

Exira Zoning Ordinance Table of Contents

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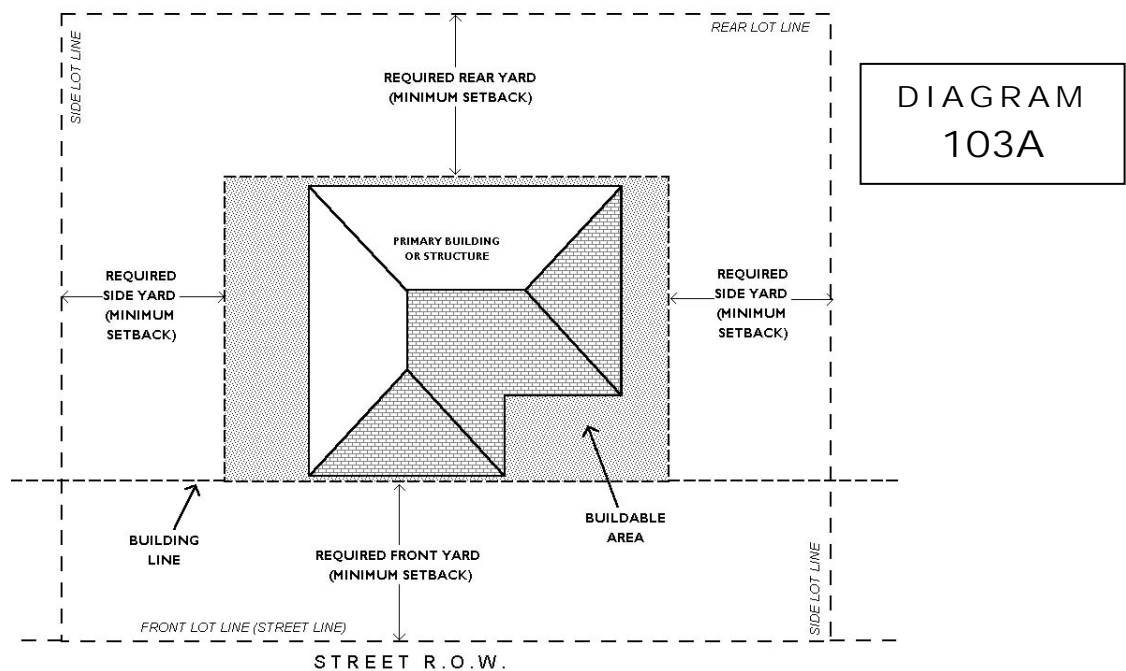
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CHAPTER 1: GENERAL PROVISIONS

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

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



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

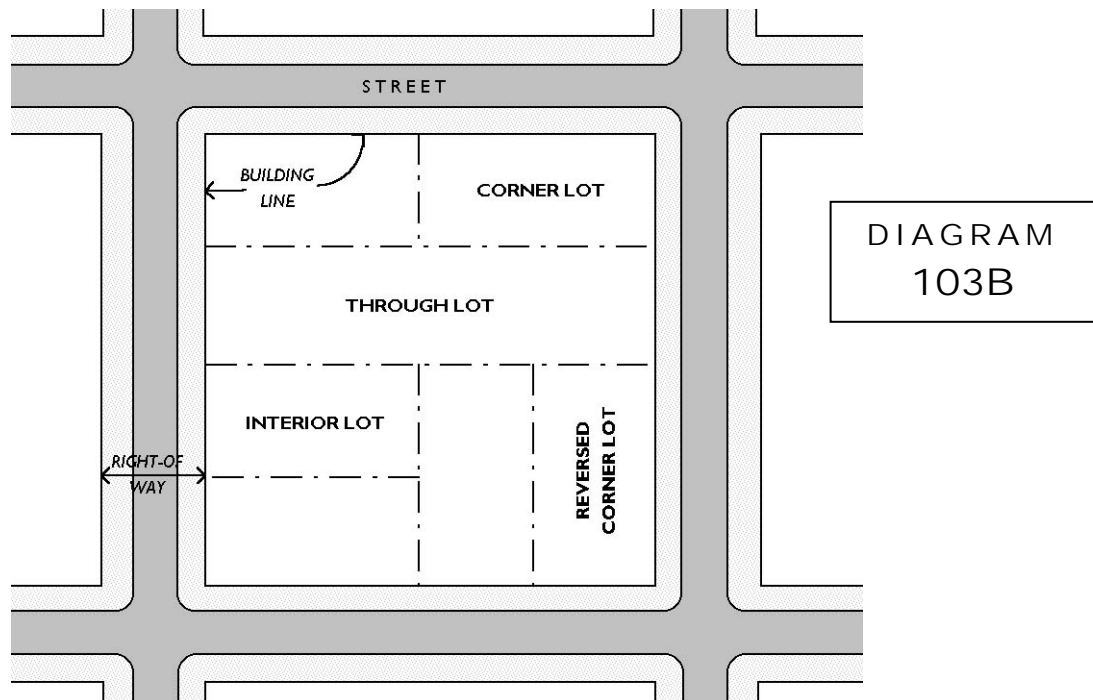
20. Business. An engagement in the purchase, sale, barter, or exchange of goods, wares, merchandise or service or the maintenance or operation of offices or recreational or amusement enterprises.
21. Clerk: The City Clerk of the City of Exira, Iowa.
22. Commission: The Planning and Zoning Commission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

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

47. Lot: For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:
- A. A single lot of record;
 - B. A portion of a lot of record;
 - C. A combination of complete lots of record, or complete lots of record and portions of lots of record, or portions of lots of record;
 - D. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance or any other subdivision regulations of the City.

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

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



53. Manufactured Home: a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. § 5403, that is required by federal law to display a seal from the United States department of housing and urban development, and was constructed on or after June 15, 1976, and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A manufactured home shall be located and installed according to the same standards, including but not limited to, a permanent foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. A “mobile home” as defined in Section 435.1.1 of the Code of Iowa is not a manufactured home, unless it has been converted to real property as defined in Section 435.26 of the Code of Iowa, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.
54. Manufacturing: The use of land, buildings, or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing, or storing or adapting for sale of any goods, substance, article, thing, or service. Processing on farms is not classified as manufacturing if the raw material is grown on the farm.
55. Mobile Home: Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A “mobile home” is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976. If a mobile home is placed outside a mobile home park, the home is to be assessed and taxed as real estate.
56. Motel (also Motor Hotel, Motor Court, Motor Lodge, or Tourist Court): A building or group of buildings designed to provide sleeping accommodations to transient guests for compensation, and provides near each guest room a parking space for the guests’ vehicle. A swimming pool, restaurant, meeting rooms, management offices and other such accessory facilities may be included.

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

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

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

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

A-1	Agriculture District
R-1	Single Family Residence District
R-2	One and Two Family Residence District
R-3	Multiple Family Residence District
RC-1	Residential Commercial District
C-1	Light Commercial District
C-2	Service Commercial District
M-1	Light Industrial District
M-2	Heavy Industrial District

105 **ZONING MAP.**

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

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

105.03 **Replacement of Official Zoning Map.** In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by Resolution Adopt a new Official Zoning Map, which shall supercede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the Seal of the City under the following words: “This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted DATE as part of the Zoning Ordinance of the City of Exira, Iowa”. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior Map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendments.

105.04

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

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

106

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

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

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

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

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

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

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

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

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

- A. Any non-conforming building or structure which has been or may be damaged by fire, flood, explosion, earthquake, war, riot, or other act of God, may be reconstructed and used as before if it be done within 12 months of such calamity, unless damaged more than 50% of its fair market value, as determined by the

board of adjustment, at the time of such damage, in which case reconstruction shall be in accordance with the provisions of this ordinance.

- B. No building, structure or premises where a non-conforming use has been or may be discontinued for more than one year, or has been or may be changed to a use permitted in the district in which it is located, shall again be devoted to a non conforming use.
- C. Any non-conforming use of land not involving any structure, and any non conforming outdoor advertising sign or outdoor advertising structure may be continued for a period not to exceed three years after enactment of the ordinance, whereupon such non-conforming use shall cease or structure shall be removed.
- D. Any building or structure devoted to a non-conforming use with a fair market value of less than \$500.00, as determined by the board of adjustment, may be continued for a period not to exceed three years after enactment of the ordinance, whereupon such non-conforming use shall cease and thereafter such building or structure shall be removed or changed to a conforming use.
- E. The foregoing provisions under Subsections (a) (b), (c) and (d), insofar as these limit reconstruction or require certain uses to cease or buildings or structures to be removed or changes, shall not be applicable where any such building, structure or use would be conforming under the land use plan as herein before defined.

