a secondary means of vehicular access to abutting property, and not intended for general traffic circulation.
4. Alterations, Structural -- Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

5. Apartment -- A room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are a multiple of these units.

6. Apartment House -- A building arranged, intended, designed to be occupied by three or more families living independently of each other.

7. Balcony -- An unroofed platform, unenclosed except by a railing, which projects from the outer wall of any building above ground level with or without support other than the building.

8. Basement -- That portion of a building which is partly below grade but having more than one-half its height above the average grade of the adjoining ground. For the purpose of this Ordinance a basement shall not be considered a story unless designed or used for habitable space or business purposes.

9. Bed and Breakfast -- Any single family or multi-family dwelling unit used for the purpose of overnight or temporary lodging for one (1) or more persons wherein meals may also be provided.

10. Board -- Board of Adjustment as described in Chapter 414.7 of the Code of Iowa.

11. Boarding House -- A building other than a hotel where, for compensation and by arrangement, meals or lodging and meals are provided for three (3) or more persons.

12. Building -- Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind.

13. Building, Height Of -- The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height level between eaves and ridge for gable, hip and gambrel roofs.

14. Building Line -- A line formed by the face of the building, and for the purposes of this Chapter, a minimum building line is the same as a front set-back line.

15. Building, Main or Principal -- A building in which is conducted the principal use of the lot on which it is situated.

16. Cellar -- That portion of a building partially or wholly, underground, having half or more than half its clear height below the grade plane. A cellar shall be non-habitable and shall not be counted as a story.

17. Child Day Care Facility -- A "Child Day Care Facility" is a facility in which six or more children are received for part or all of a day for care and/or instruction. The facility shall be approved and licensed by the State of Iowa. The term "Child Day Care Facility", includes but is not limited to the following: nursery schools, child care centers, day nurseries, kindergartens, preschools and play groups, but does not include bona fide kindergartens or nursery schools operated by public or private elementary or secondary school systems.

18. Daycare -- The care, supervision, or guidance of a child by a person other than the parent, guardian, relative or custodian for periods of two hours or more and less than twenty-four hours per day per child on a regular basis in a place other than the child's home.

19. Deck -- A covered or uncovered platform area projecting from the wall of a building, accessible at or from above grade, and attached to the ground.
20. Dwelling -- Any building or portion thereof which is designed for and used exclusively for residential purposes. Said building shall have an outside dimension of no less than twenty (20) feet by thirty (30) feet, excluding any attached garage, if any.

21. Dwelling, Single-Family -- A building designed for or occupied exclusively by one (1) family.

22. Dwelling, Two-Family -- A building designed for or occupied exclusively by two (2) families living independently of each other.

23. Dwelling, Multiple -- A building designed for or occupied exclusively by more than two (2) families living independently of each other.

24. Family -- One (1) person or two (2) or more persons related by direct lineal descent, marriage, adoption or placement by a governmental or social service agency, occupying a dwelling unit as a single housekeeping organization. A family may also be two (2), but not more than two (2) persons not related by blood, marriage or adoption.

25. Family Group Care Home -- A residential facility having fifteen (15) beds or less providing 24-hour room, board, personal assistance, and a program of services designed to meet the special needs of mentally or physically disabled persons who cannot live alone. The home must be duly approved and licensed as required by applicable state and local regulations.

26. Farm -- An area of not less than ten (10) acres which is used for the growing of the usual farm products such as vegetables, fruits and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals.

27. Floor Area -- The total area of all floors of a building as measured to the outside surfaces of exterior walls and including halls, stairways, elevator shafts, attached garages, porches, and balconies.

28. 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.

29. Garage, Private -- A building that is subordinate or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the buildings to which it is accessory. Not more than one (1) of the vehicles may be a commercial vehicle and of not more than two (2) ton capacity.

30. Garage, Public -- A building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

31. Garage, Self Service Storage Facility -- Means real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing personal property.

32. Garage, Storage -- A building or portion thereof designed or used exclusively for term storage by pre-arrangement of motor driven vehicles, as distinguished from daily storage furnished transients and personal belongings, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired or sold.

33. Garden House -- An accessory structure of not more than 140 square feet in area and having a height of eight (8) feet or less constructed primarily for storage.

34. 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 street shall be grade. The purpose is to regulate the number of stories and height of a structure.

35. Home Occupation -- An accessory use consisting of an occupation or profession carried on by a person residing on the premises.

36. Hotel -- A residential building licensed by the State and occupied and used principally as a place of lodging for guests. Hotels may or may not provide meals and there are usually no cooking facilities in guest rooms.

37. Institution -- A building occupied by a non-profit corporation or a non-profit establishment for public use.

38. Junk Yard -- Any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, or handled, including the dismantling or "wrecking" of automobiles or other machinery, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.

39. Kennel -- An establishment where small animals are bred, raised, trained, groomed and boarded for compensation, sale or other commercial purposes.

40. Loading Space -- An off-street space within the main building or on the same lot providing for the standing, loading, or unloading of commercial vehicles, having a minimum dimension of twelve (12) by thirty-five (35) feet and a vertical clearance of at least fourteen (14) feet.

41. Lot -- A parcel of land occupied or intended for occupancy by one main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.

42. Lot, Corner -- A lot abutting upon two (2) or more streets at their intersections.

43. Lot, Depth Of -- The mean horizontal distance between the front and rear lot lines.

44. Lot, Double Frontage -- A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

45. Lot, Interior -- A lot other than a corner lot.

46. Lot Lines -- The lines bounding a lot as defined herein:

(a) Front Lot Line: In the case of an interior lot, that line separating said lot from the street. In the case of a corner lot, or double frontage lot, "front lot line" shall mean that line separating said lot from that street which is designated as the front street in the plat and in the application for a zoning compliance permit.

(b) Rear Lot Line: That lot line opposite and most distant front lot line. In the case of a lot pointed at the rear or triangular shaped, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet long farthest from the lot line and wholly within the lot.

(c) Side Lot Line: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

47. Lot of Record -- A lot which is part of a subdivision, the plat of which has been recorded in the office of the recorder of Linn County.
48. Lot Width -- The width of a lot measured at the building line and at right angles to its depth where the minimum building line or setback intersects the side lot lines.

49. Lot, Reversed Corner -- A corner lot, the rear of which abuts the side of another lot.

50. Main Building -- A building in which is conducted the principal use of the lot upon which it is situated.

51. Main Use -- The principal use to which the premises are devoted and the principal purpose for which the premises exists.

52. Manufactured Home -- A factory-built dwelling, which is manufactured or constructed under the authority or 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home constructed to the Federal Manufactured Home Construction and Safety Standards is not a manufactured home unless it has been converted to real property and is taxed as a site built dwelling as is provided in Code of Iowa (1991), section 135D.26. For the purpose of any of these regulations, manufactured homes shall be considered the same as a single-family detached dwelling.

53. Mobile Home -- A vehicle without motive power used, or so originally constructed as to permit being used, as a conveyance upon the public streets or highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof for human habitation, dwellings, or sleeping quarters and which is capable of being moved, towed, or transported by another vehicle. This definition shall also include and apply to such vehicles or structures that are located on a permanent or temporary foundation.

54. Mobile Home Park -- Any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored either free of charge or for revenue purposes and intended for such use shall include any building, structure, tent, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.

55. Mobile Home Converted to Real Estate -- A mobile home which has been attached to a permanent foundation on real estate owned by the mobile home owner, rendering it totally immobile, and which has been inspected by the assessor, the mobile home vehicle title, registration, and license plates collected from the owner, and the property entered upon the tax roles of Linn County.

56. Nonconforming Building -- A building or portion thereof that does not conform to the provisions of this Chapter relative to height, bulk, area or yard size requirements for the district in which it is located.

57. Nonconforming Use -- A use which lawfully occupied a building or land but does not conform to the use regulations of the district in which it is located.

58. Nursing Home -- An institution which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients who, on admission, are not as a rule, acutely ill and who do not usually require special facilities, such as an operating room, x-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments, for which continuing medical and skilled nursing care is indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. A major factor which distinguishes a nursing home is that the residents will require the individualization of medical care. For the purpose of this (zoning) Ordinance, a "nursing home" shall also be considered a "convalescent home."

59. Parking Space -- A surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having a area of not less than one hundred and eighty (180) square feet exclusive of driveways,
permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for vehicles.

60. Plan -- A Comprehensive or General Development Plan of the City of Ely.

61. Principal Use -- The main use of land or structures as distinguished from secondary or accessory use. For example, a house is a principal use in a residential area; a garage or pool is an accessory use.

62. Setback -- The distance required to obtain the front, side or rear yard open space provisions of this Chapter.

63. Sign -- Any structure or part thereof or device attached thereto or painted, or represented thereon, which shall display or include and letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction, or advertisement. The word "sign" includes the word "billboard."

64. Story -- That portion of a building, other than a basement not having over 50 percent of its height below grade, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it then the space between the floor and the ceiling next above it.

65. Story, Half -- A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three (3) feet above the floor of such story, except that any partial story used for residence purposes, other than for janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

66. Street -- A public thoroughfare which affords the principal means of access to abutting property.

67. Structure -- Anything constructed or erected, the use of which requires more or less permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, gazebos, ground-based satellite dishes, and solar collectors.

68. Travel Trailer or Motor Home -- A vehicle with or without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed to permit the vehicle to be used as a place of human habitation by one or more persons. If such vehicle shall be customarily or ordinarily used as a place of human habitation for more than 90 days in any 18 month period, it shall be classed as a mobile home, regardless of the size and weight limitation provided herein.

69. Trailer Camp or Tourist Camp Ground -- An 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.

70. Variance -- The term "Variance" shall mean a modification of the literal provisions of the Zoning Ordinance which would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are (a) undue hardship, (b) unique circumstances and (c) applying to property. The authority to grant variances is vested in the Board of Adjustment pursuant to Chapter 414 of the Code of Iowa.

71. Yard -- An open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building line shall be used.

72. Yard, Front -- A yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the
projections of the usual uncovered steps. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where owner shall elect to front his building on a street parallel to the lot line having the greater dimension.

73. Yard, Rear -- A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building line or any projections thereof other than the projections of uncovered steps. On all lots the rear yard shall be in the rear of the front yard.

74. Yard, Side -- A yard between the main building line and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building line or any projections of uncovered steps.

6-13-5 ESTABLISHMENT OF DISTRICTS AND OFFICIAL ZONING MAP.

A. Official Zoning Map:

1. The town is hereby divided into districts which shall be designated as follows:

   A-1 -- Agricultural
   R-1 -- Single Family Residential
   R-1A -- Single Family Residential
   R-1B -- Single Family Residential
   R-2 -- Multi-family Residential
   C-1 -- Central Business District
   C-2 -- Highway Commercial
   M-1 -- Light Industrial
   M-2 -- Heavy Industrial
   P-1 -- Public Use

2. The locations and boundaries of these districts are shown on the official zoning map which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.

3. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the Seal of the City under the following statement:

   This is to certify that this is the Official Zoning Map referred to in Ordinance No. __________ of the City of Ely Iowa, passed ____________________.

4. The Official Zoning Map, or a true copy of the same, shall be on file in the office of the City Clerk and shall be final authority as to the correct zoning status of the land, water areas, buildings, and other structures in the City.

B. Changes in Official Zoning Map:

1. If in accordance with the provisions of Section 6-13-17 of this Ordinance and Chapter 414.4 Code of Iowa, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows: "By official action of the City Council, the following changes were made in the Official Zoning Map." (Indicating the changes by ordinance numbers and date of publication.)

No amendment of this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.
2. Replacement of the Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by Ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The replacement Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map to accurately reflect the zoning classifications existing at the time of replacement as shown by the Original Official Zoning Map and any subsequent amendments. The replacement Official Zoning Map shall not itself have the effect of amending any zoning classification. The replacement Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the Seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of Ordinance No. __________ of the City of Ely Iowa."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

3. Any unauthorized change, of any kind whatsoever, in the Official Zoning Map by any person or persons, shall constitute a violation of this Chapter and be punishable as provided in Section 6-13-16.

C. Interpretation of District Boundaries: Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow such center lines;

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

3. Boundaries indicated as following city limits shall be construed as following city limits;

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

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 lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

6. Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

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 (1) through (6) above, the Board of Adjustment shall interpret the district boundaries.

D. Applicability of Regulations:

1. Territorial application: This Ordinance shall apply to all structures, land, and uses within the corporate limits of Ely, Iowa.

2. Conversion of use or building: The conversion of any use or building either to another use or to increase the size or area of the existing use, including the conversion of any building or the conversion of any dwelling to accommodate an increased number of dwelling units, families, or residents, shall be permitted only within a district in which a new building for similar occupancy would be permitted
in this Ordinance and only when the resulting occupancy will comply with the requirements in such districts, with respect to minimum lot size, lot area per dwelling unit, dimension of yards, height, off street parking and any other applicable requirements.

3. General prohibition: No building or structure; no use of any building, structure or land; and no lot of record or zoning lot, now or hereafter existing, shall hereafter be established, altered, moved, divided, or maintained in any manner except in accord with the provisions of this Ordinance.

E. Annexed Territory: All territory which may be annexed to the City of Ely after adoption of this Ordinance shall be classified according to the Planning and Zoning Commission's recommendations prior to annexation and the territory upon annexation may be immediately so classified. Procedures for classification are established in Section 6-13-17 of this Ordinance.

F. Vacated Streets: Whenever any street, alley, or other public way is vacated by official action of the Council the district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulation of the extended districts.

6-13-6 SCHEDULES OF DISTRICT REGULATIONS. The following schedules of District Regulations are hereby adopted by reference and declared to be a part of this Chapter:

A. A-1 AGRICULTURAL:

Intent: Zoning for A-1, Agricultural, is intended to maintain and enhance agricultural operations and preserve agricultural lands utilized for crop production or the raising of livestock and to serve as a holding zone for lands where future urban expansion is possible, but not yet appropriate due to the lack of urban facilities and services. The preservation of agricultural land is intended to prevent urban sprawl, control the public costs of providing urban services and reduce urban/rural conflicts which arise as a result of premature development of rural areas. The district is further intended to preserve open space and natural resource areas.

1. Permitted Principal Uses and Structures
   
   (a) Agriculture, horticulture, dairy farming, poultry farming, livestock farming, general farming, truck gardening, and other agricultural activities.

   (b) Single family dwellings.

   (c) Those structures essential to farming operations not otherwise restricted within this Ordinance.

2. Permitted Accessory Uses and Structures

   (a) Private garages.
(b) Farm buildings incidental to agricultural uses.

(c) Private greenhouses or plant nurseries not operated for commercial purposes.

(d) Private swimming pools.

(e) Accessory uses or structures accessory to the provisions of Section 6-13-9.

3. Special Exceptions: The following special exceptions are permitted in the A-1 District subject to provisions of Section 6-13-14(F)(4):

(a) Public Utilities.

(b) Recreational development seasonal or temporary use.

(c) Roadside stand for sale of produce raised on the premises.

(d) Dog kennels and dog runs.

(e) Greenhouses and plant nurseries operated for commercial purposes.

4. Minimum Lot Areas and Width

(a) Single family dwelling:

Not applicable - Agriculture use or farming requires a minimum of ten (10) acres (i.e. see definition of agriculture in this ordinance).

5. Minimum Yard Requirements

(a) Single family dwelling:

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<td>Street Side, Corner Lot</td>
<td>25 feet (Ord. No. 153)</td>
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(b) Other permissible uses under this section:

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<td>Street Side, Corner Lot</td>
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6. Maximum Height - 2 (1/2) stories or 35 feet

7. Minimum Off-Street Parking Loading Space

(a) Residential Dwellings - Two (2) spaces for each dwelling unit.

8. Special Regulations

(a) Provision must be made for disposal of manure, other organic wastes, or chemical(s) in such a manner as to avoid pollution of ground water or any lake, river, or receiving stream.
Livestock confinement buildings for the purpose of raising hogs, poultry or cattle must conform to the provisions of 6-13-6 A 8(b) of this ordinance.

(b) Agricultural uses are permitted with no restrictions as to the operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions to the sale or marketing of products raised on the premises; provided that any buildings, structure or yard for the raising, feeding, housing or sale of livestock or poultry shall be located at least 300 feet from residentially zoned land, and provided further that there shall be no disposal of garbage, rubbish or offal, other than regular removal, within 300 feet of property residentially or commercially zoned land. Pasturing of livestock shall be restricted to no closer than 100 feet of residentially or commercially zoned land.

B. R-1 SINGLE FAMILY RESIDENTIAL:

Intent. To establish and preserve quiet single family home neighborhoods as desired by large numbers of people, free from other uses except those which are both compatible with and convenient to the residents of such a district.

1. Permitted Principal Uses and Structures
   (a) Single family dwellings.
   (b) Churches and temples.
   (c) Public schools, elementary, junior high and high schools.
   (d) Parochial or private schools having no rooms used regularly for housing or sleeping purposes.
   (e) Public buildings, public and semi-public parks, playgrounds, community centers, libraries, and museums.
   (f) Family Group Care Home.

2. Permitted Accessory Uses and Structures
   (a) Private garages.
   (b) Private swimming pools.
   (c) Private greenhouses not operated for commercial purposes.
   (d) Garden houses.
   (e) Uses and structures necessary to principal permitted use or a special exception use are permitted subject to the provisions of Section 6-13-9.
   (f) Temporary buildings used in conjunction with construction work, provided that such buildings are removed within thirty (30) days upon completion of the construction work.

3. Special Exceptions: The following special exceptions are permitted in the R-1 District, subject to provisions of Section 6-13-14(F)(4):
   (a) Cemetery or mausoleum.
   (b) Public utilities.
(c) Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.

(d) Mortuary or funeral home.

(e) Care facilities.

(f) Day Care Centers.

(g) Churches.

(h) Bed and Breakfast Houses.

4. Minimum Lot Areas and Width

(a) Single family dwelling:

Area, 9,500 square feet; Width, 80 feet; Depth, 100 feet. However, the minimum Width and Depth dimensions may not be construed to imply a minimum lot size of 8,000 square feet. In regard to overall minimum lot dimensions set by this ordinance, the total area will supersede any conflicting combinations of widths or depths that do not equal the minimum area requirement.

(b) Other permissible uses:

Area, 10,000 sq. ft.; Width 90, feet.

5. Minimum Yard Requirements

(a) Single family dwelling:

Front - 25 feet
Rear - 30 feet
Side - 8 feet
Street Side,
Corner Lot - 25 feet (Ord. No. 153)

(b) All other uses permitted under this section:

Front - 40 feet
Rear - 40 feet
Side - 20 feet
Street Side,
Corner Lot - 25 feet

6. Maximum Height - 2 1/2 stories or 35 feet.

7. Minimum Off-street Parking and Loading Space

(a) Dwellings -- Two (2) spaces for each dwelling unit.

