

ZONING ORDINANCE

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CITY ORDINANCE NO. 342

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PART I

2A-1 TITLE. This ordinance shall be known and may be cited and referred to as the "Zoning Ordinance" of the City of Evansdale.

PART II

2A-2 INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this Ordinance shall control.

PART III

2A-3 DEFINITIONS. For the purpose of this Ordinance certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and the plural number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual; the words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure.

Administrative Officer: For the purpose of this title, the building official is the individual designated by this Ordinance to administer the Zoning ordinance, and is responsible for the enforcement of the regulations imposed by said ordinance. He may also be referred to as the "Zoning Administrator."

Agriculture: The use of land for agricultural purposes including crop production, pasturage, horticulture, floriculture, and viticulture, and the necessary accessory uses for storing produce; provided, however, that the operation of such accessory uses shall be secondary to that of normal agricultural activities.

Alley: A public way, other than a street, affording generally secondary means of access to abutting property and not intended for general traffic circulation.

Alteration, Structural: Structural alteration means any change in the supporting members of a building, such as bearing walls, partitions, columns, beams, or girders. The enlargement of the size or height of a building shall be construed to be a structural alteration.

Apartment House: A building containing both dwelling units and/or rooming units used

primarily for permanent occupancy.

Basement: A basement is a story partly underground but having at least one-half of the height of one or more walls above the level of the adjoining ground. A basement shall be construed as a story under the provisions of this title.

Billboard: Billboard, as used in this Ordinance, shall include all structures regardless of the material used in the construction of the same that are erected, maintained, or used for public display of posters, painted signs, wall signs, whether the structure be placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.

Block: Block means the property abutting on one side of the street and lying within the two nearest intersecting streets, an unsubdivided acreage or railway right-of-way.

Boarding/Rooming House: A building other than a hotel where for compensation, lodging, or meals and lodging are provided for three (3) or more persons.

Building: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property; but not including signs or billboards.

Building Height: Building height means the perpendicular distance measured in a straight line from the curb level to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the roof in the case of pitched roofs, the measurement in all cases to be taken through the center of the front of the house. Where a dwelling is on a corner lot and there is more than one grade or level, the measurements shall be taken from the main entrance elevation. In all districts where permitted, exterior roof signs shall not be included in building height measurement.

Building Principal: Principal building means a building in which the principal use of the lot is conducted.

Business or Commercial: Business or commercial, when used in this title, refers to the engaging in the purchase, sale, or exchange of goods or services, or the operation for profit of offices or recreational or amusement enterprises.

Carport: A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For the purposes of this Ordinance a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.

Cellar: Cellar means a story having more than one-half (½) of the height of all walls below the

highest level of the adjoining ground. A cellar shall not be considered a story for the purpose of this title.

Clinics: A building or buildings used by physicians and/or dentists, osteopaths, chiropractors, and allied professions for outpatient care or persons requiring such professional service.

Convenience Store: A small retail store providing selected groceries and variety goods.

Court: An open, unobstructed, and unoccupied space other than a yard which is bounded on two (2) or more sides by a building on the same lot.

Curb Level: Curb level means the main level of the curb or the established curb grade in front of a lot.

Day Nursery or Nursery School: Any private agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than lodging overnight for six (6) or more unrelated children of pre-school age, for compensation.

District: A section or sections of the City within which certain uniform regulations and requirements governing the use of buildings and premises or the height and areas of buildings and premises are uniform.

Drinking Establishments: Refers to a business where a predominant amount of activity relates to the sale of alcoholic beverages for consumption on the premises. For the purpose of this Ordinance, bars, beer parlors, night clubs, and taverns are considered to be drinking establishments.

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.

Dwelling, Single-Family: A detached residence designed for or occupied by one family only.

Dwelling, Two-Family: A residence designed for or occupied by two (2) families only with separate housekeeping and cooking facilities for each.

Dwelling, single family bi-attached: a dwelling designed for or occupied by one family only which is erected on a separate lot and is joined to another such residence on one side only by a wall located on the lot line and which has yards on the remaining sides

Dwelling, Multiple: A residence designed for or occupied by three (3) or more families with separate housekeeping and cooking facilities for each.

Dwelling, Multiple Elderly: A group of residences designed for elderly occupants and having

special site development considerations distinct from multiple dwellings occupied by all age groups.

Dwelling, Condominium: A multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the others.

Dwelling, Row: Any one of three or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls.

Dwelling Unit: A room or group of rooms which are arranged, designed, or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.

Dwelling Unit, Efficiency (or Studio): A residence having a common living-sleeping area.

Factory-Built Housing: A factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of three types: modular homes, mobile homes and manufactured homes. (Added by ordinance No. 398)

Factory-Built Structure: Any structure which is, wholly or in substantial part, made, fabricated or assembled in manufacturing facilities for installation or assembly and installation on a building site. (Added by ordinance No. 398)

Family: One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over four (4) persons.

Feed Lot: Any parcel of land or premises on which the principal use is the concentrated feeding of cattle, hogs, or sheep within a confined area.

Fill: The placing, storing, or dumping of any material such as earth, clay, sand, rubble, concrete, or animal waste upon the surface of the ground which results in increasing the natural surface elevation.

Flood Plain or Flood Prone Area: The area adjoining the river or stream which has been or may be hereafter covered by flood water, as established in City Ordinance No. 325.

Floodway: The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any river or stream as defined by the Iowa Natural Resources Council.

Floor Area: Floor area means the sum of gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating buildings.

Floor Area Ratio: The gross floor area of all buildings on a lot divided by the lot area on which the building or buildings are located.

Foster Child Care: Care and education of not more than five (5) children unrelated to the residents by blood or adoption.

Frontage: All the property on one side of a street between two intersecting streets crossing or terminating measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

Garage, Private: An enclosed structure intended for and used for the parking of the private motor vehicles of the families resident upon the premises.

Garage, Public: Any building or premises except those used as private garages, used for equipping, refueling, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

Gasoline or Service Station: Any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles and may include such products as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories, and other items customarily associated with the sale of such products; for the rendering of services and making of adjustments and replacements to motor vehicles, and the washing, waxing, and polishing of motor vehicles, as incidental to other services rendered; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are defined to be spray painting, body, fender, clutch, transmission, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or retreading of tires.

Grain Elevator: A structure or group of related structures whose purpose is limited to the receiving, storage, drying, and transporting of bulk grain.

Height: See Building Height

Home: Means a mobile home, a manufactured home, or a modular home.

Home Occupation: A secondary use where there is no evidence of such occupation being conducted on the premises by virtue of noise, odors electrical disturbances, or traffic generation, and where not more than 49% is devoted to such use. The operation of such occupation shall be limited to the residents plus one non-resident employee.

Home occupation: A secondary use carried on entirely within the residence where there is no evidence of such occupation being conducted on the premises by virtue of signs, displays, noise, odors, electrical disturbances, or traffic generation, and where not more than one-half (½) the

floor area of any one floor is devoted to such use. The operation of such occupation shall be limited to the proprietor and one employee.

Hotel/Motel: A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, as distinguished from a boarding house or rooming house.

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

Junk or Salvage Yard: Any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including automobile, tractor, or machinery wrecking and used parts yards, and the processing of used, discarded, or salvaged materials as part of manufacturing operations and not including contractors, storage yards.

Kennel, (Commercial): Any parcel of land on which three (3) or more dogs, cats or similar animals or pets, six (6) months old or older are kept for the purpose of breeding, grooming, boarding or other activities associated with the care of said animals for commercial purposes.

Kennel, (Private): Any parcel of land on which three (3) or more dogs, cats or similar animals or pets, are kept, however, this shall not include breeding, grooming, boarding or other activities associated with the care of said animals other than the owner's.

Lawful Use: Lawful use means the use of a building or land which existed on the effective date of the Ordinance codified in this title, and for which a legal zoning permit has been issued thereafter.

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 to provide such yards and other open space as are herein required. Such lot shall have frontage on a public street or 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; of complete 'lots of record and portions of lots of record; or of portions of lots of record; and (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.

Lot Area: Total horizontal area within lot lines.

Lot, Corner: A lot abutting upon two (2) or more streets at their intersection.

Lot, Depth: The mean horizontal distance between the front and rear lot lines.

Lot, Double Frontage: A lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.

Lot, Interior: A lot other than a corner lot.

Lot, Lines: The lines bounding a lot.

Lot Line, Front: The line separating the lot from the street on which it fronts.

Lot Line, Rear: The lot line opposite and most distant from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot of Record: A lot which is a 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.

Lot, Reversed Frontage: A corner lot, the side street line of which is substantially a continuation of the front line of the first platted lot to its rear.

Lot Width: The width of a lot measured at the building line and at right angles to its depth.

Manufactured home: A factory-built structure built under authority of 42 U.S.C. 6 5403, is required by federal law to display a seal from the, United States department of housing and urban development, and was constructed on or after June 15, 1976. If a manufactured home is placed in a mobile home park, the home must be titled and is subject to the mobile home square foot tax. If a manufactured home is placed outside a mobile home park, the home must be titled and is to be assessed and taxed as real estate.

Mobile Home: means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so 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

Mobile Home Park means a site, lot, field, or tract of land upon which three or more mobile homes, manufactured homes, or modular homes, or a combination of any of these homes are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "mobile home park" shall not be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

A mobile home park must be classified as to whether it is a residential mobile home park or a recreational mobile home park or both. The mobile home park residential landlord / tenant Act* only applies to residential mobile home parks.

Modular Home means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, and must display the seal issued by the state building code commissioner. If a modular home is placed in a mobile home park, the home is subject to the annual tax as required by section 435.22. If a modular home is placed outside a mobile home park, the home shall be considered real property and is to be assessed and taxed as real estate,

Non-conforming Use: The lawful use of any building or land that was established prior to or at the time of passage of this Ordinance or amendments thereto which does not conform after the passage of this Ordinance or amendments thereto with the use regulations of the district in which it is situated.

Nursing, Convalescent, or Retirement Home: means a home for the aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept, or provided with food, shelter and care, for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, junk, solid waste, refuse, fill, or other analogous structure or matter in, along, across, or projecting into any floodway which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property.

Occupancy Permit: Occupancy permit is a certificate issued by the Building Official to insure the compliance with this ordinance and the building and health ordinances of the City.

Office: Office means a place where chattels or goods, wares, and merchandise are not commonly created, sold, or exchanged.

Official Flood Prone Area Map: The official flood-prone area map shall be that map on file in the office of the City Clerk and shall delineate the flood plain within the City.

Official Major Street Plan: A map on file in the office of the City Clerk which identifies the

existing and proposed major streets of the City and their right-of-way.

Official Zoning Map: The official zoning map shall be that map on file in the office of the City Clerk and all references hereafter to said official map shall mean the map just referred to. The map by this reference thereto is made a part of this title.

Parking Lot: A parcel of land devoted to unenclosed parking spaces.

Parking Space: An area of not less than one hundred eighty (180) square feet plus necessary maneuvering space for the parking of a motor vehicle. Space for maneuvering, incidental to parking or unparking, shall not encroach upon any public right-of-way. Parking spaces for other than residential use shall be dust-free surfaces.

Porch, Unenclosed: A roofed projection which has no more than fifty (50) percent of each outside wall area enclosed by a building or siding material other than meshed screens.

Principal Use: The main use of structures as distinguished from an accessory use.

Retail Store: Retail store means an enterprise offering for sale to the ultimate consumer for direct consumption and not for resale.

Right-of-way: The land area the right of possession of which is secured or reserved by the contracting authority for road purposes.

Shop: Shop means a use devoted primarily to the sale of a service or a product or products, but the service is performed or the product to be sold is prepared in its finished form on the premises. Packaging is not to be considered preparation.

Sign, Exterior: A sign which directs attention to a business, profession, service, product, or activity sold or offered upon the premises where such sign is located. An exterior sign is a sign attached flat against a building or structure, or projecting out from a building or structure or erected upon the roof of a building or structure.

Sign, Free Standing or Post: Any sign erected or affixed in a rigid manner to any pole or post, and which carries any advertisement strictly incidental and subordinate to a lawful use of the premises on which it is located, including signs, or sign devices indicating the business transacted, services rendered, or goods sold or produced on the premises by an occupant thereof.

Sign, Illuminated: Illuminated sign means a sign designed to give forth artificial light or through transparent or translucent material from a source of light within such sign, including but not limited to neon and exposed lamp signs.

Special Exception: Special exception means a use not in specific conformity with the provisions

of this title, which may be allowed according to enumerated community safeguards.

Stable, Private: A building or structure used or intended to be used for housing horses belonging to the owner of the property for non-commercial purposes.

Stable, Public: A building or structure used or intended to be used for the housing of horses on a fee basis or the activity of giving riding instructions.

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.

Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level.

Street, Line: A dividing line between a lot, tract, or parcel of land and a contiguous street.

Street, Road, or Drive, Private: Any private property intended for use by vehicular traffic but not dedicated to the public nor controlled or maintained by the City.

