

AGENDA

City of University Heights, Iowa
Board of Adjustment Meeting
Monday, July 21, 2025 – 7:00 p.m.
Community Center, 1302 Melrose Ave.

Item	Owner
Call to Order	Steve Ballard
Roll Call	Steve Ballard
Elect Chair	Board
Approval of Minutes of 10-20-2022 meeting	
Presentation of 1470 Grand Avenue variance request	Pete Damiano, Owner
• City Staff Comment	
○ City Building Official	Terry Goerd
○ City Attorney	Steve Ballard
• Public Hearing – public input/comment	
• Board discussion/deliberation	Chair
Adjourn	Chair

The meeting will be in person, but you may attend via Zoom if you would like.

If you wish to participate in the meeting by Zoom, please email ballard@lefflaw.com for instructions.



City of University Heights

1004 Melrose Avenue

University Heights, IA 52246

319-337-6900 www.university-heights.org

ZONING BOARD OF ADJUSTMENT REQUEST FOR A VARIANCE

University Heights Address: 1470 Grand Ave

Property Owner(s) Name(s): Pete and Julie Damiano

Property Owner(s) Address: 1470 Grand Ave

Property Owner(s) Telephone: 319.530.9127

Property Owner(s) Email: pjdamiano11@gmail.com

Describe the requested variance:

In an effort to “age in place”, we would like to request a variance to Ordinance 79 that would allow us build a new garage with the goals of: 1) being able to fit two cars in the winter, 2) having space for a woodshop in the rear of the first floor, 3) providing additional storage on the second floor of the garage, and 4) meet the esthetics of the neighborhood, specifically, our neighbor’s garage adjacent to our garage, for which they received a variance a few year ago. An additional goal of this new garage is to create more usable space in our basement for children/grandchildren visits by relocating the woodworking shop and some storage capacity to the garage.

To accomplish these goals, we would like to rebuild our garage with the following features: 1) keep the existing west boundary on the property line to allow space between the garage and porch, 2) make the garage height and roofline match the neighbor’s garage when viewed from the street (21’), 3) add 1.5’ in width to the garage to fit 2 cars (20’ wide rather than 18.5’), 4) add 21’ of usable space on the first floor behind the vehicle portion of the garage for a woodworking shop (approx. 20’ x21’), and 5) gain additional storage space by adding a second floor with internal stairs, similar to the next-door neighbor’s garage.

Our current home is modest in size (about 2100 sq ft) so being able to move the woodworking shop from the basement along with some storage to the new garage would allow our basement to become more useful as living/play space.

With our modest backyard lot size (50’ wide x 50’ from the rear fence to the house), we would like to request a variance to rebuild our garage in the same location in which it currently exists which

is along the west edge of our property line. We would also like to request a variance that would reduce the rear setback from 5' to 3' to allow additional space for a toilet and utility tubs in the shop portion of the new building, and a height variance that would allow our garage height to be 21', the same as our next door neighbors.

We have intentionally designed the garage to meet the esthetics of the neighborhood and believe these changes will make the new garage fit in well with the neighborhood.

State the section of the ordinance being utilized:

Specifically, we would like to request a variance from the specifications in Zoning Ordinance 79 Section 8 so that can rebuild our garage in its current location along the west property line without a three-foot setback. With a three-foot setback and a 20' wide garage, the new garage would be within one foot of our existing porch, such that you could no longer walk from the house into the backyard, without enough space to adequately maintain the garage and/or porch. Our neighbors agree that adding the 3' sideyard setback would not improve the space between our two garages, and would potentially hurt the esthetic from the front.

We also have the ability to have plumbing brought to the building so that we could add a toilet and utility tub to the shop area, making this space more functional in the long term. To make space for the toilet and utility tub, we request a variance in the rear setback from 5' to 3'. This is still adequate space to maintain the area between the rear of the garage and the fence. We are planning to use wood composite siding on the garage with a factory applied paint finish that is guaranteed to last 30 years, reducing the need for maintenance.

The additional 1' height variance will allow both the first and second floors to have much more useable space and match our neighbor's garage.

Other Comments:

Attached are several pictures of our current garage and some preliminary plans of the proposed garage that might help better understand how this request for a variance will enable us to build a new garage that fits visually with our next-door neighbor's garage and the neighborhood, while maintaining the usefulness of the yard for the future.

From the front view picture (Picture 1), you can see that our garage would be located exactly where it is now, except that it would extend 1.5' more toward our house (virtually undetectable from the front). We propose adding a second story with the same roof line and height as our neighbor's garage for which they received a variance several years ago. We worked hard to develop a roof truss design so that the overall height is the same as our neighbors (21') while gaining more usable head room.

The neighbor's garage side view picture (Picture 2) shows the current space between our garages (3') which would not change. Adding a 3' side setback would not make that space between our

garages more useable (and our neighbors agree) as there is currently adequate space for any maintenance that might need to be done and both buildings would have a fire wall along that side.

Our backyard view picture (Picture 3) shows the existing space between our garage and our porch (6'). Our current garage is 18.5' wide-we would like to make the new one 20' which is considered to be the minimal width to adequately fit 2 vehicles. If we build in the current location with the 20' garage width, space between the garage and porch would become 4'-still functional for a walkway. If a 3' side setback is added, the space between the garage and the porch would be down to 1'-not a functional walkway.

As mentioned previously, the request to reduce the rear setback by 2' would assist in making space for a bathroom and utility tub while still providing enough space for future maintenance behind the garage.

We tried our best to think through all options for keeping the design in sync with the neighborhood and the future needs of someone in our house. We worked with the architect and builder to develop a truss system and dormers so that the pitch of the garage roof will match our neighbors with the addition of the dormers, which is very similar to a side-view of their recently remodeled main house. Also to plan for the future, we are planning to install solar panels on the garage and have new matching siding installed on our house with foam insulation to improve the energy efficiency.

Please attach drawings, photos, or other documentation.

Picture 1-front view



Picture 2- Neighbor's garage side view



Picture 3- Backyard view



Plan drawing 1: front view



\$150 Filing Fee should be paid to the University Heights City Clerk at the time of filing.

Signature of the Property Owner(s)/Representative Date

Pete Damiano

City of University Heights

1004 Melrose Avenue

University Heights, IA 52246

319-337-6900 www.university-heights.org

MEMORANDUM

DATE: June 20, 2025
TO: Steven E. Ballard
FROM: Rachel Winkler

**Re: University Heights Mailing List
1470 Grand Avenue - Variance Request**

I mailed the University Heights Notice of Public Hearing (hearing on July 21, 2025) to every owner and resident within 200 feet of 1470 Grand Avenue on July 10th, 2025. The postage cost was \$21.39. Below is the mailing list for each property.

Addresses within 200 feet of 1470 Grand Avenue	Corresponding Mailing Address(es)
1480 Grand Ave	Joseph D & Anna E Merrill 1480 Grand Ave Iowa City IA 52246
1482 Grand Ave	Charles M Poeltler 1482 Grand Ave Iowa City IA 52246
1490 Grand Ave	Michael A & Erin M Crocker 1490 Grand Ave Iowa City IA 52246
220 Sunset St	Ab Gratama 220 Sunset St Iowa City IA 52246
304 Sunset St	Jann E Kampfe 304 Sunset St Iowa City IA 52246
55 Prospect Pl	Randall Kenneth & Cindy Lea Minion 55 Prospect Pl Iowa City IA 52246
51 Prospect Pl	Gretchen H Blair 51 Prospect Pl Iowa City IA 52246
31 Prospect Pl	Marshall H Bridges 1440 Grand Ave Iowa City IA 52246 Occupant 31 Prospect Pl

	Iowa City IA 52246
29 Prospect Pl	Sarah J Christ 29 Prospect Pl Iowa City IA 52246
36 Prospect Pl	Christina L Brown & Cole C Harris 36 Prospect Pl Iowa City IA 52246
1450 Grand Ave	Elaine Shalla 1450 Grand Ave Iowa City IA 52246
1456 Grand Ave	Russell O & Eunice E Hunzelman 1456 Grand Ave Iowa City IA 52246
1468 Grand Ave	Ila Mae Zimmerman 1468 Grand Ave Iowa City IA 52246
1491 Grand Ave	Maplewood Management LLC 349 Woodland Dr SE Cedar Rapids IA 52403 Occupant 1491 Grand Ave Iowa City IA 52246
1489 Grand Ave	Mark A & Joanne P Lynch 1489 Grand Ave Iowa City IA 52246
1483 Grand Ave	Thomas H Haugen 1483 Grand Ave Iowa City IA 52246
1479 Grand Ave	John Glen Streif 1479 Grand Ave Iowa City IA 52246
1475 Grand Ave	Scott R & Chelsea M Owen 1475 Grand Ave Iowa City IA 52246
1465 Grand Ave	Bridget C & Jonathan D Dolder 1465 Grand Ave Iowa City IA 52246
1461 Grand Ave	Scott Christiansen 1461 Grand Ave Iowa City IA 52246
1455 Grand Ave	Michael J & Katherine I Harris 1455 Grand Ave Iowa City IA 52246

1202 Melrose Ave	Rmb Invs LLC 3286 Hwy 1 SW Iowa City IA 52240 Occupant 1202 Melrose Ave Iowa City IA 52246
1208 Melrose Ave	Terrence J Whitney 835 High Point Dr SW Cedar Rapids IA 52404 Occupant 1208 Melrose Ave Iowa City IA 52246
1212 Melrose Ave	Stephanie L Dallenbach 1212 Melrose Ave Iowa City IA 52246
1218 Melrose Ave	Shf Customs LLC 1218 Melrose Ave Iowa City IA 52246
1222 Melrose Ave	Karen J Friedman 1222 Melrose Ave Iowa City IA 52246
1232 Melrose Ave	Logan P Carter 1232 Melrose Ave Iowa City IA 52246
1236 Melrose Ave	Steven L Eliason 1236 Melrose Ave Iowa City IA 52246

July 16, 2025

TO: Zoning Board of Adjustment

Re: 1470 Grand Ave.