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

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

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

109 General Provisions.

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

109.02 Lot Area Requirements.

- A. Existing Lots of Record - In any district where dwellings are permitted, a one-family detached dwelling may be constructed on any lot of official record at the time of enactment of the ordinance, the owner of which does not own any adjoining property, provided that proposed yard spaces satisfy requirements stipulated for the district in which said lot is located, or requirements as may be modified by the board of adjustment.

- B. Lots Not Served by Sewer and/or Water - In any district, where neither water supply nor public sanitary sewer is accessible, the otherwise specified lot area and width requirements shall be a minimum of 40,000 square feet, and 200 feet; provided, however, that where a public water supply system is accessible and will be installed, these requirements shall be 20,000 square feet, and 120 feet respectively; provided further that the engineer has certified that said areas will be large enough to satisfy all applicable requirements concerning water supply and the disposal of sanitary wastes.

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

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CHAPTER 2: DISTRICT REGULATIONS

201 INDIVIDUAL DISTRICT REGULATIONS.

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

TABLE 201.01A		USES IN THE AG-AGRICULTURAL DISTRICT
Permitted Principal Uses <small>Principal uses that are permitted in the agricultural district.</small>	Permitted Accessory Uses <small>Uses customarily incidental and subordinate to permitted principal uses.</small>	Special Exceptions <small>Uses that may be authorized only by the Board of Adjustment per Section 302.09. Specific conditions may be applied to special exceptions if they are approved.</small>
<ul style="list-style-type: none"> • Public parks, playgrounds, and recreational areas. • Essential services as defined in 1.3 and municipal administrative or public service building or properties, except such uses as storage yards, warehouses, garages, or other uses customarily conducted as gainful business, provided any building is located not less than 20 feet from any lot in a residential district. • Cemeteries of at least 3 acres in size. • Churches, chapels, or parish houses located not less than 20 feet from any side lot line in any residential district. • Any building or structure occupied or used for nursery, elementary, junior high or high schools, public libraries, and similar public cultural uses located not less than 20 feet from any side lot line. • Sale of nursery and greenhouse products. • Railroad rights-of-way and track, not including switching, storage, terminal facilities or freight yards. • Single-family detached dwellings on lots of 20,000 square feet or more. • Transformer stations and booster or pressure regulating stations, without service yard or storage. 	<ul style="list-style-type: none"> • Buildings, structures, and uses accessory to agricultural uses including roadside stands, selling produce grown on the premises, provided such roadside stands are located not less than 20 feet from a street or highway right-of-way line. • Private garages or parking areas. • Living quarters of persons employed on the premises. • Office of a physician, dentist, lawyer, architect, engineer, clergyman or accountant within his dwelling. • Customary incidental home occupations such as handicraft, dressmaking, millinery and preserving, but not including beauty shop, barber shop, dancing or music school with more than one pupil at a time, or similar activity carried on solely by resident occupants within their residence, subject to the following provisions: that no more than one room is used for such purposes by any resident family; that no such use shall require internal or external alterations or involve construction features or the use of mechanical equipment not customary in dwellings; that anything not produced on the premises is sold or offered for sale; and that no display of goods or services pertaining to such is visible from the street or road. • Signs as regulated in Section 203. 	<ul style="list-style-type: none"> • Sanitary Landfills, in accordance with county and state regulations except that no sanitary landfill shall be operated within 1,320 feet of any residential district. • Sewage Disposal Facilities • Privately operated country clubs, golf courses, swimming clubs, riding stables, and similar recreation uses provided that any accessory building in connection therewith shall be located not less than 200 feet from any lot in a residential district. • Airports and landing fields. • Outdoor drive-in theatre • Livestock, subject to controls of surface runoff and that livestock are housed and fed at least 1,320 feet from any residential or business district.

TABLE 201.01B

**MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE
AG-AGRICULTURAL DISTRICT**

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
PRINCIPAL USES					
20,000 sq. ft. for single-family dwelling; 40,000 sq. ft. for all other permitted uses	Single-Family dwelling: 99 feet	50 feet	15 feet	50 feet	2 ½ stories or 35 feet
	Other permitted uses: 99 feet	50 feet	25 feet	50 feet	

See Section 202 for Supplementary and Additional Regulations that apply to this district.

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201.02 R-1 One Family Residence District. This district is intended to provide for large lot residential areas where public utilities and services are available, and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Criteria such as topography, soil types, access, and traffic load on streets, schools, utilities, recreation, and other public facilities shall be taken into consideration when lot area requirements are established in various residential areas of the City. The following tables detail principal and accessory uses in R-1 districts; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.02A	USES IN THE R-1 RESIDENTIAL DISTRICT	
Permitted Principal Uses	Permitted Accessory Uses	Special Exceptions
<p>Principal uses that are permitted in the R-1 district.</p> <ul style="list-style-type: none"> • Single-family detached dwellings • Public Parks, playgrounds, and recreational areas • Churches, chapels, or parish houses located not less than 20 feet from any side lot/property line a residential district • Cemeteries of at least 3 acres in size • Any building or structure occupied or for nursery, elementary, junior high, or high schools, public libraries, and similar public cultural uses located not less than 20 feet from any side lot/property line • Transformer stations and booster or pressure regulating stations, without service yard or storage • Essential services as defined in Section 103 and municipal administrative or public service buildings or properties, except such uses as storage yards, warehouses, garages, or other uses customarily conducted as gainful business, provided any building is located not less than 20 feet for any lot line a residential district 	<p>Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use</p> <p style="text-align: center;">**NO MORE THAN 3 ALLOWED PER LOT**</p> <ul style="list-style-type: none"> • Private garages and storage sheds, but which shall not be higher or have a floor area greater than that of the primary structure. • Living quarters of persons employed on the premises • Temporary uses, such as buildings for uses incidental to the construction work, provided that they are removed upon completion or abandonment of the primary structure. • Office of a physician dentist, lawyer, architect, engineer, clergymen or accountant within his dwelling • Customary incidental home occupations such as handicraft, dressmaking, millinery and preserving, but not including beauty shops, barber shops, dancing or music schools with more than one pupil at a time, or similar activity carried on solely by resident occupants within their residence, subject to the following provisions: no more than one room is used by any resident family; that no such use shall require internal or external alterations or involve construction features or use of mechanical equipment not customary in dwellings; that nothing produced on the premises is sold or offered for sale; and that no display of goods or service pertaining to such is visible from the street or road. • Signs as regulated by Section 203. 	<p>Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.</p> <ul style="list-style-type: none"> • Privately operated country clubs, golf courses, swimming clubs, riding stables, and similar recreation uses provided that any principal building in connection therewith shall be located not less than 200 feet from any lot in a residential district. • Bed and breakfast homes • Funeral Homes or Mortuaries • Reduction of the minimum required side and rear yard setbacks by up to 50% if application is made, applicant shows reasonable cause for such reduction, and doing so will not cause harm to any adjacent property owners.

TABLE 201.02B

**MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE
R-1 RESIDENTIAL DISTRICT**

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
8,000 square feet for single family dwellings; 10,000 square feet for other uses	PRINCIPAL USES				
	Single-Family Dwelling	35 feet	10 feet	25 feet	2 ½ stories or 35 feet in height
	Other Permitted Uses	35 feet	15 feet	25 feet	

See Section 202 for Supplementary and Additional Regulations that apply to this district.