Street, Road, or Drive, Public: Any property intended for use by vehicular traffic which has been dedicated to the public or deeded to the City for street purposes.

Structural Alterations: See "Alterations Structural."

Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, billboards and poster panels.

Trailer Park: See "Mobile Home Park."

Truck Terminal: Truck terminal means a commercial facility where truck freight is stored, handled, and dispatched between various locations by way of different major truck carriers and including facilities for the storage and repair of trucks and trailers while awaiting consignment.

Use: Use means any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or structure or on a tract of land.

Variance: variance means a legal modification or variation of the provisions of this title as applied to a specific piece of property as distinct from rezoning.

Yard: An open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level of the graded

lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and nearest permitted building shall be used.

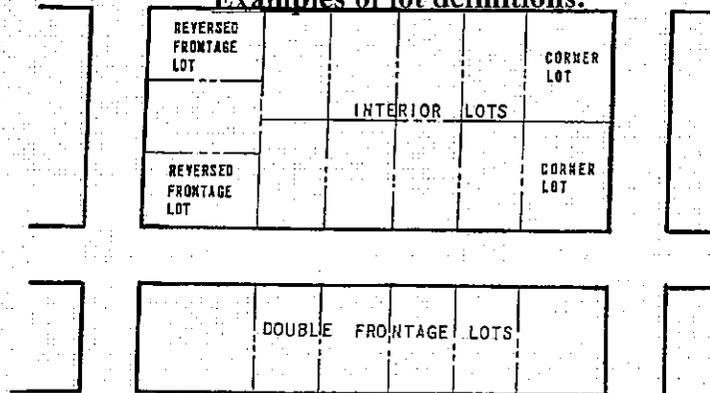
Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the building or any projection other than the steps.

Yard, Rear: A yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps. On both corner lots and interior lots, the opposite end of the lot from the front yard.

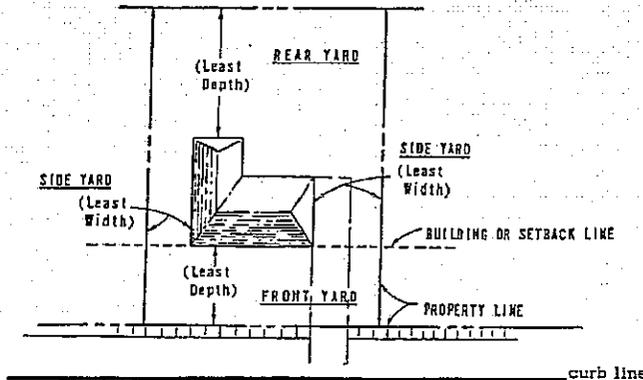
Yard, Side: A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

Zoning Permit: Zoning permit means a permit issued by the Building Official authorizing the use of land in the manner and for the purpose specified in the application.

Examples of lot definitions.



EXAMPLES OF YARD DEFINITIONS



PART IV

DISTRICT AND BOUNDARIES THEREOF

2A-4 CLASSIFICATIONS. In order to classify, regulate, and restrict the location of trades and industries, and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas and to regulate and determine the area of yards, courts, and other open spaces within and surrounding such buildings, the City of Evansdale is hereby divided into eleven (11) classes of districts. The use, height, and area regulations are uniform in each class of district, and said districts shall be known as:

- "U-1" Unclassified District
- "R-1" Residence District
- "R-2" Medium Density Residential District
- "R-3" High Density Residential District
- "R-MH" Planned mobile Home District
- "C-1" Recreational-Commercial District
- "C-2" Commercial District
- "C-3" Central Business District
- "M-1" Industrial District
- "M-2" Heavy Industrial District
- "P-D" Planned Development District

2A-5.1 OFFICIAL ZONING MAP. As shown by the official zoning map, the City is divided into eleven (11) classes of districts. The boundaries of these districts are hereby established as shown on the official zoning map of the City, and said map and all notations, references and other information shown thereon shall be and are hereby made a part of this ordinance by reference. The official zoning map, signed by the Mayor and properly attested by signature of the Clerk and date of adoption, shall be and remain on file in the office of the City Clerk.

2A-5.2 AMENDING OFFICIAL ZONING MAP. Amendments, supplements or changes of the boundaries of districts as shown on the official zoning map shall be made by an ordinance amending the zoning ordinance. The amending ordinance shall refer to the official zoning map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the City Clerk as other ordinances and a certified copy thereof be attached to the official zoning map. Such amendatory ordinance shall, however, not repeal or re-enact said map, but only amend it. The official zoning map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City. (See EDITOR'S NOTE at end of Part IV relative to amendments to the official zoning map.)



2A-5.3 REPLACING OFFICIAL ZONING MAP. 'In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of use, the City Council may by resolution adopt a new official zoning map which shall supersede the prior map. The new official zoning map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by date and the signature of the mayor attested by the City Clerk, under the following words: "This is to certify that this Official Zoning map supersedes and replaces the Official Zoning map adopted (date of adoption of map being replaced) as part of the zoning ordinance of the City."

2A- 5. 4 BOUNDARIES IN DOUBT. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this Ordinance, the following rules apply:

- A. The district boundaries are either street lines or alley lines otherwise shown; and where the districts, designated on the map accompanying and made a part of this Ordinance, are bounded approximately by street lines or alley lines, the street lines or alley lines shall be construed to be the boundary of the district.
- B. In unsubdivided property, the district boundary lines on the map accompanying and made a part of this ordinance shall be determined by the use of the scale appearing on the map.

(Sections 2A-5.1 - 2A-5.4 added by Ordinance No. 451)

2A-6 FUTURE ANNEXATION OF TERRITORY All territory which may hereafter be annexed to the City of Evansdale shall automatically be classed as lying in the "U-1" Unclassified District until such classification shall have been changed by an amendment to the Zoning ordinance, as provided by law.

EDITOR'S NOTE

The following ordinances have been adopted amending the official zoning map described in Section 2A-5.1 and have not been included as a part of this Zoning Ordinance but have been specifically saved from repeal and are in full force and effect.

<u>ORDINANCE NO.</u>	<u>DATE ADOPTED</u>
353	May 5, 1981
359	November 17, 1981
360	November 17, 1981
368	March 16, 1982
388	August 2, 1983
397	November 20, 1984
409	May 6, 1986
417	March 17, 1987
456	June 20, 1989
457	June 20, 1989
461	July 5, 1989
464	September 5, 1989
473	July 3, 1990
486	October 6, 1992
498	November 9, 1994
502	April 4, 1995
504	June 6, 1995
505	June 20, 1995
507	July 5, 1997
512	January 16, 1996
513	February 6, 1996
519	September 17, 1996
520	September 17, 1996
521	November 6, 1996
522	November 19, 1996
524	January 7, 1997
530	June 3, 1997
550	May 24, 1999
566	February 1, 2000
565	April 3, 2001
567	June 5, 2001
572	May 7, 2002

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PART V

GENERAL REGULATIONS

2A-7

General Regulations.

- A. **Conformance Required.** Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this Ordinance for the district in which the building or land is located.
- B. **Continuing Existing Uses.** The use of a building existing at the time of the enactment of this Ordinance may be continued even though such use may not conform with the regulations of this Ordinance for the district in which it is located. Any use in existence at the adoption hereof which was not an authorized "non-conforming use" under previous zoning ordinances shall not be authorized to continue as a non-conforming use pursuant to this Ordinance or amendments thereto.
- C. **Non-conforming Uses or Buildings in Any "R" or "U" District.** No existing building or premises devoted to a use not permitted by this Ordinance in the district in which such building or premises is located, except when required by law, shall be enlarged, extended, reconstructed, substituted, or structurally altered unless the use thereof is changed to a use permitted in the district in which such building or premises is located, except as follows:
1. **Substitution:** If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or of a more restricted classification. Whenever a non-conforming use has been changed to a more restricted use or to conforming use, such use shall not thereafter be changed to a less restricted use.
 2. **Discontinuance:** In the event that a non-conforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
 3. **Replacing Damaged Buildings:** Any non-conforming building or structure damaged more than sixty (60) percent of its replacement value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or Act of God, shall not be restored or reconstructed and used as before such happening; but if less than sixty (60) percent damaged above the foundation, it may be restored, reconstructed, or used as before, provided that it be initiated within six (6) months of such happening, and be built of

like or similar materials.

D. **Non-conforming Uses or Buildings in Any District Other Than a "R" or "U" District.**

1. **Structural Alterations and Enlargements.** Any building in districts other than a "R" or "U" District devoted to a use made non-conforming by this ordinance may be structurally altered or enlarged in conformity with the lot area, the lot frontage, yard and height requirements of the district in which situated, provided such construction shall be limited to buildings on land owned of record by the owner of the land devoted to the non-conforming use prior to the effective date of this ordinance. In the event of such structural alteration or enlargement of buildings, the premises involved may not be used for any non-conforming use other than the use existing on the effective date of this ordinance - other provisions of this Ordinance notwithstanding.
2. **Discontinuance.** In the event that a non-conforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
3. **Replacing Damaged Buildings.** Any non-conforming building or structure damaged more than sixty (60) percent of its replacement value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or Act of God; shall not be restored or reconstructed and used as before such happening, but if less than sixty (60) percent damaged above the foundation, it may be restored, reconstructed, or used as before, provided that it be started within six (6) months of such happening, and be built of like or similar materials.

E. **Street Frontage Required.** Except as permitted in Part XX of this Ordinance, no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least forty (40) feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least twenty (20) feet wide to a street, and there shall be not more than one (1) single family dwelling for such frontage or easement, except that a common easement of access at least fifty (50) feet wide may be provided for two (2) or more such single family dwellings or for one (1) or more two-family or multiple dwellings.

F. **Accessory Buildings.** No accessory building shall be erected in any required court or front yard. Accessory buildings shall be distant at least five (5) feet from alley lines and at least five (5) feet from lot lines of adjoining lots which are in any "R" District, except that accessory buildings constructed in the rear sixty (60) percent

of the lot may be erected three (3) feet from interior lot lines, and on a corner lot they shall conform to the setback regulations on the side street. Accessory buildings, except stables, may be erected as a part of the principal building, or if at least six (6) feet therefrom may be connected thereto by a breezeway or similar structure, provided all yard requirements for a principal building are complied with. An accessory building which is not a part of the main building shall not occupy more than thirty (30) percent of the rear yard and shall not exceed fifteen (15) feet in height; however, this regulation shall not be interpreted to prohibit the construction of a four hundred forty (440) square foot garage on a minimum rear yard.

A freestanding or attached portable shelter consisting of a fabric covering stretched over poles used as a carport or similar structure shall be prohibited in conjunction with any residential use. Added by Ordinance 615.

- G. Corner Lots.** For corner lots platted after the effective date of this Ordinance, the street side yard shall be equal in width to the setback regulation of the lots to the rear having frontage on the intersecting street. See Figure 1.
- H. On corner lots platted and of record** at the time of the effective date of this Ordinance, the side yard regulation shall apply to the longer street side of the lot except in the case of reverse frontage where the corner lot faces an intersecting street. In this case, there shall be a side yard on the longer street side of the corner lot of not less than fifty (50) percent of the setback required on the lots to the rear of such corner lot, and no accessory building on said corner lot shall project beyond the setback line of the lots in the rear; provided further that this regulation shall not be so interpreted as to reduce the buildable width of the corner lot facing an intersecting street, and of record or as shown by existing contract of purchase at the time of the effective date of this Ordinance, to less than twenty-eight (28) feet nor to prohibit the erection of an accessory building. See Figure 2.
- I. On corner lots, frontage** may be considered on either street provided that if front and rear yards are parallel to the lot line having the longer dimension, then setbacks along both streets shall conform to the front yard requirement of the district in which it is located.
- J. Front Yard.** In any "R" District there shall be a minimum front yard required as stated in the yard requirements for that particular district; provided, however, that where lots comprising thirty (30) percent or more of the frontage within two hundred (200) feet of either side lot line are developed with buildings at a greater setback, the front yard setback shall be the average of these building setbacks and the minimum setbacks required for the undeveloped lots. In computing the average setback, buildings located on reversed corner lots or entirely on the rear half of lots shall not be counted. The required setback as computed herein need not exceed fifty (50) feet in any case. See Figure 3.

