

ARTICLE 15 PROCEDURES

Sec. 29.1500. GENERAL.

- (1) **General.** The requirements of this Section shall apply to all applications.
 - (a) **Application Forms and Fees.** All applications required by this Article shall be submitted on forms provided by the Department responsible for accepting the application and in such number as required. Applications shall be accompanied by a non-refundable fee as shall be determined from time to time to defray the costs of processing applications. Any application that does not include required information or that is not accompanied by the required fee shall be returned to the applicant as incomplete and no further processing of the application shall occur until the deficiencies are corrected.
 - (b) A copy of all staff reports regarding any application review must be forwarded to the applicant no fewer than 2 working days prior to a hearing date.
- (2) **Notices and Hearings.** The requirements and limitations of this Section shall apply to hearings and public notice, as applicable, required under this Article.

(Ord. No. 4475, 08-09-22)

 - (a) **Notices and Hearings.**
 - (i) Notice under this Ordinance shall be deemed to be complete when there is substantial compliance with the applicable notice requirements.
 - (ii) Minor technical deviations from the requirements shall not be deemed to impair the notice where there is actual notice.
 - (iii) When required written notices have been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action.
 - (iv) Requirements for the timing of the notice and for specifying the time, date and place of a hearing and the general location of the subject property shall be strictly construed.
 - (v) When required mailing and/or publication notices have been provided, the absence of a sign posting shall not invalidate the satisfaction of the notice requirements of this Code.

(Ord. No. 4475, 08-09-22)
 - (vi) In the event that questions arise at the hearing regarding the adequacy of notice, the body hearing the matter shall make a formal finding regarding whether there was substantial compliance with the notice requirements of this Article.
 - (b) **Limitations on Action.** The body holding the hearing may take any action on the application that is consistent with the notice given, including approving the application, approving the application with conditions, or denying the application. The reviewing body may impose conditions on the application or allow amendments to the application if the effect of the conditions or the amendments is to allow a less intensive use or Zone than proposed on the application or to reduce the impact of the development or to reduce the amount of land area included in the application. The reviewing body may not approve a greater amount of development, a more intensive use or a more intensive Zone than was indicated in the notice.
 - (c) **Continuance.** A hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Article, provided that the hearing is set for a date and time certain.
 - (d) **Notices.** The provisions of this Section describe the various types of notices that are required for different types of applications. The actual type of notice required for a given application is specified under the relevant review procedure of this Article.
 - (i) **Mailed Notice.** Notice required pursuant to this Section shall be mailed in such a manner as objectively to prove such a mailing to surrounding property owners based on ownership information generated by the Department, as derived from information available in the office of the County Recorder and Auditor of Story County, Iowa. The notice shall indicate the time and place of the public hearing and provide a general description of the application. The minimum required radius of notification shall be 200 feet from the subject property. Notice shall be given not more than 20 days nor less than 4 days prior to the meeting or hearing, except as otherwise prescribed by statute.
 - (ii) **Published Notice.** Notice required pursuant to this Section shall be published in a newspaper of general circulation, as defined in Section 362.3(1) and Section 414.4 of the Iowa Code. The notice shall indicate the time and place of the public hearing and provide a general description of the application. If the application affects specific property, that property shall be designated by legal description or by a general description sufficient to identify it. If a general description is used, the notice shall include a statement indicating

where the complete legal description may be found. Notice shall be given not more than 20 days nor less than 4 days prior to the meeting or hearing, except pursuant to the requirements in Section 29.1506(3) of this Ordinance or as otherwise prescribed by statute.

(iii) **Posted Notice.** Notice required pursuant to this Section shall be posted by the City on signs posted on the subject property. One sign shall be posted for each property; contiguous properties may be considered one property for purposes of this subsection. The required sign shall be posted along the perimeter of the subject property in a location that is highly visible from adjacent public streets in a reasonable time prior to the meeting or hearing, unless conditions prevent such posting, or unless otherwise prescribed by statute.

(Ord. No. 3591, 10-10-00; Ord. No. 4475, 08-09-22)

(3) **Consent for Site Visit and Public Hearing Notice Posting.** By applying for a Plan approval or Permit of this Article, there is consent by the property owner for City staff to visit and walk the site as part of the review of the project, and the property owner consents to the posting of a public hearing notice on the property.

(Ord. No. 4475, 08-09-22)

Sec. 29.1501. BUILDING/ZONING PERMIT.

(1) Permit Required.

(a) No Building/Zoning Permit shall be issued by the Building Official for any building, building addition, structure or structural alteration, and no building or structure shall be erected, added to, or structurally altered, and no change of use shall be permitted or established unless the Zoning Enforcement Officer certifies that such proposed building, structure, or use is in conformity with this Ordinance or is a valid nonconforming use.

(Ord. No. 4493, 03-28-23)

(b) No Building/Zoning Permit shall be issued for any building, structure or use that requires Site Development Plan review or Special Use Permit approval under this Ordinance without the prior approval of said Site Development Plan or issuance of said Special Use Permit.

(c) A Building/Zoning Permit shall be revoked if there are any substantial changes or alterations to the plot plan, building plans and/or other supporting application documents after the issuance of the permit.

(Ord. No. 4493, 03-28-23)

(d) Zoning Permits for Driveways, Landscape Plans, and Parking Lot Striping, Outdoor Storage/Display Areas, Temporary Special Events and other miscellaneous improvements and uses require approval by the Planning and Housing Department prior to their construction or establishment of use. A Site Development Plan may be required per 29.1502. When a Site Development Plan has been approved that addresses the above-described activities, no zoning permit shall be required unless necessary for new activities or changes to approved activities. A Building/ Zoning permit would still be required.

(Ord. No. 4493, 03-28-23; Ord. No. 4545, 01-14-25)

(e) Zoning Permits for new construction of Two-Family Dwellings require approval by the Planning and Housing Director prior to issuance of a building/zoning permit. Modification or remodeling of a pre-existing Two-Family Dwelling is subject to only a building/zoning permit review. Approval of a zoning permit requires a determination that the project complies with all zoning standards and the architectural design is compatible with the surroundings as defined within 29.410(2). Applications for a Two-Family Zoning Permit shall include information required by the Planning and Housing Director to identify the prevalent style and features incorporated into the design to meet the neighborhood compatibility requirements.

(Ord. No. 4524, 03-26-24)

(2) Submittal Requirements.

(a) **Exhibits.** An application for Building/Zoning Permit approval, filed in accordance with Section 29.1500(1)(b), shall be accompanied by such information and exhibits as are required herein and such additional information as may be requested by the Zoning Enforcement Officer in order that the proposal may be interpreted adequately and evaluated as to its conformity with the intent and provisions of the Ordinance.

(b) **Plot Plan.** The applicant shall provide 2 copies of a plot plan drawn to scale on a sheet not to exceed 24" x 36" showing:

- (i) Legal description and street address of the property;
- (ii) Dimensions of the present lot and lot area;
- (iii) Size and location of all existing and proposed buildings, additions, structures

and uses; and

(iv) Dimensions relating the existing and proposed buildings, additions, and structures to the lot boundaries.

(c) Building Plan. The applicant shall provide 2 copies of architectural drawings of all new buildings or structures, or alterations, at a scale not to exceed 1" = 8 feet, showing:

(i) Name of applicant and name of the owner of record;

(ii) Legal description and street address of property;

(iii) Numerical scale and date;

(iv) All exterior wall elevations, indicating floor heights, overall building height and fenestration; and

(v) Landscaping and pavement striping as applicable.