(b) Church or Temple -- One (1) space for each six (6) seats of average seating in the main auditorium.

(c) Country Club or Golf Club -- Six (6) spaces for each hole.
(d) Community Center, Library or Museum -- Ten (10) spaces plus one (1) additional space for each 300 sq. ft. of floor area in excess of 2,000 sq. ft.

(e) Schools and Public Buildings -- One (1) space for each classroom or office room plus one (1) space for each ten (10) seats of average seating in the main auditorium, stadium, or place of public assembly.

(Ordinance No. 139, Amended and Accepted April 14, 1994.)

C. R-1A SINGLE FAMILY RESIDENTIAL:

Intent. To establish and preserve quiet single family home neighborhoods as desired by large numbers of people, free from other uses except those which are both compatible with and convenient to the residents of such a district.

1. Permitted Principal Uses and Structures

   (a) Single family dwellings.

   (b) Churches and temples.

   (c) Public schools, elementary, junior high and high schools.

   (d) Parochial or private schools having no rooms used regularly for housing or sleeping purposes.

   (e) Public buildings, public and semi-public parks, playgrounds, community centers, libraries, and museums.

   (f) Family Group Care Home.

2. Permitted Accessory Uses and Structures

   (a) Private garages.

   (b) Private swimming pools.

   (c) Private greenhouses not operated for commercial purposes.

   (d) Garden houses.

   (e) Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to the provisions of Section 6-13-9.

   (f) Temporary buildings used in conjunction with construction work, provided that such buildings are removed within thirty (30) days upon completion of the construction work.

3. Special Exceptions: The following special exceptions are permitted in the R-1 District, subject to provisions of Section 6-13-14(F)(4):

   (a) Cemetery or mausoleum.

   (b) Public utilities.

   (c) Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
(d) Mortuary or funeral home.
(e) Care facilities.
(f) Day Care Centers.
(g) Churches.
(h) Bed and Breakfast Houses.

4. Minimum Lot Areas and Width

(a) Single family dwelling:
Area, 6,250 square feet; Width, 50 feet; Depth, 125 feet.

(b) Other permissible uses:
Area, 6,250 sq. ft.; Width 50, feet.

5. Minimum Yard Requirements

(a) Single family dwellings:

<table>
<thead>
<tr>
<th>Type</th>
<th>Minimum Yard</th>
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<tbody>
<tr>
<td>Front</td>
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<tr>
<td>Rear</td>
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<tr>
<td>Side</td>
<td>8 feet</td>
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<tr>
<td>Street Side</td>
<td></td>
</tr>
<tr>
<td>Corner Lot</td>
<td>15 feet</td>
</tr>
</tbody>
</table>

6. Maximum Height - 2 1/2 stories or 35 feet.

7. Minimum Off-street Parking and Loading Space

(a) Dwellings -- Two (2) spaces for each dwelling unit.

(b) Church or Temple -- One (1) space for each six (6) seats of average seating in the main auditorium.

(c) Country Club or Golf Club -- Six (6) spaces for each hole.

(d) Community Center, Library or Museum -- Ten (10) spaces plus one (1) additional space for each 300 sq. ft. of floor area in excess of 2,000 sq. ft.

(e) Schools and Public Buildings -- One (1) space for each classroom or office room plus one (1) space for each ten (10) seats of average seating in the main auditorium, stadium, or place of public assembly.

(Ordinance No. 139, Amended and Accepted April 14, 1994.)

D. R-1B SINGLE FAMILY RESIDENTIAL:

Intent. To establish and preserve quiet single family home neighborhoods as desired by large numbers of people, free from other uses except those which are both compatible with and convenient to the residents of such a district.

1. Permitted Principal Uses and Structures
(a) Single family dwellings.
(b) Churches and temples.
(c) Public schools, elementary, junior high and high schools.
(d) Parochial or private schools having no rooms used regularly for housing or sleeping purposes.
(e) Public buildings, public and semi-public parks, playgrounds, community centers, libraries, and museums.
(f) Family Group Care Home.

2. Permitted Accessory Uses and Structures
(a) Private garages.
(b) Private swimming pools.
(c) Private greenhouses not operated for commercial purposes.
(d) Garden houses.
(e) Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to the provisions of Section 6-13-9.
(f) Temporary buildings used in conjunction with construction work, provided that such buildings are removed within thirty (30) days upon completion of the construction work.

3. Special Exceptions: The following special exceptions are permitted in the R-1 District, subject to provisions of Section 6-13-14(F)(4)
(a) Cemetery or mausoleum.
(b) Public utilities.
(c) Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
(d) Mortuary or funeral home.
(e) Care facilities.
(f) Day Care Centers.
(g) Churches.
(h) Bed and Breakfast Houses.

4. Minimum Lot Areas and Width
(a) Single family dwelling:
Area, 8,000 square feet; Width, 70 feet; Depth, 100 feet. However, the minimum Width and Depth dimensions may not be construed to imply a minimum lot size of 7,000 square feet. In regard to overall minimum lot dimensions set by this ordinance, the total area will supersede any conflicting combinations of widths or depths that do not equal the minimum area requirement.

(b) Other permissible uses:

Area 10,000 sq. ft.; Width 90, feet.

5. Minimum Yard Requirements

(a) Single family dwellings:

Front - 25 feet
Rear - 30 feet
Side - 8 feet
Street Side,
Corner Lot - 15 feet

(b) All other uses permitted under this section:

Front - 40 feet
Rear - 40 feet
Side - 20 feet
Street Side,
Corner Lot - 25 feet.

6. Maximum Height - 2 1/2 stories or 35 feet.

7. Minimum Off-street Parking and Loading Space

(a) Dwellings -- Two (2) spaces for each dwelling unit.

(b) Church or Temple -- One (1) space for each six (6) seats of average seating in the main auditorium.

(c) Country Club or Golf Club -- Six (6) spaces for each hole.

(d) Community Center, Library or Museum -- Ten (10) spaces plus one (1) additional space for each 300 sq. ft. of floor area in excess of 2,000 sq. ft.

(e) Schools and Public Buildings -- One (1) space for each classroom or office room plus one (1) space for each ten (10) seats of average seating in the main auditorium, stadium, or place of public assembly.

(Ordinance No. 139, Amended and Accepted April 14, 1994.)

E. R-2 MULTI-FAMILY RESIDENTIAL:

Intent. To establish and preserve medium density residential districts, excluding uses which are not compatible with residential use but permitting certain nonresidential uses which are of particular convenience to the residents of the district while not disrupting the aesthetics of the surrounding neighborhood..

1. Permitted Principal Uses and Structures

(a) Single-family dwellings.
(b) Two-family dwellings.
(c) All uses and structures permitted under R-1.
(d) Mortuary or funeral homes.
(e) Religious, educational, non-profit charitable institutions.
(f) Private kindergartens and day nurseries.

2. Permitted Accessory Uses and Structures

(a) All uses and structures permitted under R-1.

(b) Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to provisions of Section 6-13-9.

3. Special Exceptions: The following special exceptions are permitted in the R-2 District, subject to provisions of Section 6-13-14(F)(4):

(a) All other exceptions permitted under R-1.
(b) Assisted Living Facility.

4. Special Requirements: Separate or divided ownership of each single-family unit of a two-family dwelling unit, provided the following requirements are met:

(a) The lot or parcel of real estate being divided into two parcels allowing separate ownership thereof must originally meet all of the requirements for uses permitted in an R-2 District.

(b) A two-family dwelling unit must be in existence or will be constructed thereon, consisting of two laterally-attached dwelling units with each unit having a separate access and separate utilities services including gas, water, sewer and electricity.

(c) The division of the lot or parcel into two parcels shall be in such a manner as to result in one single-family dwelling unit being located on either side of a common boundary line with the common wall between the two laterally joined single-family dwelling units being on said common boundary line.

(d) Prior to division of the lot or parcel into two parcels, there shall be submitted to the Zoning Administrator of the City of Ely two copies of proposed Restrictive and Protective Covenants providing that the owners of each parcel upon division are jointly and severally liable and responsible for the maintenance and repair of the common wall as well as of all other common aspects including, but not limited to, utilities, water, sanitary sewer, storm sewer, easements and driveways, all to the point of division. The Zoning Administrator shall, within 15 days, determine whether the proposed Covenants meet the requirements of this paragraph and shall thereupon return one copy of the Covenants to the owners, at which time the owners shall have said Covenants recorded at the Office of the Linn County Recorder. If the Zoning Administrator determines that the proposed Covenants are not satisfactory, the owner shall be notified and submit a further set of proposed Covenants which shall embody any corrections or clarifications deemed necessary by the Zoning Administrator.
(e) The two-family dwelling unit shall, in all other respects, other than the divided ownership thereof, be considered as any other two-family dwelling and shall meet all requirements pertaining thereto.

5. Minimum Lot Areas and Width

(a) Single family dwelling:

Area, 9,500 square feet; Width, 80 feet; Depth, 100 feet. However, the minimum Width and Depth dimensions may not be construed to imply a minimum lot size of 8,000 square feet. In regard to overall minimum lot dimensions set by this ordinance, the total area will supersede any conflicting combinations of widths or depths that do not equal the minimum area requirement.

(b) Multi-family dwelling:

Area, 6,000 sq. ft.; Plus 1,500 sq. ft. per dwelling unit over one; Width, 80 feet; Minimum Depth of not less than 100 feet. Minimum area supersedes Width and Depth as in 6-13-6 E (5) (a) above.

6. Minimum Yard Requirements

(a) Single and Two-family dwellings

Front - 25 feet  
Rear - 30 feet  
Side:  
One story - 8 feet  
Two stories - 10 feet Street Side,  
Corner Lot - 15 feet  

(b) All other uses permitted in this section:

Front - 40 feet  
Rear - 40 feet  
Side - 20 feet  
Street Side,  
Corner Lots - 25 feet  

7. Maximum Height - 2 stories or 35 feet.

8. Minimum Off-street Parking and Loading Space

(a) Dwellings -- Two (2) spaces for each dwelling unit plus one (1) space for every two (2) rooms.

(b) Other uses permitted -- Same as R-1.

E-2. MH-R Residential Mobile Home Park/Manufactured Home Park/Factory-built Home Park

Intent. Mobile Home used for dwelling purposes shall be placed only in mobile home parks. Mobile home parks shall be 10 acres or more. A mobile home park may be established in only MH-R designated districts. The MH-R Mobile Home District shall provide for mobile home parks in areas of the community where such use is compatible with existing and indicated future development. This District shall be well served by arterial streets to provide adequate access and development in accordance with regulations set out in this chapter.
1. Permitted Principal Uses and Structures
   i. Single Family Mobile Homes
   ii. Parks and Recreation Facilities (Non-Profit)
   iii. Community Meeting/Recreation Building (Non-Profit)
   iv. Emergency Center – commensurate with state laws and regulations
   v. Registered Day Care Center

2. Permitted Accessory Uses and Structures:
   (a) Storage Buildings
   (b) Private Garages
   (c) Private Tennis Court and pools (non-profit)
   (d) Private Green Houses (non-profit)

1. Special Exceptions:
   (a)

2. Special Requirements:
   (a) Maximum Density: Maximum density shall not exceed seven (7) factory built homes per gross acre.
   (b) Entrance: Stairs servicing the main entrance of the factory-built home shall be a minimum of thirty-six (36) inches in width and shall comply with all other requirements of the building code guardrails and dimensions of threads. All stairs shall be placed on a level, solid surface.
   (c) Surfacing: Factory-built home park surfacing shall meet the same requirements as all subdivisions.

5. Minimum Lot Areas and Width:
   (a) Each factory-built home space shall contain a minimum area of five thousand, five hundred (5,500) square feet and shall have a minimum width of fifty (50) feet.

6. Minimum Yard Requirements:
   (a) Each factory-built home park shall provide a yard not less than fifty-five (55) feet along each boundary abutting a public right-of-way. Such yard(s) shall be landscaped to screen the park from the right-of-way, except those portions used for ingress and egress.
   (b) No factory-built home shall be located within eight (8) feet of the side yard lot line for the space. In determining the clearance requirements, an annex shall be considered an integral part of the factory-built home. No factory-built home shall be located closer than twenty (20) feet from the front yard lot line or twenty-five (25) feet from the rear yard lot line for the space.

7. Storage Building/Shed:
   (a) A maximum of one storage building/shed per lot and no greater than twelve by twelve (12x12) feet may be located as an accessory use to the factory-built home, provided the building/shed is located on the same space as the factory-built home. The storage
building/shed shall not be located in the front yard of the factory-built home space and may not be located within eight (8) feet of any lot line of the factory-built home space. The exterior wall and roof covering material shall match the wall and roof covering material of the dwelling unit for which it serves.

8. Park Access (Entrance/Exit):

(a) Entrance/Exit Roadways: Each factory-built home park shall have at least two (2) separate entrance and exit roadways and shall connect to a dedicated public right-of-way not less than fifty (50) feet in width.
(b) Private Streets: All factory-built home park spaces shall abut a private street of not less than twenty-four (24) feet in width and with a minimum right-of-way of forty (40) feet.
(c) Cul-de-sac Requirements: All dead-end private streets over four hundred (400) feet shall include adequate space for a cul-de-sac with a diameter of one hundred (100) feet.

9. Parking Requirements:

(a) Minimum Off-Street Parking: Two (2) off-street parking spaces shall be provided on each factory-built home site and shall be located entirely on the factory-built home space. Each such parking space shall measure not less than nine by eighteen (10x20) feet and shall comply with surfacing requirements.
(b) On-Street Parking: Parking shall only be allowed on one side of a private street, provided the street is a minimum width of twenty-nine (29) feet and provides a minimum of a fifty (50) foot right-of-way. Parking shall be allowed on one side only and shall be marked accordingly with signs designating parking.

10. Sidewalk Requirements:

(a) Sidewalks not less than four (4) feet in width shall be provided from factory-built home spaces to service buildings on both sides of all streets within a factory-built home park. Sidewalks shall be located one (1) foot outside the lot line of the factory-built home space and shall be constructed of a thickness of no less than four (4) inch Portland concrete cement, except six (6) inch is required through drives.

11. Private Lighting Requirements:

(a) Sidewalks and driveways shall be properly maintained and shall be lighted at night with a minimum illumination of at least six-tenths (0.6) foot-candle. Forty-watt lamps at intervals of not more than fifty (50) feet shall meet the illumination requirements.

12. Storage Area Requirements:

(a) Enclosed storage facility with the park, shall be provided in an amount equal to one hundred (100) square feet per mobile factory-built home space. The area shall be for the residents of the park to store trailers of all types, boats, detached pickup campers, motor homes, etc. Such storage area shall be topped with a dust and
growth-free surface facilitating drainage and shall be screened on all four sides by a solid fence not less than eight (8) feet in height. Access street to the storage area shall comply with hard surfacing requirements.

13. Recreation Area Requirements:

(a) A general area or areas amounting to not less than five percent (5%) of the gross area of the factory-built home park excluding any area dedicated as a public right-of-way, shall be provided for recreation use. Such area(s) shall not include any area designated as a factory-built home space, storage area, or required yard.

14. Storm Shelter Requirements:

(a) Storm shelters shall be provided. Size and design shall be approved by the governing body during the site plan approval process. An architect or engineer, as defined in the Iowa Architectural and Engineering Laws shall prepare the structural plans for the storm shelters.

15. Fences:

(a) All fences erected or placed with a factory-built home park shall comply with Section 6-13-8 of this Code.

16. Standards for Utilities and Services – Factory-built Home Park: All mobile home parks shall comply with the standards for installation of streets, utilities and other municipal improvements as set out in the subdivision ordinance, subject to the specific requirements set out below. The following standards shall apply in any instance of conflict between the requirements of the Ely Subdivision and the provisions of this ordinance.

(a) Drainage: The park shall be located on a well-drained site, properly graded to insure drainage and proper retention where required.

(b) Underground Utilities: All public utilities within the factory-built home park shall be underground.

(c) Water Supply: The water supply for the factory-built home park shall be a system which is owned and operated by the City of Ely. The park shall provide a complete water main supply system, including hydrants, valves, and other appurtenances, which shall be extended into and through the park to the boundary line and shall connect to the municipal water system when installed. The water system for the factory-built home park shall be installed in accordance with the City of Ely Municipal Design Standards.

(d) Fire Hydrants: Standard fire hydrants shall be located within three hundred (300) feet of each factory-built home.

(e) Sewer System: The sewage disposal system for the park shall connect to the system owned and operated by the City of Ely.

1. All plumbing in the factory-built home park including, but not limited to waste from laundry facilities, showers, bathtubs, flush toilets, urinals, lavatories and kitchen sinks in service with other buildings within the park shall be discharged into the public sanitary sewer system in compliance with the plumbing laws and
health regulations of the State of Iowa, Johnson County, Linn County, and the City of Ely.

2. Each factory-built home space shall be provided with a sanitary sewer of at least four (4) inches in diameter, which shall be connected to receive the waste from the shower, bathtub, flush toilet, lavatory, and kitchen sink of the mobile home. The sanitary sewer pipe in each space shall be connected to discharge the waste into the public sewer system in compliance with applicable city ordinances and specifications.

(f) Electricity and Natural Gas: Electric outlet supply two hundred forty (240) volts – one hundreds (100) amperes of service shall be provided for each factory-built home space. The installation shall comply with all state and local electrical codes and ordinances. Such electrical outlets shall be weatherproof.

3. Natural Gas: Where natural gas is provided, installation shall comply with all applicable code regulations.

(g) Street and Yard Lights: Street and yard lights shall be provided in such number and intensity as to ensure the safe movement of vehicles and pedestrians at night. A light shall be located at each outside entrance of the service buildings, which shall be kept lighted during the hours of darkness.

(h) Service Buildings: Service buildings shall be permanent structures complying with all applicable ordinances and statues regulating buildings, electrical installations, plumbing, and sanitary systems.

17. Tie-Downs and Base: All factory-built homes located within the city limits shall provide, install, and maintain an approved tie-down system in securing and maintaining in position mobile homes, annexes thereto and auxiliary buildings. Said approved tie-down systems shall be in compliance with all applicable rules and regulations contained in the Building Code as to factory-built home construction.

F. C-1 -- CENTRAL BUSINESS DISTRICT COMMERCIAL:

Intent. To establish and preserve a central business district convenient and attractive for a wide range of retail uses and business, government and professional offices and places of amusement in a setting conducive to and safe for a high volume of pedestrian traffic.

1. Permitted Principal Uses and Structures

(a) Apartments above a store or shop.

(b) Commercial amusements.

(c) Business, professional offices, studios.

(d) Personal service and repair shops.

(e) Financial institutions.

(f) Retail business.
(g) Automotive sales, service, repair (note: "repair" refers to mechanical & electrical repair and not body repair). For - Automobile body repair shops see Special Exceptions 6-13-6 (F) (3)(c).