YARD REQUIREMENTS
FOR CORNER LOTS

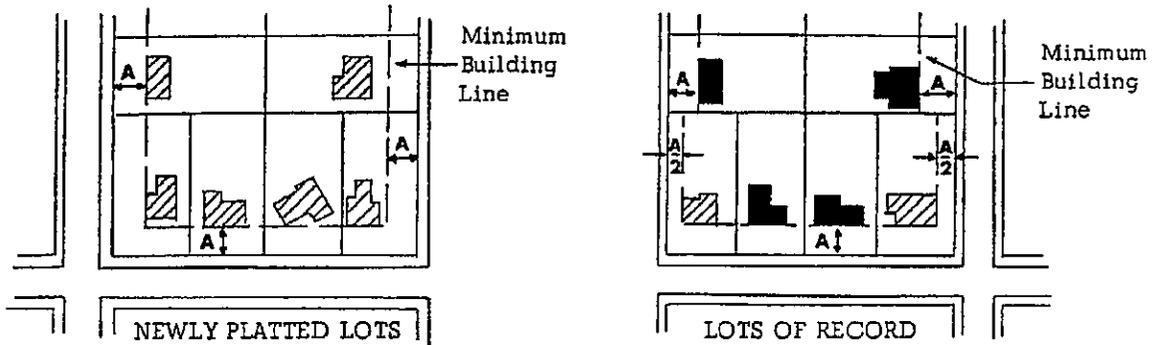
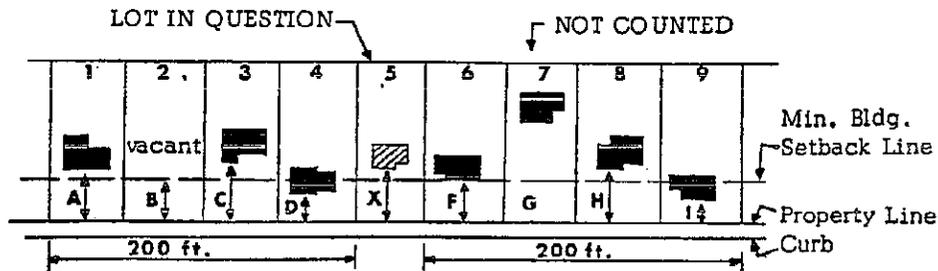


FIGURE 1

FIGURE 2

METHOD OF COMPUTING BUILDING SETBACK IN A
DEVELOPED BLOCK



X = Minimum setback of proposed building

$$X = \frac{A+B+C+D+F+H+I}{7}$$

FIGURE 3

K. **Required Yard Cannot Be Reduced.** No lot shall be reduced in area so as to make any yard of any other open space less than the minimum required by the Ordinance. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space required under this Ordinance for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this Ordinance.

L. **Building Lines on Approved Plats.** Whenever the plat of a land subdivision on

record in the office of the County Recorder shows a set back building line along any frontage for the purpose of creating a front yard or side street yardline, the building line thus shown shall apply along such frontage in place of any other yard line required in this Ordinance unless specific yard requirements in this ordinance require a greater setback.

M. Pending Applications for Building Permits. Nothing herein contained shall require any change in the overall layout, plans, construction, size, or designated use of any building, or part thereof, for which approvals and required building permits have been granted before the enactment of this Ordinance, the construction of which conformably with such plans shall have been started prior to the effective date of this ordinance and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control.

N. Dwelling Standards: The following standards shall apply to all new dwellings for which building permits have been issued on or after March 1, 1991:

1. The dwelling shall be affixed to a permanent foundation system which shall be constructed of masonry, concrete or treated wood in compliance with Uniform Building Code Standard No. 29-3, and in all cases shall extend below the frost line. Footings of concrete and masonry shall be of solid material. Bearing walls shall be supported on masonry or concrete foundations. Piles will not be approved for bearing walls.
2. The average width and length of the main body of the dwelling shall be a minimum of 20 feet as measured from at least 3 points of at least 10 feet apart on the dwelling.
3. The area of the living quarters of a dwelling unit shall be a minimum of 1.2 times greater than the inclusive garage area of the building. Added by Ordinance No. 580.

[next page is page 45]

PART VI

"U-1" UNCLASSIFIED DISTRICT

2A-8 **REGULATIONS.** The regulations set forth in this part and those contained in Part V shall apply in the "U-1" Unclassified District.

The intent of the "U-1" District is to preserve existing open space for future development and to identify those portions of the City that have adverse soil or drainage way characteristics and/or are affected by seasonal flooding, and thus are best suited for preservation as open space or buffers between land uses and are primarily unsuitable for structural development.

A. Principal Permitted Uses:

1. Agriculture uses, provided that no offensive odors or dust are created and provided further that no retail sales shall be permitted on premises. This shall not be construed to include the operation of livestock or poultry confinement or feeding areas, or auctions, public stables, boarding kennels or veterinary clinics or such similar uses. Private stables shall be permitted where there exists an area devoted to such purposes of one (1) acre, with an additional one-half (½) acre per animal exceeding two (2) in number. No structure or building for the stabling of animals or tethering area shall be closer than fifty (50) feet from abutting residential properties. The area devoted to such uses shall be kept in a clean and sanitary condition;
2. Amusement enterprises, such as race track, carnival, circus, rides, and shows subject to prior recommendation from the Planning and Zoning Commission and approval by the City Council; ①
3. Single Family dwellings on existing lots of record;
4. Single family dwellings;
5. Truck gardening, nurseries, and greenhouses provided that no permanent dwelling units shall be erected thereon unless the tract contains three (3) or more acres;
6. Mining and extraction of minerals or raw material, subject to approval by the City Council; ①
7. Airports and landing fields, subject to approval by the City Council-①
8. Forest and forestry;
9. Parks, playgrounds, golf courses, both public and private, and recreational uses including boat ramps and docks; ①
10. Any use erected or maintained by a public agency;①
11. Parking facilities;
12. Public utility structures and equipment necessary for the operation thereof;
13. Transmitting stations and towers;
14. Dumping of non-combustible materials for land fill purposes;
15. Railroad right-of-way;

① Subject to Section 2A-41

B. Accessory Uses:

1. Accessory buildings and uses customarily incidental to any of the above uses;
2. Bulletin boards and signs appertaining to the lease, hire, or sale of a building or premises, or signs appertaining to any material that is mined, grown, or treated within the district; provided, however, that such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed, or stored.

2A-9 HEIGHT REGULATIONS. Any building hereafter erected or structurally altered may be erected to any height not in conflict with other existing or future ordinances of the City.

2A-10 LOT AREA, LOT FRONTAGE, YARD, AND SITE REQUIREMENTS. The following minimum requirements shall be observed:

District Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard ①	min. side yard	Min. Sum of both side yards	Min rear yard depths
U-1 ② Dwellings	3 Acres	200'	3 Acres	30'	10% of lot width		30'
Other Permitted Uses				30'	25'	50'	50'

① The front yard depth of any lot abutting on a major Street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

② The Planning and Zoning Commission may require the proponent for development to submit a statement from the appropriate State or Federal agency as to the composition of the soils in the vicinity of the site (Soil Conservation Service) and/or the effect of the proposed development in relation to flood-prone areas, as described on the official City Flood-Prone Area Map, and as reviewed and approved by the Iowa Natural Resources Council.

[the next page is page 50]

PART VII

"R-1" RESIDENCE DISTRICT

2A-11 REGULATIONS. The regulations set forth in this part and the regulations contained in part V shall apply in the R-1 Residence District.

The Intent of the "R-1" District.

The "R-1" is the most restrictive Residential District. The principal use of land is for low density residential dwellings and related recreational, religious, and educational facilities normally required to provide an orderly residential area. These residential areas are intended to be defined and protected from encroachment of uses which are not appropriate to a residential environment.

A. Principal permitted Uses:

1. One and two family dwelling;
2. Churches and accessory buildings, after recommendation of the City Planning and Zoning commission and upon approval of the City Council;①
3. Public and parochial schools, elementary and high schools, and other educational institutions having an established current curriculum the same as ordinarily given in public schools;①
4. Private non-commercial recreational areas and facilities, swimming pools, institutional or community recreation centers including country clubs and golf courses; ①
5. Manufactured housing.
6. The taking of borders or the leasing of rooms by a resident family, providing total number does not exceed two (2) per building.
7. Farming and truck gardening, but not on a scale that would be obnoxious to adjacent areas because of noise or odors.
8. Any use erected or maintained by a public agency.①
9. Single family bi-attached dwelling (Ordinance 577,4-1-03)

B. Accessory Uses:

1. Accessory uses which are customarily incidental to any of the above stated uses, but not involving the conduct of business. Accessory uses shall include private garages and carports, and private greenhouses not operated for commercial purposes.
2. Private garages and tool storage buildings;
3. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
4. One bulletin board or sign not exceeding fifty (50) square feet in area

pertaining to the construction, lease, hire, or sale of a building or premises and sale of land or lots, which board or sign shall be removed as soon as the premises are leased, hired, sold, or construction is completed.

5. Church bulletin boards;
5. Home occupations, and permitting one non-illuminated sign not to exceed four (4) square feet attached to the front of the principal dwelling;

2A-12 HEIGHT REGULATIONS. No principal building shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height, whichever is lower, and no accessory structure shall exceed fifteen (15) feet in height except as provided in Section 2A-41.

① Subject to Section 2A-41.

2A-13 LOT AREA, FRONTAGE AND YARD REQUIREMENTS - "R-1"

A. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 2A-41.

District Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard see ①	min. side yard	Min. Sum of both side yards	Min rear yard depths
R-1 One family Dwelling	8,400	70'	8,400	30'	the lessor of 10' or 10% of lot width		30'
Two Family Dwelling	10,000	80'	5,000	30'	Same as above		35'
Single Family, bi-attached Dwelling	5,000	40	5,000	30'	the lessor of 10' or 20% of lot width		35'
Other Permitted Uses	10,000	80'		30'	10% lot width		35'

① The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

[the next page is page 55]

PART VIII

"R-2" MEDIUM DENSITY RESIDENTIAL DISTRICT

2A-14 REGULATIONS. The regulations set forth in this part and contained in Part V shall apply in the "R-2" Multiple Residence District.

The intent of the "R-2" District

The "R-2" District is to provide for single family and medium high population density. The principle use of land may range from single family to multiple-family dwelling units. Certain uses are permitted which are more compatible functionally with intensive residential uses than with commercial uses. The recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area are included. Internal stability, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwelling and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

A. Principal Permitted Uses:

1. Any use permitted in the "R-1" District;
2. Multiple dwellings (Maximum eight (8) Families);
3. Boarding and lodging houses;
4. Institutions of a religious, educational, or philanthropic nature, including libraries;①
5. Hospitals, day nurseries, nursing and convalescent homes, clinics, excepting animal hospitals; ①
6. Private clubs, fraternities, sororities, and lodges, excepting those the principal activity of which is a service customarily carried on as a business; ①

B. Accessory Uses:

1. Accessory uses permitted in the "R-1" District;
2. Other accessory uses and structures, not otherwise prohibited, customarily accessory and incidental to any permitted principal use, including an indirectly lighted, non-flashing sign not to exceed one (1) square foot for each five (5) feet of frontage of property occupied by the use in question;
3. Storage garages where the lot is occupied by multiple dwellings, hospital, or institutional building;

2A-15 HEIGHT REGULATIONS. No principal building shall exceed three (3) stories or forty-five (45) feet in height at the required front, side, and rear yard lines, but above the height permitted at said yard lines, two (2) feet may be added to the height of the building for each one (1) foot that the building or portion thereof is set back from the required yard lines, except as further provided in Section 2A-41.

① Subject to Section 2A-41.

2A-16 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS - "R-2"

B. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 2A-41.

District Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard ①	min. side yard	Min. Sum of both side yards	Min rear yard depths
R-2							
One family Dwelling	7,200	60'	7,200	25'	5'		30'
Two Family Dwelling	8,000	70'	4,000	25'	5'		30'
Single Family, bi-attached Dwelling	4,000	35'	4,000	25'	5'		30'
Multi-Family Dwellings	10,000	80'	2,500	30'	10% lot width		30'
Other Permitted Uses	10,000	80'		30'	10% lot width		35'

① The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the official Major Street Plan.

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PART IX

"R-3" HIGH DENSITY RESIDENTIAL DISTRICT

2A-17 REGULATIONS. The regulations set forth in this part and contained in Part V shall apply in the "R-3" Multiple Residence District.

The intent of the "R-3" District

The "R-3" Multiple Residential District is to provide for single and multiple dwelling structures and medium to high population density. The principle use of land may range from single family to multiple-family dwelling units including condominiums and row housing. Certain uses are permitted which are more compatible functionally with intensive residential uses than with commercial uses. Internal stability, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwelling and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

A. Principal Permitted Uses:

1. Any use permitted in the "R-2" District;
2. Funeral homes and mortuaries;
3. Offices such as:

Accountants
Architects
Art Schools
Barber Shops
Beauty Shops
Church Offices
Civil Engineers
Collection Agency
Credit Bureau

Dental Offices
Entertainment Bureau
Insurance
Medical Offices with Dispensary
Nurses Registry
Psychologists
Public Stenographers
Real Estate

Other uses similar to the foregoing designated uses, but subject to review by the City Planning and Zoning Commission and approval by the City Council.

4. Tourist homes;
5. Veterinary , clinic or animal hospital, provided all phases of the business conducted upon the premises be within a building where noises and odors are not evident to adjacent properties.

B. Accessory Uses:

1. Accessory uses permitted in the "R-2" District;
2. Signs for the above permitted uses same as provided in the "R-2" Residence District.