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

TABLE 201.03A		USES IN THE R-2 RESIDENTIAL DISTRICT
Permitted Principal Uses	Permitted Accessory Uses	Special Exceptions
<p>Principal uses that are permitted in the R-3 district.</p> <ul style="list-style-type: none"> • Any structure as permitted in R-2 except for agriculture and farming • Two-family dwellings • Any dwelling converted for two family use provided the combined livable floor area, excluding basements, is not less than 1,400 square feet • Lodging house with not more than 2 lodges • Retirement home and nursing home 	<p>Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use</p> <p style="text-align: center;">**NO MORE THAN 3 ALLOWED PER LOT**</p> <ul style="list-style-type: none"> • Same as permitted in R-1 Residence District • Signs as regulated by Section 203. 	<p>Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.</p> <ul style="list-style-type: none"> • Any use as regulated in the R-1 District, except as hereafter modified • Kindergartens, day nurseries, or nursery schools, provided that any play lot used in connection therewith be suitably fenced and screened in accordance with requirements of the board. • Tourist homes; motels or motor hotels on lots abutting on state or federal highways; subject to the special provisions on motels or motor hotels. • The following lots abutting on State and Federal highways: Office or civic, religious or charitable organizations and financial or insurance institutions conducting their activities primarily by mail and not handling merchandise or rendering services on the premises; offices devoted to real estate, insurance, management, and similar enterprises when conducting their activities primarily by mail or telephone and not displaying or handling merchandise on the premises; professional offices of architects, engineers, and lawyers. Any use as regulated in 201.04, except as hereafter modified • Office of civic, religious, or charitable organizations and financial institutions conducting their activities primarily by mail and not handling merchandise or rendering services on the premises • Physician and dentist offices and private clinics for human care, professional offices or architects, engineers, lawyers, and the like; offices devoted to real estate, insurance, management, and similar enterprises when conducting their activities primarily by mail or telephone and not displaying or handling merchandise on the premises. • Mobile home parks subject to the following conditions: <ul style="list-style-type: none"> • Mobile home park shall be located on a parcel of ground of at least five (5) acres in size and each boundary line of the park shall be at least 100 feet from any residential structure located outside park

		<p>unless separated there from by a natural or artificial barrier.</p> <ul style="list-style-type: none"> • The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water. • Each mobile home space shall be large enough to provided a distance of 10 feet between any residence unit or structure on the space and the lot line, a front yard of 15 feet and a rear yard of 10 feet. • All mobile home spaces shall abut upon a driveway of not less than 20 feet in width which shall have unobstructed access to a public street. • Walkways not less than two feet wide shall be provided to service the buildings. • All driveways and walkways in the park shall be hard surfaces and lighted at night. • Each mobile home park shall provide service buildings to house such toilet, bathing and other sanitary facilities and such laundry facilities as may be prescribed. • An electrical outlet supplying at least 110 volts shall be provided to each trailer space. • Adequate sanitary facilities and supply of pure water shall be provided to each trailer space. • Each park shall comply with the regulations set forth by competent authority.
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TABLE 201.03B MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE R-2 RESIDENTIAL DISTRICT*

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
PRINCIPAL USES					
Each lot with a residential structure in this district shall be at least 6,000 square feet. Each two-family dwelling shall have 3,000 square feet per family. Other permitted uses must have a lot area of at least 10,000 square feet.	Single-family dwelling: 50 feet	25 feet	7 feet	25 feet	2 ½ stories or 35 feet in height*
	Two-family dwelling: 50 feet	25 feet	7 feet	25 feet	
	Other permitted uses: 100 feet	25 feet	15 feet	30 feet	

See Section 202 for Supplementary and Additional Regulations that apply to this district.

201.04 R-3 Multiple-Family Residence District. This district is intended to provide land for dwellings for more than two families in areas where public utilities and services are available, and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Criteria such as topography, soil types, access, and traffic load on streets, schools, utilities, recreation, and other public facilities shall be taken into consideration when lot area requirements are established in various residential areas of the City. The following tables detail principal and accessory uses in R-3 districts; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.04A		USES IN THE R-3 RESIDENTIAL DISTRICT	
Permitted Principal Uses Principal uses that are permitted in the R-3 district.	Permitted Accessory Uses Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use **NO MORE THAN 3 ALLOWED PER LOT**	Special Exceptions Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.	
<ul style="list-style-type: none"> Any structure as permitted in the R-2 District Multiple-family dwellings Any dwelling converted for two family use provided the combined livable floor area, excluding basements, is not less than 700 square feet per dwelling unit Lodging house Hospital Mortuary Club or lodge where principal activity is not conducted as a business On-site sign not exceeding 20 square feet 	<ul style="list-style-type: none"> Same as permitted in R-2 Residence District Signs as regulated by Section 203. 	<ul style="list-style-type: none"> Any use as regulated in the R-2 District, except as hereafter modified 	

TABLE 201.04B		MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE R-3 RESIDENTIAL DISTRICT*			
Minimum Lot Area	Minimum Lot Width, Use and Lot Area per Family	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
Each lot with a structure in this district shall be at least 6,000 square feet. Two family shall have at least 3,000 square feet per family, and multiple-family uses shall have at least 1,725 square feet per family. Other permitted uses shall be on lots with at least 10,000 square feet.		PRINCIPAL USES			
	Single-Family: 50 feet	25 feet	5 feet	25 feet	2 ½ stories or 35 feet in height
	Two-Family: 50 feet	25 feet	5 feet	25 feet	
	Multiple-Family: 80 feet	25 feet	5 feet	25 feet	
Other Permitted Uses	25 feet	15 feet	30 feet		

See Section 202 for Supplementary and Additional Regulations that apply to this district.

201.05 RC-1 Residential Commercial District. The Residential Commercial District is intended to provide for businesses that generate more traffic than permitted under home occupation settings, but still maintain the feel of a traditional residential district. Whereas the likes of manufacturing, storage, or retailing, just like residential zones, are still prohibited, this zone accommodates offices, clinics, and other uses that may be home occupations, but draw more than one customer or a few workers at a time. A requirement of this district that differs from a traditional home occupation is that there are off-street parking requirements to accommodate more than one customer and multiple employees.

TABLE 201.05A	USES IN THE RC-1 RESIDENTIAL-COMMERCIAL DISTRICT*	
<p>Permitted Principal Uses Principal uses that are permitted in the RC-1 district.</p> <ul style="list-style-type: none"> Any use permitted in the R-4 District subject to all requirements specified for such residential district. Office in which only office work is performed. The manufacture, treatment, storage, repair, renting, wholesaling, retailing, or exchange of any product on the premises is prohibited. Clinics and doctor's office for a human treatment and pharmacy when it is in conjunction with a doctor's office. On-site sign attached to the building provided on-site signs of 20 square feet or less may be standing. 	<p>Permitted Accessory Uses Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use, including signs regulated in Section 203.</p> <ul style="list-style-type: none"> Off-street parking for the permitted uses (required) 	<p>Special Exceptions Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.</p>

TABLE 201.05B	MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE RC-1 RESIDENTIAL-COMMERCIAL DISTRICT*				
Minimum Lot Area	Use	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
None	PRINCIPAL USES				
	Permitted Uses*	25 feet	5 feet	25 feet	2 ½ stories or 35 feet

*All residential uses in this district are subject to the lot and height requirements of the R-3 District. See Section 202 for Supplementary and Additional Regulations that apply to this district.

201.06 C-1 Light Commercial District. This district is intended to provide for certain areas of the city for the development of retail, service, and other non-residential uses that can be accommodated in the downtown district without front setbacks, shared parking, and low neighborhood impact. Residences are allowed. The following tables detail principal and accessory uses in C-1 districts; special exceptions, which require approval of the Board of Adjustment; and setback, area, and height requirements.

TABLE 201.06A		USES IN THE C-1 LIGHT COMMERCIAL DISTRICT
Permitted Principal Uses	Permitted Accessory Uses	Special Exceptions
<p>Principal uses that are permitted in the C-1 district.</p> <ul style="list-style-type: none"> • Any use or structure permitted and as regulated in Sections RC-1 except as hereinafter modified. • Any retail business establishment, such as appliance store, auto accessory store, bakery with baking limited to goods for retail sales on the premises, book or stationery store, cafe or restaurant, camera or photographic supply shop, candy or ice cream store, delicatessen, drug store, fabric shop, floor covering store, florist shop, furniture store including incidental upholstery, gift shop, grocery store, haberdashery or women's ready-to-wear shop, hardware or paint store, hobby shop, jewelry store, meat market, shoe store and variety store. • Any service establishment, such as auto repair, bank or other financial enterprise, barber or beauty shop, business or professional office, clothes cleaning or laundry pick-up station, funeral home, theater, and self-service laundry • Bus Station • Business or trade school • Commercial parking lot • Department store • Hotels and motor hotels • Meeting hall, club, and fraternal organization • Music and dancing studio • Public parking lot, customer and other accessory parking area, subject to the applicable provisions of Section 203.01. • Other business, professional or service establishment. • Furniture upholstery shop only when operated in conjunction with a retail business on the premises. • Printing, publishing, engraving or lithographing shop. • Laundry and dry cleaning shop. • Apartments, provided that the primary storefront area is only used for commercial, non-residential purposes. • The following uses when occupying a completely enclosed building located at least 100 feet from any residential district: <ul style="list-style-type: none"> • Dance hall, bar or cocktail lounge, night club, and similar enterprise. 	<p>Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use, including signs regulated in Section 203.</p>	<p>Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.</p>

TABLE 201.06B

**MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE
C-1 LIGHT COMMERCIAL DISTRICT***

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
PRINCIPAL USES					
Dwellings: Same as R-4 District Other Permitted Uses: None	Primary Use*	None	None, except where adjoining a residential district then same as the least width required in that residential district.	20 feet, except where adjoining a residential district then same as the least width required in that residential district.	3 stories or 45 feet

*Dwellings in the C-1 District shall be required to follow the specifications of the R-4 District. See Section 202 for Supplementary and Additional Regulations that apply to this district.