The property owners, Pete and Julie Damiano, have applied for a variance to erect a two story detached garage at the rear of their property. There is an existing 18.5' x 20' detached garage located within 1'-0" of the westerly side property line. This existing garage is large enough for one vehicle only. The garage was built when the home was built and is not functional for storage of a vehicle in addition to other lawn and snow removal equipment. The owner is proposing to erect a two-story garage at the same location. It would be 20'-0" wide to accommodate two vehicles and it would provide an additional 21' to the rear of the garage for a woodworking shop. The size of the newly constructed garage would be 20'-0" x 40'-0". The new garage/shop would end up being 3'-0" off the rear property line. The garage would also have a second floor for storage or a future Accessory Dwelling Unit. The new structure height would be approximately 21'-0" above finished grade. The newly constructed garage would be located a minimum of 5'-0" from the house which is required by code.

Peter and Julie Damiano are asking for a variance to construct this two-story garage with a side yard setback of 1'-0" (same as existing) and a rear yard setback of 3'-0". Reducing the required rear yard setback from 5'-0" to 3'-0" would trigger a need for a variance to the required rear yard coverage the structure could occupy. The city code only allows an accessory structure to occupy a maximum one third of the area of the rear setback. The allowable area would be 500sf and they would be occupying 540sf. A request for 40sf is also needed. They are also requesting a variance to the structure height from 20'-0" to 21'-0". As stated in the application the reason for the requested variances is to allow a garage to accommodate two vehicles, a woodworking shop in the rear of the garage and a second floor for storage or future ADU.

The Variance Board does need to decide if the application for the variances meet the four requirements of the code. These are:

1. The variance will not be contrary to the public interest.
2. Literal enforcement of the ordinance will result in unnecessary hardship because of special conditions

3. The variance will support the spirit of the ordinance.
4. The variance is warranted based upon exceptional or unusual dimensional configuration or physical conditions of the lot not generally prevalent in the neighborhood, and such condition prevents a reasonable or sensible arrangement of buildings on the lot.

These are the decisions which must be discussed and fully understood at the meeting. By granting the variances will the two-story garage be a structure that stands out more than any other structure? What is the hardship of erecting a structure that would meet the maximum structure height instead of allowing the increased heights? Is the two-story garage something that would fit in with the neighborhood? The neighbor received a variance 5 years ago for an increase in structure height. Due to the 50' wide lot and location of the existing house should the owner be allowed to keep the same side yard setback? The garage will be setback behind the home which will lessen the impact of the increased height. The farther the garage is setback the more it will fit into the neighborhood. By allowing the two-story two-car garage it will provide more safety by not having vehicles parked in the front yard.

The applicant seems to have met the four requirements to allow the granting of the variance. The erection of the garage would not be contrary to the public interest, it would not be harmful or detrimental to the well-being of the general public, by not allowing the variance the detached garage could not be erected because of the narrow lot. The two-story garage would support the spirit of the ordinance by allowing the owners to stay in their home (age in place). Finally, because of the narrow lot and the location of the existing home the reduced setbacks would allowed sensible arrangement of the garage on the lot.

Respectfully submitted

Terry J. Goerd

Building Official

LEFF LAW FIRM, L.L.P.

222 SOUTH LINN STREET
IOWA CITY, IOWA 52240-1601
TELEPHONE: (319) 338-7551

MEMORANDUM

To: University Heights
Board of Adjustment

From: Steven E. Ballard, City Attorney
ballard@lefflaw.com
319-430-3350

Date: July 18, 2025

**Re: Legal Report for July 21, 2025 Meeting –
1470 Grand Avenue Variance Request**

Introduction. The University Heights Board of Adjustment meets July 21, 2025, to consider a request for a Variance from the owners of 1470 Grand Avenue, Pete and Julie Damiano. The meeting starts at 7:00 p.m. at City Hall, 1302 Melrose Avenue.

The Damianos would like to rebuild a detached Garage. The proposed garage would be larger than the existing Garage (20' x 40' instead of 20' x 18.5'), and it would be 1' from the Side Lot Line and 3' from the Rear Lot Line. The proposed Garage would not meet these particular requirements of the City's Zoning Ordinance:

1. The Garage would exceed the maximum "Structure Height" dimension
2. The Garage would continue a nonconforming Side Setback nonconformity (1' instead of required 5');
3. The Garage would not meet required Setback from lot lines (3' instead of 5'); and
4. The Garage would exceed the portion of the Rear Setback that can be occupied by a detached Garage (540' instead of 500').

The Board has received application materials from the Damianos, a report from Terry Goerd, City Building Official; and this Memorandum from the City Attorney.

Summary of Conclusions. The Board's authority to grant the requested variance comes from Iowa law and the University Heights Zoning Ordinance. **The Board may grant the Damianos' request for a variance if the Board finds that the specific provisions of the Zoning Ordinance have been met.**

Specifics of the Request. The Damianos seek permission to rebuild a detached Garage at 1470 Grand Avenue. According to the calculations and measurements from the Damianos and from Terry Goerd, the

City Building Official, the proposed Garage would include these dimensions:

- Structure Height of 21'-0" (Zoning Ordinance maximum is 20');
- Side Setback of 1' (Zoning Ordinance minimum is 5');
- Rear Setback of 3' (Zoning Ordinance minimum is 5'); and
- Structure occupying 540sqft of Rear Setback (Zoning Ordinance maximum is 500sqft).

Zoning Ordinance Considerations.

Several portions of the University Heights Zoning Ordinance (Ordinance No. 79) are applicable to the present Variance application. A copy of the Zoning Ordinance is provided with this memorandum for ready reference; you may link to it here:

<https://www.university-heights.org/DocumentCenter/View/218/Ordinance-Number-79-PDF?bidId=>

Pertinent Zoning Ordinance provisions include these:

- This property is in the R-1 Single-family residential zone. (79 sec. 5(A)(1).)
- The Garage is an "Accessory Structure." (79 secs. 3(8), (10).)
- "Structure Height" is the distance from the grade around the Garage to the ridge. (79 sec. 3(27).)
 - "Ridge" is the highest point of the roof proposed here. (79 sec. 7(C).)
 - Maximum Structure Height for an Accessory Structure is 20'. (79 sec. 7(F).)
 - The Damianos' proposed Garage would be 21'.
- Minimum Side Setback for an Accessory Structure (including a detached Garage) is 5'. (79 sec. 8(A, E).) The Damianos' proposed Garage would be 1', which is the existing dimension.
- A nonconforming Garage may not be structurally altered in a way that extends its nonconformity. (79 sec. 16(E)(1)(b).) The Damianos' existing Garage is only 1' from the Side Lot Line. That Garage may continue because it was in place when the Zoning Ordinance was adopted in 1982. But the Damianos' proposed Garage would extend the nonconformity (existing Garage is 18.5' in length, proposed Garage is 40' in length).
- Minimum Rear Setback for a detached Garage is 5' from any lot line. (79 sec. 8(E).) The Damianos' proposed Garage would be 1' from the Side Lot Line and 3' from the Rear Lot Line.
- No more than 1/3 of the Rear Setback may be taken up by a detached Garage – so 500sqft here (50' lot width x 30' Rear Setback = 1,500sqft ÷ 3 = 500sqft). (79 sec. 8(D).) The Damianos' proposed Garage would take up 540sqft of the Rear Setback.

Board of Adjustment Authority to Grant Variances – Required Showing.

- The Board of Adjustment has authority grant Variances upon certain specific showings by the applicants (as found and decided by the Board). (79 sec. 15(3)(c).)

- The Board of Adjustment’s authority or power to grant Variances to the heights of accessory structures, Setbacks, and lot area regulations, is found at 79 sec. 15(3), which provides that the Board shall have the power to

c) [t]o authorize upon appeal in the following specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where owing to special conditions a literal enforcement of the provisions of this ordinance will result in an unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done:

1) Vary the yard, Setbacks, Building Height, or lot area regulations where there is an exceptional or unusual dimensional configuration or physical condition of the lot not generally prevalent in the neighborhood and which condition when related to the regulations of this ordinance would prevent a reasonable or sensible arrangement of buildings on the lot.

- That is a bit of a mouthful; I will unpack those various provisions below.

Application of Zoning Ordinance to Variance Application. The Damianos’ variance request seeks permission to build a detached Garage a Structure Height of 21’, to locate the Garage 1’ from the Side Lot Line, 3’ from the Rear Lot Line, and to have the Garage take up 540sqft of the Rear Setback. Applying the provisions of the Zoning Ordinance to the Variance Application, the Board has the authority to grant the present request if the Board makes the following 4 findings (based upon what the Damianos have provided and will present at the meeting):

1. The variance will not be contrary to the public interest.
2. Literal enforcement of the ordinance will result in an unnecessary hardship because of special conditions.
3. The variance will support the spirit of the ordinance.
4. The variance is warranted based upon exceptional or unusual dimensional configuration or physical condition of the lot not generally prevalent in the neighborhood, and such condition prevents a reasonable or sensible arrangement of buildings on the lot.

Historical Note. The Board considered (and granted) a variance application by the Domianos’ next-door neighbors, Joey and Anna Merrill, in 2020. The Merrills sought to construct a detached Garage that exceeded maximum Structure Height. The Damianos’ proposed Garage would be the same height as that approved by the Board for the Merrills. A copy of the Merrills’ variance request is attached for reference.