2A-18 Height Regulations. No principal buildings shall exceed three (3) stories or forty-five (45) feet in height at the required front, side, and rear yard lines, except two (2) feet may be added to the height permitted at said yard lines for each one (1) foot that the building or portion thereof is set back from the required yard lines, except as further provided in Section 2A-41.

2A-19 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS - "R-3"

A. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 2A-41.

District Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard ①	min. side yard	Min. Sum of both side yards	Min rear yard depths
R-3 One family Dwelling	6,000	60'	6,000	20'	5'		30'
Two Family Dwelling	8,000	70'	4,000	20'	5'		30'
Single Family, bi-attached Dwelling	4,000	35'	4,000	20'	5'		30'
Multi-Family & Other permitted use	8,000	65'	2,000 sq. ft. For the 1 st 4 units, plus 850 sq. Ft. per unit on the 1 st , 2 nd , & 3 rd floor and add 450 sq. ft. per unit above the 3 rd floor.	20'	5'	10'	35'
1 & 1 ½ Stories	8,000	65'		20'	5'	10'	35'
2 & 2 ½ Stories	8,000	70'		20'	5'	10'	35'
3 Stories	10,000	80'		20'	5'	10'	35'
4 Stories or more. ⑧				⑧			

① The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

⑧ Subject to the further requirements of Section 2A-18.

[The next page is 65]

PART X

"R-MH" PLANNED MOBILE HOME DISTRICT

2A-20 REGULATIONS. The regulations set forth in this part shall apply in the "R-MH" Planned Mobile Home District.

The intent of the "R-MH" District is to provide sites only for the location of mobile homes which will allow the maximum amount of freedom possible in the design of mobile home parks and will provide for the related recreational, commercial, and other service facilities for the Planned Mobile Home Residential Developments.

A. Principal Permitted Uses:

1. Single and double-wide mobile homes;
2. Non-commercial community recreational facilities which are intended exclusively for the use of the residents and their guests of the mobile home development;
3. Pedestrian-oriented personal service facilities which are intended exclusively for the use of the residents of the mobile home development, provided that such personal service facilities occupy not more than ten (10) square feet of gross floor area for each mobile home in the development;
4. Buildings used for the management and maintenance of the development;
5. Commercial mobile home sales;

B. Accessory uses permitted in the "R-MH" District:

1. Buildings and uses customarily accessory to mobile homes, such as garages and storage buildings;
2. One (1) indirectly lighted, non-flashing sign not to exceed one (1) square foot for each five (5) feet of frontage of said mobile home park.

Height Regulations:

No principal building within this district shall exceed two (2) stories or twenty-five (25) feet in height, whichever is lower; and no accessory structure shall exceed one (1) story or fifteen (15) feet in height, whichever is lower.

Procedure:

- A. The owner or owners of any tract of land comprising an area of not less than ten (10) acres shall submit to the Planning and Zoning Commission a plan for the use and development of the entire tract of land. This plan shall include the site location and uses of all buildings, the location of each single-wide and double-wide mobile home stand, the locations and types of all community and recreational facilities; open spaces, including developed open spaces and those to be preserved in their existing state; points of access to vehicular circulation principal elements of the site, principal pedestrian and ways,

parking facilities and other the vehicular and pedestrian transportation system. The Planning and Zoning Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principals of civic design, land use planning, and landscape architecture. The Planning and Zoning Commission may, after holding a public hearing and reviewing the development plan, recommend approval; approval with recommended modifications; or disapproval of the development plan which accompanies the application. The Planning and Zoning Commission shall forward its written recommendations to the City Council which shall after notice and public hearing, approve or disapprove said application and plan, or may require such changes thereto as it deems necessary to effectuate the intent and purpose of this ordinance.

Standards:

- A. The land usage, minimum lot area, yard, height, and accessory uses shall be determined by the requirements set out as follows, which shall prevail over conflicting requirements of this Ordinance or the subdivision ordinance.
 1. Uses along the project boundary lines shall not be in conflict with those allowed in adjoining or opposite property. To this end, the Planning and Zoning Commission may require, in the absence of an appropriate physical barrier, that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project.
 2. A plat of the development shall be recorded, showing building locations, common land, streets, easements, and other applicable items-required by the subdivision ordinance.
 3. No building permits shall be issued until the final plat of the development is approved and recorded, and the applicant must file with the Building Official of the City of Evansdale proof of compliance with all requirements of the Department of Health of the State of Iowa.
- B. Deed Restrictions. In its review of the plan, the Commission or Council may consider any deed restrictions or covenants entered into or contracted for by the developer concerning the use of common land or permanent open space. Common land as herein contained shall refer to land dedicated to the public use and to land retained in private ownership but intended for the use of the residents of the development unit or the general public.

Land Use and Density Requirements:

1. Seven (7) mobile home stands shall be permitted for each acre of land contained in the usable area of the plan.
2. No part of any mobile home or other structure shall be located within twenty-five (25) feet of any public road shown on the official Major Street Plan, nor within twenty (20) feet of any exterior boundary of the Planned Mobile Home

Development.

3. Parking facilities shall be provided within the development at the rate of two (2) spaces per mobile home.
4. Commercial uses and accessory uses within the "R-MH" District shall not consume more than 15% of the total district.
5. No permit for any commercial structure or building shall be issued until at least twenty-five (25) percent of the Mobile Home sites is developed for residential uses.

[the next page is page 70]

PART XI

"C-1" RECREATIONAL-COMMERCIAL DISTRICT

2A-21 REGULATIONS. The regulations set forth in this part and contained in Part V shall apply in the "C-1" Light Commercial District. Amended by Ordinance 616.

The intent of the "C-1" District is to provide for those commercial uses primarily oriented toward travel and/or light commercial uses.

A. Principal Permitted Uses:

1. Any use permitted in the "R-3" District but excluding R1 & R2 uses.
2. Hotels and motels;
3. Restaurants (including drive-in restaurants);
4. Bait and tackle shops.
5. Antique shop;
6. Apparel shop;
7. Bakery, whose products are sold only at retail and only on the premises;
8. Bicycle shop, sales or repair;
9. Book binding and book store;
10. Candy shops where products are sold only at retail and only on the premises;
11. Carpet and floor covering store;
12. Collection office of public utility;
13. Dairy Store - retail
14. Drapery shop;
15. Drug Stores;
16. Financial institutions;
17. Florist and nursery shop - retail;
18. Furniture store;
19. Gift shop;
20. Grocery stores and delicatessens;
21. Hardware and variety store;
22. Hobby shop;
23. Household appliances - sales and repair;
24. Jewelry shop;
25. Key shop
26. Music store;
27. Museums;
28. Offices, business, government, and professional;
29. Office supply store;
30. Paint and wallpaper store;
31. Pet shop including aquariums;
32. Photographic studio;
33. Radio and television sales and service;
34. Shoe and shoe repair shop;

- 35. Sporting goods store;
- 36. Tailor shop;
- 37. Travel agency;
- 38. Upholstery establishments;
- 39. Variety stores;

B. No occupancy permit shall be issued for any of the following uses until and unless the location of such use shall have been authorized by the City Council after a report by the Planning and Zoning Commission.

- 1. Recreational retail sales and services including rental, and servicing of boat, and outdoor equipment. This paragraph shall not be construed to include truck and farm implement establishments, or machinery wrecking and used parts yards;
- 2. Overnight campgrounds; (short term, non-residential, recreational use);
- 3. Storage Units;
- 4. Service Stations;
- 5. Convenience Stores
- 6. Retail Auto Sales - not to exceed twenty (20) vehicles;

C. Accessory Uses:

- 1. Accessory uses permitted in the "R-3" District;
- 2. Accessory uses and structures customarily incidental to any permitted principal uses;
- 3. Any exterior or roof sign, provided such sign shall not project more than sixteen (16) feet above the roof line.

2A-22 HEIGHT REGULATIONS. No building shall exceed three (3) stories or forty-five (45) feet in height, whichever is lower, except as otherwise provided in Section 2A-41.

2A-23 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS - "C-1"

A. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 2A-41.

District Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard ①	min. side yard	Min. Sum of both side yards	Min rear yard depths

C-1 Dwellings	>>	>>	Same as R3 District	<<	<<	<<	<<
Hotel & Motels	1 Acre	100'		50'	See ③		
Overnight Campgrounds	3 Acres	100'		50'	See ③		
Other Permitted Uses				50' ②	See ③		
Accessory Building				50' ⑤	10'	10'	4'

- ① The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.
- ② Where the frontage on one side of the street between two intersecting streets is located in the "C-1" Light Commercial District and a "R" Residence District, one-half (50%) of the front yard requirements of the "R" Residence District shall apply to the "C-1" Light Commercial District. Where a lot is located at the intersection of two or more streets, the front yard requirements stated above shall apply to each street side of the corner lot, except that the buildable width of such lot shall not be reduced to less than twenty-eight (28) feet. No accessory building shall project beyond the front yard line on either street.
- ③ Side yards shall be no less than ten (10) feet except where vehicular service is required to the rear of the principal structure, in which case one side yard shall be no less than twenty (20) feet.
- ④ For every additional foot the front yard depth is increased over fifty (50) feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than twenty-five (25) feet.
- ⑤ All accessory buildings shall not project beyond the front building line of the principal building if said principal building set-back line is increased.

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PART XII

"C-2" COMMERCIAL DISTRICT

2A-24

REGULATIONS. The regulations set forth in this part and contained in Part V shall apply in the "C-2" Commercial District.

The intent of the "C-2" District is to provide for those commercial uses primarily oriented toward automobile traffic or requiring amounts of space too great to be located in the central business district.

A. Principal Permitted Uses:

1. Any use permitted in the "C-1" and "C-3" District;
2. Automobile, motorcycle, truck, trailer, boat, snowmobile, and farm implement establishments for display, hire, repair, and sales (including new and used sales lots). This paragraph shall not be construed to include automobile, tractor, or machinery wrecking and used parts yards;
3. Ballrooms and dance halls;
4. Bowling alleys;
5. Carpenter and cabinet shops, lumber yards, building material sales yard, sheet metal shop, sign construction and painting shop, storage warehouse or business, and wholesale warehouse or business, but not including any manufacturing or fabricating for wholesaling operations;
6. Drinking establishments;
7. Furniture stores;
8. Monument sales yards;
9. Tire shops (including vulcanizing and retreading);
10. Truck stops and terminals;
11. Race tracks (not including motorized vehicles).

B. Accessory Uses:

1. Accessory uses permitted in the "C-1" District;
2. Accessory uses and structures customarily incidental to any permitted principal uses;
3. Any exterior or roof sign, provided such sign shall not project more than sixteen (16) feet above the roof line.

2A-25

HEIGHT REGULATIONS. No building shall exceed three (3) stories or forty-eight (48) feet in height, whichever is lower, except as otherwise provided in Section 2A-41.

2A-26 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS - "C-2"

- a. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 2A-41.

District Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard ①	min. side yard	Min. Sum of both side yards	Min rear yard depths
C-2 Dwellings	>>	>>	Same as R3 District	<<	<<	<<	<<
Hotel & Motels	1 Acre	100'		50'	See ③		
Overnight Campgrounds	3 Acres	100'		50'	See ③		
Other Permitted Uses				50' ②	See ③		
Accessory Building				50' ⑤	10'	10'	4'

- ① The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.
- ② Where the frontage on one side of the street between two intersecting streets is located in the "C-2" Commercial District and a "R" Residence District, one-half (50%) of the front yard requirements of the "R" Residence District shall apply to the "C-2" Commercial District. Where a lot is located at the intersection of two or more streets, the front yard requirements stated above shall apply to each street side of the corner lot, except that the buildable width of such lot shall not be reduced to less than twenty-eight (28) feet. No accessory building shall project beyond the front yard line on either street.
- ③ Side yards shall be no less than ten (10) feet except where vehicular service is required to the rear of the principal structure, in which case one side yard shall be no less than twenty (20) feet.
- ④ For every additional foot the front yard depth is increased over fifty (50) feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than twenty-five (25) feet.
- ⑤ All accessory buildings shall not project beyond the front building line of the principal building if said principal building set-back line is increased.

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PART XIII

"C-3" CENTRAL BUSINESS DISTRICT

2A-27

REGULATIONS. The regulations set forth in this part and contained in Part V shall apply in the "C-3" Central Business District.

The intent of the "C-3" District is to provide for the grouping of the majority of commercial uses and services in the CBD - **C**entral **B**usiness **D**istrict.