(Ord. No. 4493, 03-28-23)

(d) Deletion or Modification of Submittal Requirements. The Zoning Enforcement Officer may delete or modify any requirements for a Building/Zoning Permit specified in Section 29.1501(2) of this Ordinance, provided the Zoning Enforcement Officer documents in writing that any such requirement is inappropriate to the particular application and that the deletion or modification of such requirement will not impair or prejudice the Zoning Enforcement Officer's determination as to the application's conformity to the Ordinance.

(3) **Procedures.**

(a) Expiration, Extension of Building/Zoning Permits.

(i) Any Building/Zoning Permit under which no construction work or use has been commenced within one year after the date of issue or under which the proposed construction, reconstruction or alteration has not been completed within 2 years of the date of issue, shall expire by limitation; and no work or operation shall take place under such permit after such expiration.

(ii) A Building/Zoning Permit may be renewed for one additional year, provided the renewal is obtained before the expiration of the first permit and a substantial amount of work on the project has been done. Substantial work shall be deemed to mean at least the subsurface utility facilities, drainage structures and a complete building foundation with a certified "as-built" plot plan, where applicable.

(iii) An expired Building/Zoning Permit shall be considered null and void. Any further renewal will require a new application or a new Building/Zoning Permit and other necessary approvals as applicable.

(b) Issuance of Building/Zoning Permit. If after a review of the Plot Plan, the Zoning Enforcement Officer finds that the Plot Plan complies with all provisions of the Zoning Ordinance and all other applicable codes, the Zoning Enforcement Officer shall, upon payment of the required fee, issue a Building/Zoning Permit, therefore.

(c) Refusal of Building/Zoning Permit. If after a review of the Plot Plan the Zoning Enforcement Officer finds that the Plot Plan does not comply with all provisions of the Zoning Ordinance and all other applicable codes, the Zoning Enforcement Officer shall furnish the applicant with a signed statement refusing to issue such permit and setting forth reasons for such refusal. The refusal by the Zoning Enforcement Officer may be appealed by the applicant to the Zoning Board of Adjustment.

(4) **Record-Keeping.** The Zoning Enforcement Officer shall keep a record of all zoning applications filed, Building/Zoning Permits issued or refused and, if refused and appealed, the final action thereon. The Zoning Enforcement Officer shall keep a record of all permit fees collected and shall remit the amount of such fees to the office of the Director of Finance at such intervals as the Director shall require.

Sec. 29.1502. SITE DEVELOPMENT PLAN REVIEW.

(1) **Purpose.** This Section is intended to:

(a) Plan for and review proposed development or redevelopment of property;

(b) Provide approval procedures for all types of Site Development Plans;

(c) Insure the orderly and harmonious development of property;

(d) Promote the most beneficial relationship between uses of land;

(e) Provide for orderly and efficient circulation of traffic within the development and throughout the City;

(f) Insure that the proposed development or redevelopment is within the capacity limitations of public facilities and services;

(g) Insure adequate provision for surface and subsurface drainage; and

(h) Provide for suitable screening of parking, truck loading, refuse disposal, and outdoor storage from adjacent property.

(2) **General Requirements for Site Plan Review.**

(a) Issuance of Permits. All Site Development Plans shall be submitted, reviewed, and approved prior to the issuance of a Building/Zoning Permit for the development or redevelopment of any lot, tract, or parcel of land in any of the Zones.

(b) Exceptions. No Site Development Plan shall be required for the development or redevelopment of a single-family dwelling or a two-family dwelling in any Zone, or for a project that meets the following conditions:

(i) The development or redevelopment does not require the construction of any additional parking spaces.

(Ord. No. 4475, 08-09-22; Ord. No. 4493, 03-28-23)

(ii) The development or redevelopment does not increase the rate of storm water runoff as determined by the City Public Works Department; and

(iii) The development or redevelopment does not exceed 150 square feet of area, as calculated from the exterior dimension of a structure or an addition to a structure. This includes impervious areas of paving and compacted rock or other similar impervious surfaces.

(Ord. No. 4493, 03-28-23)

(iv) Driveway, Sidewalk and Parking Lot Reconstruction is exempt from the Site Development Plan submittal requirement when a site was previously approved with a Site Development Plan, there is no change in configuration of the parking lot to enlarge or expand paving boundaries, and the amount of impervious area with replacement paving is less than 1.0 acre in area as defined for redevelopment in Chapter 5B of AMC. The exception from the Site Development Plan submittal requirements does not exempt the project from complying with parking lot and landscaping standards of this Code and approval of a Zoning Permit. If reconstruction is combined with any other changes to a structure on site, it is not exempt. Changes to Nonconforming improvements are subject to standards of Article 3.

(Ord. No. 4493, 03-28-23)

The exceptions stated above shall meet the submittal requirements in Section 29.1501(2).

(c) Number of Copies. An application for Site Development Plan approval, filed in accordance with Section 29.1502, shall be accompanied by the following:

(i) 7 copies of Minor Site Development Plans; or

(ii) 7 copies of Major Site Development Plans and one (1) reduced copy of the Major Site Development Plan no larger than 11" x 17".

(iii) The Planning Director may allow for electronic submittals in lieu of paper copies.

(Ord. No. 4475, 08-09-22)

(d) Submittal Requirements.

(i) Site Plan. It is the intent of the City to ensure that site plans be prepared with a high degree of accuracy and ensure proper coordination of the site plan development and review responsibilities, which serve to facilitate compliance with the requirements of the city. To accomplish this intent, the applicant shall provide copies of a site plan, drawn to scale on a sheet not to exceed 24" X 36", prepared by a Civil Engineer, a Land Surveyor, a Landscape Architect, or an Architect. The site plan must be certified as "substantially correct" by a Professional Engineer, Land Surveyor, Landscape Architect, or Architect, licensed by the State of Iowa, showing the information listed below as of the date of application. The Planning and Housing Director has the discretion to waive submittal requirements of a Site Development Plan, depending upon the scope of the development proposal, the location, and the type of application, such as an amendment to an existing improved site that has no utility work.

(Ord. No. 4475, 08-09-22)

(a) Name of applicant and name or owner of record;

(b) Legal description and street address of property;

(c) North point, graphic scale, and date with the graphic scale. The scale shall be not less than 1" to 10' and no greater than 1" to 60' unless an alternate scale is approved by the Director of the Department of Planning & Housing;

(d) Dimensions of the present lot and lot area;

(e) Specific types of uses, size and location of all existing and proposed buildings, additions, structures, and uses of land, at least one sheet with an overall proposed site plan is required;

(Ord. No. 4475, 08-09-22)

(f) Dimensions of all setbacks to the property lines observed by buildings and structures;