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

TABLE 201.07A		USES IN THE C-2 SERVICE COMMERCIAL DISTRICT
Permitted Principal Uses	Permitted Accessory Uses	Special Exceptions
<p>Principal uses that are permitted in the C-2 district.</p> <ul style="list-style-type: none"> • Any use or structure permitted and as regulated in the C-1 District except as hereinafter modified. • Building material sales yards, if enclosed on all sides by an eight foot high solid fence • Motels or motor hotels, subject by the provisions of 204.04. • Drive-in dining establishments • Motor fuel stations subject to the conditions stipulated in Section 204.02. • Animal hospitals and veterinary clinics provided that buildings or enclosures in which animals are kept shall be at least 100 feet away from any "R" District • Commercial baseball field, bath house, or boat house, golf driving range, skating rink, swimming pool, or smaller open air recreational use and facilities, but not within 200 feet of any "R" Districts • The following uses provided no part of a building where any activity is conducted shall have any openings other than stationary windows or required fire exits within 100 feet of any "R" District. <ul style="list-style-type: none"> ▪ Automobile. Truck, trailer, and garden and farm equipment establishments for display, hire, sales, including sales lots ▪ Bottling of soft drinks or milk or distribution systems ▪ Bowling alley, pool hall or billiard parlor, dance hall, bar or cocktail lounge, night club and similar enterprises ▪ Carpenter shop, electrical, heating, ventilating or plumbing shop, furniture upholstery shop, printing, publishing, engraving or lithographing plant, laundry and dry cleaning shop, sign painting shop, and similar establishments. ▪ Any other use that is determined by the Board of Adjustment to be of the same general character as the foregoing permitted uses, but not including any use which may become noxious or offensive in a "C-2" District. 	<p>Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use, including signs regulated in Section 203.</p>	<p>Uses that may be authorized only by the Board of Adjustment per Section 304.09. Specific conditions may be applied to special exceptions if they are approved.</p>

TABLE 201.07B

**MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE
C-2 SERVICE COMMERCIAL DISTRICT**

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
None; Dwellings: Same as R-3 District*		PRINCIPAL USES			
		25 feet	None, except where adjoining a residential district then same as the least width required in that residential district.	None, except where adjoining a residential district then same as the least width required in that residential district.	3 stories or 45 feet

*Dwellings in the C-2 District shall be required to follow the specifications of the R-3 District. See Section 202 for Supplementary and Additional Regulations that apply to this district.

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

TABLE 201.08A		USES IN THE M-1 INDUSTRIAL DISTRICT
Permitted Principal Uses Principal uses that are permitted in the LI district.	Permitted Accessory Uses Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use	Prohibited Uses Uses that are not permitted in the L1 district.
<ul style="list-style-type: none"> • Any use or structure permitted and as regulated in the C-2 District, except as hereinafter modified. • The following uses if located not less than 100 feet from any residential district, provided any such operations are enclosed by a solid wall or fence not less than six feet in height: <ul style="list-style-type: none"> • Builder or contractor's plant or storage yard. • Building material sales and storage yard, including concrete mixing. • Lumber yard, including millwork. • Open yard for storage and sale of feed, fertilizer, or fuel. • The following uses, providing no part of a building occupied by such uses shall have openings other than stationary windows or required fire exits within 100 feet of a residential district: <ul style="list-style-type: none"> • Automobile repair garage doing major repair, including tire retreading or recapping, battery service, and repair. • The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries, milk, and food products. • The manufacture, compounding, assembling, or treatment of articles or merchandise from the following previously prepared material: canvas, cellophane, cloth, fiber, glass, leather, paper, plastics, precious or semi-precious metals or stone, rubber, textiles, wood and yarn. • The manufacture or assembly of electrical appliances, electronic instruments and devices, phonographs, radio and television 	<ul style="list-style-type: none"> • "B-1" Business District accessory uses. • Other accessory uses customarily incidental to a permitted principle use, including signs as regulated by Section 203. 	<ul style="list-style-type: none"> • Residential Dwellings, except for watchman or caretaker on the premises. • Schools, hospitals, clinics, and other institutions for human care, except when incidental to a permitted principal use. • Auto salvage and wrecking operations, industrial metal and waste salvage operations, and junk yards.

<p>sets, (continued on next page) electric and neon signs, refrigerators and stoves.</p> <ul style="list-style-type: none"> • Laboratory experimental, film or testing. • Railroad freight stations, trucking or motor freight terminals, provided that service yards or docks are at least 100 feet from any lot in any residential district. • Any other use that is determined by the Board of Adjustment to be of the same general character as the foregoing permitted uses, but not including any use which may become noxious or offensive in an "I-1" District. 		
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TABLE 201.08B		MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE M-1 LIGHT INDUSTRIAL DISTRICT*			
Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height of Permitted Uses
None	None	PRINCIPAL USES			
		20 feet	5 feet	Equal to building height, but not less than 20 feet	3 stories of 45 feet

See Section 202 for Supplementary and Additional Regulations that apply to this district.

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201.09 M-2 Heavy Industrial District. This district is intended to provide for areas for activities and uses of a heavy industrial nature. In the best interest of the City, certain uses (i.e., those listed below as requiring special approval) in the M2 district shall be subject to final Board of Adjustment approval, conditional approval, or denial to ensure that proper safeguards are taken. No residential uses are permitted in the M2 district. Table 201.11A details setback, area, and height requirements for M2 districts.

TABLE 201.09A		USES IN THE M-2 HEAVY INDUSTRIAL DISTRICT
Permitted Principal Uses <small>Principal uses that are permitted in the HI district</small>	Permitted Accessory Uses <small>Uses customarily incidental and subordinate to principal permitted uses, and only permitted if there is an existing permitted principal use</small>	Permitted Uses Requiring Special Approval <small>Uses that may be authorized by the Board of Adjustment with conditions, per provisions and procedure as detailed in this section</small>
<ul style="list-style-type: none"> • Any use, except any residential use, and except those uses listed at right that require approval of the Board of Adjustment 	<ul style="list-style-type: none"> • Accessory uses customarily incidental to any permitted or specially-approved principal use • Living quarters for watchmen or custodians of industrial properties 	<ul style="list-style-type: none"> • Acid Manufacture • Cement, lime, gypsum, or plaster of Paris manufacture • Distillation of bones • Explosive manufacture or storage • Fat or oil rendering • Fertilizer manufacture & storage • Gas manufacture • Garbage, offal, or dead animals, reduction or dumping • Glue manufacture • Refining of petroleum or petroleum products • Smelting of tin, copper, zinc, or iron ores • Stockyards or slaughter of animals • Junk Yards: Must be surrounded by a solid fence at least 6 feet high located within setback lines, and the junk must not be piled higher than the fence.

A. Procedure for Review by the Board. Before granting approval for a use identified in column 3 of the table above, the Board shall refer applications to the Planning & Zoning Commission for Study, investigation, and report. If no report is received in 30 days, the Board may assume approval of the application. The Board shall then hold a public hearing on the application. After said hearing, the Board shall consider all of the following provisions in its determination upon the particular use at the location requested:

1. That the proposed location design, construction, and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property;
2. That such use shall not impair an adequate supply of light and air to the surrounding property;
3. That such use shall not unduly increase congestion in the streets, or public danger of fire and safety;
4. That such use shall not diminish or impair established property values in adjoining or surrounding property;
5. That such use shall be in accord with the intent, purpose, and spirit of this Ordinance and the Comprehensive Plan of the City.

B. Required Conditions.

1. The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed and subject to conformance with Iowa Department of Natural Resources, Environmental Protection Agency, and other applicable laws and regulations.
2. All principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least 100 feet from any residential district boundary, except where adjoining a railroad right-of-way, and 50 feet from any commercial district boundary.

TABLE 201.09B		MINIMUM SETBACK, AREA, & HEIGHT REQUIREMENTS IN THE <i>M2-HEAVY INDUSTRIAL DISTRICT</i>			
Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Height
None	None	PRINCIPAL USES			
		30 feet	None, except if adjacent to a residential district, then it shall be 100 feet; if adjacent to a commercial district, it shall be 50 feet	50 feet, except if adjacent to a residential district, then it shall be 100 feet, unless bordering a railroad right-of-way, in which case none shall be required	The lesser of 4 stories or 45 feet

See Section 202 for Supplementary and Additional Regulations that apply to this district.

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201.10 Planned Unit Developments.