Conclusions. If the Board believes and concludes that the Damianos have established these 4 criteria, then the Board has the authority or power to grant the requested Variance. If not, then the Board should reject the request.

ORDINANCE NUMBER 79 (as amended)

**AN ORDINANCE REGULATING AND RESTRICTING THE LOCATION, CONSTRUCTION,
USE OF BUILDINGS AND STRUCTURES, AND THE USE OF LAND IN THE CITY OF
UNIVERSITY HEIGHTS, IOWA.**

Be It Enacted by the Council of the City of University Heights, Iowa:

Section 1. Short title. This ordinance shall be known and may be cited as "The City of University Heights, Iowa, Zoning Ordinance".

Section 2. Purpose. The purpose of this ordinance is to provide adequate light and air, to prevent the overcrowding of land, to avoid concentration of population, to regulate the use of land and to promote the health, morals, safety and general welfare in the City of University Heights, Iowa.

Section 3. Definitions. For the purpose of this ordinance certain terms of words used herein shall be interpreted or defined as follows:

1. Words used in the present tense include the future tense.
2. The singular includes the plural.
3. "Person" includes individuals, partnerships, associations and corporations.
4. "Lot" means a parcel of land adequate for occupancy by a use permitted under this ordinance.
5. "Shall" is always mandatory.
6. The word "used" or "occupies", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied".
7. "Building" means any structure designed or intended for the support, enclosure, shelter or protection of persons, chattels or property.
8. "Accessory Structure" means a building that is incidental and subordinate to and smaller than the main building on the same property or to the use of that property and contributes to the comfort, convenience, or necessity of occupants of the main building. Accessory Structures may not be used for human occupancy or living. Sheds are not Accessory Structures.
9. "Shed" means a building that does not exceed one hundred forty-four (144) square feet in area and does not exceed eight (8) feet in Building Height.
10. "Garage" is an Accessory Structure that is used for storing private or pleasure-type motor-driven vehicles owned and used by the occupants of the main building.
11. "Garden Structure" means, pergolas, arbors, trellis or other similar structures without solid walls and without a solid roof, intended specifically to enhance the appearance of a garden or which has a

function relating to the use of outdoor space, but not including Dwellings, Garages, carports, Accessory Structures, or Sheds.

12. "Play Structures" means swing sets, slides, playhouses, jungle gyms, sandboxes, or other similar structures intended specifically for outdoor recreational activity for persons but not including Dwellings, Garages, carports, Accessory Structures, or Sheds.
13. "Front Foundation Line" means a line drawn from one side lot line to the other side lot line intersecting the point of the foundation of the main building closest to the front lot line adjacent to the street right-of-way. **See Figure 01 appended to this Ordinance.**
14. "Rear Foundation Line" means a line drawn from one side lot line to the other side lot line intersecting the point of the foundation of the main building closest to the rear lot line. **See Figure 01 appended to this Ordinance.**
15. "Side Foundation Line" means a line drawn from Front Foundation Line to the Rear Foundation Line intersecting the point of the foundation of the main building closest to the side lot line. **See Figure 01 appended to this Ordinance.**
16. "Front Yard" means the area from the Front Foundation Line to the front lot line adjacent to the street right-of-way. **See Figure 01 appended to this Ordinance.** On corner lots, the Front Yard may face either street; provided, however, that the Front Yard for Horn Elementary School faces both Benton Street and Emerald Street such that the areas to the north and to the east of the school building are Rear Yards (with a required Setback of 30 feet) and not Side Yards. The front lot line of lots adjacent to the east side of Olive Court shall be on the west side of said lots, adjacent to Olive Court.
17. "Rear Yard" means the area from the Rear Foundation Line to the rear lot line. The Rear Yard is always on the opposite side of the lot from the Front Yard. **See Figure 01 appended to this Ordinance.**
18. "Side Yard" means the area from the Side Foundation Line to the nearest side lot line and between the Front Foundation Line and the Rear Foundation Line. **See Figure 01 appended to this Ordinance.**
19. "Front Setback" means the area between the front lot line adjacent to the street right-of-way and the Front Setback Line. **See Figure 01 and Figure 02 appended to this Ordinance.**
20. "Rear Setback" means the area between the rear lot line and the Rear Setback Line. **See Figure 01 and Figure 02 appended to this Ordinance.**
21. "Side Setback" means the area between the side lot line and the Side Setback Line. **See Figure 01 and Figure 02 appended to this Ordinance.**
22. "Front Setback Line" means a line drawn parallel to and as far back from the front lot line adjacent to the street right-of-way as is necessary to provide for the Front Setback. **See Figure 01 and Figure 02 appended to this Ordinance.**

23. "Rear Setback Line" means a line drawn parallel to and as far back from the rear lot line as is necessary to provide for the Rear Setback. **See Figure 01 and Figure 02 appended to this Ordinance.**
24. "Side Setback Line" means a line drawn parallel to and as far back from the side lot line as is necessary to provide for the Side Setback. **See Figure 01 and Figure 02 appended to this Ordinance.**
25. "Buildable Area" means that portion of a lot bordered by the Front Setback Line, Rear Setback Line, and Side Setback Lines. The primary building on a lot may only be in the Buildable Area. **See Figure 02 appended to this Ordinance.**
26. "Building Height" means the vertical distance from grade to the roofline. See Section 7 for further definitions and restrictions on Building Height. **See Figure 03 appended to this Ordinance.**
27. "Maximum Structure Height" means the vertical distance from grade to ridge. See Section 7 for further definitions and restrictions on Maximum Structure Height. **See Figure 03 appended to this Ordinance.**
28. "Dwelling" means a building or portion thereof which is designed or used for a residential purpose.
29. "Single Family Dwelling" means a dwelling that contains only one living unit.
30. "Multiple-family Dwelling" means a dwelling that contains more than one living unit.
31. "Living Unit" means a room or rooms occupied by a family, provided that a living unit must have a kitchen.
32. "Family" means one person or two or more persons related by blood, marriage, or adoption occupying a dwelling as an individual housekeeping unit.
33. "Yard" means the area from the foundation to the lot line.
34. "Structural Alterations" means any changes in the configuration of the exterior walls, foundation, or the roof of a building which results in an increase in the area, Building Height, or volume of the building.
35. "Temporary Structures" means trailer homes, mobile homes, campers, recreational vehicles, or any building not on or permanently affixed to a permanent foundation.
36. "Home Occupations" means an accessory use consisting of any occupation or profession carried on by a member of the family residing on the premises; provided that in connection with such occupation or profession, no sign other than one non-illuminated sign, no larger than one square foot in area is used, which sign is attached to the building; that nothing is done to make the building or premises appear in any way as anything but a dwelling; that no products are sold except those prepared on the premises; that no one is employed from outside the family residing on the premises; and that no mechanical equipment is used other than that which is permissible for purely domestic or household purposes.

37. "Cul-de-sac" means a local street that terminates in a turn-around.
38. "Building Coverage" means the amount of land covered or permitted to be covered by a building or buildings, usually measured in terms of percentage of a parcel.
39. "Ground Area" means the area of a building within its largest outside dimensions computed on a horizontal plane at the foundation level, exclusive of open terraces and patios.
39. "Rooming House" means a dwelling occupied by four (4) or more students enrolled in post-secondary education but does not include a dwelling occupied by a parent or guardian of at least one of the students.
- 40 "Game Day" means any day on which The University of Iowa palys football games in Kinnick Stadium.

Section 4. General Effect of Zoning Ordinance.

- A. The use of premises and buildings in the City shall be in accordance with the minimum standards hereinafter set forth.
- B. No building or structure shall be erected, converted, enlarged, re-constructed, structurally altered, or placed upon any property located in the City except in conformity with the provisions of this Zoning Ordinance unless otherwise hereinafter provided.

Section 5. Districts and Boundaries Thereof.

- A. In order to classify, regulate and restrict the location of residences, trades, industries, businesses, and other land uses and the location of buildings designed for specified uses, to regulate and limit the Building Height and bulk of buildings hereinafter erected or structurally altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of yards, Setbacks, and other open spaces around such buildings, the City of University Heights, Iowa, is hereby divided into Eight (8) zones, to-wit:
 1. R-1 Single-family residential.
 2. R-3 Multiple-family residential.
 3. B Business.
 4. C Commercial.
 5. PUD Planned Unit Development.
 6. Multiple-Family Commercial.
 7. CH Commercial Hotel.
 8. Public and Civic.
- B. The boundaries of each zone are shown upon the map entitled "Zoning Map of the City of University Heights, Iowa", which map is on file

with the City Clerk of University Heights, Iowa, and which map by this Ordinance is hereby adopted and made a part of and incorporated into this ordinance. All amendments to this Ordinance changing the boundaries of the Zones shall be noted by the City Clerk on the original map to be kept on file with the City Clerk.

- C. Whenever any street, alley or other public way is vacated by official action of the Council, the zone adjoining each side of said street, alley or other public way shall automatically extend to the center of such vacated area and all area included therein shall thenceforth be subject to all appropriate regulations of the extended zone.