- (g) Location and dimensions of parking areas, individual parking spaces and drive aisles, driveways, curb cuts, easements, and rights-of-way;
- (h) Location and size of sanitary sewer mains and service lines or septic tank, and leaching field;
- (i) Location and size of water mains, service lines and hydrants and/or water well;
- (j) Location and size of the proposed electrical service (electrical riser diagram) and location of high-pressure gas lines and high tension transmission lines;
- (k) Location of waterbodies, watercourses, swamps and flood-prone areas with delineated channel encroachment lines, wetland boundary lines, 100-year flood plain boundary line, and floodway boundary line;
- (l) Location of all storm drainage facilities on the property and adjacent to the property;
- (m) When an application pertains to any new permanent detached building or structure (principal or accessory), include existing and proposed contours at 2-foot intervals based on accepted Datum standard of NAD 83 or NADV 88;
(Ord. No. 4475, 08-09-22)
- (n) When an application is located in a flood-prone area include existing and proposed site grades, contours or elevations, base flood elevation data, top-of-foundation elevations, finished floor elevations, and any proposed watercourse relocation, as required to conform to Chapter 9;
(Ord. No. 4475, 08-09-22)
- (o) A sediment and erosion control plan meeting the requirements of Chapter 5A Construction Site3 Erosion and Sediment Control;
(Ord. 4179, 4-22-14)
- (p) A storm water management plan meeting the requirements of this chapter and Chapter 5B Post-Construction Stormwater Management Ordinance;
(Ord. 4179, 4-22-14)
- (q) A landscape plan, showing location of plants, calculations for required landscaping, and a plant list to include: plant species, number of each plant, and plant size; and
(Ord. No. 4475, 08-09-22)
- (r) Soils tests, traffic impact studies, utility capacity analysis, and other similar information if deemed necessary by the Department of Planning and Housing to determine the feasibility of the proposed development and compliance with the Design Standards.
(Ord. No. 4475, 08-09-22)
- (s) For Village Residential projects, Suburban Residential projects, or Planned Residence District projects that are to develop in phases, the applicant shall provide a phasing plan indicating areas to be developed in each phase and the time frame for the development of each phase.
(Ord. No. 3571, 6-27-00)
- (ii) Building Plan. The applicant shall provide 2 copies of architectural drawings of all new building or structures, or alterations, at a scale not to exceed 1" = 8 feet, showing the following information:
 - (a) Name of applicant and name of the owner of record;
 - (b) Legal description and street address of property;
 - (c) Numerical scale and date;
 - (d) All exterior wall elevations, indicating floor heights, overall building height, materials and fenestration;
(Ord. No. 4475, 08-09-22)
 - (e) Building floor plans indicating existing and proposed usage, interior floor area and/or patron floor area;
(Ord. No. 3606, 1-23-01)
 - (f) roof plan, including screening details.
(Ord. No. 4475, 08-09-22)

(3) **Procedures for Approval of a Minor Site Development Plan.** For all uses listed in Article 6 through Article 10 that require a minor site plan approval by staff, the Planning Director or designee shall review applications for development and issue a Certificate of Compliance certifying that the Minor Site Development Plan conforms with this Ordinance. Upon receipt of such a Certificate, the Zoning Enforcement Office shall issue a Building/Zoning Permit.

(a) Applications for a Certificate of Compliance shall be submitted to the Planning Director;

(b) The Planning Director shall prescribe the forms on which applications are made. Applications shall include the name and address of the applicant, the name and address of the owner of each lot involved, and the relationship of the applicant and property owner in connection with the application. If the applicant or property owner listed on an application for a Certificate of Compliance is an entity other than a natural person, the application shall also include detailed information regarding the principals of the entity. The Planning Director shall prescribe any other material that may reasonably be required to determine compliance with this Ordinance, with sufficient copies for necessary referrals and records.

(c) No application shall be accepted by the Planning Director unless it complies with the submittal requirement as set forth in Section 29.1502(2). Applications that are not complete shall be returned to the applicant, with a notation of the deficiencies in the application.

(d) Where an Engineering Construction Permit, Building/Zoning Permit, or Sign Permit is required, applications for such permits may be made concurrently with the application for a Certificate of Compliance.

(e) Upon receipt of a complete application, the Planning Director shall forward copies to the Development Review Committee for a determination of compliance with applicable provisions of this chapter. The Development Review Committee has up to 30 days to provide a determination on compliance.

(f) Design Standards. When acting upon an application for minor site plan approval, the Planning Director shall rely upon generally accepted site planning criteria and design standards for functional, convenient, and compatible improvements. These criteria and standards are necessary to fulfill the intent and purposes of the Zoning Ordinance, the Comprehensive Plan, and are the minimum necessary to safeguard the public health, safety, aesthetics, and general welfare. These criteria and standards include:

(i) The design of the proposed development shall make adequate provisions for surface and subsurface drainage to limit the rate of increased runoff of surface water to adjacent and downstream property;

(ii) The design of the proposed development shall make adequate provision for connection to water, sanitary sewer, electrical and other utility lines within the capacity limits of those utility lines;

(iii) The design of the proposed development shall make adequate provision for fire protection through building placement, acceptable location of flammable materials, and other measures to ensure fire safety;

(iv) The design of the proposed development shall not increase the danger of erosion, flooding, landslide, or other endangerment to adjoining and surrounding property;

(v) Natural topographic and landscape features of the site shall be incorporated into the development design;

(vi) The design of interior vehicle and pedestrian circulation shall provide for convenient flow of vehicles and movement of pedestrians and shall prevent hazards to adjacent streets or property;

(vii) The design of outdoor parking areas, storage yards, trash and dumpster areas, and other exterior features shall be adequately landscaped or screened to minimize potential nuisance and impairment to the use of adjoining property;

(viii) The proposed development shall limit entrances and exits upon adjacent streets in order to prevent congestion on adjacent and surrounding streets and in order to provide for safe and orderly vehicle movement;

(ix) Exterior lighting shall relate to the scale and location of the development in order to maintain adequate security, while preventing a nuisance or hardship to adjacent property or streets;

(x) The proposed development shall ensure that dust and other forms of air pollution, noise disturbances, odor, glare, and other nuisances will be limited to acceptable levels as prescribed in other applicable State and City regulations; and

(xi) Site coverage, orientation, building scale, setbacks, and open spaces shall be in proportion with the development property and with existing and planned development and structures, in adjacent and surrounding property.

(Ord. No. 4475, 08-09-22)

(g) Planning Director Decision. Final action by the Planning Director or designee on an application shall be based solely on findings as to compliance with all applicable provisions of this Ordinance and shall be one of the following:

(i) Approval;

(ii) Approval subject to conditions; or

(iii) Denial.

(h) The Planning Director may impose such reasonable conditions on an approval as are necessary to ensure compliance with applicable regulations. An application shall be considered automatically withdrawn if the Department receives no response from the project contact within thirty (30) days for requested information or required resubmittal.

Final action by the Planning Director shall be taken within 30 days of the filing of a complete application or within such further time consented to by written notice from the applicant. If the applicant has been notified of necessary corrections for code compliance and a resubmittal of an updated application is necessary, the 30-day final decision period shall not apply. However, after the Planning Director's notification of necessary corrections, an applicant may request, in writing, a final decision be issued within 30 days of the request.

(Ord. No. 4475, 08-09-22)

(i) Applicant's Appeal of Conditions. An applicant may appeal any conditional approval or denial to City Council upon written notice to the Planning Director.

(Ord. No. 4475, 08-09-22)

(j) Other Approvals. In conjunction with Minor Site Development Plan approvals, the applicant shall obtain and submit all other approvals, in writing, required by any other local, state, or federal agency. Such prior approvals include:

- (i) Variance from Zoning Board of Adjustment;
- (ii) Curb cut;
- (iii) Flood Plain Development Permit;
- (iv) Historic Preservation Commission Approval;
- (v) Iowa Department of Transportation Permit(s); and
- (vi) Sediment & Erosion Control Plan Approvals.

All such approvals shall be duly noted on a copy of the site plan and/or building plan, as applicable. Any such plan shall include the date of approval and signature of the approval official, as applicable.

(4) Major Site Development Plan Review

(a) When Applicable. Major Site Development Plans are required for all development or redevelopment of any lot, track, or parcel of land not otherwise qualifying for Minor Site Development Plan Review.

(b) Submittal Requirements.

(Ord. No. 4475, 08-09-22)

(i) Site Plan. The applicant shall provide copies of a site plan, in such number as required by Section 29.1502(2).

