

**CITY OF ELY
LINN COUNTY, IOWA**

**ORDINANCE #186
AMENDING THE TEXT OF THE ELY ZONING ORDINANCE**

SECTION 1. §6-13-14(F.5) REPEALED. Section 6-13-14(F.5) of the Ely Zoning Ordinance is hereby repealed in its entirety.

SECTION 2. §6-13-14(F.5) ADOPTED. The following is hereby adopted as Section 6-13-14(F.5) of the Ely Zoning Ordinance:

The Board shall have the authority to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. (§414.12(3) Code of Iowa) A variance from the terms of this code shall not be granted by the Board of Adjustment unless and until all of the following have been met:

(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.

(5) In determining whether an Unnecessary Hardship exists, the Board must find all of the following:

a) The land in question cannot yield a reasonable return if used only for the purpose allowed in that zone.

- b) The plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood, which may reflect the unreasonableness of the zoning ordinance itself.
 - c) The use to be authorized by the variance will not alter the essential character of the locality.
- (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.

SECTION 3. SECTION 6-13-6(E) REPEALED. Section 6-13-6(E) is hereby repealed in its entirety

SECTION 4. SECTION 6-13-6(E) AND SECTION 6-13-6(E2) ADOPTED. The following is hereby adopted as Sections 6-13-6(E) and 6-13-6(e2):

E. R-2 MULTI-FAMILY RESIDENTIAL:

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

1. Permitted Principal Uses and Structures

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

2. Permitted Accessory Uses and Structures

- (a) All uses and structures permitted under R-1.
- (b) Uses and structures accessory to a principal permitted use or a special exception use are permitted subject to provisions of Section 6-13-9.

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

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

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

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

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

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

(d) Prior to division of the lot or parcel into two parcels, there shall be submitted to the Zoning Administrator of the City of Ely two copies of proposed Restrictive and

Protective Covenants providing that the owners of each parcel upon division are jointly and severally liable and responsible for the maintenance and repair of the common wall as well as of all other common aspects including, but not limited to, utilities, water, sanitary sewer, storm sewer, easements and driveways, all to the point of division. The Zoning Administrator shall, within 15 days, determine whether the proposed Covenants meet the requirements of this paragraph and shall thereupon return one copy of the Covenants to the owners, at which time the owners shall have said Covenants recorded at the Office of the Linn County Recorder. If the Zoning Administrator determines that the proposed Covenants are not satisfactory, the owner shall be notified and submit a further set of proposed Covenants which shall embody any corrections or clarifications deemed necessary by the Zoning Administrator.

(e) The two-family dwelling unit shall, in all other respects, other than the divided ownership thereof, be considered as any other two-family dwelling and shall meet all requirements pertaining thereto.

5. Minimum Lot Areas and Width

(a) Single family dwelling:

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

(b) Multi-family dwelling:

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

6. Minimum Yard Requirements

(a) Single and Two-family: dwellings

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

(b) All other uses permitted in this section:

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

7. Maximum Height - 2 stories or 35 feet.

8. Minimum Off-street Parking and Loading Space

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

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

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

Intent. Mobile Home used for dwelling purposes shall be placed only in mobile home parks. Mobile home parks shall be 10 acres or more. A mobile home park may be established in only MH-R designated districts. The MH-R Mobile Home District shall provide for mobile home parks in areas of the community where such use is compatible with existing and indicated future development. This District shall be well served by arterial streets to provide adequate access and development in accordance with regulations set out in this chapter.

1. Permitted Principal Uses and Structures

- (a) Single Family Mobile Homes
- (b) Parks and Recreation Facilities (Non-Profit)
- (c) Community Meeting/Recreation Building (Non-Profit)
- (d) Emergency Center – commensurate with state laws and regulations
- (e) Registered Day Care Center

2. Permitted Accessory Uses and Structures:

- (a) Storage Buildings
- (b) Private Garages
- (c) Private Tennis Court and pools (non-profit)
- (d) Private Green Houses (non-profit)

3. Special Exceptions:

- (a)

4. Special Requirements:

- (a) Maximum Density: Maximum density shall not exceed seven (7) factory built homes per gross acre.

- (b) Entrance: Stairs servicing the main entrance of the factory-built home shall be a minimum of thirty-six (36) inches in width and shall comply with all other requirements of the building code guardrails and dimensions of threads. All stairs shall be placed on a level, solid surface.
- (c) Surfacing: Factory-built home park surfacing shall meet the same requirements as all subdivisions.