Section 6. Uses. Use of property in the City of University Heights shall be limited to those uses set forth as follows:

- A. Property in an R-1 Single-Family Residential zone shall be used for the following purposes only:
 - 1. One single-family dwelling per lot.
 - 2. Public schools, public libraries, public parks and public playgrounds.
 - 3. Churches and places of worship and parochial schools.
 - 4. Other customary accessory uses and Accessory Structures, provided such uses are incidental to the principal use and do not include any activity conducted as a business. Such Accessory Structures shall not be used for human occupancy or living.
 - 5. All persons occupying the premises must do so as part of an individual housekeeping unit.
 - 6. Home occupations.
 - 7. Rooming Houses are prohibited.
 - 8. Trailer homes and mobile homes are prohibited. Other Temporary Structures may not be used for human occupancy or living.
- B. Property in an R-3 Multiple-Family Residential Zone shall be used for the following purposes only:
 - 1. All uses which are allowed in an R-1 Single-Family Residential Zone.
 - 2. As provided in the Development Agreement between the City of University Heights and the Developer pursuant to the Multiple-Family Planned Unit Development (PUD) regulations and requirements set forth in Section 12 of this Ordinance. When development occurs pursuant to a Multiple-Family PUD, provisions of this Ordinance regarding Building Height restrictions, yard regulations, Setbacks, Building Coverage and lot regulations, and off-street parking (Sections 7, 8, 9, and 10) are superseded by the provisions of Section 12 and the Development Agreement between the City and Developer.
- C. Property in a B Business Zone shall be used for the following purposes only:

1. All uses which are allowed in an R-1 Single-Family Residential Zone, and an R-3 Multiple-Family Residential Zone.
 2. Professional offices.
 3. Bakeries.
 4. Drug Stores.
 5. Grocery Stores.
 6. Barber shop or Beauty shop.
 7. Contractor's Offices, and shops and storage uses incidental thereto.
 8. Catering businesses.
 9. Restaurants.
- D. Property in a C Commercial Zone shall be used for the following purposes only:
1. All uses which are allowed in an R-1 Single Family Residential Zone.
 2. Restaurants, tea rooms, cafes, taverns, and similar establishments.
 3. Private clubs and accessory facilities, such as tennis courts, swimming pools, and athletic facilities.
- E. Property in a PUD Planned Unit Development Zone shall be used as provided in the Development Agreement between the City of University Heights and the Developer pursuant to the PUD regulations and requirements set forth in Section 11 of this Ordinance. Provisions of this ordinance regarding yard regulations, Setbacks, Building Coverage and lot regulations, and off-street parking (Sections 8, 9, and 10) are superseded in the PUD Zone by the provisions of Section 11 and the Development Agreement between the City and Developer. Rooming Houses are prohibited in the PUD Planned Unit Development Zone.
- F. Property in a Multiple-Family Commercial zone shall be used for the following purposes only:
1. All uses which are allowed in an R-1 Single-Family Residential Zone, subject to the Building Height restrictions, yard regulations, Setbacks, Building Coverage and lot regulations, and off-street parking regulations specified for the R-1 Single-Family Residential Zone in Sections 7, 8, 9, and 10 or this Ordinance.
 2. As provided in or limited by the Development Agreement between the City of University Heights and the Developer pursuant to the Multiple-Family Commercial Planned Unit Development (PUD) regulations and requirements set forth in Section 13 of this Ordinance.

- a. When development occurs pursuant to a Multiple-Family Commercial PUD, the provisions of this Ordinance regarding Building Height restrictions, yard regulations, Setbacks, Building Coverage and lot regulations, and off-street parking regulations (Sections 7, 8, 9, and 10) are superseded by the provisions of Section 13 and the Development Agreement between the City and Developer.
- b. When development occurs pursuant to a Multiple-Family Commercial PUD, the following uses of the commercial space portion of the PUD are permitted:
 - 1. Professional offices.
 - 2. Bakeries.
 - 3. Drug Store.
 - 4. Grocery Stores.
 - 5. Barber shops or beauty shops.
 - 6. Catering Businesses.
 - 7. Restaurants, tea rooms, cafés, coffee shops, or similar establishments but not including bars, saloons, taverns, or drinking establishments.
 - 8. Retail shops but not including liquor stores.
 - 9. Art galleries.
 - 10. Personal fitness centers.
 - 11. Such other and further uses as provided in or limited by the Development Agreement between the City of University Heights and the Developer pursuant to the Multiple-Family Commercial Planned Unit Development (PUD) regulations and requirements set forth in Section 13 of this Ordinance.

G. Property in a CH Commercial Hotel Zone shall be used for the following purposes only:

- 1. All uses which are allowed in an R-1 Single-Family Residential Zone, subject to the height restrictions, yard regulations, lot regulations, and off-street parking regulations specified for the R-1 Single-Family Residential Zone in Sections 7, 8, 9, and 10 of this Ordinance.
- 2. As provided in or limited by the Development Agreement between the City of University Heights and the Developer pursuant to the Commercial Hotel Planned Unit Development (PUD) regulations and requirements set forth in Section 14A of this Ordinance.

- a. When development occurs pursuant to a Commercial Hotel PUD, the provisions of this Ordinance regarding height restrictions, yard regulations, lot regulations, and off-street parking regulations (Sections 7, 8, 9, and 10) are superseded by the provisions of Section 14A and the Development Agreement between the City and Developer.
 - b. When development occurs pursuant to a Commercial Hotel PUD, the following uses of the commercial space portion of the PUD are permitted:
 - 1. Hotel and associated hotel amenities including but not limited to lobby space; restaurant, café, and/or bistro; meeting space; and fitness center.
 - 2. Such other and further uses as provided in or limited by the Development Agreement between the City of University Heights and the Developer pursuant to the Commercial Hotel Planned Unit Development (PUD) regulations and requirements set forth in Section 14A of this Ordinance.
- H. Property in a Public and Civic District is owned by the public to provide for public uses, including parks and open spaces, to serve the recreation and other needs of the community, its residents, and visitor.

Section 7. Height Restrictions. "Building Height" means the vertical distance from grade to the roofline. "Maximum Structure Height" means the vertical distance from grade to ridge.

- A. "Grade" means the average point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the front lot line or, if the lot line is more than five (5) feet from the building, between the building and a line five (5) feet from the building. If the finished surface of the ground has been raised by adding fill to create a higher grade around a building, the slope of the fill within twenty (20) feet of the building shall not exceed four (4) horizontal to one (1) vertical or twenty-five (25) percent. **See Figure 03 appended to this Ordinance.**
- B. "Roofline" means the highest point of the coping of a flat roof, the deck line of a mansard roof, or the midpoint between the eaves and ridges of saddle, hip, gable, gambrel, or ogee roofs. **See Figure 03 appended to this Ordinance.**
- C. "Ridge" means the highest point of any roof other than a flat roof including mansard, saddle, hip, gable, gambrel, or ogee roofs. On flat roofs, "Ridge" means the coping.
- D. The following are exempt from "Building Height" and "Maximum Structure Height" but only to the extent they are appended to a building for the purpose of serving only that building:

- (1) Chimneys or flues.
- (2) Spires on religious or other institutional buildings.
- (3) Cupolas, domes, skylights and other similar roof protrusions not used for the purpose of obtaining habitable floor space.
- (4) Flagpoles that extend not more than ten (10) feet above the height limit or not more than five (5) feet above the highest point of the roof, whichever is less.
- (5) Parapet or fire walls extending not more than three (3) feet above the limiting height of the building.
- (6) Poles, towers and other structures accessory to a basic utility use, such as street lights and utility poles.
- (7) Roof structures, including elevator bulkheads, stairways, ventilating fans, cooling towers, solar panels, and similar necessary mechanical and electrical appurtenances required to operate and maintain the building.
- (8) Television antennas and similar apparatus.

E. Unless otherwise provided, Building Height of the main building in any zone may not exceed thirty (30) feet and Maximum Structure Height may not exceed thirty-five (35) feet. **See Figure 03 appended to this Ordinance.**

F. Unless otherwise provided, Building Height of an Accessory Structure in any zone may not exceed fifteen (15) feet and Maximum Structure Height may not exceed twenty (20) feet. **See Figure 03 appended to this Ordinance.**

Section 8. Yard Regulations.

A. The following minimum Setbacks shall be provided:

<u>ZONE</u>	<u>FRONT SETBACK</u>	<u>SIDE SETBACK</u>	<u>REAR SETBACK</u>
R-1	25 ft.	5 ft.	30 ft.
R-3	25 .ft.	10 ft.	30 ft.
B	10 ft.	0 ft.	20 ft.
C	30 ft.	15 ft.	20 ft.

See Figure 02 appended to this Ordinance.

B. On corner lots, there shall be a set back from each street to the main building equal to the Front Setback depth.

C. Except as otherwise provided, Setbacks shall remain open space, unoccupied and unobstructed by any structure. **See Figure 02 appended to this Ordinance.**

- D. If a Garage is detached from the primary dwelling structure, the garage may be located in the Rear Setback, provided, however, that it is not less than sixty (60) feet from the front lot line, in which event there shall be a minimum distance of three (3) feet from any overhang or projection of the Garage to any lot line and provided further that the square footage of that portion of the Garage extending into the Rear Setback does not exceed one-third (1/3) the area of the Rear Setback. **See Figure 02 appended to this Ordinance.**
- E. Accessory Structures must be at least five (5) feet from the main building and any lot line, measured from the Foundation Line. Any eave or overhang of Accessory Structures must be at least one (1) foot from any lot line. Accessory Structures other than detached Garages may be located only in the Buildable Area of a Rear Yard. **See Figure 01 and Figure 02 appended to this Ordinance.**
- F. Sheds may be located in Rear Setbacks, provided that the square footage of the Shed plus the square footage of any Garage located in the Rear Yard does not exceed one-third (1/3) the area of the Rear Setback. **See Figure 02 appended to this Ordinance.**
- G. Open terraces, patios, or concrete slabs that do not extend above the level of the ground may project into Setbacks, provided they remain at least two (2) feet from any lot line, and provided further that they shall not be used for parking of motor vehicles. However, no such open terraces, patios, or concrete slabs may be located in any yard unless the sum of their square footage plus the square footage of any parking spaces and/or driveway located in the same yard does not exceed one-third (1/3) the area of the Setback where they are located. Open terraces, patios, or concrete slabs may be located Rear Yards so long as the sum of their square footage plus the square footage of any parking spaces and/or driveways located in the same yard does not exceed one-half (1/2) the area of the Rear Setback. If they are attached to, immediately adjacent to, or abutting the primary building on the lot and are not enclosed, then such open terraces, patios, or concrete slabs may extend up to sixteen (16) inches above the level of the ground. **See Figure 01 and Figure 02 appended to this Ordinance.**
- H. Steps or ramps that are necessary to provide access to the first floor of buildings or for access to a lot from a street may extend into Setbacks.
- I. The following appurtenances may extend up to two (2) feet into Setbacks, measured from the Foundation Line, provided that they are attached to the main building on the lot and are supported by that building and not from the ground:
- (1) Architectural projections or features such as sills, eaves, cornices, and other ornamental features;
 - (2) Gutters and downspouts;
 - (3) Awnings, eaves, and canopies;
 - (4) Bay windows; and
 - (5) Any combination of the above listed appurtenances.
- J. Garden Structures may be located in Setbacks, provided that no part of the Garden Structures is within two (2) feet of any street right-of-way line. **See Figure 02 appended to this Ordinance.**