(c) Procedures for Approval of a Major Site Development Plan. The City Council shall review applications for development and issue a Certificate of Approval certifying that the Major Site Development Plan conforms with this Ordinance. Upon receipt of such a Certificate, the Zoning Enforcement Officer shall issue a Building/Zoning Permit.

(Ord. No. 4475, 08-09-22)

(i) Applications for Major Site Development Plan approvals shall be submitted to the Planning Director.

(ii) The Planning Director shall prescribe the forms on which applications are made. Applications shall include the name and address of the applicant, the name and address of the owner of each lot involved, and the relationship of the applicant and property owner in connection with the application. If the applicant or property owner listed on the application is an entity other than a natural person, the application shall also include detailed information regarding the principals of the entity. The Planning Director shall prescribe any other material that may reasonably be required to determine compliance with this Ordinance, with sufficient copies for necessary referrals and records.

(iii) No application shall be accepted by the Planning Director unless it complies with the submittal requirements set forth in Section 29.1502(4)(b). Applications that are not complete shall be returned to the applicant, with a notation of the deficiencies in the application.

(iv) Where an Engineering Construction Permit, Building/Zoning Permit, or Sign Permit is required, applications for such permits may be made concurrently with the application for a Major Site Development Plan approval.

(v) Development Review Committee. Upon receipt of a complete application the Planning Director shall forward copies to the Development Review Committee for a determination of compliance with applicable provisions of this Chapter. The Development Review Committee, upon its review and upon receipt

of necessary revisions to the plan, must forward the application and its recommendations to the Planning and Zoning Commission.

(Ord. No. 4475, 08-09-22)

(vi) Planning and Zoning Commission. Commission review shall not be concluded until consideration is given to comments at a public hearing, which may be scheduled as part of the regularly scheduled meeting. Notification of the public hearing shall be made by mail, publication, and posting in accordance with Sections 29.1500(2)(d)(i), (ii), and (iii) above. Within 30 days of the hearing the Planning and Zoning Commission shall submit the written recommendation to the City Council setting forth the reasons for its recommendation of acceptance, denial or modification of the application. *(Ord. No. 4475, 08-09-22)*

(vii) City Council Decision. After the transmittal of the recommendation from the Planning and Zoning Commission, the City Council shall consider the application at a public hearing conducted as part of a regularly scheduled meeting. Notification of the public hearing shall be made by mail, publication, and posting, in accordance with Sections 29.1500(2)(d)(i), (ii), and (iii) above. The City Council must approve, deny or modify the Major Site Development Plan approval application within 60 days of the public hearing.

(Ord. No. 4475, 08-09-22)

(d) Design Standards. When acting upon an application for a major site plan approval, the City Council shall rely upon generally accepted site planning criteria and design standards for functional, convenient, and compatible improvements. These criteria and standards are necessary to fulfill the intent and purposes of the Zoning Ordinance, the Comprehensive Plan, and are the minimum necessary to safeguard the public health, safety, aesthetics, and general welfare. These criteria and standards include:

(Ord. No. 4475, 08-09-22)

(i) The design of the proposed development shall make adequate provisions for surface and subsurface drainage to limit the rate of increased runoff of surface water to adjacent and downstream property;

(ii) The design of the proposed development shall make adequate provision for connection to water, sanitary sewer, electrical and other utility lines within the capacity limits of those utility lines;

(iii) The design of the proposed development shall make adequate provision for fire protection through building placement, acceptable location of flammable materials, and other measures to ensure fire safety;

(iv) The design of the proposed development shall not increase the danger of erosion, flooding, landslide, or other endangerment to adjoining and surrounding property;

(v) Natural topographic and landscape features of the site shall be incorporated into the development design;

(vi) The design of interior vehicle and pedestrian circulation shall provide for convenient flow of vehicles and movement of pedestrians and shall prevent hazards to adjacent streets or property;

(vii) The design of outdoor parking areas, storage yards, trash and dumpster areas, and other exterior features shall be adequately landscaped or screened to minimize potential nuisance and impairment to the use of adjoining property;

(viii) The proposed development shall limit entrances and exits upon adjacent streets in order to prevent congestion on adjacent and surrounding streets and in order to provide for safe and orderly vehicle movement;

(ix) Exterior lighting shall relate to the scale and location of the development in order to maintain adequate security, while preventing a nuisance or hardship to adjacent property or streets;

(x) The proposed development shall ensure that dust and other forms of air pollution, noise disturbances, odor, glare, and other nuisances will be limited to acceptable levels as prescribed in other applicable State and City regulations; and

(xi) Site coverage, orientation, building scale, setbacks, and open spaces shall be in proportion with the development property and with existing and planned development and structures, in adjacent and surrounding property.

(Ord. No. 4475, 08-09-22)

(e) Other Approvals. In conjunction with Major Site Development Plan approvals, the applicant shall obtain and submit all other approvals, in writing, required by any other local, state, or federal agency. Such prior approvals include:

(i) Variance from Zoning Board of Adjustment;

(ii) Curb cut permit;

(iii) Flood plain development permit;

- (iv) Historic Preservation Commission Approval;
- (v) Iowa Department of Transportation Permits; and
- (vi) Sediment and Erosion Control Plan Approvals.

All such approvals shall be duly noted on a copy of the site plan and/or building plan, as applicable. Any such plan shall include the date of approval and signature of the approving official, as applicable.

(5) **Lapse of Approval.** All major and minor site plan approvals shall lapse within a period of 24 months after the date of approval unless a building permit is issued and actual building construction, including the pouring of footings, has commenced. The applicant may, in the case of minor site plans, petition the planning staff or, in the case of major site plans, petition the City Council, to grant a 12-month extension of the approval. Extension of approval shall only be granted if the staff or Council finds that (1) codes pertinent to the site plan have not changed since the site plan approval date, and (2) conditions in the surrounding area have not changed in a manner that would affect the analysis of the project and associated required mitigation.

(Ord. No. 4103, 01-10-12; Ord. No. 4121, 08-28-12)

(6) **Minor Changes.** Minor changes to the approved Major Site Development Plan may occur after staff of the Department of Planning and Housing has determined that the proposed changes are minor in nature, and revised plans have been provided to the Department for purposes of keeping the Major Site Development Plan current. However, the Planning Director may refer any change to the City Council for approval. A minor change is defined as a change that satisfies all of the following criteria:

(Ord. No. 4475, 08-09-22)

- (a) Does not constitute a change in the land use of the project;

(Ord. No. 4475, 08-09-22)

- (b) Does not change the overall general layout and design of buildings, open spaces, landscaping, parking, and circulation;

(Ord. No. 4475, 08-09-22)

- (c) Does not change the number of buildings or the number of dwelling types by more than 10%;

(Ord. 4279, 11-15-16; Ord. No. 4475, 08-09-22)

- (d) Does not increase the density of units in the project or the intensity of use as related to parking requirements, i.e., floor area of use and bedroom counts, by more than three parking spaces;

(Ord. No. 4475, 08-09-22)

- (e) Does not allow an increase in the height of a building or grading of the site by more than two feet in total. Any height increase must not allow additional stories;

(Ord. No. 4475, 08-09-22)

- (f) Does not exceed the allowed deviation or exception to zoning standards; and does not remove or reduce the quality of architectural character, design features, or use of high-quality building and roofing materials at the time of initial construction.

(Ord. No. 4475, 08-09-22)

(7) **Alternative Design Review.**

(a) Any Numeric Zoning Development Standard or General Design Standard regulations identified in this Section may be adjusted up to 20% by approval of the Planning Director if the following criteria are met:

- (i) Whether the requested adjustment, and combination and totality of adjustments, are consistent with all relevant purpose and intent statements of this ordinance.