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

A. Dwelling Groups.

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

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

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

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

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

202 **SUPPLEMENTARY REGULATIONS**

202.01 Accessory Buildings and Detached Garages. Detached accessory buildings shall conform to all yard and setback requirements except it may be located not less than five (5) feet from the rear property line or interior property line, and also:

- A. Any accessory building shall not occupy more than 35% of the required rear yard.
- B. Any accessory building shall not exceed the primary building in height.
- C. Accessory buildings shall not have a floor area that is greater than that of the primary structure.
- D. Be at least six (6) feet back from the nearest rear wall of the residence.
- E. No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used unless the main building on the lot is being used. All detached garages or accessory buildings shall conform to the applicable front yard setback.

202.02 Signs. The following regulations shall apply to signs in all districts.

- A. The total area of all signs permitted on a lot shall include:
 - 1. The total area of the faces visible from a public way of all permanent exterior signs, plus
 - 2. The area of permanent signs placed upon the surface of windows and doors, plus
 - 3. The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.
 - 4. A building or use having frontage on a second street may include 20% of the length of the lot facing the second street.
 - 5. Signs not exceeding four sq. ft. in area indicating the brand of seed or the type of fertilizer being used.
 - 6. Signs not exceeding 20 sq. ft. in area pertaining to a permitted recreation use or areas of scenic beauty provided such signs shall be set back at least 30 feet from any right-of-way and there shall be a distance of 300 feet between any such signs.
 - 7. Real estate signs of a temporary nature, not exceeding two in number per lot nor larger than 12 sq. ft. set back 20 feet from any highway, street, or road.
 - 8. Signs accessory to roadside stands shall be limited to two signs per lot with no sign being larger than 10 sq. ft. in area and set back at least 10 feet from the right-of-way of a street, highway, or road.
 - 9. Small announcement or professional signs, not over six sq. ft. in area, except that an announcement sign or bulletin board not over 18 sq. ft. in area, set back at least 20 feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of a non-residential nature.

10. For special events, off-premise advertisements may be posted 48 hours in advance of the event and must be removed upon conclusion of the event. Signs must be set back at least 20 feet from any highway, street, or road and may be denied or removed at the discretion of the Mayor. Only city-sponsored events may be posted on city property.

202.021 Signs Permitted in Residential Districts.

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

202.022 Signs Permitted in the "RC-1" District.

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

202.023 Signs Permitted in the Commercial and Industrial Districts.

- A. Signs as permitted and regulated in Subsection 3 above except as hereinafter modified.
- B. Billboards and signboards subject to the same height and location requirements as other structures in the "B-1" District and also subject to the following conditions and restrictions:
 1. No billboard, signboard or similar advertising signs shall be located at intersections so as to obstruct vision, hearing or interfere with pedestrian or vehicular safety.
 2. No billboard, signboard or similar advertising signs shall be located within 50 feet of any lot in a residential district. The front yard shall be observed as required in each district except where 30% or more of the block has been
 3. No billboard or signboard shall exceed 300 sq. ft. in area.
 4. No billboard, signboard or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- C. Elevated signs at least five feet from any lot line.
- D. Projecting signs at least five feet from any lot line.
- E. Projecting signs at least eight feet above the sidewalk and extending no further than five feet from the building to which it is attached.

202.03 Special Provisions.

202.04 **Off-Street Parking Areas and Loading Spaces.** The following minimum off-street parking requirements shall apply. In the case of any use which is not specifically mentioned herein, the provisions for a similar use which is mentioned shall apply.

TABLE 202.04		OFF-STREET PARKING REQUIREMENTS
Zoning District	Use	Off-Street Spaces Required
R RESIDENTIAL (ALL R DISTRICTS)	Single-family Detached	2 for each dwelling unit
	All other Dwellings	1½ for each dwelling unit
	Churches & Schools	1 for every 4 seats in the main auditorium
	Hospitals, Nursing Homes, and Similar Care Centers	1 for each 5 beds plus 1 for each 2 doctors and employees
C Commercial and M Industrial	Automobile or Machinery Sales	1 for each 1,000 square feet of floor area plus 1 for each full-time employee
	Banks, Business & Professional Offices	1 for every 200 square feet of floor area
	Bowling Alleys	6 for each alley
	Convenience Stores (drug, grocery, hardware, and similar stores)	1 for every 300 square feet of floor area devoted to sales plus 1 for each full-time employee
	Dance Halls & Assembly Halls without fixed seats	1 for each 300 square feet of floor area used for assembly or dancing
	Drive-In Eating Establishments	Not less than ½ of the total ground area to be devoted exclusively to parking and accessways
	Food Pick-Up Establishments	Minimum of 2 plus 1 for each 100 square feet of floor area
	Funeral Homes & Mortuaries	6 per chapel room or parlor or 1 per 50 square feet of rooms used for services, whichever is greater
	Manufacturing Plants, Research or Testing Laboratories, Bottling Plants	2 for each employee on maximum shift
	Medical or Dental Clinics	1 for each 200 square feet of floor area plus 1 for each full-time employee and 1 for each doctor
	Motels or Motor Hotels	1 for each unit plus 1 for each 2 employees on maximum shift
	Motor Fuel Stations	1 for each employee on duty plus 1 for each service bay
	Barber Shops	2 for each chair plus 1 for each 2 employees on maximum shift
	Beauty Shops	1 for each dryer plus 1 for each 2 employees on maximum shift
Coin-Operated Laundries and/or Dry-cleaning Establishments	1 for each 3 washers and/or cleaning machines plus 1 for each 2 employees on maximum shift	
Restaurants	1 for each 3 seats plus 1 for each 2 employees on maximum shift	
Shopper's Goods-Appliance, Household Equipment, Furniture & Similar Stores	1 for each 500 square foot of floor area plus 1 for each full-time employee	
Taverns or Bars	1 for each 2 seats plus 1 for each 2 employees on maximum shift	
Theatres	1 for each 4 seats	
Wholesale Establishments	1 for each 4 employees on maximum shift	

- A. In all districts, in connection with every building or part thereof hereafter erected, having a gross floor area of 2,500 sq. ft. or more, which is to be occupied by uses requiring the receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained on the same premises with such building at least one off-street loading space accessible from an alley, easement of access, or, when there is no such alley or easement of access, from a street, plus one additional such loading space for each 10,000 sq. ft. or major fraction thereof of gross floor area so used in excess of 15,000 sq. ft. Such space may occupy all, or any part of a required rear yard, or, with authorization of the board of adjustment, part of any other yard or court space on the same premises.
 - 1. Loading Space - Each loading space shall not be less than 10 ft. wide, 40 ft. in length and 14 ft. in height, exclusive of access and turning area.
 - 2. In all districts except "B-1", off-street accessory parking areas, in the open or in a garage shall be provided in addition to the above required loading and unloading spaces. Such areas, in the case of residential districts and for dwellings in other districts, shall be on the premises intended to be served; and in the case of "I-1" districts, and in connection with uses other than dwellings, such areas shall be on the premises intended to be served or on adjoining or nearby property within 100 feet of any part of said premises and in the same or less restricted district.
- B. Development Standards. Off-street accessory parking areas shall be of useable shape, and shall be improved, in accordance with requirements of the Council, with a durable and dustless surface and so graded and drained as to dispose of all surface water accumulation within the area. Any lighting used to illuminate such parking areas shall be so arranged as to reflect the light away from adjoining premises in any "R" District.
- C. Units of Measurement.
 - 1. Parking Space - Each parking space rectangular in shape shall not be less than 8 1/2 feet wide and 20 feet long, or not less than 170 square feet in area exclusive of access drives or aisles

202.05 Residential Driveway Requirements. Driveways in residential areas that lead directly to a garage attached to a house, or that lead to a detached garage located in a side yard shall be hard-surfaced. Driveways leading to garages or sheds in rear yards shall not require specific surfacing.

202.06 Garages, Motor Fuel Stations, and Car Washes.

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

202.07 Motels or Motor Hotels. No vehicular entrance to or exit from any motel or motor hotel wherever such may be located shall be within 200 feet along streets from any school, public playground, church,

hospital, library or institution for dependents or for children, except where such property is in another block or on another street, which the premises in question do not abut. Additionally, the following conditions shall be met:

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

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

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

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

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

202.11 Additional Requirements, Exceptions & Modifications.

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

202.111 Height Limits: Height limitations stipulated elsewhere in this ordinance shall not apply:

1. To barns, silos, or other farm buildings or structures on farms, provided these are not less than 50 feet from every lot line; to church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, masts and aerials; to parapet walls extending not more than 4 feet above the limiting height of the building. However, if, in the opinion of the building official, such structures would adversely affect adjoining or adjacent properties, such greater height shall not be authorized except by the board of adjustment.