K. Play Structures may be located in Rear or Side Setbacks, provided that no part of the Play Structures is within two (2) feet of any lot line. **See Figure 02 appended to this Ordinance.**

L. Concrete slabs for air-conditioning units shall be placed in the Rear Yard or Side Yard at least five (5) feet from any lot line. **See Figure 01 and Figure 02 appended to this Ordinance.**

Section 9. Building Coverage and Lot Regulations.

A. Except as otherwise herein provided, there shall be a minimum lot frontage, minimum lot width, minimum lot area, minimum lot area per family, and maximum Building Coverage as shown in the following table:

LOT REGULATIONS						
ZONE	FRONTAGE (FEET)	WIDTH (FEET)	AREA (SQ. FEET)	AREA PER FAMILY (SQ. FEET)		BUILDING COVERAGE
				SINGLE FAMILY	MULTI- FAMILY	
R-1	50	75	7,500	7,500	*	40%
B	30	40	10,000	5,000	3,000	40%
C	30	40	10,000	5,000	3,000	40%

B. For purposes of the above regulations, lot frontage is the distance of a lot measured along a street, and lot width is the width of a lot at the Front Setback line. **See Figure 01 and Figure 02 appended to this Ordinance.**

C. The maximum building coverage standard establishes the percentage of the total area of a parcel that can be covered by buildings. For purposes of the above regulations, the combined total Ground Area of all buildings on the property, including Accessory Structures, is used to calculate the Building Coverage.

D. Notwithstanding the regulations set forth in the table above, in the event a building is located on multiple abutting parcels, the maximum Building Coverage for the combined abutting parcels shall be the smaller of 40% of the total area of the combined abutting parcels, or 60% of the total area of the single largest of the said abutting parcels.

E. For purposes of this Section 9, "parcel" means a tract of land which, as of the 10th day of October, 2017, had been assigned a single tax parcel ID number by the assessor of Johnson County, Iowa.

Section 10. Off-street Parking Regulations. At any time any building is erected or structurally altered or any change in use is made, unless otherwise provided in this ordinance, off-street parking spaces shall be provided in accordance with the following requirements.

A. Minimum Required Off-street Spaces:

<u>USE</u>	<u>SPACE REQUIREMENTS</u>
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Single-family dwellings	2 spaces per family living unit.
Multiple-family dwellings	1-1/2 spaces per family living unit.
Churches	1 space for each 4 seats in the sanctuary or main auditorium. Where pews are used for seating purposes, each 20 inches shall constitute one seat.
Restaurants and private clubs	1 space for each 150 square feet of floor area.
All uses not specifically mentioned above	1 space for each 200 square feet of floor area.

B. Parking Space:

Off-street parking spaces shall be constructed of asphaltic concrete, Portland cement concrete, manufactured paving material such as brick, or similar permanent, dust-free material suitable for off-street parking of motor vehicles. Such spaces shall not be constructed of the following:

1. Dirt or loose gravel, rock, or stone; or
2. Compacted dirt, gravel, rock, or stone; or
3. Crushed rock or chip seal surfaces.

Parking spaces shall be at least nine (9) feet wide and twenty (20) feet long (except as otherwise provided). Parking spaces shall be designed to permit ingress and egress of the vehicle without moving any other vehicle parked adjacent to the parking space. For single-family dwellings, when located pursuant to the requirements of this chapter, one space may be behind another.

C. Computing Off-street Parking:

In computing the number of off-street parking spaces required, the following rules govern:

1. "Floor area" means the gross floor area of the specific use.
2. Where fractional spaces result, the parking spaces required is the next largest whole number.
3. Whenever a building erected or established after the effective date of this ordinance is enlarged in floor area, number of employees number of dwelling units, seating capacity or otherwise to create a need for an increase in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
4. Whenever a building existing prior to the effective date of this ordinance is enlarged to the extent of less than 50% in floor area, the said addition or enlargement shall comply with the parking requirements set forth herein.

5. Whenever a building existing prior to the effective date of this ordinance is enlarged to the extent of fifty percent (50%) or more in the floor area or in the area used, by one or more enlargements, the original building and any enlargements or uses shall then and thereafter comply with the parking requirements set forth herein.
6. Whenever a building existing prior to the effective date of this ordinance is converted to any other use, said structure shall then and thereafter comply with the parking requirements set forth herein.
7. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

D. Location of Parking Spaces:

All yards shall remain open space free of parking and driveways unless otherwise provided as follows:

1. In single-family residential (R-1) zones - parking spaces and driveways may be located in the Front Yard provided that the parking spaces may not exceed an area greater than one-third (1/3) of the Front Setback; the remainder of the Front Yard shall remain open space, free of parking spaces and driveways. However, for lots adjacent to the east side of Olive Court, parking spaces and driveways may be located in the Rear Yard, provided that the parking spaces may not exceed an area greater than one-third (1/3) of the Rear Setback; the remainder of the Rear Yard shall remain open space, free of parking spaces and driveways. If parking spaces for a lot adjacent to the east side of Olive Court are located in the Rear Yard, then required spaces may not also be located in the Front Yard of that lot. **See Figure 01 and Figure 02 appended to this Ordinance.**
2. In Multiple-family residential (R-3) zones - parking may be allowed in the Rear Setback but not closer than 10 feet to the rear lot line. Driveways may be located in the Front Setback or Side Setback, provided a minimum of 50% of the Front Setback and Side Setback shall remain in open space free of driveways. **See Figure 01 and Figure 02 appended to this Ordinance.**
3. In Business (B) zones - parking spaces may be located in any Setback. **See Figure 02 appended to this Ordinance.**
4. In Commercial (C) zones - parking spaces may be located in any Setback provided, however, no parking shall be located within 15 feet of any adjoining property located in a residential zone. **See Figure 02 appended to this Ordinance.**

Section 11. Planned Unit Development (PUD).

- A. Intention. The PUD Zone is intended to accommodate projects for which the specific design of individual buildings and elements may be determined. Development may occur provided that it is consistent with the overall design and development elements reviewed and approved by the University Heights City Council, all as provided in this Ordinance.

B. Development Regulations and Restrictions. Property in the PUD Zone may be developed pursuant to the following regulations and restrictions:

1. No more than six (6) single-family dwelling units may be constructed.
2. All buildings must be no more than one (1) story.
3. All persons occupying the premises must do so as part of an individual housekeeping unit.
4. No parking shall be permitted upon the public cul de sac now known as Birkdale Court.
5. The sanitary sewer lift station, the force mains and the gravity-flow sanitary sewer serving the PUD Zone and located generally between Lots 2 and 3, University Athletic Club Subdivision, shall not be maintained nor repaired by the City of University Heights.
6. The University Heights City Council may impose additional reasonable conditions as it deems necessary to ensure that the development is compatible with adjacent land uses, will not overburden public services and facilities, and will not be detrimental to public health, safety, and welfare.

C. Procedure.

1. Any person or entity proposing a project in the PUD Zone shall submit a PUD Plan Application setting forth all the information specified in Section 11(D) of this Ordinance.
2. The University Heights City Council shall hold a public hearing regarding such Plan Application. The public hearing may occur as part of any regularly scheduled or special Council meeting.
3. The University Heights City Council may approve, deny, or approve on condition any such Plan Application.
4. No building permit shall issue for property within the PUD Zone until the University Heights City Council has approved a Plan Application pursuant to Section 11(D) and the Council and Developer have executed a Development Agreement pursuant to Section 11(E) of this ordinance.
5. Once approved, a Plan Application may be modified by written instrument approved by the University Heights City Council and by the Developer.
6. Once approved, a Development Agreement may be modified by written instrument approved by the University Heights City Council and by the Developer.