- (ii) Whether there is an operational need or desirable benefit to the project.

- (iii) Whether the requested alternative offsets the effect of the request by providing something of equal or better consistency of intent of the requirement or zoning district (

- (iv) Whether the requested exception will have a substantial or undue adverse effect upon adjacent property, the character of the surrounding area or the public health, safety and general welfare;

- (v) Other factors determined relevant by the planning director, planning and zoning commission, or city council as applicable.

(b) Alternative design approvals must be applied for as a part of the applicable permit process. Only alternative design approvals issued in writing are valid adjustments to zoning and development standards.

- (i) All numeric remainders after a 20% adjustment is calculated will be rounded to the nearest whole number that achieves the intended 20% adjustment.

(c) **Eligible Zoning Districts and Development Standards:**

- (i) All Article 6 Agricultural Zones
- (ii) All Article 7 Residential Zones
- (iii) All Article 8 Commercial Zones
- (iv) All Article 9 Industrial Zones
- (v) South Lincoln Sub Area Mixed Use District
- (vi) Southeast Entryway Gateway Overlay
- (vii) Southwest Gateway Overlay
- (viii) FS Suburban Residential Zones
- (ix) Article 4 Development Standards
- (x) F-VR Village Residential Development Standards

(d) **Ineligible standards.** The following standards in Chapter 29 of the Municipal Code are not eligible:

- (i) Density (including lot area per unit)
- (ii) Location of and paving of vehicle maneuvering areas and driveways in a front yard
- (iii) Minimum lot frontage
- (iv) Rock size limitations in Campustown Service Center Standards
- (v) Lighting output standards
- (vi) Fence Height Limitations
- (vii) Dwelling Design Standards of 29.409 and 29.410.
- (viii) Building Story Limitations

(Ord. No. 4534, 06-25-24)

Sec. 29.1503. SPECIAL USE PERMIT.

(1) **Purpose.** This Section is intended to provide a set of procedures and standards for specified uses of land or structures that will allow practical latitude for the investor or developer, but that will, at the same time, maintain sound provisions for the protection of the health, safety, convenience, and general welfare. This Section permits detailed review of certain types of land use activities that, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structural uses possessing these characteristics may be authorized within designated Zones by the issuance of a Special Use Permit. This Section also provides for the use of Single-Family Dwellings, Two Family Dwellings, and Single Family Attached Dwellings by a Functional Family.

(2) **Submittal Requirements.** In accordance with Section 29.1503, Applicants must submit an Application for a Special Use Permit to the Planning and Housing Department for consideration by the Zoning Board of Adjustment. The Application for a Special Use Permit shall be accompanied by:

(Ord. No. 4475, 08-09-22)

(a) A statement of supporting evidence that the general and specific standards as delineated in this Article will be fulfilled;

(b) A Site Plan meeting all the submittal requirements stated in Section 29.1502(2), unless no site improvements are required; and

(Ord. No. 4475, 08-09-22)

(c) Preliminary plans and specifications for all construction, as applicable.

(3) If a proposed Special Use is within an existing building and improved site, plans for use of the site and building must be submitted in lieu of the Site Plan requirements.

(Ord. No. 4475, 08-09-22)

(4) **Procedure for Special Use Permits.**

(a) Zoning Board of Adjustment. The Zoning Board of Adjustment shall consider the application at a public hearing conducted as part of a regularly scheduled meeting. Notification of the public hearing shall be made by mail, posting, and publication, in accordance with Sections 29.1500(2)(d)(i), (ii) and (iii) above. The Zoning Board of Adjustment must approve, deny, or modify the Special Use Permit application within 60 days of the public hearing. *(Ord. No. 3815, 12-21-04; Ord. No. 3983, 2-10-09; Ord. No. 4475, 08-09-22)*

(b) Public Hearing Required. Prior to disposition of an application for a variance, the Zoning

Board of Adjustment shall hold a public hearing. Notice of the public hearing shall be by mail, posting, and publication, in accordance with Sections 29.1500(2)(d)(i), (ii) and (iii) above.
(Ord. No. 4475, 08-09-22)

(5) **Review Criteria.** Before a Special Use Permit application can be approved, the Zoning Board of Adjustment shall establish that the following general standards, as well as the specific standards outlined in subsections (b), (c), and (d) below, where applicable, have been or shall be satisfied. The Board's action shall be based on stated findings of fact. The conditions imposed shall be construed as limitations on the power of the Board to act. A mere finding that a use conforms to those conditions or a recitation of those conditions, unaccompanied by specific findings of fact, shall not be considered findings of fact for the purpose of complying with this Ordinance.

(a) **General Standards.** The Zoning Board of Adjustment shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use in its proposed location will:

(i) Be harmonious with and in accordance with the general principles and proposals of the Comprehensive Plan of the City;

(Ord. No. 4475, 08-09-22)

(ii) Be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;

(iii) Not be hazardous or disturbing to existing or future uses in the same general vicinity;

(iv) Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structure, refuse disposal, water, and sewage facilities, and/or schools;

(v) Not create excessive additional requirements at public cost for public facilities and services;

(vi) Not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any person, property, or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors; and

(vii) Be consistent with the intent and purpose of the Zone in which it is proposed to locate such use.

(b) **Residential Zone Standards.** The Zoning Board of Adjustment shall review each application for the purpose of determining that each proposed use in a residential zone meets the following standards, as well as those set forth in Section 29.1503(4)(a) above and, in addition, shall find adequate evidence that each use in its proposed location will:

(i) Not create excessively higher levels of traffic than the predominant pattern in the area and not create additional traffic from the proposed use that would change the street classification and such traffic shall not lower the level of service at area intersections;

(ii) Not create a noticeably different travel pattern than the predominant pattern in the area. Special attention must be shown to deliveries or service trips in a residential zone that are different than the normal to and from work travel pattern in the residential area;

(iii) Not generate truck trips by trucks over 26,000 pounds g.v.w (gross vehicular weight) to and from site except for food delivery vehicles, waste collection vehicles and moving vans;

(Ord. No. 4159, 9-24-13)

(iv) Not have noticeably different and disruptive hours of operation;

(v) Be sufficiently desirable for the entire community that the loss of residential land is justifiable in relation to the benefit;

(vi) Be compatible in terms of structure placement, height, orientation, or scale with the predominate building pattern in the area;

(vii) Be located on the lot with a greater setback or with landscape buffering to minimize the impact of the use on adjacent property; and

(viii) Be consistent with all other applicable standards in the zone.

(c) **Commercial Standards.** The Zoning Board of Adjustment shall review each application for the purpose of determining that each proposed use located in a commercial zone meets the following standards as well as those set forth in Section 29.1503(4)(a) above and, in addition, shall find adequate evidence that each use in its proposed location will:

(i) Be compatible with the potential commercial development and use of property planned to occur in area;

(ii) Represent the sufficiently desirable need for the entire community that the loss of commercial land is justifiable in relation to the benefit; and

(iii) Be consistent with all other applicable standards in the zone.

(d) Special Use Permits for Functional Families.

(i) Purpose. This Section is to provide for the regulation of Functional Families that may request to reside in a Single-Family Dwelling, Two Family Dwelling or Single Family Attached Dwelling. The regulations are also intended to prohibit larger groups of unrelated persons from residing in Single Family Dwellings, Two Family Dwellings, or Single Family Attached Dwellings. Larger groups of unrelated persons have frequently shown to have a detrimental effect on Single Family neighborhoods since larger groups of unrelated persons do not live as a family unit and do not have significant economic or emotional ties to a neighborhood.