(h) Restaurants, taverns.

(i) Motels, hotels.

(j) Wholesale display and sales rooms and offices.

(k) Public garages, storage garages.

(l) Commercial parking lots, garages.

(m) Private clubs and lodges.

(n) Business and vocational schools.

(o) Public Utilities.

(p) Railroads and bus terminals.

(q) Medical and dental clinics.

(r) Printing, publishing and engraving.

(s) Bakery and catering service.

(t) Laundries and dry cleaning establishments.

(u) Frozen food storage.

(v) Temples, Churches, and Public Buildings.

(w) Any use permitted in R-1 or R-2 districts as designated within this ordinance.

(x) Daycares.

2. Permitted Accessory Uses and Structures: Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to the provisions of Section 6-13-9.

3. Special Exceptions: The following special exceptions are permitted in the C-1 District, subject to provisions of Section 6-13-14(F)(4):

(a) Carnivals, circuses, fairs, or road shows.

(b) Radio or television broadcasting tower or station.

(c) Automobile body repair shops.

4. Minimum Lot Areas and Width

(a) Multi-family dwellings:
Area, 6,000 sq. ft.; plus 1,500 sq. ft. per each dwelling unit over one; Width, 80 feet.

(b) Commercial uses:
No minimum.

5. Minimum Yard Requirements

(a) Dwellings:

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<tbody>
<tr>
<td>Front</td>
<td>25 feet</td>
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<tr>
<td>Rear</td>
<td>30 feet</td>
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<tr>
<td>Side</td>
<td>10 feet</td>
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<tr>
<td>Street Side,</td>
<td>15 feet</td>
</tr>
<tr>
<td>Corner Lot</td>
<td>-</td>
</tr>
</tbody>
</table>

(b) No minimum for other uses permitted under this section.

6. Maximum Height - 3 stories or 42 feet.

7. Minimum Off-street Parking and Loading Space:

(a) Parking:

(1) Dwellings -- one (1) space for each dwelling unit.

(2) Churches, Temples and Public Buildings -- one (1) space for each six (6) seats in main auditorium.

(b) Loading -- Off street Loading -- one (1) space for each 10,000 square feet of floor area or fraction thereof.

G. C-2 HIGHWAY COMMERCIAL DISTRICT:

Intent. To establish and preserve general commercial areas consisting of shopping centers and commercial strips where customers reach individual business establishments primarily by automobile.

1. Permitted Principal Uses and Structures

(a) Motor vehicle sales, service and repair, service stations, and car washes (note: repair implies mechanical and electrical repairs only). For - Automobile body repair shops see Special Exceptions 6-13-6 (G) (3)(e)

(b) Motels and hotels.

(c) Restaurants, cafes, night clubs and taverns.

(d) Drive-in restaurants.

(e) Farm implement displays and sales, service and repair.

(f) Mobile home sales.

(g) Bowling alleys, skating rinks, dance halls, theaters, places of amusement, golf driving ranges and miniature golf.
(h) Supermarkets and retail business.

(i) Business offices.

(j) Banks and financial institutions.

(k) Private clubs or lodges.

(l) Bus terminal.

(m) Building materials dealers.

(n) Fruit, vegetable and produce stands.

(o) Shopping centers or malls.

(p) Convenience stores.

(q) Daycares.

(r) Garages; Self Service Storage Facility.

(Ordinance No. 146, Amended and Accepted March 3, 1997.)

(s) Any use permitted in R-1, R-2 or C-1 districts as designated in this ordinance.

(Ordinance No. 137, Amended and Accepted October 8, 1993.)

2. Permitted Accessory Uses: Uses and structures accessory to a principal permitted use or a special exceptions use are permitted subject to the provisions of Section 6-13-9.

3. Special Exceptions: The following special exceptions are permitted in the C-2 District, subject to provisions of Section 6-13-14(F)(4):

   (a) Public utilities, veterinary clinics, animal hospitals, and kennels.

   (b) Feed mills and grain elevators.

   (c) Carnivals, circuses, fairs, road shows.

   (d) Amusement parks.

   (e) Automobile body repair shops.

4. Minimum Lot Areas and Width

   Minimum Lot Area - 10,000 sq. ft.
   Minimum Width - None

5. Minimum Yard Requirements

   Front - 25 feet.
   Side - None except where abutting on agricultural or residential district a side yard of not less than 8 feet shall be provided.
Rear - None except where abutting on agricultural or residential district a rear yard of not less than 30 feet shall be provided.

6. Maximum Height - 2 1/2 stories or 35 feet.

7. Minimum Off-street Parking and Loading:

(a) Vehicle and Farm Implement Sales, Service and Repair Establishments -- one (1) parking space for each employee.

(b) Bowling Alley -- five (5) spaces for each lane or alley.

(c) Dance Halls, Theaters, Places of Amusement, and Skating Rinks -- one (1) space for each 100 sq. ft. of floor area.

(d) Motels and Hotels -- one (1) space for each unit or suite plus one (1) space for each 200 sq. ft. of commercial floor area.

(e) Barber Shop -- One (1) space for each 200 sq. ft. of floor area.

(f) Professional and Business Offices Not Listed Elsewhere -- one (1) space for each 100 sq. ft. of floor area.

(g) Restaurants, Private Clubs, Night Clubs, Cafes, and Taverns -- one (1) space for each 100 sq. ft. of floor area.

(h) Supermarkets, Shopping Centers, Retail Stores and Service Establishments -- one (1) space for each 150 sq. ft. of floor area and outdoor sales space.

(i) Furniture, Appliance, Hardware, Building Supplies -- one (1) space for each 250 sq. ft. of floor area.

(j) Banks and Financial Institutions -- one (1) space for each 250 sq. ft. of floor area.

H. M-1 -- LIGHT INDUSTRIAL

Intent. To establish and preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and to make provision for certain kinds of commercial uses which are necessary to service the immediate needs of people in these areas.

1. Permitted Principal Uses and Structures

(a) Animal pound or kennel.

(b) Contractor's shop and storage yard.

(c) Bottling works.

(d) Dairy processing facility.

(e) Truck or bus garage and repair shop.

(f) Farm implement sales, service, repair and assembly.

(g) Grain elevator and feed mill.
(h) Building material sales and storage.

(i) Railroads and public utilities.

(j) Wholesaling and warehousing but not including the bulk storage of liquid fertilizers or flammable liquids.

(k) Freight terminal.

(l) Automobile body repair and paint shop.

(m) Sheet metal products manufacture.

(n) Frozen food lockers.

(o) Welding and blacksmith shop.

(p) Personal storage lockers and warehouses.

(q) High technology wholesaling and manufacturing to include electronics, medical and biogenetics, computers and software research, and related activities.

2. Permitted Accessory Uses and Structures: Uses and Structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Section 6-13-9.

3. Special Exceptions: The following special exceptions are permitted in the M-1 District, subject to provisions of Section 6-13-14(F)(4)

(a) Radio or television broadcasting tower or station.

(b) Carnivals, circuses, fairs, road shows.

(c) Stock yards and/or sales barns and yards.

4. Minimum Lot Area -- 10,000 sq. ft.

5. Minimum Yard Requirements

<table>
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<tr>
<th>Yard Type</th>
<th>Requirement</th>
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<td>Front Yard</td>
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<tr>
<td>Interior Side Yards</td>
<td>None required</td>
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<tr>
<td>Corner Side Yard</td>
<td>None required</td>
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<tr>
<td>Rear Yard</td>
<td>None required</td>
</tr>
</tbody>
</table>

Transitional Yards:

- Where a side or rear lot line coincides with a side or rear lot line in an adjacent Residence or Commercial District a yard shall be provided along such side or rear lot line and such yard shall be at least equal in depth to that yard required in the abutting district.

- Where a lot within the M-1 District fronts on a street which forms the boundary line between the M-1 District and a Residence or Commercial District, then such lot shall provide a front yard at least equal in depth to the front yard required in such abutting district.

6. Minimum Off-street Parking and Loading Space
(a) Parking -- Warehousing, Storage and Manufacturing: one (1) space for each employee on duty at any one time, plus one (1) for each vehicle used by the industry.

(b) Loading -- Off-street Loading: one (1) space, 50 feet by 12 feet, for each 20,000 square feet of floor area or fraction thereof.

7. Maximum Height - 4 stories or 55 feet.

I. M-2 -- Heavy Industrial

Intent. To establish and preserve areas for necessary industrial and related uses of such a nature that they require isolation from many other kinds of land uses, and to make provision for commercial uses which are necessary to service the immediate needs of people in their areas.

1. Permitted Principal Uses and Structures

(a) Sheet metal products manufacture.

(b) Bulk storage of petroleum products and commercial fertilizers.

(c) Brick and clay products manufacture.

(d) Concrete products and central mixing and proportioning plant.

(e) Flour, feed and grain milling storage.

(f) Structural iron and steel fabrication.

(g) Machinery manufacture.

(h) Paint and varnish manufacture.

(i) All other uses permitted under M-1.

2. Permitted Accessory Uses and Structures: Uses and structures accessory to a principal permitted use or a conditional permitted use are permitted subject to the provisions of Section 6-13-9.

3. Special Exceptions: The following special exceptions are permitted in the M-2 District, subject to provisions of Section 6-13-14(F)(4).

(a) Carnivals, circuses, fairs, road shows.

(b) Radio-television broadcasting and microwave towers or stations.

(c) Materials recycling.

(d) Fertilizer manufacture.

(e) Junk yards, including automobile wrecking and/or salvage.

(f) Stock yards, slaughter houses, poultry processing and packaging, and/or sale barns and yards.

(g) Explosive manufacture or storage.

(h) Acid manufacture.
4. Minimum Lot Areas and Width -- None.

5. Minimum Yard Requirements

- Front Yard - Minimum of 35 feet.
- Interior Side Yard - Minimum of 15 feet each.
- Corner Side Yard - Minimum of 25 feet.
- Rear Yard - Minimum of 25 feet.

Transitional Yards:

- Where a side or rear lot line coincides with a side or rear lot line in an adjacent Residence or Commercial District, or an existing residential use, a yard shall be provided along such side or rear lot line not less than 45 feet in depth and shall contain landscaping and planting so designed and/or planted to provide an effective visual screen, when viewed horizontally, between 2 feet and 8 feet above average ground level.

- Where a lot within M-2 District fronts on a street which forms a boundary line between the M-2 District and a Residence or Commercial District, then such lot shall have a front yard of not less than 45 feet in depth. Parking shall not be permitted therein and such yard shall be appropriately landscaped with grass and/or other suitable plantings.

6. Maximum Height -- 4 stories or 55 feet.

7. Minimum Off-street Parking and Loading Space

(a) Parking -- Warehousing, Storage and Manufacturing: one (1) space for each employee on duty at any one time, plus one (1) for each vehicle used by the industry.

(b) Loading -- Off-street Loading: one (1) space, 50 feet by 12 feet, for each 20,000 square feet of floor area or fraction thereof.

J. P-1 -- PUBLIC USE

Intent. It is intended that the Public Use (P-1) district provide reference on the zoning map to public uses of land. Thus land owned by the United States Federal Government, the State of Iowa, Linn County, or the College Community School District will be designated Public Use.

1. Permitted Principal Uses and Structures

(a) Use of land, buildings or structures of the aforementioned federal and state governments or political subdivisions thereof.

(b) Agriculture.

2. Permitted Accessory Uses and Structures

Uses subject to the provisions of Section 6-13-9.

3. Special Exceptions -- None

4. Minimum Lot Areas and Width -- None

5. Minimum Yard Requirements -- None

6. Maximum Height -- None
7. Minimum Off-Street Parking and Loading Spaces -- None

6-13-7 SIGN REGULATIONS

Intent. Regulation of the size, location, and certain features of signs is necessary to enable the public to locate goods, services, and facilities without disruption to surrounding areas; to prevent wasteful use of natural resources; to prevent hazards to life and property; and to assure the continued attractiveness of the community.

A. Nameplates -- Signs bearing only property numbers, postal box numbers, names of occupants of premises, private parking, or other identification of premises not having commercial connotations.

B. Church or Public Bulletin Boards:
   1. Permitted in all districts except R-1 and R-2 Districts.
      (a) Signs shall not exceed 25 square feet.

C. Temporary Signs Advertising the Lease or Sale of the Premises or Items on the Premises.
   1. Not to exceed twelve (12) square feet in area in the following districts: A-1, R-1, R-2, C-1.
   2. Not to exceed twelve (12) square feet in area in the following districts: C-2, M-1, M-2.
   3. Not to be placed in street right-of-way in any district.
   4. All temporary signs must be removed seven (7) days after closing date of property sale.

D. Billboards or Advertising Signs
   1. Unrestricted size permitted in A-1 district, provided:
      (a) They are not within one hundred (100) feet of any R district.
      (b) They are not within one hundred (100) feet of an intersection, highway structure, or residence, or another billboard.
      (c) They are not within one hundred (100) feet of a park, school, cemetery, public, or semi-public building.
      (d) They are not within seventy-five (75) feet of the center line of a city or country road, or one hundred (100) feet of state or federal highway.
   2. Permitted in C-1 districts, provided:
      (a) That they are not to exceed twenty-five (25) square feet in area and are attached to the structure in which the establishment is located and shall not be within twenty (20) feet of any residential district or use.
   3. Permitted in C-2 district provided;
      (a) That they are not to exceed 100 square feet in area and shall not be within twenty (20) feet of any residential district or use.
   4. Unrestricted size permitted in M-1, and M-2 districts, provided:
(a) That they shall not be within twenty (20) feet of any residential district or use.

E. Illumination of Signs and Nameplates

1. Shall not exceed 200 watts total and shall be lighted only with non-intermittent lighting in the following districts: R-1, R-2, and dwellings in C-1.

2. Shall not exceed 600 watts per sign or total watts of 700 for the premises and shall be lighted only with non-intermittent lighting in a C-2 district.

3. No restrictions apply to other districts or uses.

F. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be removed promptly and the surrounding area restored to a condition free from refuse and rubbish.

6-13-8 FENCE AND HEDGE REGULATIONS

A. Fences and hedges when located within a front, side or rear yard, or within five (5) feet of a lot line shall be subject to the following location and height restrictions:

1. No portion of a fence shall exceed seven (7) feet in height.

2. Fences and hedges shall be located so no part thereof is within three (3) feet of an alley or five (5) feet of a street right-of-way.

3. In residential districts, fences within the front yard shall not exceed four (4) feet in height.

B. Fenced enclosures shall be provided for outdoor swimming pools with a depth of eighteen (18) inches or more, and shall be subject to the following requirements:

1. Fences must be at least four (4) feet in height from ground level but not to exceed seven (7) feet from the top rim of the pool, and have no spaces that would allow a four (4) inch sphere to pass through.

2. Fences must have a self-closing and self-latching device on the gate.

3. Fences must be located so no part thereof is within three (3) feet of an alley.

4. Front yard fences may not extend into the area of the front yard between the front lot line and the front yard setback requirement designated in this ordinance.

C. Barbed wire and electric fences shall be subject to the following requirements:

1. Barbed wire fences shall not be allowed in residential or commercial zones areas.

2. Barbed wire and electric fences shall be prohibited within five (5) feet of a public sidewalk or within four (4) feet of a street right-of-way where a public sidewalk does not exist.

3. In the case wherein barb wire fences are necessary for the protection of domestic animals, all barb whether suspended vertically or horizontally must be at least five (5) feet above the average level grade of the fenced area.

4. Except for the enclosure of livestock operations in Agricultural zones (i.e. A-1), electric fences shall not be permitted in any district.
5. No electric fence shall carry a charge greater than twenty-five (25) milliamperes nor a pulsating current longer than one-tenth (1/10) per second in a one-second cycle. All electric fence chargers shall carry the seal of an approved testing laboratory.

6-13-9 SUPPLEMENTARY DISTRICT REGULATIONS

A. Visibility at Intersection -- On a corner lot in any agricultural or residential district, no fence, wall, hedge or other planting, signs or structure that will obstruct vision between a height of two and one-half (2 1/2) feet and ten (10) feet above the centerline grades of the intersecting street shall be erected, placed or maintained within the triangular area formed, the right-of-way lines as such corner and a straight line joining said right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.

B. Accessory Buildings and Structures -- No accessory building or structure shall be erected more than one hundred and twenty (120) days prior to the time of completion of the construction or establishment of the principal structure or use to which it is accessory. Accessory buildings and structures shall be limited to fifteen (15) feet in height, and shall be in distance at least ten (10) feet from any main buildings or five (5) feet from any lot line. No accessory building or structure shall be erected in any yard other than a rear yard and it shall occupy less than thirty percent (30%) of the required rear yard except for private garages. Attached private garages must meet minimum principal structure front and side yard requirements.

(Ordinance No. 136, Amended and Accepted October 8, 1993.)
(Ordinance No. 154 Amended and Accepted September 14, 1998)
(Ordinance No. 163 Amended and Accepted August 16, 1999)

C. One Principal Structure on a Lot -- In any district, more than one (1) principal structure housing a permitted principal use may be erected on a single lot provided that the area, yard, and other requirements of this Code shall be met for each structure as though it were on an individual lot. However, regardless of lot size, the erection of single family homes is limited to one (1) per lot.

D. Height Regulation Exception -- The height limitations contained in the Schedules of District Regulations do not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing, or other structures placed above the roof level and not intended for human use or occupancy.

E. Use of Public Right of Way -- No portion of the public street or alley right of way shall be used, or occupied by an abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this ordinance, or for any other purpose that would obstruct the use or maintenance or the public right of way.

F. Mobile Homes or Trailers -- Mobile homes or trailers occupied as a permanent or temporary place of residence shall be located only in an approved mobile home park.

G. Proposed Use Not Covered in this Code -- Any proposed use not covered in this code as a permitted use or special exception shall be referred to the Planning and Zoning Commission for a recommendation as to the proper district in which such use should be permitted and the code amended by the council as provided in Section 6-13-17 before a permit is issued for such proposed use.

H. Building to Have Access -- Every building hereafter erected or structurally altered shall be on a lot having frontage on a public street.

I. Handicapped Car Parking -- Where handicapped parking spaces are required by state law, a minimum of two (2) percent of the vehicle capacity of the off-street parking area shall be so designated by the proper signs and insignia.
J. Home Occupation -- are allowed in all (R) zones provided that no home occupation shall be permitted in which there is associated therewith:

1. Any commodity sold upon the premises except that which is produced thereon or is accessory to the home occupation conducted on the premise.

2. Any disturbance such as noise, vibration, smoke, dust, odor, heat or glare beyond the confines of the dwelling unit or accessory building.

3. Any exterior display, exterior storage of materials, signs (except as otherwise permitted), house calls after 10:00 p.m. or before 7 a.m., or other indication from the exterior that the dwelling unit or accessory building is being used in part for any use other than that of a dwelling or accessory building for purely residential purposes.

