

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 13 ZONING ORDINANCE

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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-1 -- Agricultural

R-1 -- Single Family Residential

R-1A -- Single Family Residential

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

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 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:

Front	-	25 feet
Rear	-	30 feet
Side	-	10 feet each side plus 2 feet for each story above one
Street Side,		
Corner Lot	-	25 feet (Ord. No. 153)

(b) Other permissible uses 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 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:

Front	-	25 feet
Rear	-	30 feet
Side	-	8 feet

Street Side,
Corner Lot - 15 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.)

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.

1. Permitted Principal Uses and Structures

- (a) Single-family dwellings.
- (b) Two-family dwellings.
- (c) Multi-family dwellings.
- (d) All uses and structures permitted under R-1.
- (e) Mortuary or funeral homes.
- (f) Religious, educational, non-profit charitable institutions.
- (g) 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) Mobile homes converted to real estate must be at least 22 feet wide and must comply with the same yard and area requirements as single family dwellings under this section. In addition, the following requirements must be met.

(1) The mobile home shall be located on and permanently attached to a cement slab at least four (4) inches thick, at least the length of the trailer in length, and of a width at least four (4) feet greater

than the width of the trailer such that the slab extended four (4) feet or more beyond the side of the trailer on the doorway side.

(2) That each trailer shall be permanently connected to the city sanitary sewer and City water service in accordance with the ordinance and rules and regulations and requirements of the City of Ely.

(3) That each trailer shall have a separate and permanent connection to the electric service facilities in accordance with the ordinances and rules and regulations and requirements of the City of Ely.

(4) That each mobile home shall comply with all the sanitary and health laws, rules, regulations and requirements of the State of Iowa, the City of Ely and further comply with all the other laws, rules and regulations and requirements of the City of Ely and the State of Iowa.

(5) That a permit shall be first obtained from the City Council before a mobile home is located, occupied or used on the premises.

(6) That before a mobile home is located in said district, it shall first be necessary to make application to obtain a temporary permit for the location of said home; if the council finds that said proposed location complies with all of the terms of this zoning ordinance and all of the laws, rules, regulations and requirements of the City of Ely and the State of Iowa, that the council shall issue such temporary permit.

(7) That after obtaining a temporary permit, before a mobile home may be used or occupied as a residence, a further application shall be made to the city council to obtain an occupancy permit and the council shall obtain such information and make such inspections as may be necessary to determine if the mobile home complies with all the terms of the zoning ordinance and other laws, rules, regulations and requirements of the State of Iowa and the City of Ely.

(8) That no mobile home may be located, occupied or used as a temporary place of residence except, in accordance with the provisions of this ordinance.

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, Two-family and Multi-family dwellings:

Front	-	25 feet
Rear	-	30 feet
Side:		
One story	-	8 feet
Two stories	-	10 feet
Three stories	-	12 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 - 3 stories or 45 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) roomers.

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

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:

Front	-	25 feet
Rear	-	30 feet
Side	-	10 feet
Street Side, Corner Lot	-	15 feet

(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 soft-ware 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

Front Yard	-	None required
Interior Side Yards	-	None required
Corner Side Yard	-	None required
Rear Yard	-	None required

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 be 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.

Ordinanc e	Adopted	Subject
135	September 29, 1993	Rezoning from R-1 to C-1
142	November 11, 1996	Add R-1 district - Southbrook
143	November 11, 1996	Add M-1 district - Krob property
144	November 11, 1996	Add M-1 district - Bragg property
145	November 11, 1996	Add C-2 district - Sweet property
155	May 11, 1998	Add R-1 district – Southbrook 5 th addn.