(ii) Standards of Functional Families. The Zoning Board of Adjustment shall review each application for a Special Use Permit for a functional family as provided for in this section after having determined that the application meets the following standards:

(a) The functional family shares a strong bond or commitment to a single purpose (e.g., religious orders);

(b) Members of the functional family are not legally dependent on others not part of the functional family;

(c) Can establish legal domicile as defined by Iowa law;

(d) Share a single household budget;

(e) Prepare food and eat together regularly;

(f) Share in the work to maintain the premises; and

(g) Legally share in the ownership or possession of the premises.”

(e) Conditions. The Board may impose such additional conditions as it deems necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed.

(Ord. No. 3591, 10-10-00; Ord. No. 3983, 2-10-09)

(6) **Lapse of Approval.** All Special Use Permits shall lapse 12 months after the date of issuance unless the use is undertaken, or a building permit has been issued and actual construction started. Where unusual circumstances may prevent compliance with this time requirement, the Zoning Board of Adjustment may, upon written request by the affected permittee, extend the time for required start of construction an additional 60 days. Excavation shall not be considered construction for the purpose of enforcing this Section.

(7) **Successive Applications.** In the event that the Board denies an application for a Special Use Permit, a similar application shall not be refiled for 12 months from the advertised public hearing date. The Board, on petition by the applicant, may permit a refiling of this application after 6 months from the original hearing date when it determines that significant physical, economic or land use changes have taken place within the immediate vicinity, or a significant zoning ordinance text change has been adopted, or when the reapplication is for a different use than the original request. The applicant shall submit a detailed statement setting out those changes that he or she deems significant or upon which he or she relies for refiling the original application.

(8) **Site Plans approved as part of a Special Use Permit.** All site plans approved as part of an approved Special Use permit may only be amended pursuant to the same procedures for approving Minor Changes to a Major Site Development Plan as provided in Section 29.1502(6).

(Ord. 4279, 11-15-16)

Sec. 29.1504. VARIANCE.

(1) **Purpose.** This Section is intended to allow for variances from the terms of this Ordinance pursuant to Section 414.12 of the Iowa Code 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 this Ordinance shall be observed and substantial justice done.

(2) **Submittal Requirements.** In accordance with Sec. 29.1500(1)(a), Applicants must submit a Variance Application to the Planning and Zoning Department for consideration by the Zoning Board of Adjustment. The Application for a Variance shall include the following:

(Ord. No. 4475, 08-09-22)

(a) The specific provision of this Ordinance from which the variance is sought;

(b) How the granting of the requested variance relates to the intent and purposes of this Ordinance and the Comprehensive Plan;

(Ord. No. 4475, 08-09-22)

(c) Any pending Site Development Plan to which the proposed variance is related.

(3) **Procedure.** Review of an application for variance shall be conducted by the Zoning Board of Adjustment and shall be in accordance with the following:

(a) **Application Review.** The Zoning Board of Adjustment shall review applications so submitted at its next regularly scheduled meeting following submittal. Applications must be submitted at least 14 days prior to the regularly scheduled meeting of the Board in order to be received at said meeting. Upon review of the application, the Board shall either accept the same as complete or return an incomplete application to the applicant with an explanation of the submittal requirements not met.

(b) **Public Hearing Required.** Prior to disposition of an application for a variance, the Zoning Board of Adjustment shall hold a public hearing. Notice of the public hearing shall be by mail, posting, and publication, in accordance with Sections 29.1500(2)(d)(i), (ii) and (iii) above.

(Ord. No. 3851, 09-13-05; Ord. No. 4475, 08-09-22)

(c) **Review and Disposition.**

(i) The Zoning Board of Adjustment shall act upon all applications for a variance in accordance with the requirements set forth in the Iowa Code.

(ii) In granting any variance, the Zoning Board of Adjustment may prescribe appropriate conditions and safeguards to promote the purposes and protect the integrity of this Ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

(4) **Standards.** Pursuant to Iowa law, a variance shall be granted only if all of the following standards are satisfied:

(a) That granting the variance shall not be contrary to the public interest;

(b) That without grant of the variance, and due to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship. Unnecessary hardship exists when:

(i) the land in question cannot yield a reasonable return if used only for a purpose allowed in the zone;

(ii) the plight of the owners is due to unique circumstances and not to the general conditions of the neighborhood;

(iii) the use to be authorized by the variance will not alter the essential character of the locality;

(c) The spirit of the ordinance shall be observed even when the variance is granted;

(d) Substantial justice shall be done as a result of granting the variance.

(5) **Application After Denial.** Once an application for a variance is denied by the Zoning Board of Adjustment, the Board may decline to consider an application that is substantially the same for a period of 12 months after a decision by the Board or court on the earlier application.

Sec. 29.1505. REQUESTS FOR REASONABLE ACCOMMODATION.

(1) **Purpose.** It is the policy of the City to provide Reasonable Accommodation for handicapped persons seeking fair access to housing in the application of its zoning laws. The purpose of this Section is to provide a process for making a Request for Reasonable Accommodation.

(2) **Request Application.**

(a) Any person who requires Reasonable Accommodation, because of a handicap, in the application of a zoning law that may be acting as a barrier to fair housing opportunities may apply to the Zoning Board of Adjustment for an exception on a form to be provided by the Department of Planning and Housing.

(b) If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the Request for Reasonable Accommodation together with the application for such permit or approval.

(3) **Required Information.** The applicant shall provide the following:

(a) The applicant's name, address, and telephone number;

(b) Address of the property for which the request is being made;

(c) The present actual use of the property;

(d) The zoning ordinance provision, regulation or policy from which accommodation is being requested; and

(e) The factual basis for the need for the accommodation, including a description of the person's handicap and a physical description of the property.

(4) **Notice for Request for Accommodation.** Written notice that a Request for Reasonable Accommodation shall be given as follows:

(a) In the event that there is no approval sought other than the Request for Reasonable Accommodation, the notice shall be mailed to the owners of record of all properties that are immediately adjacent to the property that is the subject of the Request.

(b) In the event that the Request is being made in conjunction with some other process, the notice shall be transmitted along with the notice of the other proceeding.

(c) Notice that such a request has been made shall be made by publication and posting, in accordance with Sections 29.1500(2)(d)(ii) and (iii) above.

(Ord. No. 4475, 08-09-22)

(5) **Grounds for Accommodation.** In making a determination regarding the reasonableness of a Requested Accommodation, the following factors shall be considered by the Zoning Board of Adjustment:

(a) Special needs created by the handicap;

(b) Potential benefit that can be accomplished by the requested modification;

(c) Potential impact on surrounding uses;

(d) Physical attributes of the property and structures;

(e) Alternative accommodations that may provide an equivalent level of benefit; and

(f) In the case of a determination involving a Single-Family Dwelling, whether the household would be considered a Single Housekeeping Unit if it were not using special services that are required because of the handicaps of the residents.

Sec. 29.1506. EXCEPTIONS.

(1) **Purpose.** This section is intended to provide for exceptions, pursuant to Sec. 414.12(2) of the Iowa Code, to the terms of the zoning ordinance upon which the Board is required to pass under the ordinance, to provide a set of procedures and establish standards to be met.

(2) **Submittal Requirements.** In accordance with Sec. 29.1500(1)(a), Applicants must submit an application for an Exception to the Planning and Zoning Department for consideration by the Zoning Board of Adjustment. The Application for an Exception shall include the following:

(Ord. No. 4475, 08-09-22)

(a) The specific exception(s) being requested;

(b) A statement of supporting evidence addressing each of the standards applicable to the exception being sought; and

(c) Any pending site development plans to which the proposed exception is related, including a plat of the site and elevations of structures.