4. Employees other than those residing on the premises.

5. Utilizes no more than two on-street parking spaces at any one time.

6-13-10 APPLICATION OF DISTRICT REGULATIONS

A. Regulations to be Uniformly Applied -- The regulations set by this Chapter shall apply uniformly within each district to each class or kind of structure or land, except as hereinafter provided.

B. All Uses and Structures to Conform -- No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

C. Height, Density, or Yards Shall Not be Violated -- No building, or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards, or other open space than herein required or in any other manner contrary to the provisions of this code.

D. Separate Yards, Open Space, and Off-street Parking Required -- No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purposes of complying with this code, shall be included as a part of a yard, open space, or off-street parking, or loading space similarly required for any other building.

E. Minimum Yards and Lot Areas Shall Not be Reduced -- No yard or lot existing at the time of passage of this code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this code shall meet at least the minimum requirements established by this code.

6-13-11 NON-CONFORMING USES

A. Intent:

1. If within the districts established by this Chapter or amendments that may later be adopted there exist lots, structures, and use of land and structures which were lawful before this code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this code or future amendments, it is the intent of this code to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this code to be incompatible with permitted uses in the districts involved.
2. It is further the intent of the code that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures, signs or uses prohibited elsewhere in the same district.

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

B. Non-conforming Lots of Record -- In any district in which single-family dwellings are permitted, notwithstanding limitation imposed by other provisions of this code, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this code. This provision shall apply even though such lots fail 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 area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.

(Ordinance No. 134, Amended and Accepted September 29, 1993.)

C. Non-conforming Uses of Land -- Where, at the effective date of adoption or amendment of this code, lawful use of land exists that is made no longer permissible under the terms of this code as enacted and amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater use of land than was occupied at the effective date of adoption or amendment of this code.

2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this code.

3. If any such non-conforming use of land ceases for any reason for a period of more than one hundred eighty days (180), any subsequent use of such land shall conform to the regulations specified by this Code for the district in which such land is located.

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

1. No such structure may be enlarged or altered in a way which increases its non-conformity.

2. Should such structure by destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this code. The determination of the replacement cost must be determined by a licensed property appraiser.

E. Non-conforming Uses of Structures -- If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this code, that would not be allowed in the district under the terms of this code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No existing structure devoted to a use not permitted by this code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this code, but no such use shall be extended to occupy any land outside such building;

3. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this code;

4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed;

5. When a non-conforming use of a structure, land, or structure and land in combination, is discontinued or abandoned for eighteen (18) consecutive months, the structure thereafter shall not be used except in conformance with regulations of the district in which it is located;

6. Where non-conforming use status applied to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

F. Repairs or Maintenance --

1. On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement value of the building provided that the cubic content of the building as it existed at the time of passage or amendment of this code shall not be increased.

2. Nothing in this code shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

G. Uses Under Exception Provisions not Non-conforming Uses -- Any use for which a special exception is permitted as provided in this Chapter shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

6-13-12 ADMINISTRATION AND ENFORCEMENT

A. Administration and Enforcement --

1. An administrative officer designated by the City Council shall administer and enforce this ordinance. He or she may be provided with the assistance of such other persons as the City Council may direct.

2. If the administrative officer shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Code to insure compliance with or to prevent violation of its provisions.
B. Appeals from Decision of Administrative Officer -- Appeals from any decision of the administrative officer may be taken to the Board of Adjustment as provided in Section 6-13-14(F)(2).

6-13-13 PERMITS AND FEES

A. Construction Permit -- No buildings shall hereafter be erected, reconstructed or structurally altered nor shall any work be started upon same until a construction permit for same has been issued by the Administrative Officer, which permit shall state that the proposed building complies with provisions of this Code. This permit is valid for one (1) year following issuance for one- and two-family dwellings and eighteen (18) months for multi-family, commercial and industrial structures.

B. Fees --

1. The Administrative Officer is directed to issue permits, under the Zoning Ordinance, for the construction, reconstruction or alteration of residential, commercial or industrial buildings, and to charge fees therefor in such amounts as may be established from time to time by resolution of the City Council. Such fees as are required shall be credited to the General Fund of the City of Ely, Iowa. Building permits shall be issued without charge, however, to:

(a) The United States Government or any political subdivision thereof, and

(b) The State of Iowa or any political subdivision thereof, and

(c) To any religious group for the construction of a church or parochial school.

6-13-14 BOARD OF ADJUSTMENT

A. Creation and Membership -- A Board of Adjustment is hereby established. The Board shall consist of five (5) members to be appointed for a term of five (5) years excepting that when the Board shall first be created one member shall be appointed for a term of three (3) years, one for a term of two (2) years, and one for a term of one (1) year. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by the City Council for the unexpired term of the member affected.

B. Proceedings of the Board of Adjustment -- The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this code. Meetings shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson, or in his or her absence the acting chairman, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Administrative Officer and shall be a Public record.

C. Finality of Decisions and Necessary Vote -- All decisions and findings of the Board on any appeal or upon any application for a variance or conditional use, after a public hearing, shall, in all instances, be the final administrative decision and shall be subject to judicial review as by law may be provided. The concurring vote of three members of the Board shall be necessary to reverse an order, requirement, decision, or determination of the Zoning Administrator, 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 the application of this chapter.

D. Appeals from the Board of Adjustment -- Any person or persons, or any board, taxpayer, department, board or bureau of the town aggrieved by any decision of the Board of Adjustment may seek review by a court of record within 30 days of such decision, in the manner provided by the laws of the State and particularly by Chapter 414, Code of Iowa.
E. A fee -- in such amount as may be established from time to time by resolution of the city council, shall be paid to the Administrative Officer at the time an appeal, variance, conditional use, or revised site plan is filed, which the Zoning Administrator shall forthwith pay over such fees to the credit of the General Fund of the City of Ely, Iowa.

F. The Board of adjustment: Powers and Duties -- The Board of Adjustment shall have the following powers and duties:

1. Administrative Review -- To hear and decide appeals where it alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this code.

2. Appeals to the Board of Adjustment -- concerning interpretation or administration of this Chapter may be taken by any person aggrieved or by any officer, department, board or bureau of the governing body of the town affected by any decision of the Administrative Officer.

   (a) Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days by filing with the Administrative Officer and with the Secretary of the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all paper constituting the record upon which the action appealed from was taken.

   (b) The Board of Adjustment shall fix a reasonable time not exceeding 30 days from the date of appeal for the hearing, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time, not exceeding 15 days from the date of the hearing. At the hearing any party may appear in person or by agent or attorney.

3. Stay of Proceeding -- An appeal stays all proceedings in furtherance of the action appealed from, 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.

4. Special Exceptions: Conditions Governing Applications; Procedures -- To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this code, or to deny special exceptions when not in harmony with the purpose and intent of this code. A special exception shall not be granted by the Board of Adjustment unless and until:

   (a) A written application for a special exception is submitted indicating the section of this Chapter under which the special exception is sought and stating the grounds on which it is requested.

   (b) Notice shall be given at least fifteen (15) days in advance of the public hearing by publication in a newspaper of general circulation in the City of Ely and shall be mailed to all property owners within a distance of two hundred feet (200') of the affected property.

   (c) The public hearing shall be held. Any party may appear in person, or by agent or attorney.

   (d) The Board of Adjustment shall make a finding that it is empowered under the section of this code described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

   In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Chapter. 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 Chapter and punishable under Section 6-13-16 of this Code. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

5. Variances: Conditions Governing Application; Procedures -- To authorize upon appeal in specific cases such variance from the terms of this code as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this code would result in unnecessary hardship. A variance from the terms of this code 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 code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter;

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other lands, structures, or buildings in the same district. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance; and

4. That the special conditions and circumstances do not result from the actions of the applicant.

(b) Notice of public hearing shall be given as in section 6-13-14(F)(4)(b), and in accordance with the State of Iowa Open Meetings Law (Chapter 21 of the Code of Iowa).

(c) The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

(d) 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.

(e) The Board of Adjustment shall make findings that the requirements of Section 6-13-14(F)(5)(a) have been met by the applicant for a variance.

(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 code, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Chapter. 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 code and punishable under Section 6-13-16 of this code.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this code in the district involved, or any use expressly or by implication prohibited by the terms of this Chapter in said district.
6-13-15 INTERPRETATION OF PROVISIONS -- In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing higher standards, shall govern.

6-13-16 VIOLATIONS AND PENALTIES

A. Any person, firm or corporation who shall violate, or fail to comply with the provisions of this code shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars ($100.00) or imprisoned not more than thirty (30) days and may be required to pay all costs and expenses involved in the prosecution of the violation. Alternatively, any person, firm or corporation who shall violate or fail to comply with the provisions of this Code shall be guilty of a municipal infraction pursuant to Section 364.22 Code of Iowa (1991). Each day such violation continues shall constitute a separate offense.

B. The owners, or tenant of any building, structure, land or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation or fails to comply with any provision of this Code may each be charged with a misdemeanor or municipal infraction and upon conviction suffer the penalties provided herein in the event a misdemeanor is charged and the penalties contained in Section 364.22, Code of Iowa (1991) if a municipal infraction is charged. Each day such violation continues shall constitute a separate offense.

C. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure or land is used in violation of this Chapter, the City of Ely may, in addition to other remedies, institute an injunction, mandamus, or other appropriate lawful action necessary to prevent, correct or abate such violation.

6-13-17 CHANGES AND AMENDMENTS

A. Procedure -- The regulations imposed and the districts created by this Chapter may be amended from time to time by the City Council, but no such amendments shall be made without public hearing before the City Council and after a report upon the amendment from the Planning and Zoning Commission.

If the Planning and Zoning Commission makes no report within thirty (30) days from the date of passage of the Council's motion referring the matter to the Planning and Zoning Commission, the City Council may proceed with a public hearing without such report or recommendation. At least seven (7) days' notice of the time and place of such hearing shall be published in a newspaper having general circulation in the City of Ely. In the event the Planning and Zoning Commission recommends disapproval of the change or, in the event of a protest against such change filed with the City Council and signed by the owners of twenty (20) percent or more either of the area of the lots included in the proposed change or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto, extending the depth on one lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendment shall not be passed except by the favorable vote of at least three-fourths of all the members of the City Council.

B. Form of Application -- An application for rezoning shall contain the following items:

1. The legal description and local address of the property.

2. The present zoning classification and the zoning classification requested for the property.

3. The existing use and proposed use of the property.
4. The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.

5. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.

6. A Plat or Site Plan showing the 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.

7. A Site Plan containing the following information:
   
   (a) North arrow and scale.

   (b) Location of existing rights-of-way, easements and infrastructure (streets, sewers, water lines, etc.).

   (c) Size and location of existing and proposed structures and drives on the subject property, and existing structures and drives on surrounding properties.

   (d) Location of Floodplain.

   (e) Location of proposed drives and parking areas.

   (f) Platted setback lines.

   (g) Elevations of proposed buildings.

   (h) Final grades.

   (i) Landscaping.

   (j) Name and address of landowner.

   (k) Name and address of architect, landscape architect, engineer, surveyor, or other person involved in the preparation of the plan.

   (l) Date of preparation of the plan.

C. Application Fee -- Before any action is taken upon an application as provided in this Article, the applicant shall pay to the Administrative Officer a fee in such amount as may be established by resolution of the City Council. The Administrative Officer shall forthwith pay over such fees to the credit of the General Fund of the City of Ely, Iowa. The failure to approve an application for rezoning shall not be construed as any reason for refunding the fee to the applicant.

6-13-18 EFFECTIVE DATE: This Ordinance shall take effect and be in force on and after May 10, 1993. Passed by the City Council on the 10th day of May, 1993, and approved this 10th day of May, 1993.

Editor’s Note: On May 10, 1993, the City of Ely adopted Ordinance No. 132, Ely Zoning Ordinance of 1992. Ordinance No. 132 replaced the city’s original zoning ordinance, Ordinance No. 77. In adopting Ordinance No. 132, the city repealed its existing zoning ordinance (No. 77) and all amendments thereto (Ordinance Nos. 80, 100, 104, 111, 112, 114, 115, 119, 121, and 123). The following amendments to Ordinance No. 132, Ely Zoning Ordinance of 1992, are specifically saved from repeal and are in full force and effect.
<table>
<thead>
<tr>
<th></th>
<th>Date</th>
<th>Action Description</th>
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<tr>
<td>135</td>
<td>September 29, 1993</td>
<td>Rezoning from R-1 to C-1</td>
</tr>
<tr>
<td>142</td>
<td>November 11, 1996</td>
<td>Add R-1 district - Southbrook</td>
</tr>
<tr>
<td>143</td>
<td>November 11, 1996</td>
<td>Add M-1 district - Krob property</td>
</tr>
<tr>
<td>144</td>
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<td>Add M-1 district - Bragg property</td>
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<tr>
<td>145</td>
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<td>Add C-2 district - Sweet property</td>
</tr>
<tr>
<td>155</td>
<td>May 11, 1998</td>
<td>Add R-1 district – Southbrook 5th addn.</td>
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6-14-1 SHORT TITLE   This chapter shall be known and may be cited as "The City of Ely, Iowa Subdivision Regulations"

6-14-2 PURPOSE. The purpose of these regulations is to establish minimum standards for the design, development and improvement of all new subdivisions and re-subdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare.

(Code of Iowa, 1977, Sec. 409.14)

6-14-3 POLICY. It is hereby declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the city to provide for the orderly, efficient and economical development of the city. And further:

1. Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace

2. Regulations to Supplement and Facilitate. It is intended that these subdivision regulations shall supplement and facilitate the enforcement of provisions and standards, ordinances or regulations of the city.
6-14-4 APPLICATION AND JURISDICTION. Every owner or his agent of any tract or parcel of land lying within the city or within two (2) miles of the corporate limits of the city who has subdivided or shall hereafter subdivide the same into three (3) or more parts for the purpose of laying out an addition, subdivision, building lot or lots, or acreage lots shall cause plats of such area to be made in the form, and containing the information as hereafter set forth, before selling any lots therein contained or placing the plat on record.

(Code of Iowa, 1977, Sec. 409.1 & 409.14)

6-14-5 INTERPRETATION. In their interpretation or application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. Specifically:

1. Relationship to Other Public Provisions. These regulations are not intended to interfere with, or abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

2. Relationship to Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern.

6-14-6 ACTION UNDER PRIOR PROVISIONS. These regulations do not abate any action now pending under, or by virtue of, prior existing subdivision regulations. Nor do they discontinue, abate, modify, or alter any penalty accrued or about to accrue, or affect the liability of any person, or waive any right of the city under any section or provision existing at the time of adoption of these regulations. Nor do they vacate or annul any rights obtained by any person, by lawful action of the city except as expressed in these regulations.

6-14-7 DEFINITIONS. For use in this chapter certain terms or words used herein shall be interpreted or defined as follows:

1. "Alley": shall mean a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

2. "Applicant": shall mean the owner of land to be subdivided or his representative.

3. "Block": shall mean a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or corporate boundaries.

4. "Bond": shall mean any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the council.

5. "Building": shall mean any structure built for support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind and includes any structure.

6. "Central Water System": shall mean a private water system and it includes water treatment distribution facilities established by the developer to serve a new subdivision or re-subdivision.

7. "Central Sewage System": shall mean a private sewer system including collection and treatment facilities established by the developer to serve a new subdivision or re-subdivision.

8. "City Engineer": shall mean the person designated by the council to furnish engineering assistance for the administration of these regulations.

9. "Commission": shall mean the planning and zoning commission of Ely, Iowa.
10. "Cul-de-sac": shall mean a municipal service street with only one outlet and having an appropriate terminal for safe and convenient reversal of traffic movement.

11. "Developer": shall mean the owner of land proposed to be subdivided or his representative.

12. "Easement": shall mean an authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

13. "Frontage": shall mean that portion of a lot abutting on a street or way and complying with the set back and front yard requirements as they may exist, but it shall not be considered as the side of a corner lot.

14. "Individual Sewage Disposal System": shall mean a septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

15. "Local Board of Health": shall mean a county, City, or district board of health.

16. "Lot": shall mean a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.

17. "Municipal Arterial Streets": shall mean those streets which connect principal traffic generating areas or connect such areas with other street systems.

18. "Municipal Collector Streets": shall mean those streets that collect traffic from municipal service streets and connect to other street systems.

19. "Municipal Service Street": shall mean those streets that primarily provide access to property.

20. "Owner": shall mean any person, firm, corporation, or any legal entity having legal title to or sufficient proprietary interest in the land to be sought to be subdivided under these regulations.

21. "Plat": shall mean a map, drawing or chart on which the developer's plan of the subdivision of land is presented and which he submits for approval and intends in final form, to record.

22. "Public Improvement": shall mean any drainage ditch, roadway, parkway, sidewalk, pedestrian crosswalk, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

23. “Right-of-way”: shall mean a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term “right-of-way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

24. "Roadway": shall mean that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.
25. "Street": shall mean and include any public way, highway, street, avenue, boulevard, parkway, or other public thoroughfare, and each of such words shall include every other of them, and shall include the entire width between property lines.

26. "Subdivider": shall mean a person, firm or corporation undertaking the subdivision or re-subdivision of a tract or parcel of land.

27. "Subdivision": shall mean the division of land into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, or, the re-subdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

(Code of Iowa, 1977, Sec. 409.1)

28 "Surveyor": shall mean a land surveyor licensed and registered under the provisions of Chapter 114, Code of Iowa, 1977.

6-14-8 PROCEDURE. In obtaining final approval of a proposed subdivision by the council, the subdivider shall submit a preliminary plat in accordance with the requirements of 6-14-10 and install the required improvements or provide a performance bond.

(Code of Iowa, 1977, Sec. 409.14)

6-14-9 PRE-SUBMISSION CONSULTATIONS. Prior to the submission of the preliminary plat of any subdivision, the subdivider is encouraged to meet with the city engineer and other city officials responsible for the administration of these regulations to be advised of the procedural steps, design standards required improvements, and platting requirements. During such meetings, no commitments shall be made which will be binding upon the city.

(Code of Iowa, 1977, Sec. 409.14)

6-14-10 REQUIREMENTS OF PRELIMINARY PLAT. Every proposed subdivision shall be submitted for tentative approval in the form of a preliminary plat prior to the submission of a final record plat. The purpose of the preliminary plat and accompanying material is to provide all facts needed for the commission and council to determine whether the proposed subdivision is satisfactory from the standpoint of the public interest. The following graphic and descriptive material is required to be provided on the preliminary plat and in the accompanying material.

(Code of Iowa, 1977, Sec 409.14)

1. Contents of Preliminary Plat. The preliminary plat shall be prepared by a registered Engineer at a convenient scale of not more than one inch equals one hundred (100) feet, may be prepared in pen or pencil, and the sheets shall be numbered in sequence if more than one sheet is used. The following information shall be shown on the preliminary plat:

   A. Title, scale, north point and date.

   B. Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships and range lines or corners. Exterior boundaries are to be indicated with a solid heavy line.