2. To place of public assembly such as churches, schools, and other permitted public and semi-public buildings not to exceed six stories or 75 feet, provided that for each foot by which the height of such building exceeds the maximum height otherwise permitted in the district its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.

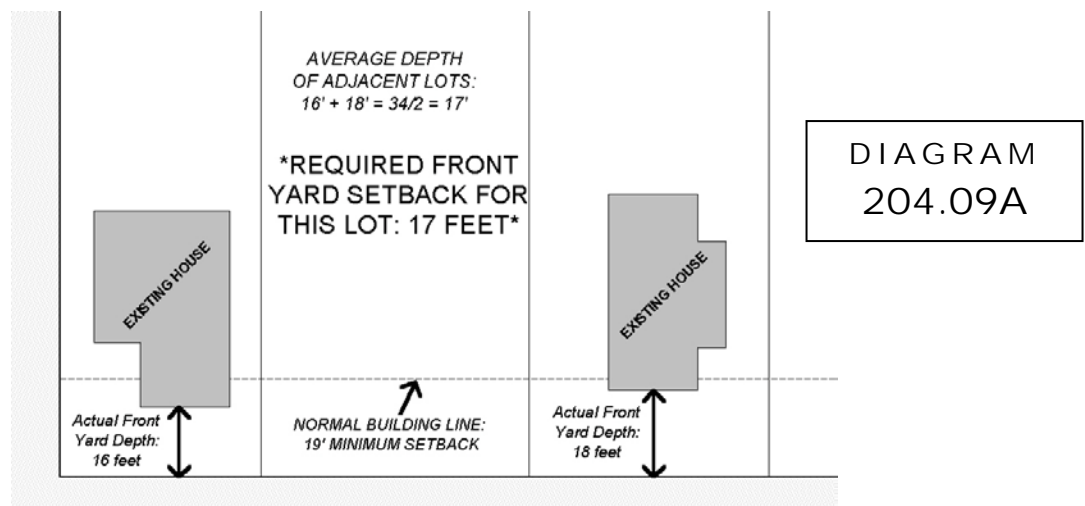
3. To bulkheads, conveyors, derricks, elevator penthouses, water tanks, monitors and scenery lofts; to monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height. Where a permitted use requires greater heights than specified, such may be authorized by the board of adjustment.

202.112 Front Yard Exceptions and Modifications.

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

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

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



202.113 Side Yard Exceptions and Modifications.

1. Along any district boundary line, any abutting side yard on a lot in the less restricted district shall have at least width equal to that required in the more restrictive district. Where a lot in an industrial or business district abuts a lot in a residential district, the side yard shall be

increased by three feet for each story that the building proposed on such lot exceeds the height limit of the said residential district.

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

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

4. Side yards may be measured to the center-line of adjoining alleys - But in no case shall a building or structure for which a side yard is required be erected within ten feet of such alley.

5. On a corner lot - The least width of a side yard along the side street lot line shall be equal to the required front yard along the side street.

6. Structures or projections into side yards may be permitted as follows - Fences, planting or walls not over five feet above the average natural grade. Fire escapes, three feet from side lot line. Bays and balconies not more than three feet from the building, provided these projections are entirely within planes drawn from either main corner of the side wall, making an interior angle of 22 1/2 degrees in the horizontal plane with the side wall. The sum of the lengths of such projection shall not exceed 1/3 of the length of the wall of the main building.

- a. Chimneys, flues, belt courses, leaders, sills, pilasters and lintels, ornamental features, cornices, eaves, gutters, and the like, into or over a required side yard not more than 1 1/2 feet.
- b. Terraces, steps, uncovered porches, stoops, or similar features, not higher than the elevation of the ground story of the building and distant three feet from a side lot line.

TABLE 204.113		SAMPLE CALCULATION OF SIDE YARD SETBACK REDUCTIONS FOR EXISTING LOTS SMALLER THAN MINIMUM REQUIREMENTS OF THIS ORDINANCE		
Actual Lot Width	Minimum Required	Difference	X 3 inches =	60 inches ÷ 12 inches (1 foot) =
50 feet	70 feet	20 feet	60 inches	5' (total reduction in side yard setback, or 2 ½ feet for each side yard)

202.114 Rear Yard Exceptions and Modifications.

1. Rear Yards May be Reduced - By three inches from the required least depth for each foot by which a lot at the time of enactment of the ordinance is less than 100 feet deep, in the case of a building not higher than two stories, and in case the owner of record does not own adjoining property to the rear; provided, however, that no required rear yard shall be less than 10 feet deep.

2. Rear Yards May be Measured to the Centerline of Adjoining Alleys -But in no case shall a building or structure be erected within 10 feet of such an alley.

3. Structures or Projections into Rear Yards May be Permitted as Follows: Fences, plantings or walls not over five feet above the average natural grade. Fire escapes, six feet. Bays and balconies, not more than three feet provided these projections are entirely within planes drawn from either main corner of the rear wall, making an interior angle of 22 1/2 degrees in the horizontal plane with the rear wall. The sum of the lengths of such projections shall not exceed 1/2 the width of the rear wall.

- a. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, into or over a required rear yard not more than 1 1/2 feet.

202.115 Additional Requirements, Exceptions & Modifications.

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

202.12 **Traffic Visibility Across Corner Lots.** In any residential district on any corner lot, nothing shall be erected, placed, maintained, planted, or allowed to grow within 20 feet of the corner of the intersection right-of-way so as to interfere with traffic visibility across the corner (See Diagram 202.7A for illustration).

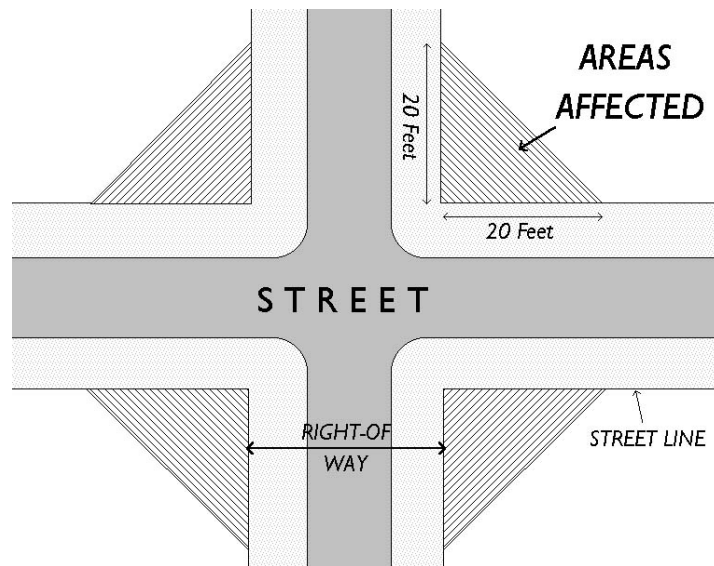


DIAGRAM
202.07A

202.13 Accessory Yard Fixtures (Satellite Dishes, Lampposts, Flagpoles, etc.). Accessory fixtures are allowed in all districts subject to the following provisions and limitations. Accessory fixtures shall not be considered towards the maximum of three (3) accessory uses/structures per lot in the R-7 and R-11 Residential Districts. The permanent installation of any such fixture, whether listed here or not, shall require a building permit per the requirements of Section 306 of this Ordinance. Fixtures not permanently attached to the property shall not require a building permit, but are still subject to the requirements herein.

- A. Liquid Propane Fuel Tanks: All liquid propane fuel tanks shall be placed in rear or side yards. LP fuel tanks holding under 125 gallons may be placed in any part of rear or side yards. LP fuel tanks holding between 125 and 500 gallons shall be placed a minimum of 10 feet from any property or lot line. In relation to buildings and structures, LP fuel tanks shall be sited at distances from buildings sufficient to meet Uniform Fire Code requirements.
- B. Satellite Dish Antennas. The placement of satellite dish antennas, either permanent or temporary, is permitted in side or rear yards of any district. Satellite dish antennas shall be considered an accessory structure (except that a 72 hour temporary use is allowed), and shall be subject to provisions for accessory structures as provided in Section 202.06C. No satellite dish shall exceed a diameter of 12 feet, except in the case of one that is owned and operated by, and part of a public cable television system.
- C. Lampposts. Lampposts, light bollards, and other similar exterior lighting fixtures are permitted in all districts. Lampposts shall not exceed a height of 7 feet except by special exception, and no lamppost or bollard exceeding 3 feet in height may be erected or placed within 20 feet of any intersection or on any public utility easement. All electrical and gas lines powering lampposts or bollards must be underground.
- D. Flagpoles. Flagpoles are permitted in all districts. Flagpoles shall be subject to height requirements in each district. Flagpoles may be erected in any part of a yard so long as they do not interfere with any public utility lines or create traffic visibility issues. All electrical lines powering lights for lighted flagpoles shall be underground. Flags and flagpoles attached directly to structures shall not require a building permit.
- E. Trellises, Clotheslines, etc. Fixtures such as trellises and clotheslines may be erected on any part of a side or rear yard so long as they meet all other requirements of this Ordinance.