5. Minimum Lot Areas and Width:

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

6. Minimum Yard Requirements:

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

7. Storage Building/Shed:

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

8. Park Access (Entrance/Exit):

- (a) Entrance/Exit Roadways: Each factory-built home park shall have at least two (2) separate entrance and exit roadways and shall connect to a dedicated public right-of-way not less than fifty (50) feet in width.

- (b) Private Streets: All factory-built home park spaces shall abut a private street of not less than twenty-four (24) feet in width and with a minimum right-of-way of forty (40) feet.
- (c) Cul-de-sac Requirements: All dead-end private streets over four hundred (400) feet shall include adequate space for a cul-de-sac with a diameter of one hundred (100) feet.

9. Parking Requirements:

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

10. Sidewalk Requirements:

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

11. Private Lighting Requirements:

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

12. Storage Area Requirements:

- (a) Enclosed storage facility with the park, shall be provided in an amount equal to one hundred (100) square feet per mobile factory-built home space. The area shall be for the residents of the park to store trailers of all types, boats, detached pickup campers, motor homes, etc. Such storage area shall be topped

with a dust and growth-free surface facilitating drainage and shall be screened on all four sides by a solid fence not less than eight (8) feet in height. Access street to the storage area shall comply with hard surfacing requirements.

13. Recreation Area Requirements:

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

14. Storm Shelter Requirements:

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

15. Fences:

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

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

- (a) Drainage: The park shall be located on a well-drained site, properly graded to insure drainage and proper retention where required.
- (b) Underground Utilities: All public utilities within the factory-built home park shall be underground.
- (c) Water Supply: The water supply for the factory-built home park shall be a system which is owned and operated by the City of Ely. The park shall provide a complete water main supply system, including hydrants, valves, and other appurtenances, which shall be extended into and through the park to the boundary line and shall connect to the municipal water system when installed. The water system for the factory-built home

park shall be installed in accordance with the City of Ely Municipal Design Standards.

- (d) Fire Hydrants: Standard fire hydrants shall be located within three hundred (300) feet of each factory-built home.
 - (e) Sewer System: The sewage disposal system for the park shall connect to the system owned and operated by the City of Ely.
 - 1. All plumbing in the factory-built home park including, but not limited to waste from laundry facilities, showers, bathtubs, flush toilets, urinals, lavatories and kitchen sinks in service with other buildings within the park shall be discharged into the public sanitary sewer system in compliance with the plumbing laws and health regulations of the State of Iowa, Johnson County, Linn County, and the City of Ely.
 - 2. Each factory-built home space shall be provided with a sanitary sewer of at least four (4) inches in diameter, which shall be connected to receive the waste from the shower, bathtub, flush toilet, lavatory, and kitchen sink of the mobile home. The sanitary sewer pipe in each space shall be connected to discharge the waste into the public sewer system in compliance with applicable city ordinances and specifications.
 - (f) Electricity and Natural Gas: Electric outlet supply two hundred forty (240) volts – one hundred (100) amperes of service shall be provided for each factory-built home space. The installation shall comply with all state and local electrical codes and ordinances. Such electrical outlets shall be weatherproof.
 - 3. Natural Gas: Where natural gas is provided, installation shall comply with all applicable code regulations.
 - (g) Street and Yard Lights: Street and yard lights shall be provided in such number and intensity as to ensure the safe movement of vehicles and pedestrians at night. A light shall be located at each outside entrance of the service buildings, which shall be kept lighted during the hours of darkness.
 - (h) Service Buildings: Service buildings shall be permanent structures complying with all applicable ordinances and statues regulating buildings, electrical installations, plumbing, and sanitary systems.
17. Tie-Downs and Base: All factory-built homes located within the city limits shall provide, install, and maintain an approved tie-down system in securing

and maintaining in position mobile homes, annexes thereto and auxiliary buildings. Said approved tie-down systems shall be in compliance with all applicable rules and regulations contained in the Building Code as to factory-built home construction.

SECTION 4. REPEALER CLAUSE. Any ordinance, provision or part thereof, which differs or is inconsistent with this ordinance is hereby repealed, to the extent of said difference or inconsistency.

SECTION 5. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, such adjudication shall not affect the validity of the ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional

SECTION 5. EFFECTIVE DATE. This ordinance shall be in effect from and after execution of the Agreement referred to in Section 3 herein, and the final passage, approval, and posting and publication of this ordinance as required by law.

Introduced this 13th day of March, 2006, and adopted by the City Council of the City of Ely, Iowa this 13th day of March, 2006.

Dale Stanek, Mayor

Attest:

Aaron Anderson, Clerk/Administrator