(3) **Procedure.** Review of an application for an exception shall be considered by the Zoning Board of Adjustment at a public hearing conducted as a part of a regularly scheduled meeting. Notification of the public hearing shall be made by mail, publication, and posting in accordance with Sec. 29.1500(2)(d)(i), (ii), and (iii) above. The Zoning Board of Adjustment may approve, deny or modify the request.

(Ord. No. 4475, 08-09-22)

(4) **When Authorized.** The Zoning Board of Adjustment is authorized to grant the following exceptions:

(a) Parking stall exceptions pursuant to Sec. 29.406(9)(c).

(b) CSC minimum height exceptions pursuant to 29.809(4). *(Ord. No. 3872, 03-07-06)*

(c) DSC minimum height and floor area ratio exceptions pursuant to Sec. 29.808(4).

(d) Exceptions for minor area modifications. The Board is authorized to grant exceptions from the requirements of the zoning ordinance to allow minor area modifications for single family attached and detached dwellings that are existing in developed areas, but not in cases of new construction. These are authorized for the following situations:

(i) reduction of required residential side yard setbacks for principal structures by no more than two feet;

(ii) reduction of required residential front and rear yard setbacks for principal structures by no more than five feet;

(iii) reduction of minimum lot area requirements by no more than 10%;
(iv) reduction of required residential front, rear and side yard setbacks without limit as required to provide handicapped access ramps to a dwelling;
(v) reduction of front, rear, and side yard setbacks without limit to allow reconstruction of a historically accurate structure.
(vi) extension of architectural features into a required building setback pursuant to Sec. 29.402(b) when the setback of the principal building is non-conforming. An approved minor area modification under this subsection shall:

- (A) provide for a minimum usable area,
- (B) preserve compatible open yard areas intended within the zone, and
- (C) ensure the aesthetic compatibility of the feature with the surroundings
(*Ord. No. 4425, 12-22-20*)

(e) Commercial Parking lot side and rear landscape setback requirement of 29.403.

(f) Commercial Parking Lot area percentage requirement of 29.403.

(*Ord. No. 4318, 8-8-17; Ord. No. 4373, 11-13-18*)

(g) For GI outdoor storage, minimum side and rear setbacks pursuant to Sec. 29.901(5)(b).

(*Ord. No. 4532, 06-25-24*)

(5) **Review Criteria.** Before an exception can be granted, the Board of Adjustment shall establish that the following standards have been or shall be satisfied:

(a) **Parking Stall Dimension Exceptions.** The Board may grant specific limited exceptions to the minimum parking space and drive aisle dimensions in accordance with the standards set forth at Sec. 29.406(9)(c).

(b) **CSC Minimum Height Exceptions.** The Board may grant exceptions to the minimum height requirements for buildings in the CSC districts in accordance with the standards set forth at 9.809(4).

(c) **DSC Minimum Stories and FAR exceptions.** The Board may grant exceptions to the minimum number of stories and floor area ratio requirements for buildings in the DSC district in accordance with the standards set forth at 29.808(4)

(d) **Exceptions for Minor Area Modifications.** The Board may grant specific limited exceptions for minor area modifications authorized under Sec. 29.1506(4)(c) where the Board finds:

(i) Special circumstances or practical difficulties apply to the property such that the terms of the ordinance cannot be satisfied.

(ii) The minor area modification will not be detrimental to the public health, safety, or general welfare.

(iii) The minor area modification will not have a substantial negative impact upon neighboring properties.

(iv) The minor area modification does not exceed the reduction limits established in the listing of minor area modification in Section 29.1506(4)(c)(i), (ii), or (iii) whether the limits are reached by a single exception or serial exceptions.

(v) The minor area modification does not authorize a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.

(vi) The minor area modification is in conformity with the intent and purpose of the zoning ordinance and the general plan of the community.

(vii) The minor area modification is the minimum necessary to achieve the desired result.

(viii) The minor area modification does not alter the applicant's obligation to comply with other applicable laws or regulations.

(e) **Recording of Minor Area Modifications.** The applicant must record an approval of a minor area modification in the office of the country recorder in order to make effective the approval.

(f) **Commercial Parking lot side and rear landscape setback.** All of the following criteria must be met for the Board to grant the exception and the overall site must comply with all development standards.

(i) Adequate provisions for meeting required parking lot landscaped area and planting requirements have been made to account for the reduced parking lot setback.

(ii) Providing the dimensional and location requirements of parking spaces necessary to serve the proposed use are not feasible while maintaining a setback for the parking lot.

(iii) That the landscape standards in Section 29.403 allowing Planning Director alternative compliance and waiver authority are not appropriate to allow approval of a Site Development Plan.

(iv) That a reduction of side or rear parking lot setbacks will not impair or infringe upon the use of neighboring property or be detrimental to the public health, safety, or general welfare.

(g) Commercial Parking lot and loading area landscape percentage. Within the CSC and DSC zoning district, parking lot driveways that principally serve covered parking and loading areas may have an exception approved to reduce landscaped area when there is inadequate space or site conditions to provide appropriate planters to meet landscaping requirements.

(Ord. No. 4318, 8-8-17; Ord. No. 4373, 11-13-18)

(h) GI Outdoor Storage Exceptions. The Board may grant exceptions to minimum side and rear setbacks in accordance with the standards set forth in 29.901(5).

(Ord. No. 4532, 06-25-24)

Sec. 29.1507. ZONING TEXT AND MAP AMENDMENTS

(1) **Authorization.** The City Council may, from time to time, on its own initiative, on petition, or on recommendation of the Planning and Zoning Commission, after public notice and hearings, and after a report by the Planning and Zoning Commission, or after 30 days written notice to said Commission, amend, supplement or change the regulations, districts, or Official Zoning Map herein or subsequently established.

(2) **Petition for Amendment.** Whenever the owners of 50% or more of the area of the lots in any district or part thereof desire amendment, supplement, or change in any of the provisions of this Ordinance applicable to such area, they may file an application in the Department of Planning and Housing requesting City Council to make such amendment, supplement, or change. Such application shall be accompanied by a map or diagram showing the area affected by the proposed amendment, supplement, or change, together with the boundaries of said area, and the names and addresses of all the owners of record in the Office of the County Recorder and Auditor of Story County, Iowa, of lots therein and within a distance of 200 feet from the boundaries of said area. The Planning and Housing Director shall within 30 days of receiving such application review it for completeness and adequacy of materials supporting the request and the need for any additional documentation or studies related to the request. A written response to comments by the Planning and Housing Director, if any, is required prior to having the application noticed for a public hearing and transmitted to the Planning and Zoning Commission. The Planning and Zoning Commission shall file its recommendation approving, disapproving, or modifying the proposed amendment, supplement or change with City Council within 90 days thereafter.

(Ord. No. 4187, 7-22-14)

(3) **Master Plan Determination.** Before an application is made for amending the zoning map to designate any property as F-S RL, FS-RM, or PUD, the applicant must either prepare a Master Plan or request that the City Council determine whether it will be required. When City Council first considers an application for amending the zoning map to any other zoning district, the City Council may require a master plan be submitted prior to taking action on the rezoning request. The procedural requirements for this determination shall be as follows:

(Ord. No. 4187, 7-22-14; Ord. No. 4440, 6-8-21)

(a) Information as required by Section 29.1200(2) for a Pre-Application Conference shall be forwarded to City Council.