D. PUD Plan Application Requirements. A PUD Plan Application must set forth or otherwise include all of the following:

1. Location, size, and legal description of the site.

2. Location and area of land uses.
 3. Detailed site plan.
 4. Front, Side, and Rear Setbacks.
 5. Existing topography at two-foot intervals.
 6. Grading plan at one-foot contours.
 7. Location and description of major site features, including tree masses, drainageways, wetlands, and soils.
 8. Sensitive areas site plan, including erosion control plans.
 9. Proposed type of development, e.g., condominium, single-family dwelling, two-family dwelling, etc.
 10. Location and size of buildings or building footprints.
 11. Design elevations showing all sides of every building and perimeter fences.
 12. Description of materials for all exterior building surfaces and perimeter fences.
 13. Vertical and horizontal dimensions of the exterior of all buildings and perimeter fences.
 14. Maximum Building Height of proposed structures and perimeter fences.
 15. Location of existing and proposed utilities, sanitary sewers, storm water facilities, and water, gas, and electrical distribution systems.
 16. Preliminary Plat.
 17. Final Plat.
 18. Deed restrictions, covenants, agreements, association bylaws and/or other documents controlling the use of the property, providing for maintenance and repair of the sanitary sewer lift station that serves the property, and controlling the type of construction or development activities of future residents.
 19. All other information reasonably required by the University Heights City Council or its designees to explain or illustrate the Plan Application.
- E. Development Agreement. The PUD Plan shall also include a Development Agreement establishing development requirements and addressing certain other items, including the following:
1. Design standards applicable to the project.
 2. Development covenants, easements, and restrictions, including a prohibition on further subdivision of any lot in the approved

PUD Plan and providing for maintenance and repair of the sanitary sewer lift station serving the PUD Zone.

3. Site improvements, including sidewalks, that will be constructed following approval of the Site Development Plan.
4. Timing of commencement and completion of construction of buildings and improvements pursuant to the PUD Plan.
5. Payment of the Developer of the costs and fees, including engineering and legal fees, incurred by the City of University Heights in considering the PUD Plan.

Section 12. Multiple-Family Planned Unit Development (PUD).

A. Intention. The Multiple-Family PUD regulations and requirements are intended to accommodate projects for which the specific architectural design and site layout of individual buildings and elements shall be subject to approval by the University Heights City Council. Development may occur provided that it is consistent with the overall design and development elements reviewed and approved by the University Heights City Council, all as provided in this Ordinance.

B. Development Options - Density, Height, Parking, and Green Space Restrictions. Property may be developed as a Multiple-Family PUD in the following alternatives pursuant to the respective regulations and restrictions provided:

1. Alternative 1 - Vertical Concept.

a. No more than one hundred forty-four (144) single-family dwelling units may be constructed.

b. No building may exceed fifty-five (55) feet in Building Height as defined in Section 7 of this Ordinance.

c. A minimum of two hundred fifty-two (252) off-street parking spaces shall be provided. "Parking space" is defined in Section 10 of this Ordinance.

d. A minimum of one hundred twenty thousand seven hundred sixteen (120,716) square feet of the property shall not be encumbered by buildings, parking areas, or walkways, but rather shall be maintained as green space consisting of grass, trees, shrubs, or other living vegetation.

e. The eave of any building shall not be less than forty-five (45) feet from the lot line along Marietta Avenue; twenty-five (25) feet from the lot lines along George and Sunset Streets; twenty (20) feet from the westerly one hundred forty-five and eighty-two hundredths (145.82) feet of the lot line that constitutes the municipal boundary to the south of the property; and thirty (30) feet from the easterly five hundred four and twenty-nine hundredths (504.29) feet of the lot line that constitutes the municipal boundary to the south of the property.

f. Building projections, including screened porches or walls, shall not be less than thirty-five (35) feet from the lot line along Marietta Avenue; twenty-five (25) feet from the lot lines

along George and Sunset Streets; ten (10) feet from the westerly one hundred forty-five and eighty-two hundredths (145.82) feet of the lot line that constitutes the municipal boundary to the south of the property; and twenty (20) feet from the easterly five hundred four and twenty-nine hundredths (504.29) feet of the lot line that constitutes the municipal boundary to the south of the property.

g. The University Heights City Council may impose additional reasonable conditions as it deems necessary to ensure that the development is compatible with adjacent land uses, will not overburden public services and facilities, and will not be detrimental to public health, safety, and welfare.

2. Alternative 2 - Horizontal Concept.

a. No more than one hundred thirty-three (133) single-family dwelling units may be constructed.

b. No building may exceed thirty-nine (39) feet in Building Height as defined in Section 7 of this Ordinance.

c. A minimum of two hundred (200) off-street parking spaces shall be provided. "Parking space" is defined in Section 10 of this Ordinance.

d. A minimum of eighty-seven thousand nine hundred seventy-six (87,976) square feet of the property shall not be encumbered by buildings, parking areas, or walkways, but rather shall be maintained as green space consisting of grass, trees, shrubs, or other living vegetation.

e. The eave of any building shall not be less than forty-five (45) feet from the lot line along Marietta Avenue; twenty-five (25) feet from the lot lines along George and Sunset Streets; twenty (20) feet from the westerly one hundred forty-five and eighty-two hundredths (145.82) feet of the lot line that constitutes the municipal boundary to the south of the property; and thirty (30) feet from the easterly five hundred four and twenty-nine hundredths (504.29) feet of the lot line that constitutes the municipal boundary to the south of the property; provided, however, that the existing Garages may remain as presently situated and located if they are part of the Multiple-Family PUD; and further provided that the foundation of a new Garage shall not be less than twenty (20) feet from the easterly five hundred four and twenty-nine hundredths (504.29) feet of the lot line that constitutes the municipal boundary to the south of the property.

f. Building projections, including screened porches or walls, shall not be less than thirty-five (35) feet from the lot line along Marietta Avenue; twenty-five (25) feet from the lot lines along George and Sunset Streets; ten (10) feet from the westerly one hundred forty-five and eighty-two hundredths (145.82) feet of the lot line that constitutes the municipal boundary to the south of the property; and twenty (20) feet from the easterly five hundred four and twenty-nine hundredths (504.29) feet of the lot line that constitutes the municipal boundary to the south of the property; provided, however, that the existing

Garages may remain as presently situated and located if they are part of the Multiple-Family PUD; and further provided that the foundation of a new Garage shall not be less than twenty (20) feet from the easterly five hundred four and twenty-nine hundredths (504.29) feet of the lot line that constitutes the municipal boundary to the south of the property.

g. The University Heights City Council may approve a Multiple-Family PUD application that includes parking spaces 18 feet in length and includes parking spaces in Setbacks notwithstanding the provisions of Section 10 of this ordinance.

h. The University Heights City Council may impose additional reasonable conditions as it deems necessary to ensure that the development is compatible with adjacent land uses, will not overburden public services and facilities, and will not be detrimental to public health, safety, and welfare.

C. Additional Development Regulations and Restrictions. The following regulations and restrictions apply to property developed as a Multiple-Family PUD under either alternative:

1. The eave of any building shall not be less than forty-five (45) feet from the lot line along Marietta Avenue; twenty-five (25) feet from the lot lines along George and Sunset Streets; twenty (20) feet from the westerly one hundred forty-five and eighty-two hundredths (145.82) feet of the lot line that constitutes the municipal boundary to the south of the property; and thirty (30) feet from the easterly five hundred four and twenty-nine hundredths (504.29) feet of the lot line that constitutes the municipal boundary to the south of the property.
2. Building projections, including screened porches or walls, shall not be less than thirty-five (35) feet from the lot line along Marietta Avenue; twenty-five (25) feet from the lot lines along George and Sunset Streets; ten (10) feet from the westerly one hundred forty-five and eighty-two hundredths (145.82) feet of the lot line that constitutes the municipal boundary to the south of the property; and twenty (20) feet from the easterly five hundred four and twenty-nine hundredths (504.29) feet of the lot line that constitutes the municipal boundary to the south of the property.
3. The University Heights City Council may impose additional reasonable conditions as it deems necessary to ensure that the development is compatible with adjacent land uses, will not overburden public services and facilities, and will not be detrimental to public health, safety, and welfare.

D. Procedure.

1. Any person or entity proposing a project in the Multiple-Family PUD Zone shall submit fifteen (15) copies of a Multiple-Family PUD Plan Application setting forth all the information specified in Section 12(D) of this Ordinance.

2. The University Heights City Council shall hold a public hearing regarding such Plan Application. The public hearing may occur as part of any regularly scheduled or special Council meeting.
 3. The University Heights City Council may approve, deny, or approve on condition any such Plan Application.
 4. No building permit shall issue for development of any property pursuant to a Multiple-Family PUD until the University Heights City Council has approved a Plan Application pursuant to Section 12(D) and the Council and Developer have executed a Development Agreement pursuant to Section 12(E) of this Ordinance.
 5. Once approved, a Plan Application may be modified by written instrument approved by the University Heights City Council and by the Developer.
 6. Once approved, a Development Agreement may be modified by written instrument approved by the University Heights City Council and by the Developer.
- E. Multiple-Family PUD Plan Application Requirements. A Multiple-Family PUD Plan Application must set forth or otherwise include all of the following:
1. Location, size, and legal description of the site.
 2. Location and area of land uses.
 3. Detailed site plan showing all existing or proposed easements.
 4. Front, Side, and Rear Setbacks.
 5. Existing topography at two-foot intervals.
 6. Grading plan at one-foot contours.
 7. Location and description of major site features, including tree masses, drainageways, wetlands, and soils.
 8. Erosion control plan.
 9. Proposed type of development, e.g., condominium, multiple-family dwelling, etc.
 10. Location and size of buildings or building footprints.
 11. Design elevations showing all sides of every building, roofline, and perimeter fences.
 12. Description of materials for all exterior building surfaces and perimeter fences.
 13. Vertical and horizontal dimensions of the exterior of all buildings and perimeter fences.
 14. Maximum Building Height of proposed structures and perimeter fences.