A. Principal Permitted Uses:

1. Any use permitted in the "R-3" District, except single family dwellings;
2. Antique shop;
3. Apparel shop;
4. Automobile, motorcycle, truck, trailer, boat, snowmobile, and farm implement establishments for display, hire, repair, and sales (including new and used sales lots). This paragraph shall not be construed to include automobile, tractor, or machinery wrecking and/or used parts yards;
5. Bakery, whose products are sold only at retail and only on the premises;
6. Bicycle shop, sales or repair;
7. Billiard parlor and pool hall;
8. Book binding and book store;
9. Bowling alleys
10. Bus and taxi depots;
11. Candy shops where products are sold only at retail and only on the premises;
12. Carpet and ' floor covering store;
13. Clothes cleaning and/or dyeing establishments.
14. Collection office of public utility;
15. Commercial parking lots for passenger vehicles;
16. Dairy store - retail;
17. Dance and/or music studio;
18. Department store;
19. Drapery shop;
20. Drinking establishment;
21. Drug stores;
22. Exterminator sales;
23. Financial institutions;
24. Florist and nursery shop - retail;
25. Fruit and vegetable market;
26. Furniture store;
27. Gift shop;
28. Grocery stores and delicatessens;
29. Hardware and variety store;

30. Hobby shop;
31. Hotels and motels;
32. Household appliances - sales and repair;
33. Ice storage and distributing of not more than five (5) ton capacity;
34. Jewelry shop;
35. Key shop;
36. Landscape gardener;
37. Laundries;
38. Lawn mower repair shop;
39. Liquor store;
40. Locker plant for storage and retail sales only;
41. Music store;
42. Museums;
43. Offices, business, government, and professional;
44. office supply store;
45. Paint and wallpaper store;
46. Pet shop including aquariums;
47. Photographic studio;
48. Plumbing, heating, and electrical contractor shop;
49. Printing and/or publishing houses, newspapers;
50. Radio and television sales and service;
51. Restaurants;
52. Service stations;
53. Shoe and shoe repair shop;
54. Sporting good store;
55. Tailor shop;
56. Theaters (excluding drive-in theaters), auditoriums;
57. Travel agency;
58. Upholstery establishments;
59. Variety stores;
60. Convenience stores (with principal building limited to 3,000 square feet).

B. Accessory Uses:

1. Residential units when located above first floor level of the above principal permitted uses.
2. Storage facilities related to the operation of the principal permitted use.
3. Any exterior or roof sign the height of which shall not exceed forty (40) percent of the building height above the roof line, but not to exceed fifty (50) feet above the roof line in any case. For buildings less than forty(40) feet in height, the maximum height above the roof line for any exterior or roof sign shall be sixteen (16) feet.

C. Adult Businesses:

1. Definitions: The following definitions shall govern the interpretation of the regulations of adult uses:
 - a. Adult Bookstore. An establishment having twenty-five percent (25%) of the retail floor space presently being used by said business or twenty five (25%) of the gross business income derived from or attributable to printed matter, pictures, slides, records , audio tapes, video tapes or motion picture films, which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as hereinafter defined.
 - b. Adult Cabaret. Any establishment which excludes minors by virtue of age wherein the entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas."
 - c. Adult Conversation/Rap Parlor. Any establishment which excludes minors by reason of age and which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
 - d. Adult Health/Sport Club. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
 - e. Adult Massage Parlor. A massage parlor which restricts minors by reason of age, or which provides the service of "massage", wherein the "massage" is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
 - f. Adult Mini-Motion Picture Theater. A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
 - g. Adult Motion Picture Theater. A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
 - h. Adult Steam Room/Bathhouse Facility. A building or portion of a building used for providing a steam bath or heat bathing room

used for the purpose of pleasure, bathing, relaxation, reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

- i. Adult Uses. Adult uses include, but are not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, and other premises, enterprises, businesses, private clubs/establishments or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified ' anatomical areas" which are capable of being seen by members of the public.
- j. Protected Uses. Protected uses include a building in which a majority of floor space is used for residential purposes; a day care center where such day care center is a principal use; a house of worship; a public library; a school (public, parochial or private; elementary, junior high or high school); public park, public recreation center or public specialized recreation facility as identified in the parks and recreation element of the Evansdale comprehensive plan; a civic/convention center; a community residential facility; a mission. However, this definition shall not apply if the protected use is a legal non-conforming use.
- k. Specified anatomical areas shall include the following:
 - (1) Less than completely and opaquely covered: (a) human genitals, (b) pubic region, (c) buttock, and (d) female breast below a point immediately above the top of the areola; and
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- l. Specified sexual activities shall include the following:
 - (1) Human genitals in a state of sexual stimulation or arousal;
 - (2) Acts of human masturbation, sexual intercourse or sodomy; or
 - (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

2. Regulations Governing the Location of Adult Uses.

- a. Zoning Districts Where Allowed:
- (1) All adult uses shall be allowed in the C-3 zoning districts as a principal permitted use provided that the adult use complies with the minimum separation requirements, as specified in subsection b.
- b. Minimum Separation Requirements:
- (1) An adult use shall be located at least 600 feet from any other adult use measured in a straight line from the closest points of the property lines in which the adult uses are located.
 - (2) An adult use shall be located at least 600 feet from any residentially zoned property measured in a straight line from the closest point of the property line in which the adult use is located to the closest residentially zoned property line.
 - (3) An adult use shall be located at least 600 feet from any protected use as defined herein which distance shall be measured in a straight line from the closest point of the property line in which the adult use is located to the closest point of the property line in which is located an aforementioned protected use. If a protected use is a legal non-conforming use, this provision shall not apply.
 - (4) The minimum separation requirements may be varied by the Board of Adjustments if the person applying for the variance files an application for a variance with the building official. Included with said application shall be a consent petition which indicates approval of the proposed adult use signed by 90 percent of the property owners within 600 radial feet of the lot on which the use would be located. The Board of Adjustments, in considering such a variance shall make the following findings; that the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of the ordinance will be observed; that the establishment of an additional use of this type in the area will not be contrary to the program of neighborhood conservation or improvement, either residential or non-residential; and that all applicable regulations of this ordinance will be observed.
- c. Termination of Non-conforming Adult Uses. Any such adult use which at the time of the adoption of this ordinance becomes non-conforming because it does not meet the minimum separation requirements between it and any other such establishment, or between it and any residential zoning district shall terminate all uses herein defined no later than one (1) year after the date of the adoption of this ordinance.

However, if in the opinion of the owner of the business involved in such use, the termination would create an undue hardship, the owner may appeal to the Board of Adjustment for an extension of time for the termination. It shall be the responsibility of the owner to show just cause for a time extension based upon evidence submitted by the owner which demonstrates by the greater weight of evidence that one (1) year was not an adequate length of time to amortize the owner's investment in such establishment. The Board shall determine whether such a time extension shall be granted and how long such extension shall be, based upon the evidence presented. However, no establishment shall be granted more than one (1) time extension and no such extension shall be for longer than the minimum time determined necessary by the Board for the owner to amortize the investment which existed at the time of the adoption of this ordinance.

Any investments in said non-conforming establishment subsequent to the adoption of this ordinance shall not be included for such amortization value purposes. Such non-conforming establishment shall not increase, enlarge, expand, extend or alter such land area, building, or structure involved in such establishment except by changing the use to another use which is permitted in that zoning district by the terms of the Zoning ordinance. If the owner of the non-conforming establishment desires to increase, enlarge, expand, extend or alter such land area, building or structure involved in such establishment, the owner shall be required to apply for a special permit under the provisions of the Zoning ordinance.

In determining whether an adult use is nonconforming, especially in relation to another adult use, the Board shall take into account the length of time that said adult use has been operating at its present location and shall consider the oldest adult use as a conforming use.

3. Violation and Penalty. Any person, firm or corporation violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance shall be guilty of a simple misdemeanor and upon conviction, be fined not more than \$100.00, or be imprisoned for not more than 30 days, for each offense.
 - a. Any violation of the provisions of this Ordinance may also be considered a municipal infraction. If a municipal infraction citation is served, the procedures for enforcement of that civil offense shall be governed by Section 108 of the Code of ordinances of the City of Evansdale.
 - b. Each day that a violation is permitted to exist shall constitute a separate offense.

- c. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the City Council, in addition to other remedies, may institute any proper action or proceedings, including an action to enjoin such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, in the name of the City of Evansdale, to restrain, correct or abate such violations, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

(Added by Ordinance No. 460)

2A-28

HEIGHT REGULATIONS. No building shall exceed four (4) stories or fifty (50) feet in height, whichever is lower, except as otherwise provided in Section 2A-41.

2A-29 LOT AREA, LOT FRONTAGE, AND YARD REQUIREMENTS - "C-3"

A. The following minimum requirements shall be observed, subject to the modified requirements contained in Section 2A-41.

District Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard ①	min. side yard	Min. Sum of both side yards	Min rear yard depths
C-3							
Hotel & Motels	1 Acre	100'		50'	See ③		
Other Permitted Uses				30' ⑥	See ④		

- ① The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.
- ② Where the frontage on one side of the street between two intersecting streets is located in the "C-1" Commercial District and a "R" Residence District, one-half (50%) of the front yard requirements of the "R" Residence District shall apply to the "C-1" Commercial District. Where a lot is located at the intersection of two or more streets, the front yard requirements stated above shall apply to each street side of the corner lot, except that the build able width of such lot shall not be reduced to less than twenty-eight (28) feet. No accessory building shall project beyond the front yard line on either street.
- ③ Side yards shall be no less than ten (10) feet except where vehicular service is required to the rear of the principal structure, in which case one side yard shall be no less than twenty (20) feet.
- ④ None except adjacent to an "R" District, in which case not less than 15 feet..
- ⑤ All accessory buildings shall not project beyond the front building line of the principal building if said principal building set-back line is increased.
- ⑥ 30' Except when a proposed building is to be located between two developed lots, the minimum set back shall be the average of the two existing setbacks or 30', whichever is greater.

[the next page is page 90]

PART XIV

"M-1" INDUSTRIAL DISTRICT

2A-30

REGULATIONS. The regulations set forth in this part, and contained in Part V shall apply in the "M-1" Industrial District.

The intent of the "M-1" District is to provide areas for light industrial uses.

A. Principal Permitted Uses

1. Any use permitted in the "C-2" District, except that no occupancy permit shall be issued for any dwelling, school, hospital, clinic, or other institution for human care, except where incidental to a permitted principal use;
- 1A. Any use permitted in a "C-3" District.
2. Automobile assembly;
3. Carpet and rug cleaning; provided necessary equipment is installed and operated for the effective precipitation or recovery of dust;
4. Bakeries, other than those whose products are sold at retail only on the premises;
5. Welding or other metal working shops, excluding shops with presses over twenty (20) ton rated capacity, drop hammers and the like;
6. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors, storage and sale of feed and/or fuel, provided dust is effectively controlled, and storage yards for vehicles of a delivery or draying service;
7. Carting, express, hauling or storage yards;
8. Circus, carnival or similar transient enterprise; provided such structures or buildings shall be at least two hundred (200) feet from any "R" District;
9. Coal, coke, or wood yard;
10. Cooperage works;
11. Creamery, bottling works, ice cream manufacturing (wholesale), ice manufacturing, and cold storage plant;
12. Enameling, lacquering, or japanning;
13. Foundry casting lightweight non-ferrous metals or electric foundry not causing noxious fumes or odors;
14. Flammable liquids, underground storage only, not to exceed twenty-five thousand (25,000) gallons, if located not less than two hundred (200) feet from any "R" District;
15. Junk, iron or rags, storage or baling, where the premises upon which such activities are conducted are wholly enclosed within a building, wall or fence, not less than six (6) feet in height, completely obscuring the activity; but not including automobile, tractor, or machinery wrecking or used parts yards;
16. Laboratories--experimental, film, or testing;
17. Machine shop;
18. Manufacture of musical instruments and novelties;

19. Manufacture or assembly of electrical appliances, instruments and devices;
20. Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns;
21. Manufacture and repair of electric signs, advertising structures, sheet metal products, including heating and ventilating equipment;
22. Milk distributing station other than a retail business conducted on the premises;
23. Sawmill, planing mill, including manufacture of wood products not involving chemical treatment;
24. The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals, and food products except fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour, and the rendering or refining of fats and oils;
25. The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fibre, leather, paper, plastics, metals or stones, tobacco, wax, yarns, and wood;
26. Facility for transportation, storage, processing, shipping and incineration of medical supplies or wastes;
27. Locker facility for the storage, processing, distribution and manufacturing of Iowa products, for both retail and wholesale industry;
28. Facility for Commercial Parking and storage of passenger vehicles, campers, boats, trailers, tractor trailers, and other vehicles and seasonally stored items and products both within buildings and within a fenced secured area;
29. Facility for warehousing of wholesale or retail products, that may require certain minor assembly, subassembly or processing;
30. Facility for manufacturing, processing, distribution, and storage of material and products involving laser technology, circuit board assembly, micro-chips and other aero-space technologies.

(Numbers 26 - 30 added by ordinance No. 467)

B. Accessory Uses

1. Any accessory uses permitted in the "C-2" Commercial District;
2. Any accessory uses customarily accessory and incidental to a permitted principal use.

2A-31 REQUIRED CONDITIONS. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibrations, refuse matter, or water-carried waste.

2A-32 HEIGHT REGULATIONS. No building shall exceed four (4) stories or fifty (50) feet in height, whichever is lower, except as otherwise provided in Section 2A-41.