(b) The City Council may require a Master Plan to be submitted with a rezoning application if it determines that any one of the following conditions is met:

(Ord. No. 4475, 08-09-22)

(i) The area to be rezoned will contain more than one type of residential dwelling unit and will be developed in multiple phases.

(ii) The area to be rezoned contains designated wetlands; flood plain and floodway boundaries; areas designated by the Ames Comprehensive Plan as Greenways and Environmentally Sensitive Areas; conservation easements or other documented sensitive environmental conditions or valuable natural resources.

(Ord. No. 4475, 08-09-22)

(iii) Development of the area with the most intensive uses permitted by the proposed zoning designation may require new, enlarged, or upgraded off-site public improvements.

(iv) The City Council determines that due to specific conditions that exist on or around the area proposed to be rezoned, or due to situations that require more careful consideration of how the layout and design of a site affects general health, safety, and welfare, a Master Plan is necessary for consideration of the proposed zoning map amendment.

(c) If the City Council determines that a Master Plan is required it shall be prepared in compliance with the requirements of Section 29.1507(4) and shall be reviewed concurrently with the application for a zoning text amendment.

(4) **Master Plan.** When a Master Plan is required, it shall be submitted in compliance with the following:

(a) **Submittal Requirements.**

- (i) Name of the applicant and the name of the owner of record.
- (ii) Legal description of the property.
- (iii) North arrow, graphic scale, and date.
- (iv) Existing conditions within the proposed zoning boundary and within 200 feet of

the proposed zoning boundary: Project boundary; all internal property boundaries; public rights-of-way on and adjacent to the site, utilities; easements; existing structures; topography (contours at two-foot intervals); areas of different vegetation types; designated wetlands; flood plain and floodway boundaries; areas designated by the Ames Land Use Policy Plan as Greenways and Environmentally Sensitive Areas

- (v) Proposed zoning boundary lines.
- (vi) Outline and size in acres of areas to be protected from impacts of development
- (vii) Outline and size in acres of areas proposed of each separate land use and for

each residential unit type

- (viii) Pattern of arterial streets and trails and off-site transportation connections
- (ix) For proposed residential development provide the number of unit type for each area, expressed in a range of the minimum to maximum number to be developed in each area

(x) For proposed residential development provide a summary table describing all uses of the total site area, including the number of units per net acre for each unit type and each zoning area.

(xi) For proposed nonresidential development: placement, size in square feet and approximate dimensions for all buildings, locations and approximate dimensions of all parking areas; areas of landscape, screening, buffer, plaza and open space; circulation pattern for all modes of transportation on the site. City Council may choose to accept and approve a Master Plan that does not contain all of the listed requirements.

(Ord. No. 4475, 08-09-22)

(b) **Number of Copies.** Submit seven (7) copies of the Master Plan on a sheet not to exceed 30" x 40", and one (1) reduced copy of the Master Plan no larger than 11" x 17". The Planning Director may allow for electronic submittals in lieu of paper copies.

(Ord. No. 4475, 08-09-22)

(5) **Compliance with Master Plan.** When a Master Plan is required and the proposed zoning map amendment is approved, a zoning agreement shall be approved by the City and agreed to by the owners of the property in the area of the proposed zoning map amendment that requires all development to be in compliance with the Master Plan. No Preliminary Plat, Final Plat, Major Site Development Plan, Minor Site Development Plan or Special Use Permit shall be approved that does not comply with the approved Master Plan. The process for amending the Master Plan shall be the process specified in this section for a zoning map amendment.

(6) **Conditions.** Council may impose reasonable conditions on map amendments in accordance with Section 414.5 of the Iowa Code.

(7) **Notice.**

(a) **Map.** Notice of a map change shall be made by mail, publication and posting, in accordance with Sections 29.1500(2)(d)(i), (ii) and (iii) above, except that at least seven (7) days' notice must be given. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the notice.

(b) **Text.** Notice of a text change shall be made by publication in accordance with Section 29.1500(2)(d)(ii) above, except that at least seven (7) days' notice must be given. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the notice.

(8) **Vote Required When Amendment Protested.** If a written protest against any proposed amendment, supplement or change has been filed with the City Clerk, signed by the owners of 20% or more of the area of the lots included in the proposed amendment, supplement or change or by the owners of 20% or more of the property that is located within 200 feet of the exterior boundaries of the property for which the amendment, supplement or change is proposed, such amendment, supplement or change shall not become effective except by favorable vote of at least $\frac{3}{4}$ of all members of the City Council.

(9) **Renewal of Petition After Denial.** Whenever a petition requesting an amendment, supplement, or change of any regulation prescribed by this Ordinance has been denied by the City Council, such petition cannot be renewed for one year thereafter unless it is signed by the owners of at least 50% of the property owners who previously objected to the change. This provision, however, shall not prevent City Council from acting on its own initiative in any case or at any time as provided in this Section.

(10) **Processing Time.**

(a) Rezoning proposals referred by the City Council to the Planning and Zoning Commission shall be acted upon and returned to the Council not more than 90 days thereafter unless time extensions are specifically requested by the applicant.

(b) Failure of the Planning and Zoning Commission to render a decision within the time specified will be deemed approval of the application as submitted.

(Ord. No. 3815, 12-21-04; Ord. No. 4121, 08-28-12)

Sec. 29.1508. APPEALS.

(1) **Appeals from Decisions of the Zoning Enforcement Officer.** Appeals to the Zoning Board of Adjustment of zoning enforcement decisions may be taken in accordance with Section 414.12 of the Iowa Code. The final disposition of any appeal to the Zoning Board of Adjustment shall be in the form of a written decision by the Board signed by the chairperson or acting chairperson, either reversing, modifying, or affirming the decision or determination appealed from. A copy of such decision shall be filed with the Zoning Enforcement Officer.

(2) **Appeals from Decisions of the Zoning Board of Adjustment.** Appeals to the court may be taken by any party aggrieved by a decision of the Zoning Board of Adjustment in accordance with Section 414.15 of the Iowa Code.

(3) **Appeals from Decisions of City Council.** These appeals shall be taken in accordance with Iowa Law.

(Ord. No. 3815, 12-21-04)

Sec. 29.1509. ANNEXATION INITIATION.

(1) **Petition Requirements.** A property owner may submit a petition for annexation with applicable fees to the Planning and Housing Department on forms prescribed by the Department. The petition shall include:

- (a) Property Owner Identification
- (b) Authorized Signature(s)
- (c) Identification of Parcel IDs and Legal Description
- (d) Annexation Plat depicting real property and rights-of-way
- (e) Description of desired use of the property upon annexation

(2) **City Council Decision.** Upon receipt of complete petition and review by City staff within 30 days of its submittal, it shall be forwarded to the City Council for acceptance and a determination of whether to proceed with the annexation as proposed within the petition. If the City Council requires addition information, studies, or inclusion of additional territory with the petition, the applicant must provide the additional materials prior to commencing with required noticing requirements.

(3) **Notice Procedure.** In addition to notification requirements of the Iowa Code, if a petition for annexation includes additional non-consenting territory as permitted by the “80/20” rule, the annexation must be reviewed by the Planning and Zoning Commission. The Planning and Zoning Commission must provide City Council a recommendation regarding consistency of the proposed annexation with the Comprehensive Plan. The Commission must make its recommendation within 30 days of holding the initial Planning and Zoning Commission meeting for the annexation petition. City Council shall not hold a hearing for approval of the proposed annexation prior to receiving the recommendation from the Planning and Zoning Commission.

A voluntary annexation petition where 100% of the property owners’ consent to the annexation does not require a recommendation of the Planning and Zoning Commission.”