15. Floor plans showing square footage of each dwelling unit.
 16. Location of existing and proposed utilities, sanitary sewers, storm water facilities, and water, gas, and electrical distribution systems.
 17. Preliminary Plat.
 18. Final Plat.
 19. Deed restrictions, covenants, agreements, association bylaws and/or other documents controlling the use of the property and controlling the type of construction or development activities of future residents.
 20. All other information reasonably required by the University Heights City Council or its designees to explain or illustrate the Plan Application.
- F. Development Agreement. The Multiple-Family PUD Plan shall also include a Development Agreement establishing development requirements and addressing certain other items, including the following:
1. Design standard applicable to the project.
 2. Development covenants, easements, and restrictions, including a prohibition on further subdivision of the property developed pursuant to the Multiple-Family PUD.
 3. Site improvements, including sidewalks, that will be constructed following approval of the Site Development Plan.
 4. Timing of commencement and completion of construction of buildings and improvements pursuant to the Multiple-Family PUD Plan.
 5. Payment by the Developer of the costs and fees, including engineering, legal, publication and recording fees, incurred by the City of University Heights in considering the PUD Plan.

Section 13. Multiple-Family Commercial PUD.

- A. Intention. The Multiple-Family commercial PUD regulations and requirements are intended to accommodate projects for which the specific architectural design and site layout of individual buildings and elements shall be subject to approval by the University Heights City Council. Development may occur provided that it is consistent with the overall design and development elements reviewed and approved by the University Heights City Council, all as provided in this Ordinance.
- B. Development Regulations and Restrictions. Property may be developed as a Multiple-Family Commercial PUD Zone pursuant to the following regulations and restrictions:
 1. No more than two (2) buildings may be constructed with combined footprints of no more than forty-five thousand (45,000) square feet.

2. No more than one hundred four (104) dwelling units may be constructed.
3. No more than twenty thousand (20,000) square feet of commercial space may be constructed.
4. All persons occupying the premises must do so as part of an individual housekeeping unit.
5. The front building of the development (closest to Melrose Avenue) shall not exceed thirty-eight (38) feet in Building Height, and the rear building shall not exceed seventy-six (76) feet in Building Height. "Building Height" is defined in Section 7 of this Ordinance.
6. A minimum of one hundred eighty-five (185) off-street parking spaces, of which no more than one hundred eight (108) may be above ground, shall be provided for commercial and residential uses. "Parking space" is defined in Section 10 of this Ordinance.
7. The eaves or building projections, including screened porches or walls, of the front building shall not be less than thirty three (33) feet from the lot line along Melrose Avenue; the eaves or building projections, including screened porches or walls, of any other building or portion thereof shall not be less than twenty (20) feet from any lot line.
8. The University Heights City Council may impose additional reasonable conditions as it deems necessary to ensure that the development is compatible with adjacent land uses, will not overburden public services and facilities, and will not be detrimental to public health, safety, and welfare.

C. Procedure.

1. Any person or entity proposing development as a Multiple-Family Commercial PUD shall submit fifteen (15) copies of a Multiple-Family Commercial PUD Plan Application setting forth all the information specified in Section 13(D) of this Ordinance.
2. The University Heights City Council shall hold a public hearing regarding such Plan Application. The public hearing may occur as part of any regularly scheduled or special Council meeting.
3. The University Heights City Council in its sole discretion may approve, deny, or approve on condition any such Plan Application or any part thereof.
4. No building permit shall issue for development of any property pursuant to a Multiple-Family Commercial PUD until the University Heights City Council has approved a Plan Application pursuant to Section 13(D) and the Council and Developer have executed a Development Agreement pursuant to Section 13(E) of this Ordinance.

5. Once approved, a Plan Application may be modified by written instrument approved by the University Heights City Council and by the Developer.
 6. Once approved, a Development Agreement may be modified by written instrument approved by the University Heights City Council and by the Developer.
- D. Multiple-Family Commercial PUD Plan Application Requirements. A Multiple-Family Commercial PUD Plan Application must set forth or otherwise include all of the following:
1. Location, size, and legal description of the site.
 2. Location and area of land uses.
 3. Detailed site plan showing all existing or proposed easements.
 4. Front, Side, and Rear Setbacks.
 5. Existing topography at two-foot intervals.
 6. Grading plan at one-foot contours.
 7. Location and description of major site features, including tree masses, drainageways, wetlands, and soils.
 8. Erosion control plan.
 9. Proposed type or types of development, e.g., commercial, multiple-family dwelling, etc.
 10. Location and size of buildings or building footprints.
 11. Design elevations showing all sides of every building, roofline, and perimeter fences.
 12. Description of materials for all exterior building surfaces and perimeter fences.
 13. Vertical and horizontal dimensions of the exterior of all buildings and perimeter fences.
 14. Maximum height of proposed structures and perimeter fences.
 15. Floor plans showing square footage of each commercial and each dwelling unit.
 16. Location of existing and proposed utilities, sanitary sewers, storm water facilities, and water, gas, and electrical distribution systems.
 17. Preliminary Plat, if applicable.
 18. Final Plat, if applicable.
 19. Deed restrictions, covenants, agreements, association bylaws and/or other documents controlling the use of the property and

controlling the type of construction or development activities of future residents.

20. All other information reasonably required by the University Heights City Council or its designees to explain or illustrate the Plan Application.

E. Development Agreement. The Multiple-Family Commercial PUD Plan shall also include a Development Agreement establishing development requirements and addressing certain other items, including the following:

1. Design standards applicable to the project.
2. Development covenants, easements, and restrictions, including a prohibition on further subdivision of the property developed pursuant to the Multiple-Family Commercial PUD. Restrictions may also include the types of businesses and hours of operation of businesses located in the commercial space portion of the Multiple-Family Commercial PUD and whether and on what conditions some or all dwelling units may be leased.
3. Site improvements, including sidewalks, that will be constructed following approval of the Site Development Plan.
4. Timing of commencement and completion of construction of buildings and improvements pursuant to the Multiple-Family Commercial PUD Plan.
5. Payment by the Developer of the costs and fees, including engineering, legal, administrative, publication and recording fees, incurred by the City of University Heights in considering the PUD Plan.

Section 14. Building Permits. No building shall hereafter be erected or structurally altered until a building permit is issued by the Building Inspector in accordance with the provisions of this ordinance and of the Building Code. In addition, no paving measuring one hundred (100) square feet or more in surface area shall be placed or installed on any Lot until a building permit is issued by the Building Inspector in accordance with the provisions of this ordinance and the Building Code. A Building Permit is required if the paving will be placed or installed at one time and one location on a Lot and amounting to one hundred (100) square feet or more in surface area and also if the paving will be placed or installed at multiple times and multiple locations on a Lot since adoption of the Building Permit requirement, with the combined total surface area of all locations amounting to one hundred (100) square feet or more. "Paving" means any permanent, dust-free materials including but not limited to asphaltic concrete, Portland cement concrete, and manufactured paving material such as brick.

Section 14A. Commercial Hotel PUD.

A. Intention. The Commercial Hotel PUD regulations and requirements are intended to accommodate projects for which the specific architectural design and site layout of individual buildings and elements shall be subject to approval by the University Heights City Council. Development may occur provided that it is consistent with the overall design and development elements reviewed and approved by the University Heights City Council, all as provided in this Ordinance.

B. Development Regulations and Restrictions. Property may be developed as a Commercial Hotel PUD pursuant to the following regulations and restrictions:

1. No more than one (1) hotel building may be constructed with a footprint of no more than nineteen thousand eight hundred (19,800) square feet.
2. No more than one hundred forty (140) hotel rooms may be constructed.
3. The Maximum Structure Height of the hotel building shall not exceed seventy-four (74) feet in height; provided, however, that any portion of the hotel building exceeding sixty-five (65) feet may be used only for a rooftop restaurant and/or conference and meeting space and may not be enclosed and used for hotel rooms or used for any other purpose. "Maximum Structure Height" is defined in Section 3 and Section 7 of this Ordinance.
4. No less than one hundred ninety-six (196) off-street parking spaces. "Parking space" is defined in Section 10 of this Ordinance. Any parking configuration, plan, or design varying an off-street parking site plan previously approved by the City and/or specifying more than 196 off-street parking spaces shall first be approved by Resolution of the City Council; provided, however, that further approval is not required for Game Day parking.
5. The eaves or building projections, including screened porches or walls, of the hotel building shall be located on the PUD property as follows:
 - a. Not be less than three hundred (300) from the Melrose Avenue street right-of-way line;
 - b. Not be less than fifty (50) feet from the east boundary of the PUD property;
 - c. Not be less than fifty (50) feet from the south boundary of the PUD property;
 - d. Not be less than sixty (60) feet from the west boundary of the PUD property.
6. The University Heights City Council may impose additional conditions as it deems necessary to ensure that the development is compatible with adjacent land uses, will not overburden public services and facilities, and will not be detrimental to public health, safety, and welfare.

C. Procedure.

1. Any person or entity proposing development as a Commercial Hotel PUD shall submit fifteen (15) copies of a Commercial Hotel PUD Plan Application setting forth all the information specified in Section 14A(D) of this Ordinance.

2. The University Heights City Council shall hold a public hearing regarding any such Plan Application. The public hearing may occur as part of any regularly scheduled or special Council meeting.
 3. The University Heights City Council in its sole discretion may approve, deny, or approve on condition any such Plan Application or any part thereof.
 4. No building permit shall issue for development of any property pursuant to a Commercial Hotel PUD until the University Heights City Council has approved a Plan Application pursuant to Section 14A(D) and the Council and Developer have executed a Development Agreement pursuant to Section 14A(E) of this Ordinance.
 5. Once approved, a Plan Application may be modified only by written instrument approved by the University Heights City Council and by the Developer.
 6. Once approved, a Development Agreement may be modified only by written instrument approved by the University Heights City Council and by the Developer.
- D. Commercial Hotel PUD Plan Application Requirements. A Commercial Hotel PUD Plan Application must set forth or otherwise include all of the following:
1. Location, size, and legal description of the site.
 2. Location and area of land uses.
 3. Detailed site plan showing all existing or proposed easements coming upon or benefitting the PUD property and expressing the hotel building coverage as a percentage of total PUD property area.
 4. Distance between hotel building and Melrose Avenue right-of-way lines and between hotel building and each boundary of the PUD property.
 5. Existing topography at two-foot intervals.
 6. Grading plan at one-foot contours.
 7. Location and description of major site features, including tree masses, archeological sites, drainage ways, wetlands, and soils.
 8. Erosion control plan.
 9. Sensitive areas development plan that includes identification and description of buffers and other proposed measures intended to mitigate development impact on slopes, archeological sites, stream corridors and wetlands, and woodlands.
 10. Landscape plan specifying proposed street furniture and identifying the dimensions and composition of such furniture and the commitment of the applicant to install, maintain, and replace such furniture.