2A-33 YARD REQUIREMENTS. The following minimum requirements shall be observed subject to

the modified requirements contained in Section 2A-41.

District Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard ①	min. side yard	Min. Sum of both side yards	Min rear yard depths
M-1 Dwellings	>>	>>	Same as "R-2"	<<	<<	<<	<<
Motel & Auto Courts	>>	>>	Same as "C-1"	<<	<<	<<	<<
Other Permitted uses				25'	⑦		40'④

① The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

④ For every additional foot the front yard depth is increased over twenty-five (25) feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than eight (8) feet; and in addition, if any portion of this rear yard area is used for an enclosed off-street loading space, the area above such an enclosure may be used for building purposes.

⑦ None required except adjacent to an "R" District, in which case not less than 25 feet..

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PART XV

"M-2" INDUSTRIAL DISTRICT

2A-34 REGULATIONS. The regulations set forth in this part and contained in Part V shall apply in the "M-2" Industrial District.

The intent of the "M-2" District is to provide areas for heavy industry, that because of its location, transportation requirements, and demands on public services exerts a pronounced impact on the City.

- A. Principal Permitted Uses. A building or premises may be used for any purpose whatsoever except those listed in subparagraph 1, 2, and 3 below:
1. No occupancy permit shall be issued for any use in conflict with any ordinance of Evansdale or law of the State of Iowa regulating nuisances;
 2. No occupancy permit shall be issued for any dwelling, school, hospital, clinic, or other institution for human care, except where incidental to a permitted principal use;
 3. No occupancy permit shall be issued for any of the following uses until and unless the location of such use shall have been authorized by the City Council after report by the fire department.
 - a. Slaughter houses or stock yards, storage and sale of livestock;
 - b. Acid manufacture or wholesale storage of acids;
 - c. Automobile, tractor, or machinery wrecking and used parts yards;
 - d. Cement, lime gypsum, or plaster of paris manufacture, concrete mixing, concrete products manufacture;
 - e. Distillation of bones;
 - f. Explosive manufacture or storage;
 - g. Fertilizer manufacture;
 - h. Garbage, offal or dead animal reduction or dumping;
 - i. Gas manufacture and cylinder recharging;
 - j. Glue, size or gelatine manufacture;
 - k. Manufacturing, compounding, processing, packaging or treatment of fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour, and the rendering or refining of fats and oils;
 - l. Petroleum or its products, refining or whole sale storage of;
 - m. Rubber goods manufacture;
 - n. Sand or gravel pits;
 - o. Smelting of tin, copper, zinc, or iron ores;
 - p. Transmitting stations;
 - q. Waste paper yard;
 - r. Wholesale storage of gasoline.

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.
2. All principal buildings and all accessory buildings or structures, including loading facilities, shall be located at least two hundred (200) feet from any "R" District and not less than one hundred (100) feet from any other district except an "M-1" District.

2A-35

HEIGHT REGULATIONS. No structure shall exceed in height the distance measured to the center line of the nearest street from any portion of the proposed building or structure, except as provided in Section 2A-41.

District Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard ①	min. side yard	Min. Sum of both side yards	Min rear yard depths
M-2 Permitted Uses				25'	None required except adjacent to a "R" District in which case not less than 200'		40'

① The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

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PART XVI

"P-D" PLANNED DEVELOPMENT DISTRICT

2A-36 REGULATIONS. The regulations set forth in this part shall apply in the "P-D" Planned Development District.

The purpose of the "P-D" District is to permit the development of large tracts of residential, commercial, or industrial land or viable combinations thereof in an orderly meaningful fashion. It is intended that such development should maximize the potentials of the area and minimize any adverse effects upon adjacent properties.

- A. Procedure.** The owner or owners of any tract of land comprising an area of not less than ten (10) acres may submit to the City Council of Evansdale a plan for the use and development of the entire tract of land. Said development plan shall be referred to the Planning Commission for study and for report after public hearing. The Planning Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principles of civic design, land use planning, and landscape architecture. The Commission may approve the plan as submitted, or before approval may require that the applicant modify, alter, adjust, or amend the plan as the Commission deems necessary to the end that it preserves the intent and purpose of this ordinance to promote public health, safety, morals, and general welfare. The development plan as approved by the Commission shall then be reported to the City Council, whereupon the City Council may, after notice and public hearing, approve or disapprove said plan as reported or may require such changes thereto as it deems necessary to effectuate the intent and purpose of this Ordinance.
- B. Standards.** The land usage, minimum lot area, yard, height, and accessory uses shall be determined by the requirements set out below, which shall prevail over conflicting requirements of this ordinance or the Subdivision Ordinance.
1. The minimum yard and height requirements of the zoning district in which the development is located shall not apply except that minimum yards specified in the district shall be provided around the boundaries of the area being developed.
 2. Uses along the project boundary lines shall not be in conflict with those allowed in adjoining or opposite property. To this end, the Commission may require, in the absence of an appropriate physical barrier, that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project.
 3. A plat of the development shall be recorded regardless of whether a subdivision is proposed, showing building lines, building locations, common land, streets, easements, and other applicable items required by the Subdivision Ordinance.
 4. No building permits shall be issued until the final plat of the development is approved and recorded.
- C. Deed Restrictions.** In its review of the plan, the Commission or Council may consider any

deed restriction or covenants entered into or contracted for by the developer concerning the use of common land or permanent open space. Common land as herein contained shall refer to land dedicated to the public use and to land retained in private ownership but intended for the use of the residents of the development unit or the general public.

- D. Changes from original Use.** Any subsequent change in the initial permitted use or uses shall be approved by the City Council upon the recommendation of the City Planning Commission prior to the issuance of an occupancy permit.
- E. Changes and Modifications.** No change or modification of the plat of any such Planned District as to land use, density, and street location or size shall be permitted except by the procedure providing for amendments to this Ordinance in Section 2A-48. Other changes or modifications, such as locations of buildings, parking lots, common areas except streets, etc., may be made upon application to and approval of the City Planning and Zoning Commission.

PART XVII

OFF-STREET PARKING & LOADING AREAS

2A-37 OFF-STREET LOADING SPACES REQUIRED.

- A. In any district, in connection with every building or part thereof hereafter erected, having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution of merchandise, there shall be provided and maintained on the same lot with such building, at least one (1) off-street loading space plus one (1) additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof of gross floor area so used in excess of ten thousand (10,000) square feet.
1. Each loading space shall be not less than ten (10) feet in width.
 2. Such space may occupy all or any part of any required yard or court space or as specifically provided in the district in which it is located.

2A-38 OFF-STREET PARKING AREA REQUIRED.

- A. In all districts, in connection with every industrial, commercial, business, trade, institutional, recreational, or dwelling use, and similar uses, space for parking and storage of vehicles shall be provided for each permitted use in accordance with the following schedule; however, no parking area required hereunder shall be less than one thousand (1,000) square feet in area except in the case of dwellings and retail stores and shops under one thousand (1,000) square feet.
1. Automobile sales and service garages--fifty (50) percent of floor area;
 2. Automotive service stations--two (2) spaces for each gas pump, plus three (3) spaces for each enclosed garage stall;
 3. Banks, business and professional offices--seventy five (75) percent of floor area;
 4. Bowling alleys--five (5) spaces for each alley;
 5. Churches--one (1) space for each six (6) seats in a principal auditorium;
 6. Dance halls, assembly halls--two hundred (200) percent of floor area used for dancing or assembly;
 7. Dwellings;
 - a. One and two family dwellings--two (2) spaces for each family or dwelling unit;
 - b. Multiple dwellings;
 - one (1) space for each efficiency (studio) unit;
 - one and one-half (1 1/2) space for each one-bedroom unit;
 - two (2) spaces for each two or more bedroom unit;
 - c. Multiple dwellings for the elderly--one (1) space per unit;
 8. Funeral homes, mortuaries--one (1) parking space for each five (5) seats in the principal auditorium;
 9. Furniture and appliance stores, household equipment or furniture repair shops

over two thousand (2,000) square feet of floor area--fifty (50) percent of floor area;

10. Hospitals--one and one-fifth (1 1/5) space for each bed;
11. Hotels and motels--one (1) space for each rentable unit plus one-half (1/2) space for each employee;
12. Manufacturing plants--one (1) space for each two (2) employees on the maximum working shift;
13. Mobile home park--two (2) spaces for each mobile home unit;
14. Nursing, convalescent, and retirement homes--one (1) space for each four (4) beds plus one-half (1/2) space for each employee, plus one (1) space for each two (2) residents;
15. Restaurants, beer parlors, and night clubs, over one thousand (1,000) square feet floor area--two hundred (200) percent of floor area;
16. Retail stores, super markets, etc., over two thousand (2,000) square feet floor area--two hundred fifty (250) percent of floor area;
17. Retail stores, shops, etc., under two thousand (2,000) square feet--one hundred (100) percent of floor area;
18. Schools--one (1) space for each four (4) seats in the principal auditorium;
19. Sororities, fraternities, and lodging houses--one (1) space for each three hundred (300) square feet of gross floor area;
20. Sports arenas, auditoriums, other than in schools--one (1) parking space for each three (3) seats;
21. Theaters, assembly halls with fixed seats--one (1) parking space for each three (3) seats;
22. Wholesale establishments or warehouses--one (1) space for each two (2) employees.

B. In case of any building, structure or premises, the use of which is not specifically mentioned herein, and provisions for a use which is so mentioned and to which said use is similar, shall apply.

C. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than eight (8) feet in width in the case of a dwelling, and not less than sixteen (16) feet in width in all other cases leading to the loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question, except where provided in connection with a use permitted in a Residence District, such easement of access or access drive shall not be located in any Residence District.

D. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

1. No part of any parking space shall be closer than five (5) feet to any established street right-of-way or alley line. In case the parking lot adjoins an "R" District, it shall be set back at least five (5) feet from the "R" District boundary and shall be

- effectively screen-planted.
2. Surfacing and access: All off street vehicular use and parking areas, except for single family and two family residential uses shall be surfaced with a minimum of a two-1/2 inch Hot Mix Asphalt (HMA) or four inches of Portland Cement Concrete (PCC), or other surfacing materials approved by the City Engineer. Rock treated with oil or emulsion products shall not be approved. This shall include any and all access to the site. All parking areas shall be graded and drained as to dispose of all surface water accumulation within the area, and shall be so arranged as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.
 3. Existing Parking Lot: Any existing parking lot that is being reconstructed must be properly graded, drained and hard surfaced as outlined in the preceding paragraph.
 4. Any lighting used to illuminate any off-street parking area including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any "R" District.
- E. In any "R" District abutting a "C" or "M" District off-street parking lots shall be permitted in accordance with the following requirements:
1. Said off-street parking lot shall not extend further than two hundred (200) feet into an "R" Residence District or to the nearest street, whichever is closer.
 2. Off-street parking lots located in an "R" Residence District shall provide front and side yards in accordance with the district in which it is located. Provided further that front or side yards shall be used for fences, walks or landscaping only, with no vehicular parking in said yard area. Provided further that where a contiguous development of lots is used for parking purposes, no side yard shall be required for abutting parking lots having a common side lot line.
 3. Off-street parking lots in any "R" Residence District shall provide a permanent fence or shrubbery screen on all side yards of the abutting "R" Residence District. Such screen to be located in the provided side yard.
 4. Off-street parking lots in any "R" Residence District shall be developed with an all weather, dust free surface. Such surfacing shall be approved by the City Engineer. Provided further that such parking lots shall be maintained in an orderly manner free from refuse or debris .
 5. All lighting for said off-street parking lots shall be such that no light is directed or reflected on adjacent residential properties.
- F. 1. Residential parking for all "R" Districts; Any motorized vehicles parked on residential property outside an approved garage shall be parked on concrete, asphalt, gravel or similar surface. Grass is not an approved parking surface.

PART XVIII

2A-39 FILLING STATIONS, PUBLIC GARAGES, AND PARKING LOTS

- A. No gasoline filling station or a commercial customer or employee parking lot for twenty-five (25) or more motor vehicles, or a parking garage or automobile repair shop, shall have an entrance or exit for vehicles within two hundred (200) feet along the same side of a street of any school, public playground, church, hospital, public library, or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut.
- B. No gasoline filling station or public garage shall be permitted where any oil draining pit or fuel filling appliance is located within twelve (12) feet from any "R" District, except where such appliance or pit is within a building.

PART XIX

SPECIAL PROVISIONS

2A-40 OUTDOOR ADVERTISING SIGNS AND BILLBOARDS.

In all districts where permitted, billboards shall be set back from the right-of-way line of any street or highway at least as far as the required front yard depth for a principal building in such districts; however, the setback of any outdoor advertising sign or billboard (not including, however, business identification and directional and other incidental signs otherwise permitted under the provisions of this ordinance) on corner lots, in the triangle formed by the lines of streets intersecting at an angle of less than sixty (60) degrees and a line joining points on such lines one hundred (100) feet distant from their point of intersection, no outdoor advertising sign or billboard shall be permitted. No such sign or billboard shall be permitted which faces the front or side lot line of any lot in any "R" District used for residential purposes within one hundred (100) feet of such lot lines or which faces any public parkway, public square or entrance to any public park, public or parochial school, church, cemetery or similar institution, within three hundred (300) feet thereof.