   (Code of Iowa, 1977, Sec. 409.1)

   C. Present and proposed streets, alleys and sidewalks, with their rights-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients types and widths of surfaces curbs, and planting strips, and location of street lights, fire hydrants, and street signs.

   (Code of Iowa, 1977, Sec 409.4 & 409.6)

   D. Proposed layout of blocks and lots showing dimensions, radii, chords and the square foot areas of lots that are not rectangular and the lot and block number in numerical order.

   (Code of Iowa, 1977, Sec. 409.1 & 409.4)
E. Building setback or front yard lines.

F. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
   (Code of Iowa, 1977, Sec 409.13)

G. Present and proposed easements, showing locations, widths, purposes and limitations.
   (Code of Iowa, 1977, Sec 409.9)

H. Location and names of adjoining parcels of un-subdivided and subdivided land.

I. Boundaries of the highest known flood of record affecting the subdivision and the source of information.

J. If the proposed subdivision borders on a lake or stream, the distances and bearings of meander line established not less than twenty (20) feet back from the mean high water mark of the lake or stream.

K. Existing blocks, lots, and buildings.

L. Present and proposed utility systems including sanitary and storm sewers, other drainage facilities water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each. If the subdivision is within one mile of public sewer or water or both, notation shall be made of the direction and distance to such facilities.
   (Code of Iowa, 1977, Sec. 409.14)

M. Proposed name of the subdivision.

N. Names and addresses of the owner, subdivider builder, and surveyor who prepared the preliminary plat, and the surveyor who will prepare the final plat.

O. Official legal description of the property being platted.
   (Code of Iowa, 1977, Sec- 409.8)

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

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

R. Location of all proposed monuments.

2. Information to Be Provided in Accompanying Material. The following information shall accompany a plat when filing:

   A. A complete listing of all existing covenants which apply to the land to be subdivided, and a complete listing of all covenants which are proposed by the developer to apply to the subdivided land.

   B. A table of the following information:
      
      (1) Total acreage of subdivision.

      (2) Total number of lots.

      (3) Minimum, average, and maximum lot area.
(4) Acreage of public lands to be dedicated or reserved other than streets.

C. An attorney’s opinion showing that the fee title to the property proposed for subdividing is in the owner's name as shown on the plat and showing any encumbrances that may exist against the land.

(Code of Iowa, 1977, Sec. 409.9)

D. If any portion of the subdivision is to have access on a state or county jurisdictional street, a written and signed statement acknowledging and permitting the access by the duly authorized official of the appropriate jurisdiction.

E. Specifications and engineering construction drawings including profiles, cross-sections, and details of all public improvements. Elevations shall be referred to mean sea level as exhibited in standard US Geological Survey Maps. Specifications and references shall meet those required by the city's construction and specification standards, including a site grading plan for the entire subdivision.

6-14-11 SUBMISSION OF PRELIMINARY PLAT. The subdivider shall prepare a preliminary plat in accordance with the provisions of 6-14-10 and shall file with the clerk an application in triplicate for the tentative approval of the plat. The application shall include:

1. Forms and Fees. Be made on forms available from the clerk together with a fee equal to the amount charged by a Registered Engineer.

2. Number of Plats. Be accompanied by a minimum of ten (10) copies of the preliminary plat.

3. Time of Submission. Be presented to the clerk at least four (4) weeks prior to the regular meeting of the commission.

6-14-12 REFERRAL OF PRELIMINARY PLAT. The clerk shall immediately refer one (1) copy of the preliminary plat to a Registered Engineer, seven (7) copies to the commission and retain one (1) copy in the city office. In the case of a subdivision outside the corporate limits of the city, the clerk shall refer one copy of the preliminary plat to the county board of supervisors.

6-14-13 REVIEW OF PRELIMINARY PLAT. The preliminary plat shall be reviewed by the commission to determine its conformity with these regulations and all other ordinances and regulations in force affecting subdivisions. Copies of the preliminary plat may be transmitted to other city or school officials, as the commission deems necessary, for their recommendations concerning matters within their jurisdiction. Their recommendations, along with those of the city engineer shall be transmitted to the commission within three (3) weeks from the date the plat is filed. The commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made.

6-14-14 ACTION BY THE COMMISSION. The commission shall, as soon as possible, but not more than thirty (30) days thereafter, pass upon the preliminary plat as originally submitted or modified. If the commission does not act within thirty (30) days, the preliminary plat shall be deemed to be approved; provided, however, that the subdivider may agree to an extension of the time period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

(Code of Iowa, 1977, Sec. 409.14)

1. Reasons for Changes or Disapproval. In the event that substantial changes or modifications are made by the commission or the commission recommends disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be re-submitted in the same manner as the original plat.

2. Tentative Approval. If the commission recommends approval, it shall express its approval as "Tentative Approval" and state the conditions of such approval, if any.
3. Documenting Approval. The action of the commission shall be documented on seven (7) copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider, one copy shall be retained by the commission, and five (5) copies shall be referred to the council.

6-14-15 ACTION BY COUNCIL. Within thirty (30) days of the receipt of the preliminary plat, the council shall, by resolution, tentatively approve or disapprove the plat. If the preliminary plat is disapproved, objections to it shall be returned to the commission for further review and the clerk shall notify the subdivider of such action. If approved, the clerk shall affix his signature to five (5) copies of the preliminary plat with the notation of the date the preliminary plat received the council's tentative approval. One copy shall be returned to the commission and three (3) copies shall be returned to the subdivider. The "Tentative Approval" by the council shall not constitute final acceptance of the addition or subdivision by the city but an authorization to proceed with preparation of the final plat.

(Code of Iowa, 1977, Sec. 409.14)

6-14-16 EFFECTIVE PERIOD OF TENTATIVE APPROVAL The tentative approval of a preliminary plat shall be effective for a period of one year at the end of which time final approval must have been obtained. Any plat not receiving final approval within this period of time shall be void, and the subdivider shall be required to resubmit a new plat for tentative approval subject to all new zoning restrictions and subdivision regulations.

6-14-17 COMPLETION OF IMPROVEMENTS. Before the council will approve the final plat, all of the required improvements shall be constructed and accepted by formal resolution of the council. Before passage of said resolution of acceptance, the city engineer shall report that said improvements meet all city specifications and ordinances or other city requirements, and the agreements between the subdivider and the city.

(Code of Iowa, 1977, Sec. 409.5)

6-14-18 PERFORMANCE BOND. The completion requirement for improvements may be waived in whole or in part if the subdivider will post a performance bond with the council guaranteeing that improvements not completed will be constructed within a period of one year from final acceptance of the plat; but final acceptance of the plat will not constitute final acceptance by the city of any improvements to be constructed. Improvements will be accepted only after their construction has been completed. Such performance bond shall be satisfactory to the city attorney as to form, sufficiency, and manner of execution. Upon recommendation of the commission, the council may extend the completion date set forth in the bond for a maximum period of one additional year.

(Code of Iowa, 1977, Sec. 409.5 & 409.14)

6-14-19 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time, provided however, that such portion conforms to all requirements of these regulations.

6-14-20 REQUIREMENTS OF THE FINAL PLAT. The following graphic and descriptive material is required to be provided on the final plat and in the accompanying material.

1. Contents of the Final Plats. Every plat of a subdivision offered for record shall conform to all of the following provisions where applicable:

   A. The plat shall be a permanent copy or a photographic print made on a stable plastic film. Exact copies of the plat to be recorded shall be provided to and filed by the county recorder, assessor and auditor. The original plat drawing shall remain the property of the registered land surveyor.

   (Code of Iowa, 1977, Sec. 409.31)
B. The size of each sheet showing any portion of the subdivided lands shall not be greater than eighteen (18) inches by twenty-four (24) inches nor less than eight and one half (8 1/2) inches by eleven (11) inches.

(Code of Iowa, 1977, Sec. 409.31)

C. Whenever more than one sheet is used to accurately portray the lands subdivided, each sheet shall display both the number of the sheet and the total number of sheets included in the plat, as well as clearly labeled match lines indicating where the other sheets adjoin. An index sheet shall be provided to show the relationship between the sheets.

(Code of Iowa, 1977, Sec. 409.31)

D. A maximum scale of one hundred (100) feet to one inch shall be used. The scale used shall be clearly stated and graphically illustrated by a bar scale drawn on every sheet showing any portion of the lands subdivided.

(Code of Iowa, 1977, Sec. 409.31)

E. Subdivisions shall be designated, by name or as otherwise prescribed, in bold letters inside the margin at the top of each sheet included in the plat.

(Code of Iowa, 1977, Sec. 409.31)

F. An arrow indicating the northern direction shall be drawn in a prominent place on each sheet included in the plat, as well as the scale and date.

(Code of Iowa, 1977, Sec. 409.31)

G. All monuments to be of record shall be adequately described and clearly identified on the plat. When additional monuments are to be established subsequent to the recording of the plat the location of the additional monuments shall be shown on the plat.

(Code of Iowa, 1977, Sec. 409.31)

H. Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, easement, or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.

(Code of Iowa, 1977, Sec. 409.31)

I. All distances shall be shown in feet to the nearest one-hundredth of a foot, and in accordance with the definition of a foot adopted by the United States Bureau of Standards. All measurements shall refer to the horizontal plane.

(Code of Iowa, 1977, Sec. 409.31)

J. The course of every boundary line shown on the plat shall be indicated by a direct bearing reference or by an angle between the boundary line and an intersecting line having a shown bearing, except when the boundary line has an irregular or constantly changing course, as along a body of water, or when a description of the boundary line is better achieved by measurements shown at points or intervals along a meander line having a shown course. All bearings and angles shown shall be given to at least the nearest minute of arc.

(Code of Iowa, 1977, Sec. 409.31)

K. Curve data shall be stated in terms of radius, central angle, and tangent, or length of curve. In all cases, the curve data must be shown for the line affected.

(Code of Iowa, 1977, Sec. 409.31)

L. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.

(Code of Iowa, 1977, Sec. 409.31)
M. When any lot or portion of the subdivision is bounded by an irregular line, the major portion of that lot or subdivision shall be enclosed by a meander line showing complete data with distances along all lines extending beyond the enclosure to the irregular boundary shown with as much certainty as can be determined or as "more or less", if variable. In all cases, the true boundary shall be clearly indicated on the plat.

(Code of Iowa, 1977, Sec. 409.31)

N. All interior excepted parcels shall be clearly indicated and labeled, "not a part of this plat."

(Code of Iowa, 1977, Sec. 409.31)

O. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a re-subdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Re-subdivisions shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.

(Code of Iowa, 1977, Sec. 409.31)

P. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer, and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

(Code of Iowa, 1977, Sec. 409.31)

Q. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the council.

(Code of Iowa, 1977, Sec. 409.31)

R. The purpose of all areas dedicated to the public must be clearly indicated on the plat.

(Code of Iowa, 1977, Sec. 409.31)

S. The plat shall contain a statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor's Iowa registration number or seal.

T. Street names and clear designation of public alleys.

(Code of Iowa, 1977, Sec. 409.4 & 409.6)

U. Block and lot numbers.

(Code of Iowa, 1977, Sec. 409.4)

V. Name and address of owner and subdivider.

W. Accurate dimensions for any property to be dedicated or reserved for public use.

X. The plat shall be signed and acknowledged by the subdivision land owner and his or her spouse.

(Code of Iowa, 1977, Sec. 409.8)

Y. A sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

(Code of Iowa, 1977, Sec. 409.1)

2. Information to be Provided in Accompanying Material. The following material shall be submitted with the final plat:
A. A correct legal description of the subdivision land.
   (Code of Iowa, 1977, Sec. 409.8)

B. A certificate by the owner and his spouse, if any, that the subdivision is with the free
   consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and
   acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of
   deeds.
   (Code of Iowa, 1977, Sec. 409.8)

C. A complete abstract of title and an attorney’s opinion showing that the fee title to the
   subdivision land is in the owner and that the land is free from encumbrances other than those secured by any
   encumbrance bond.
   (Code of Iowa, 1977, Sec. 409.9)

D. A certificate from the county treasurer that the subdivision land is free from taxes.
   (Code of Iowa, 1977, Sec. 409.9)

E. A certificate from the clerk of the district court that the subdivision land is free from all
   judgments, attachments, or mechanics or other liens of record in his office.
   (Code of Iowa, 1977, Sec. 409.9)

F. A certificate from the county recorder that the title in fee is in the owner and that it is
   free from encumbrances other than those secured by an encumbrance bond.

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

H. Resolution and certificate for approval by the council and for signatures of the mayor
   and clerk.
   (Code of Iowa, 1977, Sec. 409.7)

I. A certificate by the city engineer that all required improvements and installations have
   been completed according to the construction plans submitted with the preliminary plat, or that a performance
   bond guaranteeing completion has been approved by the city attorney and filed with the clerk, or that the
   council has agreed that the city will provide the necessary improvements and installations and assess the
   costs against the subdivider or future property owners in the subdivision.
   (Code of Iowa, 1977, Sec. 409.5)

J. The encumbrance bond, if any.
   (Code of Iowa, 1977, Sec. 409.10 & 409.11)

K. As provided for in Section 409.9, 1979 Code of Iowa, the opinion of the attorney, the
   abstract of title and the certificate of the county recorder, required to be submitted in paragraphs C and F
   above, however, may show a mortgage or encumbrance if the final plat is accompanied by a consent to such
   platting by the holder of the mortgage or encumbrance and a release from the mortgage or encumbrance of
   all streets, easements and other areas to be conveyed or dedicated to the City of Ely, Iowa. If the said consent
   and release by the holder of the mortgage or encumbrance is so provided, the final plat may be approved
   without the posting of any encumbrance bond.

6-14-21 SUBMISSION OF FINAL PLAT. The subdivider shall prepare a final plat in accordance with the
provisions of 6-14-20 and shall file with the clerk an application in triplicate for the final approval of the plat.
The application shall:

1. Forms and Fees. Be made on forms available from the clerk together with a fee of ten (10)
dollars per lot, only if there have been any changes made on the preliminary plat.
2. Number of Copies of Plat. Be accompanied by a minimum of ten (10) copies of the final plat.

3. Offers of Dedication. Be accompanied by all formal irrevocable offers of dedication to the public of all streets, city uses, utilities and easements, in a form approved by the city attorney.

4. Time of Submission. Be presented to the clerk at least four (4) weeks prior to the regular meeting of the commission.

6-14-22 REFERRAL OF FINAL PLAT. The clerk shall immediately refer one (1) copy of the final plat to Registered Engineer, seven (7) copies to the commission and retain one (1) copy in the city office. In the case of a subdivision outside the corporate limits of the city, the clerk shall refer one (1) copy of the final plat to the county board of supervisors.

6-14-23 ACTION BY COMMISSION. The commission shall, upon receiving the final plat, as soon as possible, but not more than thirty (30) days thereafter, consider the final plat, and if the same is recommended for approval, shall submit its recommendation of approval to the council together with a certified copy of its resolution showing the action of the commission. If the commission recommends approval of the final plat, such approval and the date thereof shall be noted on the plat over the signature of both the chairman and secretary of the commission and the plat and five (5) copies shall be transmitted to the council, and one copy shall be returned to the subdivider.

(Code of Iowa, 1977, Sec 409.14)

6-14-24 ACTION BY THE COUNCIL. Upon receipt of the certification by the commission the council shall, within sixty (60) days, either approve or disapprove the final plat.

(Code of Iowa, 1977, Sec. 409.14 & 409.15)

1. Disapproval of Plat. In the event that said plat is disapproved by the council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. Acceptance of Plat. In the event that said plat is found to be acceptable and in accordance with these regulations, the council shall accept same.

3. Final Approval and Recording of Plat. The passage of a resolution by the council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the county recorder of the county where the land to be subdivided is located, and shall file satisfactory evidence of such recording in the office of the clerk before the city shall recognize the plat as being in full force and effect.

6-14-25 RE-SUBDIVISION OF LAND. The following requirements shall govern the re-subdividing of land.

1. Procedure for Re-subdividing. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved for public use indicated on the map, or any lot line, or if it affects any map or plan legally established prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the same procedure, rules, and regulations as for a subdivision.

2. Acreage Lots. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be re-subdivided into smaller building sites, the commission and council may require that such parcel of land allow for future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

6-14-26 COMPLETION OF IMPROVEMENTS. Before the final plat is approved by the council, all applicants shall be required to complete, in accordance with the council's decision and to the satisfaction of the city engineer, all the street, sanitary, and other improvements as required in these regulations, specified
in the preliminary plat, and as approved by the council, and to dedicate same to the city, free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

(Code of Iowa, 1977, Sec. 409.5)

6-14-27 PERFORMANCE BOND. The council in its discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to approving the final plat, and that, as an alternative, the applicant post a bond at the time of application for final plat approval in an amount estimated by the council as sufficient to secure to the city the satisfactory construction, installation, and dedication of the incomplete portion of required improvements. In addition:

(Code of Iowa, 1977, Sec. 409.5 & 409.14)

1. Approved by City Attorney. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the city attorney as to form, sufficiency, and manner of execution as set forth in these regulations.

2. Completion Period. The period within which required improvements must be completed shall be specified by the council in the resolution approving the final plat shall be incorporated in the bond, and shall not exceed one year from date of final approval.

3. Extension of Completion Period. The performance bond shall be approved by the council as to the amount and surety and conditions satisfactory to the council. The commission may, upon proof of difficulty, recommend to the council extension of the completion date set forth in such bond for a maximum period of one additional year. The council may at any time during the period of such bond accept a substitution of principal or sureties on the bond.

4. Temporary Improvements. The applicant shall build and pay for all costs of temporary improvements required by the council and shall maintain same for the period specified by the council. Prior to construction of any temporary facility or improvement, the developer shall file with the city a separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained and removed.

5. Failure to Complete Improvement. For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the council in the resolution approving the plat, the approval shall be deemed to have expired. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the city may declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.

6-14-28 INSPECTION OF IMPROVEMENTS. The council shall provide for inspection of required improvements during construction and insure their satisfactory completion. The applicant shall pay to the city an inspection fee equal to the actual cost of inspection. These fees shall be due and payable upon demand of the city and no building permits or certificates of occupancy shall be issued until all fees are paid. The subdivider shall furnish the council with a construction schedule prior to the commencement of any and all construction, and notify the city not less than twenty-four (24) hours in advance of readiness for required inspections.

6-14-29 RELEASE OR REDUCTION OF PERFORMANCE BOND. The performance bond may not be released or reduced except as follows:

1. Certificate of Satisfactory Completion. The council will not accept dedication of required improvements, nor release nor reduce a performance bond, until the city engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer has certified to the city through submission of detailed "as built" plans of the subdivision indicating location, dimensions, materials, and other information required by the city, that all public improvements are in accordance with construction plans for the subdivision.
2. Reduction of Performance Bond. A performance bond may be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat.