- F. Basketball Hoop Poles. Basketball hoop poles may be erected on any part of a rear or side yard so long as they meet all other requirements of this Ordinance and do not interfere with any public utility lines or create visibility issues. Basketball hoop poles may be installed in a front yard only if they are adjacent to a paved driveway that leads to an enclosed garage, are no closer to the property line than the midway point between the property line and the structure, and do not interfere with any public utility lines or create visibility issues.
- G. Playhouses & Other Playground Equipment. Playhouses, swing sets, “jungle gyms”, and other similar equipment shall not be allowed in any front yard. Such items shall be considered accessory structures when permanently affixed, and side and rear yard setbacks shall apply.

202.14 Swimming Pools and Ponds in Residential Districts. Swimming pools and ponds are permitted in any rear yard, with the following provisions:

- A. Swimming pools must be located, whether permanently installed or not, at least 6 feet from the nearest lot line. The maximum area of any permanently constructed swimming pool should not exceed 15 percent of the total lot area.
- B. All permanently constructed swimming pools must be enclosed by a fence at least 4 feet high and located not less than 5 feet and not more than 15 feet from the edge of the pool. Such fence may be solid or not, but must prevent unauthorized access to the pool area (i.e., a chain-linked fence is acceptable).
- C. The maximum height of swimming pools is 4 feet above the finished grade level of the ground surrounding the pool.
- D. Swimming pools or any portion thereof may not be located directly under any electrical service wires.
- E. Temporary swimming pools, such as those not intended for permanent installation (by manufacturer’s design or otherwise), shall not be subject to the fence requirements listed in “B” above, but shall be subject to all other provisions herein. Additionally, property owners or occupants with temporary swimming pools shall make provisions to safeguard against accidents and prevent unauthorized access, including taking such actions as draining or covering the pool, erecting temporary fencing, etc.

202.15 Structures to Have Access. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots so as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

202.16 Residential Dwelling Standards. In all districts permitting single-family dwellings on a single lot, the following standards shall apply to each new dwelling constructed:

- A. The dwelling shall have a minimum width of not less than 24 feet.
- B. The foundation shall meet one of the following construction type requirements:
 - 1. A continuous and complete permanent perimeter foundation on the main body of the structure;
 - 2. Slab-style, with 10-inch width by 42-inch depth perimeter frost footing;

3. Pier footing system, provided the planned footings have been designed and are constructed to be compatible with the proposed structure and the building site, and have certification to such from a structural engineer or architect
 4. Structures shall be permanently affixed to the foundation.
- C. All hitches, wheels, axles, and any other types of towing devices shall be permanently removed.
- D. All dwellings shall contain a minimum of 900 square feet of living space.

202.17 Fences, Walls, Hedges and Trees. Fences, walls (including retaining walls), hedges, and trees are permitted in all districts in accordance with the following provisions:

- A. Fences shall not be allowed in any front yard. Walls, hedges, shrubs, and other plantings 3 feet high or less (as measured from the established street grade) may be located in a front yard.
- B. Fences, walls, or hedges 6 feet high or less may be located on any remaining part of a lot, except that side and rear yard setbacks for accessory structures shall apply if the fence adjoins a public alley. Higher fences may be allowed by special exception by the Board of Adjustment. Fences shall be constructed with the “finished” side facing the neighboring property if near a lot line.
- C. Snow fences (including wooden and plastic-type) shall be allowed on a temporary basis in all districts. Snow fences shall only be allowed during the months of November through April, and any snow fence left standing outside of those months shall be considered a nonconforming structure and must be removed.
- D. The construction of any fence or wall shall require a building permit per Section 301 of this Ordinance.
- E. Electric and barbed wire fences are prohibited.
- F. Tree branches that overhang a public sidewalk shall be kept trimmed to a height of at least eight feet above the sidewalk level. Tree branches that overhang a public street shall be kept trimmed to a height of at least 15 feet above the street level.

CHAPTER 3: ADMINISTRATION

301 BUILDING PERMITS.

301.01 Application Required. No building, structure, or other physical improvement (i.e., fences, sidewalks, driveways, porches, decks, gazebo, etc.) shall be erected, constructed, moved, added to, or demolished without a building permit. Said building permit shall be approved as specified below **before** any work commences on any project. **Any person commencing work without an approved permit shall be subject to penalties as defined in Section 302.03 in addition to the required permit application fees.**

301.02 Application Form Approved/Information Required. Building permits in a form so approved by the City Council and the Zoning/Building Administrator shall be available from the City Clerk. Every application for a permit shall be accompanied by a detailed drawing or plan drawn to scale, or a blueprint, showing the actual shape and dimensions of the lot to be built upon, the exact location, size and height of the building or structure to be erected or altered, the location of all lot/property lines, streets, and alleys, the required setbacks (based on the zoning district requirements), the existing and intended use of each building or part, the proposed number of units, the approximate cost of the project; types and kinds of material to be used. Building permit applicants are required to set stakes showing their property line boundaries, and stakes where the proposed building will be placed, prior to the inspection and before any action on the permit is taken. Such other information with regard to the lot and neighboring lots as may be necessary for the enforcement of the ordinance shall also be provided.

301.03 Fees. Fees for building/zoning permits shall be set by Resolution of the City Council. The fees shall be contained in the application forms as available from the City Clerk.

301.04 Procedure for Application. Completed building/zoning permits shall be submitted to the City Clerk. Upon receipt of all building permit applications, the City Clerk shall review said application for completeness and forward to Zoning/Building Administrator and/or the Planning and Zoning Commission for review. Upon determination, the following shall occur:

- A. If additional information is required, the application shall be returned to the applicant for clarification.
- B. If the application does not meet the requirements of this Ordinance (i.e., setbacks are not sufficient), a variance or special exception may be required, in which case the applicant will be required to request a variance or special exception per the provisions of this Ordinance.
- C. If the application does meet the requirements of this Ordinance, the application shall be approved by the Zoning/Building Administrator or forwarded to the City Council for final review. The Zoning/Building Administrator shall consult with the Clerk so that the final review shall be placed on the Council agenda when necessary and copies of the completed applications are forwarded to the Council for review prior to the meeting.

301.05 Final Review of Application by City Council. The City Council shall make final review of all building/zoning applications. If an application is approved, the Zoning/Building Administrator shall be notified by the Clerk so that inspection of the project can be scheduled. IF an application is returned for further information, the Zoning/Building Administrator and/or Planning and Zoning Commission shall review the additional information according to Section 306.04 (above). If an application is denied, the Council shall provide the applicant with its reasons for denial. If the initiation of a project is imminent to the extent that the applicant desires to request a special Council meeting to review the application, the Council may, by resolution, determine that there be an additional fee to the

applicant for the special meeting. Building permits are good for one (1) year following the date of approval.

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

may be harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

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

303 ADMINISTRATION AND ENFORCEMENT.

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

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

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

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

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

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

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

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

304 PLANNING & ZONING COMMISSION.

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

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

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

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

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

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

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

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

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

305 BOARD OF ADJUSTMENT.

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

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

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

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

305.02 Applications and Appeals.

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

decide the same within 30 days. At said hearing, any party may appear in person, by agent, or by attorney. The public hearing shall be held.

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

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

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

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

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

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

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

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

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

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

1. Initiation. A property owner or his authorized agent may initiate a request for variance. The City Council or Planning & Zoning Commission may also initiate a request where a City property is involved.

2. Application. A written application by a property owner or his authorized agent for variance, in form approved by the City Council, shall be filed with the Zoning/Building Administrator. Adequate drawings and other descriptive materials essential to understanding the variance requested shall accompany the application. The application shall include evidence demonstrating the following:

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

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

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

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

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

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

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CHAPTER 4: FLOOD OVERLAY DISTRICT

401 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

401.01 The Legislature of the State of Iowa has in Chapter 364, Code of Iowa, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

401.02 Findings of Fact:

1. The flood hazard areas of the City of Exira are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

2. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

401.03 **Statement of Purpose.** It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Exira and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in 131.01B1 of this Ordinance with provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

402 GENERAL PROVISIONS

402.01 **Lands to Which Ordinance Apply.** The provisions of this Ordinance shall apply to all areas having special flood hazards within the jurisdiction of the City of Exira. For the purpose of this Ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map for the City of Exira, dated September 18, 1985, which is hereby adopted and made a part of this Ordinance.