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PART XX

2A-41 EXCEPTIONS AND MODIFICATIONS.

The regulations specified in this Ordinance shall be subject to the following exceptions and interpretations:

- A. Use of Existing Lots of Record: In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of this Ordinance irrespective of its area or width; and in addition, any two-family dwelling may be located on any lot or plot in an "R-1" Residence District that has a lot width of not less than sixty (60) feet and is of official record as of the effective date of this Ordinance; provided, however:
1. The sum of the side yard widths of any such lot or plot shall not be less than ten (10) feet, but in no case less than five (5) feet for any one side yard;
 2. The depth of the rear yard of any such lot need not exceed twenty (20) percent of the depth of the lot, but in no case less than ten (10) feet;
 3. In the case of a lot of record where the above requirements are greater than those of the district in which it is located, the lesser requirement shall apply.
 4. In the case of building setback lines established on lots of record, as of the effective date of this Ordinance, such setback lines may apply in lieu of those required by this Ordinance unless existing adjacent building setbacks are greater than specified on the plat of record in which case the provisions of Section 2A-7 shall apply.
- B Structures Permitted Above Height Limit: The building height limitations of this Ordinance shall be modified as follows:
1. Chimneys, cooling towers, elevator bulk-heads, fire towers, monuments, penthouses, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, and spires, radio or television towers, or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances of the City of Evansdale;
 2. Public, semi-public or public service building, hospitals, sanatoriums, or schools, when permitted in a district may be erected to a height not exceeding sixty (60) feet, and churches and temples, when permitted in a district, may be erected to a height not exceeding seventy-five (75) feet if the building is set back from each property line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.
 3. Single-family dwellings and two-family dwellings in the dwelling districts may be increased in height by not more than ten (10) feet when two (2) side yards of not less than fifteen (15) feet each are provided, but they shall not exceed three (3) stories in height;
- C. Area Requirements: In any district where neither public sanitary sewers or a private sanitary sewage treatment system serving three (3) or more lots is accessible, the lot area

requirement shall be: One (1) acre.

- D. Double Frontage Lots: Buildings on through lots and extending through from street to street shall provide the required front yard on both streets.
- E. Rear and Side Yards - How Computed: In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens on an alley, one-half (1/2) of the alley width may be included as a portion of the rear or side yard as the case may be.
- F. FENCES.

- 1. Permit: No person, firm, or corporation shall construct, erect or alter a fence in the City of Evansdale without first obtaining a separate permit for each such fence from the Building Inspector.

Each person, firm, or corporation shall, prior to issuance of a permit, provide the Building Inspector with a diagram showing location and height of such fence and a description of materials to be used.

Issuance of the permit and payment of fees thereof shall conform with the resolution passed by the City Council.

- 2. **Definitions:** For the purposes of this ordinance, certain words are hereby defined.

Alter/ Alteration: any change or modification in construction.

Fence: A fence is a structure more than 24 inches in height erected as a barrier for separating or enclosing all or a portion of a field, yard, or other area from adjoining real property.

Height: The height of a fence or screen is the plumb vertical distance from the grade line to the top of a given point, exclusive of ornamental objects, such as post caps.

Screen: A screen is a structure of obstruction designed and located to restrict vision, ventilation, to an area or space.

Yard, Front: a yard extending across the full width of the lot and measured between the front lot line and the residence, excluding garages, enclosed porches, patios, decks, etc., other than the projection of the steps. On corner lots each yard adjacent to a street is front yard and shall comply with the regulations for front yards.

Yard, Rear: A yard extending across the full width of the lot and measured between the rear lot line and the residence, excluding garages, enclosed porches, patios, decks, etc., or any projections other than steps, unenclosed balconies, or unenclosed porches. On corner lots, one of the lot lines which is not adjacent to a street shall be designated as the rear lot line.

Yard, Side: A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

In any "R" Residential District, the following shall apply:

- A. No fence or wall in any front yard shall exceed four (4) feet in height: Fences located in the side yard or along the dwelling's frontal boundary shall not exceed eight (8) feet in height. It is recommended, however, that a six (6) feet wide portion of fence along this boundary line shall not exceed four (4) feet in height in order to remain accessible for public safety personnel. It is further recommended that three sides of the dwelling should remain accessible to public safety personnel and only one side of the house should be totally restricted by use of a fence over four (4) feet in height. (See diagram Fence Examples)
- B. Fences or walls along interior lot lines within the limits of the side yard of the adjoining lot shall not exceed eight (8) feet in height. Residential fences or landscape features such as sculpture or walls may be erected or constructed with the centerline of said barrier to be located within the property with no portion of the fence extending on to adjacent property or right-of-way. (See diagram Fence Examples)
- C. No fence or wall in any rear yard shall exceed eight (8) feet in height; except on double frontage lots where the fence or wall will not exceed four (4) feet in height from the building setback line to the lot line. (See diagram)
- D. Any fence or wall on a corner lot shall conform to the thirty (30) feet vision clearance triangle requirement. (See diagram)
- E. No person shall place, construct or maintain any electric or barbed wire fence.
- F. No person shall place, construct or cause to be placed or constructed any fence or wall utilizing materials not designed, manufactured, or suitable for such use. The Building Inspector will deem what is suitable.

NON - CONFORMING FENCES:

The lawful use of a fence existing at the effective date of this ordinance may be continued, although such fence does not conform to the provision of this ordinance. The extension or alteration of an existing non-conforming fence shall be governed by the provisions of this ordinance as for new fences.

ENFORCEMENT:

The Building Inspector is hereby designated enforcement officer and authorized to enforce all provisions of this ordinance.

APPEAL:

An appeal regarding the suitability of materials or methods of construction or the location or height of a fence may be made to the Board of Adjustment.

VIOLATIONS AND PENALTIES: As set forth by the City Council by resolution.

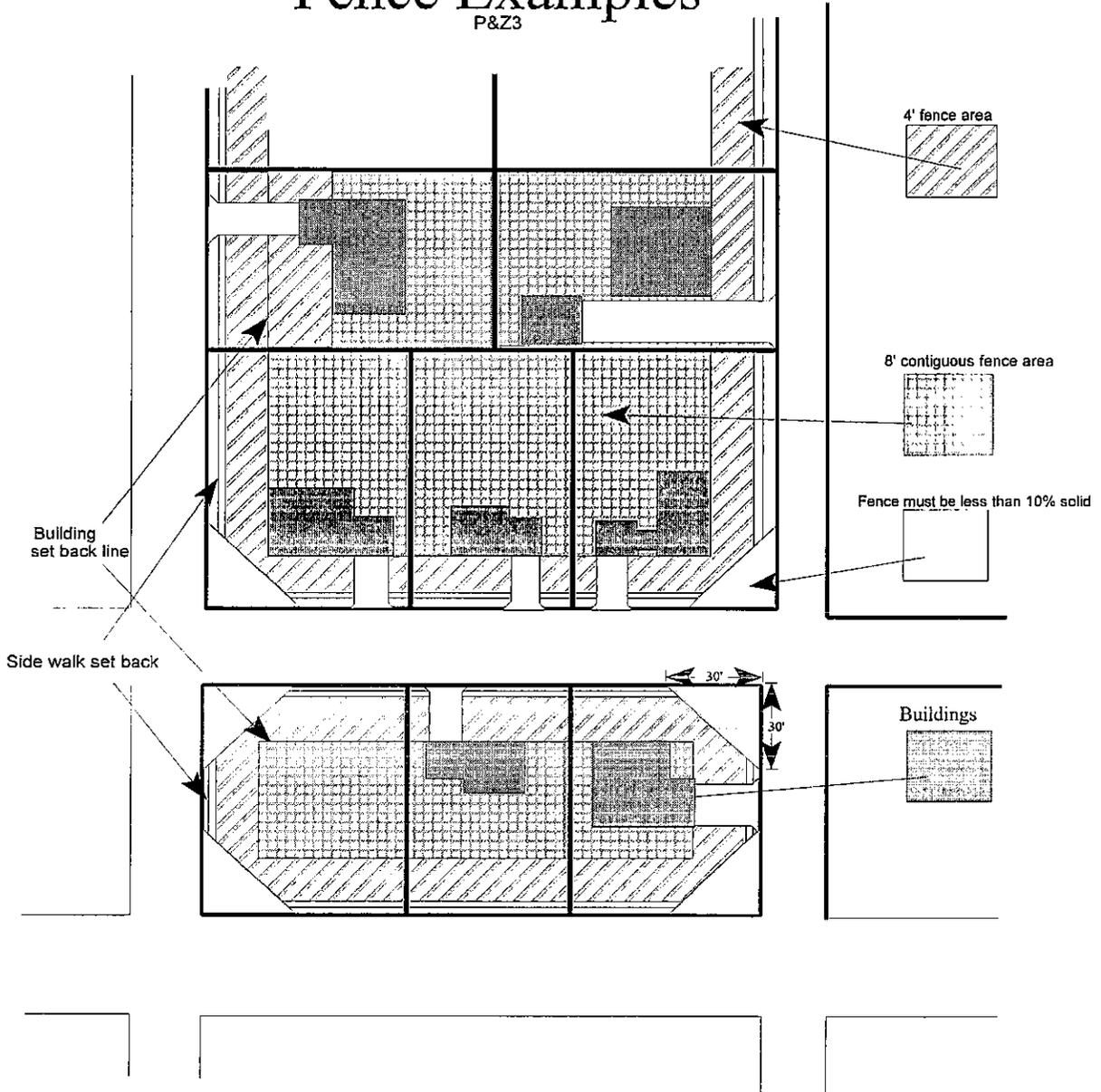
(Added by Ordinance 495, April 18, 1995)

3. Fences in Districts Other than an "R" District. Nonresidential fences located in a district other than an "R" district must be located with the centerline of the said fence at least six (6) inches from the property line and cannot exceed eight (8) feet in height.
- G. An existing open porch may be remodeled or rebuilt to an enclosed non-habitable vestibule entranceway (which may include closet space) when projecting not more than one fourth (1/4) the distance of the front yard setback and extending in width not more than one-fourth (1/4) of the width of the residence.
- H. Special Permit Required: A special permit for the location of any of the following buildings or uses in any district where permitted in this Ordinance must be obtained from the City Council after public hearing thereon.
1. Any public building erected and used by any department of the City, Township, county, State or Federal government;
 2. Public and parochial schools;
 3. Hospitals, non-profit fraternal institutions provided they are used solely for fraternal purposes, and institutions of an educational, religious, philanthropic or charitable character, provided that the building shall be set back from all yard lines a distance of not less than two (2) feet for each foot of building height;
 4. Public and private recreational uses;
 5. Cemeteries (minimum ten (10) acres);
 6. Mining and extraction of minerals or raw materials;
 7. Airports and landing fields;
 8. Circus, carnival, or similar transient enterprises;
 9. Adult entertainment establishments.

Before the issuance of any special permit for any of the above buildings or uses, the City Council shall refer the proposed application to the city Zoning Commission which shall be given forty-five (45) days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities, and other matters pertaining to the general welfare. No action shall be taken upon any application for a proposed building or use above referred to until and unless the report of the Zoning Commission has been filed; provided however, that if no report is received from the Zoning Commission within forty-five (45) days, it shall be assumed that approval of the application has been given by the said Commission.

Fence Examples

P&Z3



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PART XXI

BOARD OF ADJUSTMENT

2A-42 APPOINTMENT - MEMBERSHIP. A Board of Adjustment is hereby established which shall consist of five (5) members each to be appointed by the Mayor, and subject to confirmation by the City Council, for a term of five (5) years. No member shall serve more than two (2) consecutive terms. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

2A-43 RULES - MEETINGS - GENERAL PROCEDURE. The Board shall adopt rules in accordance with the provisions of this Ordinance. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office the City Clerk and shall be a public record. The City Clerk shall serve as Secretary of the Board. In the absence of the Secretary, the Chairman of the Board may appoint one of the members of the Board to act as Secretary Pro Tem for the meeting. The Board shall have the power to call on any City Department for assistance in the performance of its duties, and it shall be the duty of such department to render such assistance as may reasonably be required. The Board shall also receive and consider recommendations submitted by the Planning and Zoning Commission.

2A-44 JURISDICTION - POWERS. The Board shall have the following powers and duties.