6-14-30 MAINTENANCE OF IMPROVEMENTS. Improvements shall be maintained and a maintenance bond provided as follows:

1. Maintenance of Improvements Before Acceptance. The applicant shall be required to maintain all improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required, until acceptance of said improvements by the council. If there are any certificates of occupancy on a street not dedicated to the city, the city may on twelve (12) hours notice plow the street or effect emergency repairs and charge same to applicant.

2. Maintenance Bond. The applicant shall be required to file a maintenance bond with the governing body, prior to dedication, in an amount considered adequate by the council and in a form satisfactory to the city attorney, in order to assure the satisfactory condition of the required improvements for a period of two (2) years after the date of their acceptance by the governing body and dedication of same to the local government.

(Code of Iowa, 1977, Sec 409.14)

6-14-31 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS. Required improvements may be deferred or waived as follows:

1. Waiver of Required Improvements. The council may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as in its judgment are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

2. Deferral of Required Improvements. Whenever it is deemed necessary by the council to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the applicant shall pay his share of the costs of the future improvements to the city prior to the approval of the final plat, or the applicant may post a bond insuring completion of said improvements upon demand of the city.

6-14-32 ISSUANCE OF CERTIFICATES OF OCCUPANCY. No certificate of occupancy shall be issued until the extent of street improvement is adequate for vehicular access by the prospective occupant and by police and fire equipment.

6-14-33 IMPROVEMENTS REQUIRED. The subdivider shall install and construct all improvements required by these regulations in accordance with the specifications and under the supervision of the council and to its satisfaction.

(Code of Iowa, 1977, Sec. L409.5 & 409.14)

6-14-34 DESIGN STANDARDS ARE MINIMUM. The standards and details of design herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the subdivision, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood.

6-14-35 CONFORMANCE TO APPLICABLE RULES AND REGULATIONS. In addition to the requirements established herein, all subdividers shall comply with the following laws, rules, and regulations.

1. State Statutes. All applicable statutes of the State of Iowa.

2. City Plans. Any comprehensive plan, public utilities plan, and capital improvements program of the city.
3. State Agency Rules. The requirements and rules of state agencies such as the state department of environmental quality, state department of health, and the state department of transportation, where applicable.

4. County Standards and Regulations. The standards and regulations of the county board of supervisors and county commissions, boards, and agencies where applicable.

5. City Standards and Regulations. The standards and regulations adopted by the council, boards, commissions, and agencies of the city.

6. Plat Approval and Conformity. Plat approval may be withheld if a subdivision is not in conformance with the above guides, or policy and purposes of these regulations.

6-14-36 SUBDIVISION NAME. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The council, after consultation with the commission, shall have the final authority to designate the name of the subdivision which shall be determined at preliminary plat approval.

6-14-37 MONUMENTS. Monuments shall be in conformance with the following requirements:

1. Establishment of Permanent Control Monuments. Prior to the offering of the plat of any subdivision for record, the surveyor shall confirm the prior establishment of permanent control monuments at each controlling corner on the boundaries of the parcel or tract of land being subdivided. If no permanent control monuments exist, the surveyor shall establish at least two (2) permanent control monuments for each block created, or if the area subdivided into lots is less than a block in size, at least two (2) permanent control monuments shall be established for the subdivision. Permanent control monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the surveyor to the top of the monument.

   (Code of Iowa, 1977, Sec. 409.30)

2. Other Monuments of Record. Other monuments established prior to the recording of the plat of the subdivision and described on the plat shall be considered monuments of record and shall be given the same weight as original permanent control monuments if the monuments remain undisturbed in their original positions. The additional monuments shall be constructed and embedded according to the provisions for permanent control monuments prescribed in subsection 1 of this section.

   (Code of Iowa, 1977, Sec. 409.30)

3. Establishment and Recording of Other Monuments. Monuments other than the permanent control monuments required in subsection 1 of this section shall not be required to be established before the recording of the plat or the conveyance of lands by reference to the plat if the registered land surveyor includes in the surveyor’s statement on the plat that the additional monuments required by these regulations shall be established before a specified future date.

   (Code of Iowa, 1977, Sec. 409.30)

4. Additional Monuments Required. Additional monuments shall be constructed and embedded according to the provisions for permanent control monuments prescribed in subsection 1 of this section, and shall be set all of the following locations whether set prior to the recording of the plat, or subsequent to such recording:

   (Code of Iowa, 1977, Sec- 409.30)

   A. At every corner and angle point of every lot, block or parcel of land created.
B. At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line of any street, railroad, or other way.

C. At every point of curve, tangency, reversed curve, or compounded curve on every right-of-way line established.

5. Placement of Monument. When the placement of a monument required by this chapter at the prescribed location is impractical, it is permissible to establish a reference monument in close proximity to the prescribed location. If the reference monument is established prior to the recording of the plat and its location properly shown on the plat, the reference monument shall have the same status as other monuments of record. Where any point requiring monuments has been previously monumented, the existence of the monument shall be confirmed by the surveyor. The existing monument shall be considered a monument of record when properly shown and described on the recorded plat.

(Code of Iowa, 1977, Sec. 409.30)

6-14-38 CHARACTER OF THE LAND. Land which the city finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision or its surrounding areas or both, shall not be subdivided or developed unless adequate methods are formulated by the subdivider and approved by the council, upon recommendation of the commission, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.

6-14-39 LOTS. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

1. Lot Size. Minimum lot dimensions and sizes shall conform to the requirements of the zoning regulations where applicable, but in no case shall a lot contain less than nine thousand five hundred (9,500) square feet of area or be less than eighty (80) feet wide measured at the building line.

(Code of Iowa, 1977, Sec. 409.14)

A. Residential lots where not served by public sewer shall be of sufficient size, as determined by the city and subject to any applicable state or county rules or regulations, to accommodate the type of private sewage disposal system proposed by the developer.

B. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

C. Corner lots for residential use shall have an extra fifteen (15) feet of width to permit appropriate building setback from and orientation to both streets.

2. Street Access. Each lot shall be provided with satisfactory access to a public street.

3. Double Frontage and Reverse Frontage Lots. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

(Code of Iowa, 1977, Sec. 409.14)

4. Side Lot Lines. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

(Code of Iowa, 1977, Sec. 409.14)
5. **Lot Drainage.** Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.  
   (Code of Iowa, 1977, Sec. 409.14)

6. **Building Lines.** Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the council may require building lines in accordance with the needs of each subdivision.  
   (Code of Iowa, 1977, Sec. 409.14)

6-14-40 **BLOCKS.** Blocks shall conform to the following requirements:

1. **Provision for Lots.** Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions shall be permitted in blocks adjacent to arterial streets, railroads, or waterways.  
   (Code of Iowa, 1977, Sec. 409.4 & 409.14)

2. **Design Considerations.** The lengths, widths and shapes of blocks shall be determined with due regard to:  
   (Code of Iowa, 1977, Sec. 409.4 & 409.14)
   
   A. Provision for adequate building sites.
   B. Zoning requirements where applicable.
   C. Topography.
   D. Needs for convenient access, control, and safety of street traffic circulation.

3. **Block Lengths.** The lengths of blocks shall be appropriate to the type of development contemplated, but block lengths in residential developments shall not exceed two thousand (2,000) feet, nor be less than five hundred (500) feet. Wherever practicable, blocks along arterial and collector streets shall not be less than one thousand (1,000) feet in length.  
   (Code of Iowa, 1977, Sec. 409.4 & 409.14)

4. **Easement Reservation.** In blocks over eight hundred (800) feet in length, the council may require the reservation of an easement to accommodate utilities, drainage facilities, or pedestrian traffic.

5. **Pedestrian Crosswalks.** Pedestrian crosswalks, not less than ten (10) feet wide, may be required by the council through the center of blocks more than eight hundred (800) feet in length. Pedestrian crosswalks shall not exceed twelve (12) percent in grade unless steps of an approved design are to be constructed.  
   (Code of Iowa, 1977, Sec. 409.14)

6-14-41 **STREETS, GENERAL REQUIREMENTS.** Streets shall conform with the following general requirements:

1. **Frontage on Improved Roads.** No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street.  
   (Code of Iowa, 1977, Sec. 409.14)

2. **Grading and Improvement Plan.** Streets shall be graded and improved and conform to the city construction standards and specifications and shall be approved as to design and specifications by the city engineer, in accordance with the construction plans required to be submitted.  
   (Code of Iowa, 1977, Sec. 409.5 & 409.14)
3. Topography and Arrangement. Streets shall be in conformance with the following requirements related to topography and arrangement.

A. Streets shall be related appropriately to the topography. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these regulations.  
(Code of Iowa, 1977, Sec. 409.5)

B. All streets shall be properly integrated with the existing and proposed system of streets and dedicated right-of-way.  
(Code of Iowa, 1977, Sec. 409.4)

C. All arterial streets shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.  
(Code of Iowa, 1977, Sec. 409.14)

D. Municipal service streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.  
(Code of Iowa, 1977, Sec. 409.14)

E. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the council such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.  
(Code of Iowa, 1977, Sec. 409.5 & 409.14)

F. In business and industrial developments, the streets and other access ways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.  
(Code of Iowa, 1977, Sec. 409.14)

4. Access to State or County Jurisdictional Roads. Whenever any part of a subdivision is designed with access to a road under state or county jurisdiction, permission for access to such roads shall be obtained from the appropriate jurisdiction and such access shall be designed according to the standards of the appropriate jurisdiction.  
(Code of Iowa, 1977, Sec. 306.4)

5. Access to Arterial Streets. Where a subdivision borders on or contains an existing or proposed arterial street, the council may require that lot access to such streets be limited by one of the following means:  
(Code of Iowa, 1977, Sec. 409.14)

A. Lots shall be designed so as to back onto the primary arterial and front onto a parallel municipal service street; no access shall be provided from the arterial street, and screening shall be provided in a strip of land along the rear property line of such lots.  

B. A series of cul-de-sacs entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial street.

C. A frontage or service road, separated from the primary arterial by a planting or grass strip and having access thereto at suitable points.
6. Street Names. Streets that are in alignment with others already existing shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the council and commission.

7. Street Name Signs. Street name signs are to be placed at all intersections within or abutting the subdivision the type and location of which to be approved by the council. The city shall install all street name signs. The applicant shall deposit with the city at the time of final subdivision approval, the estimated cost of installation of each street sign required by the council.

(Code of Iowa, 1977, Sec. 409.14)

8. Street Lights. Installation of street lights shall be required in accordance with design and specification standards approved by the council.

(Code of Iowa, 1977, Sec. 409.14)

9. Construction of Streets and Dead-End Streets. Streets and dead-end streets shall be in conformance with the following requirements:

A. Construction of Streets. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, and for efficient provision of utilities. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary T or L shaped turnout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to the abutting street whenever the street is continued. The council may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

(Code of Iowa, 1977, Sec. 409.4 & 409.14)

B. Permanent Dead-end Streets. Where a road does not extend to the boundary of the subdivision and its continuation is not required by the council for access to adjoining property, its terminus shall normally not be nearer to such boundary than one hundred fifty (150) feet. However, the council may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with city construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of these regulations.

(Code of Iowa, 1977, Sec. 409.14)

6-14-42 STREETS; DESIGN STANDARDS. The following design standards shall apply to the design of streets:

1. General. In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, fire fighting, snow removal, sanitation, and street maintenance equipment and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties the following design standards for streets are hereby required:

(Code of Iowa, 1977, Sec. 409.14)

A. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on municipal arterial and municipal collector streets, and seventy-five (75) feet on municipal service streets.

B. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than one hundred (100) feet for municipal service and municipal collector streets, and of such greater radii as the council shall determine for special cases.
C. Minimum Roadway and Right-of-Way Standards:

1. Municipal arterial streets shall have a right-of-way width of not less than eighty (80) feet and a roadway width of not less than forty-four (44) feet.

2. Municipal collector streets shall have a right-of-way width of not less than sixty (60) feet and a roadway width of not less than thirty-six (36) feet.

3. Municipal service streets shall have a right-of-way of not less than fifty (50) feet and a roadway width of not less than twenty-six (26) feet.

4. Frontage streets shall have a right-of-way width of not less than forty (40) feet and a roadway width of not less than twenty-six (26) feet.

5. Cul-de-sacs shall meet all the requirements for a municipal service street and, in addition, shall provide a turnaround with a right-of-way radius of fifty (50) feet and a roadway radius of forty (40) feet. No cul-de-sac shall exceed five hundred (500) feet in length.

D. Street grades, wherever feasible shall not exceed the following:

1. Municipal Arterial streets - six (6) percent.

2. Municipal collector streets - eight (8) percent.

3. Municipal service streets - (10) percent.

4. Frontage streets - six (6) percent.

E. All changes in street grade shall be connected by vertical curves of minimum length in feet equal to twenty (20) times the algebraic difference in percents of grade.

F. No street grade shall be less than one half (1/2) of one percent.

2. Street Surfacing and Improvements. After sewer, water and other utilities to be located underground within the right-of-way have been installed by the applicant, the applicant shall construct curbs and gutters and surface or cause to be surfaced roadways to the widths prescribed in these regulations. Said surfacing shall be of Portland concrete cement or a surface approved by city engineer. Adequate provision shall be made for culverts, drains, and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall conform to all construction standards and specifications adopted by the city, and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

(Code of Iowa, 1977, Sec. 409.14)

3. Excess Right-of-Way. Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three (3) to one.

(Code of Iowa, 1977, Sec. 409.14)

4. Railroads and Limited Access Highways. Railroad rights-of-way and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

(Code of Iowa, 1977; Sec. 409.14)

A. In residential districts a buffer strip at least twenty-five (25) feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: “This strip is reserved for screening. The placement of structures hereon is prohibited.”
B. In districts zoned for business, commercial, or industrial uses the nearest street extending parallel or approximately parallel to the railroad shall wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.

C. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least one hundred fifty (150) feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

5. Intersections. The following standards shall apply to the design of intersections:
   (Code of Iowa, 1977, Sec. 409.14)

   A. Streets shall be laid out so as to intersect nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than seventy-five (75) degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom. Not more than two (2) streets shall intersect at any one point unless specifically approved by the council.

   B. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than one hundred fifty (150) feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least eight hundred (800) feet apart.

   C. Minimum curb radius at the intersection of two (2) municipal service streets shall be at least twenty (20) feet; and minimum curb radius at an intersection involving a municipal collector street shall be at least twenty-five (25) feet. Abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

   D. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two (2) percent rate at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.

   E. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation, including trees, in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.

   F. The cross-slopes on all streets, including intersections, shall be three (3) percent or less.

6. Bridges. Bridges of primary benefit to the applicant, as determined by the council, shall be constructed at the full expense of the applicant without reimbursement from the city. The sharing expense for the construction of bridges not of primary benefit to the applicant as determined by the council, will be fixed by special agreement between the council and the applicant. Said cost shall be charged to the applicant pro rata as the percentage of his land developed and so served.
   (Code of Iowa, 1977, Sec 409.14)

7. Alleys. The following design standards for alleys shall be required of all subdividers:
   (Code of Iowa, 1977, Sec. 409.6 & 409.14)

   A. Alleys shall be prohibited in residential districts.
B. Alleys shall be provided in commercial and industrial districts, except that the council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

C. Alleys shall have a right-of-way of not less than thirty (30) feet and a roadway width of not less than twenty (20) feet.

D. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

E. Dead-end alleys shall be avoided where possible but if unavoidable, shall be provided with adequate turn-around facilities at the dead end, as determined by the council.

8. Street Dedications and Reservations. The following provisions shall apply to street dedications and reservations:

(Code of Iowa, 1977, Sec. 409.14)

A. Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The council may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.

B. Where a subdivision borders an existing narrow street or when city plans or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at his expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the applicant at his own expense to the full width as required by these subdivision regulations. Land reserved for any street purposes may not be counted in satisfying yard or area requirements of the zoning regulations whether the land is to be dedicated to the city in fee simple or an easement is granted to the city.

6-14-43 STORM SEWERS AND DRAINAGE. The following requirements shall apply to the provision of storm sewers and drainage:

1. General Requirements. The commission shall not recommend for approval any plat of a subdivision which does not make adequate provision for storm or flood water run-off channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by methods as approved by the council, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than six hundred (600) feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

(Code of Iowa, 1977, Sec. 409.14)

2. Nature of Storm Water Facilities. The applicant may be required by the council to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.

(Code of Iowa, 1977, Sec. 409.14)

A. Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the council. However, in subdivisions containing lots less
than fifteen thousand (15,000) square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivisions and be conducted to an approved out-fall.

B. If a connection to a public storm sewer will be provided eventually, as determined by the council, the subdivider shall make arrangements for future storm water disposal by a public storm sewer system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the performance bond required for the subdivision plat.

C. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area whether inside or outside the subdivision. The council shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by applicable zoning regulations.

D. The council shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. City drainage studies together with such other studies as shall be appropriate shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the council may withhold approval of the subdivision until provision has been made for the recovery of the cost for the improvement of said potential condition in such sum as the council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

(E Code of Iowa, 1977, Ch. 455A)

E. The council may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the flood plain of any stream or drainage course.

3. Dedication of Drainage Easements. The following shall apply to the dedication of drainage easements.

(CODE OF IOWA, 1977, SEC. 409.14)

A. Where a subdivision is traversed by a watercourse drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

B. Drainage easements:

(1) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual unobstructed easements at least fifteen (15) feet in width for such drainage facilities shall be provided across property outside the street lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the street to a natural watercourse or to other drainage facilities.

(2) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

(3) The applicant shall dedicate, either in fee or by drainage or conservation easement of land on both sides of existing watercourses, to a distance to be determined by the council.

(4) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural
state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the area requirement of any lot.

6-14-44 WATER FACILITIES. Water facilities shall be provided as follows:

1. General Requirements. The following general requirements shall apply to the provision of water facilities:

   (Code of Iowa, 1977, Sec. 409.14)

   A. Where a public water main is accessible the subdivider shall install adequate water facilities, including fire hydrants, subject to city specifications. All water mains shall be at least four (4) inches in diameter.

   B. Water main extensions shall be approved by the city.

   C. To facilitate the above, the location of all fire hydrants and all water supply improvements shall be shown on the preliminary plat.

2. Individual Wells and Central Water Systems. The following requirements shall apply to the provision of individual wells and central water systems.

   (Code of Iowa 1977, Sec. 409.14)

   A. In the discretion of the council, if a public water system is not available, individual wells may be used or a central water system provided in such a manner that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the appropriate county or state agency for testing, and individual wells and central water systems shall be approved by the appropriate county or state health authorities. Orders of approval shall be submitted to the council.