402.02 **Rules for Interpretation of Flood Hazard Boundaries.** The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. The City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City of Exira in the enforcement or administration of this Ordinance.

402.03 **Compliance.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

402.04 **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance

imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

402.05 **Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

402.06 **Warning and Disclaimer of Liability.** The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Exira or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

402.07 **Severability.** If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

403 **FLOODPLAIN MANAGEMENT STANDARDS.** All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

403.01 **All development within the special flood hazard areas shall:**

1. Be consistent with the need to minimize flood damage.
2. Use construction methods and practices that will minimize flood damage.
3. Use construction materials and utility equipment that are resistant to flood damage.
4. Obtain all other necessary permits from federal, state and local governmental agencies, including approval when required from the Iowa Department of Natural Resources.

403.02 **Residential buildings:** All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year , flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon.

Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

403.03 **Non-residential buildings:** All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility land sanitary systems, be floodproofed to such a level.

When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water.

A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood proofed shall be maintained by the Administrator.

403.04

All new and substantially improved structures:

1. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.
2. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
3. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

403.05

Factory-built homes:

1. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 1 00-year flood level.
2. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

403.06

Utility and Sanitary Systems:

1. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
2. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
3. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
4. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

403.07

Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100- year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

403.08

Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 1 00-year flood with a minimum of 3 ft. of design freeboard and shall provide

for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

403.09 Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

403.10 Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance.

Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

403.11 **Accessory Structures**

1. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.
 - a. The structure shall not be used for human habitation.
 - b. The structure shall be designed to have low flood damage potential.
 - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
 - d. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
 - e. The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the 100-year flood level.
2. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

403.12 **Recreational Vehicles.** Recreational vehicles are exempt from the requirements of Section III E of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied:

1. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
2. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
3. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of 131.03E of this Ordinance regarding anchoring and elevation of factory-built homes.

403.13 Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

404 **ADMINISTRATION.** The appointment, duties and responsibilities of floodplain administrator follow:

404.01 The Zoning Administrator is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator. 2. Duties of the Administrator shall include, but not necessarily be limited to the following:

1. Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

2. Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood proofed.
5. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

405

PERMIT REQUIRED. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes. Application shall be made on forms furnished by the Administrator and shall include the following:

1. Description of the work to be covered by the permit for which application is to be made.
2. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
3. Indication of the use or occupancy for which the proposed work is intended. d. Elevation of the 100-year flood.
4. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.
5. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
6. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.
7. Action on Permit Application- The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Council of Exira.
8. Construction and Use to be as Provided in Application and Plans – Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance.

The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

406

VARIANCE The City Council of Exira may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards:

406.01

Variances shall only be granted upon: (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the

applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

406.02 Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

406.03 In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (a) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (b) such construction increases risks to life and property.

406.04 **Factors Upon Which the Decision of the Council Shall be Based:** In passing upon applications for Variances, the Council shall consider all relevant factors specified in other sections of this Ordinance and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept down to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the City.
6. The requirements of the facility for a floodplain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
13. Such other factors which are relevant to the purpose of this Ordinance.

406.05 Conditions Attached to Variances - Upon consideration of the factors listed above, the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
5. Flood proofing measures.

407

NONCONFORMING USES. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
3. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

408

PENALTIES FOR VIOLATION. Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five-hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the City of Exira from taking such other lawful action as is necessary to prevent or remedy violation.

409

AMENDMENTS. The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

410

DEFINITIONS. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

1. A "Baseflood" is a flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).
2. A "Basement" is any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."
3. "Development" constitutes any man-made change to improved -or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.

4. “Existing Construction” means any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community. May also be referred to as "existing structure".
5. “Existing factory-built home park or subdivision” is a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
6. “Expansion of existing factory built home park or subdivision” is the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. “Factory-built home” includes any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled at manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” is parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” is a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. “Flood Elevation” is the elevation floodwaters should reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.
11. “Flood Insurance Map (FIRM)” is the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. “Floodplain” includes any land area susceptible to being inundated by water as a result of a flood.
13. “Floodplain Management” is an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, flood proofing and floodplain management regulations.
14. “Flood Proofing” includes any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
15. “Floodway” is the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.
16. “Floodway Fringe” includes those portions of the floodplain, other than the floodway, which can be filled, levied, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. “Historic Structure” includes any structure that is:
 - a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the

- Interior as meeting the requirements for individual listing of the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.
18. “Lowest Floor” is the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
- a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of 131.03D1 of this Ordinance, and
 - b. The enclosed area is unfinished (not carpeted, dry walled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
 - c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 1 00-year flood level, and
 - d. The enclosed area is not a "basement" as defined in this section. In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.
19. “Minor Projects” are small development activities (except for filling, grading and excavating) valued at less than \$500.
20. “New construction” means new buildings, factory-built home parks and those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
21. “New factory built home park or subdivision” is a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.
22. “One hundred (100) year flood” is a flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded a least once every one hundred (100) years.
23. “Recreational Vehicle” is a vehicle which is:
- a. Built on a single chassis;
 - b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light duty truck; and
 - d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

24. "Routing maintenance of existing buildings and facilities" includes repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- a. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
 - b. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
 - c. Basement sealing;
 - d. Repairing or replacing damaged or broken window panes;
 - e. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
25. "Special flood hazard area" is the land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.
26. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation.
- Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure.
- For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
27. "Structure" Includes anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.
28. "Substantial damage" is damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
29. "Substantial Improvement" is any improvement to a structure which satisfies either of the following criteria:
- a. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.
- The term does not; however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".
- b. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed on or after the effective date of the first

floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

30. "Variance" is a grant of relief by a community from the terms of the floodplain management regulations.
31. "Violation" is the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

CHAPTER 5: AMENDMENTS & CHANGES

501 DISTRICT CHANGES AND ZONING AMENDMENTS.

- 501.01 Amendments.** In accordance with the provisions of Chapter 414, Code of Iowa, the council may from time to time amend or change by ordinance the number, shape, or area of districts established on the zoning map or the regulations set forth in the ordinance; but no such amendment or change shall become effective unless the ordinance proposing such amendment or change shall first be submitted to the planning commission for approval, disapproval or suggestions, and said commission shall have been allowed a reasonable time, not less than 30 days, for consideration and report.
- 501.02 Hearing.** Before submitting its recommendations and report to the council, the planning commission may hold a public hearing on the proposed amendment, supplement or change. It shall give not less than 15 nor more than 30 days notice of the time and place of such hearing by publication in a newspaper having circulation in the community and by mailing notices to all property owners directly involved, contiguous to or directly across a street or alley from the area proposed to be altered.
- 501.03 Application for Change.** Any person desiring a change in zoning of property may make application therefor, and in so doing shall accompany the petition for such change in zoning, or the ordinance introduced for the purpose of changing such zoning, with a fee in the amount of \$25.00 toward the cost of processing the application. Should the application be withdrawn prior to publication of legal notice thereon, such fee will be returned upon written request of the applicant.
- 501.04 Notice.** During the 15 days prior to the public hearing, the text or copy of the text of such ordinance or petition, together with the maps or plans or copies thereof shall be on file, for public examination, in the office of the planning commission and in the municipality. No ordinance which differs from the recommendation made by the planning commission shall become effective except by the favorable vote of 3/4 of all members of council.
- 501.05 Written Protest.** In case of a written protest against a proposed change in the boundaries of a district signed and acknowledged by the owners of 20% or more of either the frontage proposed to be altered, or of the frontage immediately adjoining or across an alley therefrom, or directly opposite the frontage proposed to be altered, is filed with the clerk, such amendment shall not be passed or become effective except by the favorable vote of 3/4 of all members of the council.
- 501.06 Notification.** The failure to notify, as provided by this article, shall not invalidate an ordinance, provided such failure was not intentional, and the omission of the name of any owner or occupant of property who may, in the opinion of the planning commission, be affected by such amendment, supplement or change, unless such omission is intentional, shall not invalidate any ordinance passed hereunder, it being the intention of this article to provide so far as may be for notice to the persons substantially interested in the proposed change that an ordinance is pending before the council, proposing to make a change in zoning.

502 AMENDMENTS TO THIS ORDINANCE.

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

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

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

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

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

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

(SEAL)

Mayor, City of Exira

ATTEST:

City Clerk, City of Exira