A. The Board of Adjustment may in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of the ordinances in harmony with its general purpose and intent. Any property owner aggrieved by the provisions of this Ordinance or any regulations or restrictions thereunder may petition the said Board of Adjustment direct to modify said regulations and restrictions as applied to such property owner and the following rules shall apply:

1. The Board of Adjustment shall have a public hearing on said petition under the same terms and conditions as hereinafter provided for the hearing of the appeals by the Board of Adjustment.
2. The Board of Adjustment, in making any exception to the ordinance, shall be guided by the general rule that the exceptions shall by their design, construction, and operation adequately safeguard the health, safety, and welfare of the occupants of adjoining and surrounding shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire and safety and shall not diminish or impair established property values in surrounding areas.
3. The Board of Adjustment is specifically authorized to permit erection and use of a building or the use of premises or vary the height and area regulations in any

location for a public service corporation for public utility purposes or for purposes of public communication, including the distribution of newspapers, which the Board determines reasonably necessary for public convenience or welfare.

4. The Board of Adjustment is specifically authorized to permit the extension of a district where the boundary line of a district divides a lot in a single ownership as shown of record or by existing contract or purchase at the time of the passage of this Ordinance, but in no case shall extension of the district boundary line exceed forty (40) feet in any direction.

B. To hear and decide appeals where it is alleged there is an error in any order, requirements, decision, or determination made by the Building Official in the enforcement of this ordinance.

C. To authorize upon appeal in specific cases such variance from the terms of the ordinances as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. Special conditions shall include but not be limited to a property owner who can show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations the strict application of the terms of this Ordinance actually prohibits the use of his property in a manner reasonably similar to that of other property in the district. Nothing in this section shall be construed to permit the extension or expansion of a non-conforming use located in an "R" or "U" District.

2A-45 APPEALS. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the Building Official. Such appeal shall be taken within a reasonable time as provided by the rules of the Board by filing with the Building Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Building official shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken, and shall further transcript a copy of the notice of appeal and the record to the Planning and Zoning Commission. Upon receipt of the notice of appeal, the Board shall hold a public hearing on said appeal and shall publish notice of said hearing in a newspaper of general circulation in the City of Evansdale. Said notice shall specify the time, place, and purpose of said public hearing and said public hearing shall not be less than two (2) days nor more than ten (10) days after the publication of said notice. The Board shall also give prompt notice of such hearing to the Building Inspector and the Planning and Zoning Commission. The final disposition of any appeal after public hearing shall be in the form of a resolution by the Board and copy of such resolution shall be filed with the Building Inspector, the Planning and Zoning Commission, and the City Clerk of the City of Evansdale, Iowa.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official certifies to the Board, after notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to

life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record an application of notice to the Building Official, and on due cause shown.

The Board of Adjustment shall give a reasonable time for the hearing on the appeal, give public notice thereof and decide the same within a reasonable time. At the hearing any party may appear in person or by agent, or by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay to the City Treasurer to be credited to the general fund of Evansdale the cost of publishing said notice and the administrative cost of said appeal as determined by the Board.

In exercising the above-mentioned powers, the Board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as it believes proper, and to that end shall have all the powers of the Building Official. The concurring vote of three (3) of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance; provided, however, that the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein, has been spread upon the minutes. Such resolution, immediately following the Board's final decision, shall be filed in the office of the City Clerk, and shall be open to public inspection.

2A-45.1 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 delayed for thirty days from the date of the remand. (Added by ordinance No. 430)

PART XXII

OCCUPANCY PERMITS

2A-46 OCCUPANCY PERMITS. Certificates for occupancy and compliance shall be applied for coincidentally with the application for a building permit for the construction, expansion, or renovation of any structure and shall be issued within ten (10) days after the lawful erection or alteration of the building is completed. A record of all certificates shall be kept on file in the office of the Building official, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been made for certificate of occupancy and compliance; and no building or premises shall be occupied until that certificate and permit is issued.

A certificate of occupancy shall be maintained by the Building official for all non-conforming uses and shall verify that such non-conforming use was not established in violation of ordinance No. 200 or amendments thereto.

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

This section shall not be construed to allow the occupancy or use of land or structures in a manner which does not comply with the terms of the ordinance.

In the event that an illegal use is established under circumstances not requiring a building permit, the Building official is empowered to take action as provided in Part XXV.

PART XXIII

PLATS

2A-47 **PLATS.** Each application for a building permit shall be accompanied by a plat in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected and such other information as may be necessary to provide for the enforcement of this ordinance. A record of application and plats shall be kept in the office of the Building Official.

PART XXIV

AMENDMENTS

2A-48 AMENDMENTS. The City Council may from time to time on its own action or on petition, after public notice and hearings as provided by law and after report by the Zoning Commission amend, supplement, or change the boundaries or regulations herein or subsequently established; and such amendment shall not become effective except by the favorable vote of a majority of all the members of the City Council.

Prior to, and in addition to, the above requirements, whenever any person, firm, or corporation desires that any amendment or changes be made in this ordinance as to any property in the city, there shall be presented to the Commission a petition requesting such change or amendment and clearly describing the property and its boundaries as to which change or amendment is desired duly signed by the owners of fifty (50) percent of the area of all real estate included within the boundaries of said tract as described in said petition. A plat shall be submitted showing the name and address of the owners of record as found in the County Assessor's record of all property lying within two hundred fifty (250) feet of the boundaries of the proposed property to be rezoned. If the petition is requesting a "P-D" Planned Development District, it shall also have attached to it such proposed plan.

Before any action shall be taken as provided in this part, the party or parties proposing or recommending a change in the district regulations or district boundaries shall deposit with the City Clerk the sum of seventy-five dollars (\$75) to cover the costs of this procedure and under no condition shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

The Zoning Commission shall, upon receipt of said petition and plat, notify through publication of legal notice and if deemed necessary by direct mail, all parties concerned as shown on said plat of a hearing to be held by said Commission. The notice of hearing shall be printed and mailed at least fifteen (15) days prior to the hearing and shall contain a description of the proposed property to be rezoned and the present and proposed zoning classification. The zoning Commission may upon the unanimous approval of members present at a regular meeting, suspend the above hearing requirement and initiate the rezoning request.

In case the proposed amendment, supplement, or change be disapproved by the Zoning Commission, or a protest be presented duly signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending the depth of one lot or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three fourths of all the members of the Council. Whenever any petition for an amendment, supplement, or change of the zoning or regulations herein contained or subsequently established shall have been denied by the City Council, then no new petition covering the same property and additional property shall be filed

with or considered by the City Council until six (6) months shall have elapsed from the date of the filing of the first petition.

The zoning district classification of each lot, tract, or parcel of land hereafter rezoned to a less restrictive classification as herein provided shall after a period of two (2) years be considered by action of the Zoning Commission or the City Council for re-zoning to the zoning district classification as established at the date of passage of this ordinance unless an application for an occupancy permit and building permit has been approved and construction has commenced and is being done in an orderly and progressive manner without undue delay indicating good faith to complete such construction. Notice to property owners and public hearing would be required prior to passage of said ordinance to rezone.

Publication of the legal description of the property or properties zoned or rezoned shall constitute an official amendment to the official zoning Map; and as such, said map or portion of said map need not be published.

(Amended by Ordinance No. 454)

- A. **Changes-Protest.** The regulations, restrictions and boundaries may from time to time, be amended, supplemented, changed, modified or repealed, changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change.

(Added by ordinance No. 429)

- B. **Change - Requirement for sign for zoning change.** The Zoning Commission shall, upon receipt of said petition and plat, notify through publication of legal notice and by direct mail, all parties concerned as shown on said plat of a hearing to be held by said Commission. The notice of hearing shall be printed and mailed at least fifteen (15) days prior to the hearing and shall contain a description of the proposed property to be rezoned and the present and proposed zoning classification. In addition, a sign of 16 square feet, using letters at minimum of 3" shall be erected on the site of the planned zoning change in a clearly readable location, and it shall state:

**NOTICE OF PUBLIC HEARING
EVANSDALE CITY HALL
(DATE) AT 7:00 P.M.
PROPOSED ZONING CHANGE
FROM (CURRENT) TO (PROPOSED)**

The sign shall be erected at least fifteen (15) days prior to the public hearing. The Zoning Commission may upon the unanimous approval of members present at a regular meeting,

suspend the above hearing requirement and initiate the rezoning request.

(Added by ordinance No. 450)

PART XXV

VIOLATION, PENALTIES, AND ENFORCEMENT

2A-49 VIOLATION AND PENALTIES. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance upon conviction shall be fined not more than one hundred dollars (\$100) for each offense. Each day that a violation is permitted to exist constitutes a separate offense. The Building Official is hereby designated and ordered to enforce this Ordinance.

2A-50 ENFORCEMENT. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Ordinance, the Building official in addition to other remedies, shall institute any proper action or proceedings in the name of the City of Evansdale to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business, or use in or about said premises.

PART XXVI

VALIDITY

2A-51 VALIDITY. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Residential Districts Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard ①	min. side yard	Min. Sum of both side yards	Min rear yard depths
U-1 Unclassified District Dwellings Other Permitted Uses	3 Acres	200'	3 Acres	30' 30'	10% of lot width 25'	50'	30' 50'
R-1 Low Density One family Dwelling Two Family Dwelling Single Family, bi-attached Dwelling Other Permitted Uses	8,400 10,000 5,000 10,000	70' 80' 40' 80'	8,400 5,000 5,000	30' 30' 30' 30'	the lessor of 10' or 10% of lot width Same the lessor of 10' or 20% of lot width 10% lot width		30' 35' 35' 35'
R-2 Medium Density One family Dwelling Two Family Dwelling Single Family, bi-attached Dwelling Multi-Family Dwellings Other Permitted Uses	7,200 8,000 4,000 10,000 10,000	60' 70' 35' 80' 80'	7,200 4,000 4,000 2,500	25' 25' 25' 30' 30'	5' 5' 5' 10% lot width 10% lot width		30' 30' 30' 30' 35'
R-3 High Density One family Dwelling Two Family Dwelling Single Family, bi-attached Dwelling Multi-Family & Other permitted use 1 & 1 ½ Stories 2 & 2 ½ Stories 3 Stories 4 Stories or more. ⑤	6,000 7,200 4,000 8,000 8,000 8,000 10,000	60' 60' 70' 65' 65' 70' 80'	6,000 3,600 4,000 2'000 sq. ft. For the 1 st 4 units, plus 850 sq. Ft. per unit on the 1 st , 2 nd , & 3 rd floor and add 450 sq. ft. per unit above the 3 rd floor.	20' 20' 20' 20' 20' 20' 20'	5' 5' 5' 5' 5' 5'	10'	30' 30' 30' 35' 35' 35' 35'

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① The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.

⑧ Subject to the further requirements of Section 2A

Commercial & Industrial Districts Use	Min. Lot Area in sq. ft.	Min Lot width	Min lot area per family	Min Front yard ①	min. side yard	Min. Sum of both side yards	Min rear yard depths
C-1 Dwellings	>>	>>	Same as R3 District	<<	<<	<<	<<
Hotel & Motels	1 Acre	100'		50'	See ③		
Overnight Campgrounds	3 Acres	100'		50'	See ③		
Other Permitted Uses				50' ②	See ③		
Accessory Building				50' ⑤	10'	10'	4'
C-2 Dwellings	>>	>>	Same as R3 District	<<	<<	<<	<<
Hotel & Motels	1 Acre	100'		50'	See ③		
Overnight Campgrounds	3 Acres	100'		50'	See ③		
Other Permitted Uses				50' ②	See ③		
Accessory Building				50' ⑤	10'	10'	4'
C-3 Hotel & Motels	1 Acre	100'		50'	See ③		
Other Permitted Uses				30' ⑥	See ⑦		
M-1 Dwellings	>>	>>	Same as "R-2"	<<	<<	<<	<<
Motel & Auto Courts	>>	>>	Same as "C-1"	<<	<<	<<	<<
Other Permitted uses				25'	See ④		40' ②
M-2 Permitted Uses				25'	None required except adjacent to a "R" District in which case not less than 200'		40'
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- ① The front yard depth of any lot abutting on a major street shall be measured from the proposed right-of-way lines as shown on the Official Major Street Plan.
- ② Where the frontage on one side of the street between two intersecting streets is located in the "C-X" Commercial District and a "R" Residence District, one-half (50%) of the front yard requirements of the "R" Residence District shall apply to the "C-X" Commercial District. Where a lot is located at the intersection of two or more streets, the front yard requirements stated above shall apply to each street side of the corner lot, except that the buildable width of such lot shall not be reduced to less than twenty-eight (28) feet. No accessory building shall project beyond the front yard line on either street.
- ③ Side yards shall be no less than ten (10) feet except where vehicular service is required to the rear of the principal structure, in which case one side yard shall be no less than twenty (20) feet.
- ④ For every additional foot the front yard depth is increased over fifty (50) feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than twenty-five (25) feet.
- ⑤ All accessory buildings shall not project beyond the front building line of the principal building if said principal building set-back line is increased.
- ⑥ 30' Except when a proposed building is to be located between two developed lots, the minimum set back shall be the average of the two existing setbacks or 30', whichever is greater.
- ⑦ None except adjacent to an "R" District, in which case not less than 25 feet..