   B. If the council requires that a connection to a public water main be eventually provided as a condition to approval of an individual well or central water system, the applicant shall make arrangements for future water service at the time the plat receives final approval. Performance or cash bonds may be required to insure compliance.

3. Fire Hydrants. Fire hydrants shall be required for all subdivisions except those coming under subsection 2 of Section 6-14-44. Fire hydrants shall be located no more than five hundred (500) feet apart and within five hundred (500) feet of any structure.

   (Code of Iowa, 1977, Sec. 409.14)

6-14-45 SEWERAGE FACILITIES. Sewerage facilities shall be provided as follows:

1. General Requirements. The applicant shall install sanitary sewer facilities in a manner prescribed by the city construction standards and specifications. All plans shall be designed in accordance with the rules, regulations and standards of the city and the state department of environmental quality or state department of health. Plans shall be approved by the above agencies.

   (Code of Iowa, 1977, Sec. 409.14)

2. Construction of Sanitary Sewerage Systems. Sanitary sewerage systems shall be constructed as follows:

   (Code of Iowa, 1977, Sec 409.14)

   A. Where a public sanitary sewerage system is reasonably accessible the applicant shall connect with same and provide sewers accessible to each lot in the subdivision.

   B. Where public sanitary sewerage systems are not reasonably accessible but will become available within a reasonable time, not to exceed fifteen (15) years, the applicant may choose one of the following alternatives:
(1) Install a central sewerage system, operated and maintained by the benefited property owners. Where plans for future public sanitary sewerage systems exist, the applicant shall install the sewer lines, laterals, and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains.

(2) Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals, and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made. Sewer lines shall be lain from the house to the street line, and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exist, and shall be ready for connection to such public sewer main.

C. Where sanitary sewer systems are not reasonably accessible and will not become available for period in excess of fifteen (15) years, the applicant shall install individual disposal systems or central sewerage systems.

3. Individual Disposal System Requirements. If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of applicable zoning regulations and these regulations. Percolation tests and test holes shall be made as directed by the city and the results submitted to the local board of health.

(Code of Iowa, 1977, Sec. 409.14)

4. Water Supply Interconnections. There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures

(Code of Iowa, 1977, Sec. 409.14)

6-14-46 SIDEWALKS. The following requirements shall apply to the provision of sidewalks:

1. Location of Sidewalks. Sidewalks shall be included within the dedicated non-pavement right-of-way of all streets.

(Code of Iowa, 1977, Sec 409.14)

2. Construction of Sidewalks. Sidewalks shall be improved as required in subsection 2 of Section 6-14-42 of these regulations.

(Code of Iowa, 1977, Sec- 409.14)

6-14-47 UTILITIES. The following shall apply to the provision of utilities.

1. Location. The council may require that all utility facilities, including, but not limited to gas, electric power, telephone, and CATV cables, be located underground throughout the subdivision. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider’s expense. At the discretion of the council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

(Code of Iowa, 1977, Sec. 409.14)

2. Easements. Easements shall be provided as follows:

(Code of Iowa, 1977, Sec. 409.14)
A. Easements centered on rear lot lines shall be provided for utilities. Such easements shall be at least ten (10) feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

B. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least ten (10) feet in width shall be provided along side lot lines with satisfactory access to the street or rear lot lines. Easements shall be indicated on the plat.

6-14-48 PRESERVATION OF NATURAL FEATURES AND AMENITIES. Existing features which would add value to residential development or to the city as a whole, such as trees, watercourses and falls, beaches, historic spots, and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be protected against change of grade.

6-14-49 NON-RESIDENTIAL SUBDIVISIONS. The following provisions shall apply to non-residential subdivisions:

1. General. If a proposed subdivision includes land that is used for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provision as the council may require. A non-residential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the council, and shall conform to the proposed land use and standards established in city plans and regulations.

   (Code of Iowa, 1977, Sec. 409.14)

2. Standards. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the city that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed.

   (Code of Iowa, 1977, Sec. 409.14)

   A. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

   B. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

   C. Special requirements may be imposed by the city with respect to street, curb, gutter, and sidewalk design and construction.

   D. Special requirements may be imposed by the city with respect to the installation of public utilities, including water, sewer, and storm water drainage.

   E. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

   F. Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

6-14-50 SCHOOL AND PARK RESERVATIONS. If land to be subdivided contains sites that are designated in city plans or plans of other public bodies to be used for schools or parks, the developer shall reserve such site for such use. If sites which have been reserved are not acquired by the city or other public body within two (2) years of the date of the preliminary plat approval, then such sites may be subdivided by
the developer. The appropriate public body may release the reserved site sooner by certifying to the council that it does not intend to acquire such site within the two (2) year period.

6-14-51 IMPROVEMENTS WITHIN UN-INCORPORATED JURISDICTION. Improvements in the two (2) mile un-incorporated area under the jurisdiction of these regulations shall be the same as required herein, provided they are not less than that required by the applicable county subdivision regulations, and provided further that all construction plans shall be approved by the county, and completed public roads shall be accepted by the board of supervisors for public maintenance.

6-14-52 VARIATIONS AND EXCEPTIONS. The following shall apply to the granting of variations or exceptions:

1. Hardships. Where the council finds that extraordinary hardships or particular difficulties regarding the physical development of land may result from strict compliance with these regulations, it may make variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the council shall not grant variations or exceptions to these regulations unless it shall make findings based upon the evidence presented to it in each specific case that:

   (Code of Iowa, 1977, Sec. 409.14)

   A. The granting of the variation will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

   B. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought, and are not applicable generally, to other property.

   C. Because of the particular physical surroundings shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

   D. The purpose of the variation is not based exclusively upon a desire to make more money out of the property.

2. Conditions. In granting variations and exceptions the council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

   (Code of Iowa, 1977, Sec. 409.14)

3. Procedure for a Variance. A petition for any such variance shall be submitted in writing by the developer at the time when the preliminary plat is filed. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

   (Code of Iowa, 1977, Sec. 409.14)

6-14-53 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the council, provided, however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given as required by law. Such proposed amendments shall first be submitted to the commission for study and recommendation before the hearing is held. The commission shall forward its recommendations to the council within thirty (30) days after which the council shall give notice of and hold a public hearing on the proposed amendment.

6-14-54 ENFORCEMENT, VIOLATIONS AND PENALTIES. No plat or subdivision within the city or within two (2) miles thereof shall be filed or recorded with the county, nor shall any plat or subdivision have any validity until it complies with the provision of these regulations, has been approved by the council as herein set forth, and further:

   (Code of Iowa, 1977, Sec. 409.14)
1. Issuance of Building Permits. No more than two (2) building permits for each separate tract existing at the time of the effective date of these regulations shall be issued unless the tract has been platted in accordance with these regulations; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by applicable land use regulations such as zoning and restricted residence regulations or additions or improvements to a main or accessory building already legally located upon said tract.

2. Sale or Lease Without Plat. Any person who shall dispose of or offer for sale or lease any lots in the city or addition to the city, until the plat thereof has been acknowledged and recorded as provided in these regulations, shall forfeit and pay fifty (50) dollars for each lot and part of lot sold or disposed of, leased, or offered for sale.

(Code of Iowa, 1977, Sec. 409.45)
TITLE VI PHYSICAL ENVIRONMENT
CHAPTER 15 FLOOD PLAIN MANAGEMENT ORDINANCE

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STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE

6-15-1 AUTHORITY. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and general welfare.

6-15-2 FINDINGS OF FACT.

1. The flood hazard areas of the City of Ely are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

2. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

3. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

6-15-3 STATEMENT OF PURPOSE. It is the purpose of this Ordinance to promote the public health, safety, and general welfare by minimizing those flood losses described in Section 6-15-2(2) with provisions designed to:

1. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

2. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

3. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction.

4. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

5. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

GENERAL PROVISIONS

6-15-4 LANDS TO WHICH ORDINANCE APPLIES. The provisions of this Ordinance shall apply to all lands within the jurisdiction of the city of Ely which are shown on the Official Flood Plain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Flood Plain, and Shallow Flooding Districts.

6-15-5 ESTABLISHMENT OF OFFICIAL FLOOD PLAIN ZONING MAP. The Flood Insurance Rate Map prepared as part of the Flood Insurance Study for the City of Ely, Iowa, dated February 17, 1993 is hereby adopted by reference and declared to be the Official Flood Plain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study and Flood Insurance Rate Map are also declared to be a part of this ordinance.

6-15-6 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. The boundaries of the zoning district shall be determined by scaling distances on the Official Flood Plain Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, the Mayor shall make the
necessary interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case and submit technical evidence.

6-15-7 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

6-15-8 ABROGATION AND GREATER RESTRICTIONS. It is not intended by the Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of inconsistency only.

6-15-9 INTERPRETATION. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6-15-10 WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the Flood Plain Districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Ely or any officer or employee thereof for any flood damages from reliance on this Ordinance or any administrative decision lawfully made thereunder.

6-15-11 SEVERABILITY. If any section, clause, provision or portion if this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

ESTABLISHMENT OF ZONING DISTRICTS

6-15-12 ESTABLISHMENT OF ZONING DISTRICTS. The areas within the jurisdictions of this ordinance are hereby divided into the following districts:

1. Floodway District (FW),
2. Floodway Fringe District (FF), and
3. General Flood Plain District (FP).

The boundaries are shown on the Official Flood Plain Zoning Map. Within these districts all uses not allowed as Permitted Uses or permissible as Conditional Uses are prohibited unless a variance to the term of this ordinance is granted after due consideration by the Board of Adjustment.

FLOODWAY (OVERLAY) DISTRICT (FW)

6-15-13 PERMITTED USES. The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstruction, the storage of materials or equipment, excavation, or alteration of a watercourse.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips.
3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish
hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

4. Residential uses such as lawns, gardens, parking areas, and play areas.

5. Such other open-space uses similar in nature to the above uses.

6-15-14 CONDITIONAL USES. The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment may be permitted only upon issuance of a Conditional Use Permit by the Board of Adjustment. Such uses must also meet the applicable provisions of the Floodway District Performance Standards.

1. Uses or structures accessory to open-space uses.

2. Circuses, carnivals, and similar transient amusement enterprises.

3. Drive-in theaters, new and used car lots, roadside stands, signs, and billboards.

4. Extraction of sand, gravel, and other materials.

5. Marinas, boat rentals, docks, piers, wharves.

6. Utility transmission lines, underground pipelines.

7. Other uses similar in nature to uses described in Sections 6-15-13 or 6-15-14 which are consistent with the provisions of Section 6-15-15 and the general spirit and purpose of this ordinance.

6-15-15 PERFORMANCE STANDARDS. All Floodway District uses allowed as a Permitted or Conditional Use shall meet the following standards.

1. No use shall be permitted in the Floodway District that would result in any increase in the 100 year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

2. All uses within the Floodway District shall:
   
   A. Be consistent with the need to minimize flood damage.
   B. Use construction methods and practices that will minimize flood damage.
   C. Use construction materials and utility equipment that are resistant to flood damage.

3. No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.

4. Structures, buildings, and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.

5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

6. Storage of materials or equipment that are buoyant, flammable, explosive, or injurious to human, animal, or plant life are prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
7. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

8. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

9. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

FLOODWAY FRINGE (OVERLAY) DISTRICT (FF)

6-15-16 PERMITTED USES. All uses within the Floodway Fringe District shall be permitted to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District.

6-15-17 PERFORMANCE STANDARDS.

1. All structures shall:
   A. be adequately anchored to prevent floatation, collapse, or lateral movement of the structure,
   B. be constructed with materials and utility equipment resistant to flood damage, and
   C. be constructed by methods and practices that minimize flood damage.

2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basements, elevated at a minimum of one (1) foot above the 100 year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100 year flood level and extend at such elevation at least eighteen (18) feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Board of Adjustment and issuance of a Conditional Use Permit, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstanding the various forces and hazards associated with flooding. All new residential buildings shall be provided with a means of access which will be passable by wheeled vehicles during the 100 year flood.

3. Non-residential buildings shall have the lowest floor (including basement) elevated at a minimum of one (1) foot above the 100 year flood level, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the 100 year flood; and that the structure, below the 100 year flood level, is water tight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood proofed shall be maintained by the Zoning Administrator.

4. All new and substantially improved structures:
   A. Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

      (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
The bottom of all openings shall be higher than one foot above ground.

Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes.

A. Factory-built homes including those placed in existing factory-built home parks or subdivisions shall be anchored to prevent floatation, collapse, or lateral movement.

B. Factory-built homes including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100 year flood level.


A. All new and replacement sanitary systems shall be designed to minimize and eliminate infiltration of flood waters. Wastewater treatment facilities shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100 year flood elevation.

B. On site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities shall be provided with a level of protection equal to or greater than one (1) foot above the 100 year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive, or injurious to human, animal, or plant life is prohibited unless elevated a minimum of one (1) foot above the 100 year flood level. Other materials and equipment must either be similarly elevated or:

A. not be subject to major flood damage and be anchored to prevent movement due to flood waters, or

B. be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100 year flood with a minimum of three (3) feet design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility or system.
10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain dry during occurrence of the 100 year flood.

11. The exemption of detached garages, sheds, and similar structures from the 100 year flood elevation requirements may result in increased premium rates for insurance coverage of the structure and contents, however, said detached garages, sheds, and similar accessory type structures are exempt from the 100 year flood requirements when:
   A. The structure shall not be used for human habitation.
   B. The structure shall be designed to have low flood damage potential.
   C. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of flood waters.
   D. Structures shall be firmly anchored to prevent floatation which may result in damage to other structures.
   E. The structure’s service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one (1) foot above the 100 year flood level.

12. Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community’s official map either:
   A. be on the site for fewer than 180 consecutive days,
   B. be fully licensed and ready for highway use, or
   C. meet the permit requirements and the elevation and anchoring requirements for “manufactured homes” of this ordinance.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

GENERAL FLOOD PLAIN (OVERLAY) DISTRICT (FP)

6-15-18 PERMITTED USES. The following uses shall be permitted within the General Flood Plain District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstruction, the storage of materials or equipment, excavation, or alteration of a watercourse.

1. Agricultural uses such as farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

2. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips.

3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

4. Residential uses such as lawns, gardens, parking areas, and play areas.
6-15-19 CONDITIONAL USES. Any use which involves placement of structures, factory-built homes, fill or other obstructions, the storage of materials or equipment, excavation, or alteration of a watercourse may be allowed upon issuance of a Conditional Use Permit by the Board of Adjustment. All such uses shall be reviewed by the Department of Natural Resources to determine:

1. whether the land involved is either wholly or partly within the floodway or floodway fringe, and
2. the 100 year flood level.

6-15-20 PERFORMANCE STANDARDS. All Floodway District uses allowed as a Permitted or Conditional Use shall meet the following standards:

1. All conditional uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District.
2. All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District.

ADMINISTRATION

6-15-21 APPOINTMENT, DUTIES, AND RESPONSIBILITIES OF ZONING ADMINISTRATOR.

1. The Zoning Administrator designated by the City Council shall administer and enforce this Ordinance and will herein be referred to as the Administrator.

2. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

   A. Review all flood plain development permit applications to assure that the provisions of this Ordinance will be satisfied.

   B. Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies.

   C. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor of all new or substantially improved buildings or the elevation to which new or substantially improved structures have been flood proofed.

   D. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administrator.

   E. Keep a record of all permits, appeals, variances, and such other transactions and correspondence pertaining to the administration of this Ordinance.

   F. Submit to the Federal Insurance Administrator an annual report concerning the community’s participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

   G. Notify the Federal Insurance Administration of any annexations or modifications to the community’s boundaries.

   H. Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance and advise the City Council of potential conflicts.
6-15-22 FLOOD PLAIN DEVELOPMENT PERMIT.

1. Permit Required. A Flood Plain Development Permit issued by the Administrator shall be secured prior to initiation of any flood plain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

2. Application for Permit. Application for a Flood Plain Development Permit shall be made on forms furnished by the Administrator and shall include the following information:

   A. Description of the work to be covered by the permit for which application is to be made.
   B. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
   C. Identification of the use or occupancy for which the proposed work is intended.
   D. Elevation of the 100-year flood.
   E. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.
   F. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
   G. Such other information as the Administrator deems reasonably necessary for the purpose of this Ordinance.

3. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable provisions and standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

4. Construction and Use to be as Provided in Application and Plans. Flood Plain Development Permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

6-15-23 CONDITIONAL USES, APPEALS, AND VARIANCES.

1. Appointment and Duties of Board of Adjustment. A board of Adjustment is hereby established which shall hear and decide applications for Conditional Uses upon which the Board is authorized to pass under this Ordinance; Appeals; and requests for Variances to the provisions of this Ordinance; and shall take other action which is required of the Board.

2. Conditional Uses. Requests for Conditional Uses shall be submitted to the Administrator, who shall forward such to the Board of Adjustment for consideration. Such requests shall include information deemed necessary to the Board of Adjustment.

3. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken.
and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

4. Variances. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards:

A. No variance shall be granted for any development within the Floodway District which would result in any increase in the 100 year level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

B. Variances shall only be granted upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant, and a determination that granting of the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances, or cause fraud on or victimization of the public.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

D. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Zoning Administrator that the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

5. Hearing and Decisions of the Board of Adjustment.

A. Hearings. Upon the filing with the Board of Adjustment of an appeal, an application for a Conditional Use or request for a Variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

B. Decisions. The Board shall arrive at a decision on an Appeal, Conditional Use or Variance within a reasonable time. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision in writing, setting forth the findings of fact and the reasons for its decision. In granting a Conditional Use or Variance, the Board shall consider such factors as contained in this section and may prescribe such conditions as contained in Section 6-15-23(5)(b)(2).

1) Factors Upon Which the Decision of the Board Shall be Based. In passing upon applications for Conditional Uses or Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:

a. The danger to life and property due to increased flood heights or velocities caused by encroachments.

b. The danger that materials may be swept on to other land or downstream to the injury of others.
c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

e. The importance of the services provided by the proposed facility to the City.

f. The requirements of the facility for a flood plain location.

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

j. The safety of access to the property in times of flood for ordinary and emergency vehicles.

k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

l. Such other factors which are relevant to the purpose of this Ordinance.

(2) Conditions Attached to Conditional Uses or Variances. Upon consideration of the factors listed above, the Board may attach such conditions to the granting of Conditional Uses or Variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

a. Modification of waste disposal and water supply facilities.

b. Limitation on periods of use and operation.

c. Imposition of operational controls, sureties, and deed restrictions.

d. Requirements for construction and channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.

e. Flood Proofing measures. Flood proofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

NONCONFORMING USES, PENALTIES, AND AMENDMENTS
6-15-24 NONCONFORMING USES. A structure or the use of a structure on land which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

1. No structural alteration, addition, or repair to any nonconforming structure over the life of the structure shall exceed 10 percent of its value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.

2. If such use is discontinued for eighteen (18) consecutive months, any future use of the building premises shall conform to this Ordinance.

3. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its value prior to destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

4. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

5. Except as provided in section 4 above, any use which has been permitted as a Conditional Use or Variance shall be considered a conforming use.

6-15-25 PENALTIES FOR VIOLATION. Violations of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Conditional Uses or Variances) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $100 or imprisoned for not more than 30 days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city of Ely from taking such other lawful action as is necessary to prevent or remedy violation.

In addition to the above remedies, a violation of this ordinance is a municipal infraction pursuant to Iowa Code Section 364.22

6-15-26 AMENDMENTS. The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

DEFINITIONS

6-15-27 DEFINITIONS. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application:

1. BASE FLOOD - The flood having one (1) percent chance of being equaled or exceeded in any given year.

2. BASEMENT - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”

3. DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

4. EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or
the pouring of concrete pads) is completed before the effective date of flood plain management regulations adopted by the community.

5. **EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION** - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

6. **FACTORY-BUILT HOME** - Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes and modular homes and also include park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

7. **FACTORY-BUILT HOME PARK** - A parcel or contiguous parcels of land divided into two or more factory-built home lots for rent or sale.

8. **FLOOD** - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

9. **FLOOD ELEVATION** - The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.

10. **FLOOD INSURANCE RATE MAP (FIRM)** - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

11. **FLOOD INSURANCE STUDY** - A study initiated, funded, and published by the Federal Insurance Administration for the purpose of evaluating in detail the existence and severity of flood hazards; providing the city with the necessary information for adopting a flood plain management program; and establishing actuarial flood insurance rates.

12. **FLOOD PLAIN** - Any land area susceptible to being inundated by water as a result of flood.

13. **FLOOD PLAIN MANAGEMENT** - An overall program of corrective and preventative measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, flood proofing and flood plain management regulations.

14. **FLOOD PROOFING** - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to structures.

15. **FLOODWAY** - The channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.

16. **FLOODWAY FRINGE** - Those portions of the flood plain, other than the floodway, which can be filled, levied, or otherwise obstructed without causing substantially higher flood levels or flood velocities.

17. **HISTORIC STRUCTURE** - Any structure that is:

   A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

18. LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

19. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of flood plain management regulations adopted by the community.

20. NEW CONSTRUCTION (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

21. ONE HUNDRED (100) YEAR FLOOD - The condition of flooding having a one (1) percent chance of annual occurrence.

22. PRINCIPALLY ABOVE GROUND - That at least 51 percent of the actual cash value of the structure, less land value, is above ground.

23. RECREATIONAL VEHICLE - A vehicle which is built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

24. REGULATORY FLOOD ELEVATION - The water surface elevation of the 100 year flood.

25. SPECIAL FLOOD HAZARD AREA - The land within a community, subject to a one percent or greater chance of flooding in any given year. This land is identified as Zone A and AE on the official map.

26. START OF CONSTRUCTION (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) - Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
27. **STRUCTURE** - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.

28. **SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the marketable value of the structure before the damage occurred.

29. **SUBSTANTIAL IMPROVEMENT** - Any improvement to a structure which satisfies either of the following criteria:

   A. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or any alteration of a “historic structure,” provided the alteration will not preclude the structure’s designation as a “historic structure.”

   B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after February 17, 1993 shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

30. **VARIANCE** - A grant of relief by a community from the terms of a flood plain management regulation.

31. **VIOLATION** - The failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.
SHORT TITLE.

These regulations* shall be known and may be cited as the "Airport Zoning Regulations."

*Title VI Chapter 16

PURPOSE.

These regulations are adopted by the City Council of the City of Cedar Rapids, Iowa, and the City Council of the City of Ely, Iowa, for the purpose of exercising to the fullest extent possible the power granted by Chapter 329 of the State Code of Iowa 1997 pertaining to the restriction of airport hazards in the vicinity of airports and creating airport hazard zones.

DEFINITIONS.

For the purpose of these regulations, 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 the singular and the word "shall" is mandatory and not directory.

1. **Airport** - The Eastern Iowa Airport as now exists or as may hereafter be added to or changed, located in Cedar Rapids, Iowa, and Linn County, Iowa, and owned by the City of Cedar Rapids, and under the management and control of The Eastern Iowa Airport Commission by the provisions of Chapter 330 of the Iowa Code. The airport includes the area of land designed and set aside for the landing and taking off of aircraft, and utilized or to be utilized in the interest of the public for such purposes. The word "Airport" as used in these regulations also means and includes The Eastern Iowa Airport as shown in the Cedar Rapids Municipal Airport Master Plan adopted by the Cedar Rapids Airport Commission on November 25, 1996, which is now on file in the office of the Airport Director in the Administration Building at said Airport.

2. **Airport elevation** - The established elevation of the highest point on the usable landing area, which is 863.9 feet above mean sea level.

3. **Airport hazard** - Any structure or tree which obstructs the air space required for the flight of aircraft in landing or taking off at the airport as herein defined, or is otherwise hazardous to such landing or taking off of aircraft. It shall also include any use of land within any zone established by these regulations in such a manner as to create electrical interference with radio communication between the Airport and aircraft, or unreasonably interfere with electronic navigation aids, or make it difficult for pilots to distinguish between airport lights and others; or result in glare in the eyes of pilots using the airport, or impair visibility in the vicinity of the Airport while engaged in landing or taking off at the Airport; or any other use within any zone established by these regulations which is otherwise hazardous to such landing or taking off of aircraft at the Airport.

4. **Airport hazard area** - An area of land or water within the territorial limits of The Eastern Iowa Airport Zoning Map, which is made a part of these regulations, upon which an airport hazard might be established if not prevented, as provided by these regulations.

5. **Approach surface** - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 6-16-6 of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
6. **Approach, transitional, horizontal, and conical zones** - These zones are set forth in Section 6-16-4 of this Ordinance.

7. **Board of Adjustment** - A Board consisting of 5 members appointed as provided in Section 6-16-10.

8. **Conical surface** - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

9. **Hazard to air navigation** - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

10. **Height** - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

11. **Horizontal surface** - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

12. **Instrument runway** - A runway equipped or to be equipped with precision or non-precision electronic navigation aid or landing aid, or other air navigation facilities, suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.

13. **Landing area** - The general area of the Airport used for the landing, take-off, or taxiing of aircraft, as indicated upon the Airport Zoning Map.

14. **Larger than utility runway** - A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

15. **Municipalities** - The City of Cedar Rapids, Iowa, and any city, town, or county within the territorial limits of The Eastern Iowa Airport Zoning Map hereinafter described, within which an airport hazard area might be established.

16. **Nonconforming use** - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

17. **Noninstrument runway** - A runway other than an instrument runway.

18. **Nonprecision instrument runway** - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

19. **Obstruction** - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 6-16-6 of this Ordinance.

20. **Person** - An individual firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, or other similar representative thereof.

21. **Precision instrument runway** - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

22. **Primary surface** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 6-16-04 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

23. **Runway** - A defined area on an airport prepared for landing and takeoff of aircraft along its length.

24. **Structure** - An object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, and the poles or other structures supporting the same.

25. **Transitional surfaces** - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.


27. **Utility runway** - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.


6-16-4 AIRPORT ZONES.
In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to The Eastern Iowa Airport. Such zones are shown on the Airport Zoning Map dated December 30, 1997, and prepared by the Howard R. Green Company. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. **Runway Larger Than Utility Visual Approach Zone** - The inner edge of this approach-zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

2. **Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

3. **Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 16,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

4. **Precision Instrument Runway Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

5. **Transitional Zones** - The transitional zones are the areas beneath the transitional surfaces.

6. **Horizontal Zone** - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

7. **Conical Zone** - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

**6-16-5 AIRPORT ZONING MAP.**

There is hereby adopted and enacted an airport zoning district map dated December 30, 1997, signed by the Mayor, and attested by the Clerk, which map is on file in the office of the City Clerk, and is hereby incorporated into and made a part of these regulations and that the boundaries of the various zoning districts are herewith enacted and established as shown on said map subject to the provisions hereafter set out relating to subsequent boundary changes and amendments. Said map is designed and intended as a method and means of setting forth the boundaries of the various airport zoning districts as the same are now shown on said map. All modifications, references, markings and other information shown thereon are hereby enacted and established as a part of the official district map for The Eastern Iowa Airport and are made a part of these regulations.

As relates to Title VI, Chapter 16, said district map shall not be set out in the Municipal Code and shall remain on file in the office of the City Clerk after adoption and publication and shall constitute a part of Title VI, Chapter 16 of the Municipal Code the same as if set out herein.

**6-16-6 AIRPORT ZONE HEIGHT LIMITATIONS.**

Except as otherwise provided in this Ordinance, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this Ordinance to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

1. **Runway Larger Than Utility Visual Approach Zone** - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

2. **Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone** - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

3. **Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone** - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the
same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

4. **Precision Instrument Runway Approach Zone** - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

5. **Transitional Zones** - Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 863.9 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

6. **Horizontal Zone** - Established at 150 feet above the airport elevation or at a height of 1,013.9 feet above mean sea level.

7. **Conical Zone** - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

8. **Excepted Height Limitations** - Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.

### 6-16-7 USE RESTRICTIONS

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

### 6-16-8 NONCONFORMING USES.

1. **Regulations not Retroactive**. The regulations prescribed herein shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulation as of the effective date of these regulations, or otherwise interfere with the continuance of any nonconforming use. However, no pre-existing nonconforming structure, tree, or use shall be replaced, rebuilt, altered, allowed to grow higher, or be replanted so as to constitute a greater airport hazard than it was when these regulations were adopted. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these regulations and resolution is completed within one year thereafter.

2. **Marking and Lighting**. Notwithstanding the preceding provision of this section, the owner of any non-conforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and light as shall be necessary to indicate to the operator of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of The Eastern Iowa Airport Commission.

### 6-16-9 AIRPORT ZONING COMMISSION

An Airport Zoning Commission shall be provided as follows:

The Zoning Commission shall consist of 5 members, 2 of whom shall be appointed by the City Council of the City of Ely and 2 of whom shall be selected by the City Council of Cedar Rapids, and one additional member to act as Chairman who shall be selected by a majority vote of the members appointed by the City of Ely and the City of Cedar Rapids. The terms of such members shall be as provided by Section 329.9 of the Iowa Code of 1997. Such Airport Zoning Commission shall follow the procedures as provided in Sections 414.4 and 414.6 of the Iowa Code, as required by Section 329.9 of the Iowa Code of 1997.

### 6-16-10 BOARD OF ADJUSTMENT
A Board of Adjustment is hereby appointed as follows: The Board shall consist of 5 members, 2 of whom shall be appointed by the City Council of the City of Ely and 2 of whom shall be appointed by the City Council of the City of Cedar Rapids, and one additional member to act as Chairman who shall be selected by a majority vote of the members appointed by the City of Ely and the City of Cedar Rapids. The terms of such members shall be as provided in Section 329.12 of the Iowa Code of 1997. Each such Board shall have the powers and duties, and shall follow the procedures, provided by Sections 414.9 to 414.19 of the Iowa Code of 1997.

6-16-11 VARIANCES.
Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in a manner which would constitute a violation of these regulations, may apply to the Board of Adjustment having jurisdiction of the area where such violation would occur for a variance from these regulations. Such variances shall be allowed where a literal application or enforcement of these regulations would result in practical difficulty or unnecessary hardship, and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of these regulations and of Chapter 329 of the Iowa Code; provided, however, that any such variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of Chapter 329 of the Iowa Code, including but not limited to the following:
1. The reservation of the right of the City of Cedar Rapids, and The Eastern Iowa Airport Commission, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.
2. To require the person requesting the variance at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

Any appeal from the decision of the Board of Adjustment shall be in accordance with the provisions of Section 414.15 et seq. of the Iowa Code.

6-16-12 FINDING CONCERNING PUBLIC INTEREST.
The City Council of Cedar Rapids and City Council of Ely specifically find that an airport hazard, as herein defined, within its territorial limits would endanger the lives and property of users of The Eastern Iowa Airport and all occupants of land, and other persons in the vicinity, and would also tend to destroy or impair the utility of the airport and the public investment therein; accordingly each municipality does hereby declare:
1. That the creation or establishment of an airport hazard, as herein defined, within its territorial limits is a public nuisance and an injury to the community served by The Eastern Iowa Airport.
2. That it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards, as herein defined, be prevented.
3. That this should be accomplished to the extent legally possible by proper exercise of the police power.
4. That each municipality expressly declares that it shall not become liable for the expenditure of its public funds unless such expenditure shall be approved in advance by its governing body.

6-16-13 ADMINISTRATION AND ENFORCEMENT.
The administration and enforcement of these zoning regulations shall be performed by The Eastern Iowa Airport Commission acting through the Airport Director, or through such other persons or representatives as The Eastern Iowa Airport Commission may from time to time by resolution direct, but as provided by Section 329.13 of the Iowa Code such duties of enforcement and administration may not be delegated to any person who is a member of any Board of Adjustment.

6-16-14 EQUITABLE REMEDIES.
The City of Cedar Rapids and The Eastern Iowa Airport Commission may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards pertaining to The Eastern Iowa Airport in violation of these regulations for any area, whether within or without the territorial limits of the City of Cedar Rapids, as authorized by Section 329.5 of the Iowa Code.

6-16-15 CONFLICTING REGULATIONS.
In the event of any conflict between these Airport Zoning Regulations and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirements shall govern and prevail.
6-16-16  PROHIBITED ACTS.
   It shall be unlawful for any person to do any of the acts hereinafter stated unless a variance from the provisions of these regulations shall have been previously allowed by the Board of Adjustment.
1.  No person shall erect or increase the height of any structure, or permit the growth of any tree, to a height in excess of that provided by Section 6-16-6 of these regulations for the zone or area where such act occurs.
2.  No person shall hereafter place or cause to be placed, above ground, transmission lines or poles or other structures supporting the same within 200 feet of the outer boundary of the airport as said boundary is shown on the Airport Zoning Map.
3.  No person shall otherwise use his property within a zone established by these regulations in such a manner as to create an airport hazard as defined herein.
   The doing of any of the foregoing acts shall constitute a misdemeanor and the perpetrator thereof, upon conviction, shall be punished as hereafter provided.

6-16-17  PENALTIES.
   Each violation of these regulations shall constitute a misdemeanor and the perpetrator thereof, upon conviction, shall be punished by a fine of not more than $100 or by imprisonment of not more than 30 days. Each day a violation occurs or continues to exist shall constitute a separate offense.

THIS CHAPTER WAS ADOPTED AS ORDINANCE NO. 154 ON 5/11/98 AND DELETED PREVIOUS AIRPORT ZONING ORDINANCE
TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 17 HISTORIC PRESERVATION COMMISSION

(adopted by Ordinance No. 161)

6-17-1 Short Title 6-17-4 Historic Preservation Commission
6-17-2 Purpose 6-17-5 Powers of the Commission
6-17-3 Definitions

6-17-1 SHORT TITLE These regulations* shall be known and may be cited as the “Historic Preservation Commission Regulations.

*Title VI Chapter 17

6-17-2 PURPOSE AND INTENT
The Purpose of this ordinance is to:

a. Promote the educational, cultural, economic and general welfare of the public through the recognition, enhancement, and perpetuation of sites and districts of historical and cultural significance;

b. Safeguard the City’s historic, aesthetic, and cultural heritage by preserving sites and districts of historic and cultural significance;

c. Stabilize and improve property values;

d. Foster pride in the legacy of beauty and achievements of the past;

e. Protect and enhance the City’s attractions to tourists and visitors and the support and stimulus to business thereby provided;

f. Strengthen the economy of the City;

g. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the City.

6-17-3 DEFINITIONS

a. Commission. The City of Ely Historic Preservation Commission, as established by this ordinance.

b. Historic District. An area which contains a significant portion of archaeological sites, buildings, structures and/or other improvements which, considered as a whole, possesses integrity of location, design, setting, materials, workmanship, feeling, and association, and

1. embodies the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or

2. is associated with events that have made significant contributions to the broad patterns of our local, state or national history; or

3. possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials or combinations thereof, which is deemed to add significantly to the value and attractiveness of properties within such area.
4. is associated with the lives of person significant in our past; or

5. has yielded, or may be likely to yield, information important in prehistory or history.

c. Historic Site. An archaeological site, structure or building which,

1. is associated with events that have made a significant contribution to the broad patterns of our history; or

2. is associated with the lives of persons significant in our past; or

3. embodies the distinctive characteristics of a type, period, or method of construction, or that represents a work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or

4. has yielded, or may be likely to yield, information important in prehistory or history.

6-17-4: CITY OF ELY HISTORIC PRESERVATION COMMISSION
a. The Commission shall initially consist of Five (5) members who shall be residents of the City.

b. Members of the Commission shall be appointed by the Mayor with the advice and consent of the City Council. Members shall demonstrate a positive interest in historic preservation, possessing interest or expertise in architecture, architectural history, historic preservation, city planning, building rehabilitation, and conservation in general or real estate.

c. The original appointment of the members of the Commission shall be, three for two years, and two for three years, from January 1 following the year of such appointment or until their successor is appointed to serve for the term of three years.

d. Vacancies occurring in the Commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced.

e. Members may serve for more than one term and each member shall serve until the appointment of a successor.

f. Vacancies shall be filled by the City according to the original selection as aforesaid.

g. Members shall serve without compensation.

h. A simple majority of the commission shall

i. The Commission shall elect a Chairman who shall preside over all commission meetings and elect a Secretary who shall be responsible for maintaining written records of the commission’s proceeding.

j. The Commission shall meet at least three (3) times a year.

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6-17-4 POWERS OF THE COMMISSION

a. The Commission may conduct studies for the identification and designation of historic districts and sites meeting the definitions established by this ordinance. (The necessary inventory forms and procedures for their completion are available from the State Historical Society of Iowa) The commission may proceed at its own initiative or upon a petition from
any person, group, or association. The Commission shall maintain records of all studies and inventories for public use.

b. The Commission may make a recommendation to the State Historic Preservation Officer for the listing of a historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.

c. The Commission may investigate and recommend to the City Council the adoption of ordinances designating historic sites and historic districts if they qualify as defined herein; and

d. Other Powers. In addition to those duties and powers specified above, the Commission may, with City Council approval:

1. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation.

2. Acquire by purchase, bequest, or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties.

3. Preserve, restore, maintain and operate historic properties, under the ownership or control of the Commission.

4. Lease, sell, and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property.

5. Contract, with the approval of the governing body, with the state or the federal government or other organizations.

6. Cooperate with the federal, state and local governments in the pursuance of the objectives of historic preservation.

7. Provide information for the purpose of historic preservation to the governing body.

8. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.

Chapter added by Ordinance No. 161 on September 7, 1999