11. Location and size of building footprint.
 10. Location, nature, size, and proposed configuration of parkland or other property to be dedicated for public use.
 12. Design elevations showing all sides of the hotel building, roofline, and perimeter fences.
 13. Description of materials for all exterior building surfaces and perimeter fences, with samples of such materials to be provided upon request.
 14. Vertical and horizontal dimensions of the exterior of the hotel building and perimeter fences or vegetation screening.
 15. Maximum Structure Height of the hotel building and height of perimeter fences or vegetation screening.
 16. Location, materials composition, lighting, and animation features of all signage (whether free-standing, affixed to the hotel building or some other appurtenances, or displayed otherwise).
 17. Floor plans showing square footage of each hotel room and the square footage of every additional room, area, or space located in the hotel building.
 18. Description of energy efficiency of the hotel building and overall PUD property use, including identification of the Leadership in Energy and Environmental Design (LEED) rating level the applicant commits to achieve.
 19. Description of exterior lighting requiring use of light-emitting diode bulbs not more than 3,000 degrees Kelvin to be downcast and shielded so that no more than one candle-foot of light spillage occurs beyond PUD property lines.
 20. Location of existing and proposed utilities, sanitary sewers, storm water facilities, and water, gas, and electrical distribution systems.
 21. Location of proposed public transit features and amenities including but not limited to location of bus passenger shelter.
 22. Preliminary Plat.
 23. Final Plat.
 24. Deed restrictions, covenants, agreements, and/or other documents controlling the use of the property and controlling the type of construction or development activities of future residents.
 25. All other information required by the University Heights City Council or its designees to explain or illustrate the Plan Application.
- E. Development Agreement. The Commercial Hotel PUD Plan shall also include a Development Agreement establishing development requirements

and addressing certain other items, including but not limited to the following:

1. Design standards applicable to the project.
2. Development covenants, easements, and restrictions, including a prohibition on further subdivision of the property developed pursuant to the Commercial Hotel PUD. Restrictions may also include the size and type of permitted signage and the hours of operation for outdoor seating areas, exterior sound/loudspeakers, and deliveries.
3. Site improvements, including sidewalks (specifying the dimensions, material composition, and maintenance and repair obligations concerning the sidewalks), that will be constructed.
4. Timing of commencement and completion of construction of buildings and improvements pursuant to the Commercial Hotel PUD Plan.
5. The brand or flag of the hotel to be operated on the PUD property with the specific condition that the brand or flag may not be changed except by written instrument approved by the University Heights City Council.
6. Payment by the Developer of the costs and fees, including but not limited to engineering, legal, administrative, publication and recording fees incurred by the City of University Heights in considering the PUD Plan and in evaluating, administering, and overseeing PUD documents, building permits, other required permits, and PUD project construction and operation.

Section 14B. Agreement to Reimburse Fees and Expenses.

- A. Before the City of University Heights, the City Council, Zoning Commission, or City Staff will undertake to review or evaluate any development proposal, the proponent must first enter into a written agreement, in a form satisfactory to the City, requiring the proponent to reimburse the City for the clerical and professional fees and expenses the City will incur in reviewing, evaluating, considering, administering, and overseeing the development proposal and associated documents, permits, and construction.
- B. For purposes of this Section, "development proposal" means an application, proposal, or other submission that seeks any change to the City's Zoning Ordinance and/or seeks to subdivide real property.
- C. For purposes of this Section, "clerical and professional fees and expenses" includes but is not limited to the City's fees and expenses for engineering, legal, financial consulting, construction administration and oversight, and City Clerk services.
- D. An agreement to reimburse the City for clerical and professional fees and expenses does not confer or provide the proponent the right or authority to direct, regulate, or influence the professional judgment of the City's legal counsel, City Engineer, or other of the City's agents, employees, consultants, contractors, or Clerk.

- E. All of the professional and ethical duties of the City's legal counsel, City Engineer, and all other of the City's agents, employees, consultants, contractors and Clerk, including duties of diligence, loyalty, confidentiality, shall extend and run exclusively to the City and not to the proponent or any other person or entity, notwithstanding the agreement to reimburse the City for clerical and professional fees and expenses.

Section 15. Board of Adjustment Created. A Board of Adjustment is hereby created. The Board of Adjustment shall consist of five members, each to be appointed for a term of five years, excepting that when the board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. The Board shall elect a chairman from its membership, and appoint a secretary. The procedures, duties and powers of the Board shall be as follows:

1. Meetings.
 - a) Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.
 - b) All meetings of the Board shall be open to the public.
 - c) Minutes shall be kept of each meeting or proceeding of the Board showing the vote of each member upon each question, or if absent or if failing to vote, indicating such fact, which minutes shall be filed with the City Clerk and shall be a public record.
 - d) A majority of the Board shall constitute a quorum.
 - e) The Board may adopt such additional rules of procedure that are not in conflict with this ordinance or the Statutes of the State of Iowa.
2. Appeals and Applications to the Board.
 - a) Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City of University Heights affected by any decisions of the Building Inspector based on the provisions of this ordinance. Such appeal shall be taken within a reasonable time as provided by the rules of the Board by filing a notice of appeal with the City Clerk, specifying the grounds thereof. The City Clerk shall transmit a copy of said notice to the Building Inspector and to the Board of Adjustment. The Building Inspector shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.
 - b) Any person may make application to the Board for an exception or variance to this ordinance by filing a written application with the City Clerk, who shall promptly notify the chairman of the Board of Adjustment of said application.

- c) An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such cases proceedings, shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.
- d) The Board shall fix a reasonable time for a hearing of any application or appeal. Notice of the time and place of such hearing shall be given at least seven (7) but not more than twenty (20) days in advance by publication in a newspaper having a general circulation in the City of University Heights and by mail to the applicant or party appealing and to the owners of property located within two hundred (200) feet of the exterior boundaries of the property that is the subject of the application or appeal. If requested by the City, the applicant or the party appealing shall cause a sign, placard, or other notice in a form and at a time specified by the City to be posted at the property and maintained through the date of the hearing.
- e) The concurring vote of three members of the Board shall be necessary to revise any order, requirement, decision or determination of the Building Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass or to effect any exception or variation to this ordinance.
- f) A filing fee in an amount to be established by resolution adopted by the City Council shall be paid with the filing of any application or appeal provided for herein.

3. Powers. The Board shall have the following powers:

- a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by any administrative official in the enforcement of this ordinance.
- b) To hear and decide the following special exceptions to the terms of this ordinance:
 - 1) Reconstruction of or alterations or additions to non-conforming buildings that would otherwise be prohibited under the provisions of this ordinance.
 - 2) Use of premises for public utility purposes.
- c) To authorize upon appeal in the following specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where owing to special conditions a literal enforcement of the provisions of this ordinance will result in an unnecessary hardship and so

that the spirit of the ordinance shall be observed and substantial justice done:

- 1) Vary the yard, Setbacks, Building Height, or lot area regulations where there is an exceptional or unusual dimensional configuration or physical condition of the lot not generally prevalent in the neighborhood and which condition when related to the regulations of this ordinance would prevent a reasonable or sensible arrangement of buildings on the lot.
 - 2) Vary the parking regulations where an applicant demonstrates conclusively that the specific use of a building would make unnecessary the parking spaces required by this Chapter but providing that such a reduction not be more than 50 percent of the usual requirement.
 - d) Hear and decide appeals concerning fences as provided in Ordinance No. 105.
 - e) Hear and decide applications for exceptions to the minimum area (square footage) requirements for bedrooms as set forth in the City of University Heights Building Code.
 - f) Hear and decide appeals from the denial of an application for a certificate of structure compliance of a rental permit pursuant to Ordinance No. 110 (Rental Housing Code).
4. No order of the Board permitting any construction of or to a building shall be valid for a period longer than one (1) year unless a building permit is obtained within such period.

Section 16. Non-conforming Uses and Buildings.

A. Intent. It is the intent of this ordinance to restrict and eventually eliminate non-conforming uses because they have been found to be incompatible with permitted uses in the zone involved. Non-conforming buildings shall be regulated to prevent an increase in the degree of non-conformity. The lawful use of any building or land existing on the effective date of this ordinance may continue although such use does not conform with the provisions of this ordinance, subject to the conditions contained herein.

B. General Provisions.

1. Construction Approved Prior to Ordinance. Nothing in this ordinance shall require any change in plans, construction or designated use of a building or structure for which substantial construction has lawfully begun prior to the effective date of this ordinance. Substantial construction shall be deemed to include excavation and demolition of existing buildings.
2. Unlawful Use Not Authorized. Nothing in this ordinance shall be interpreted as authorization for the continuance of the use of a structure or land in violation of the zoning regulation in effect prior to the enactment of this ordinance.

C. Non-conforming Lots of Record.

1. In an R-1 or B zone, a building may be erected for any use permitted in the zone on any lot of record on the effective date of this ordinance notwithstanding the lot's failure to meet the requirements of the zone for frontage and width. In any zone in which single-family dwellings are permitted, a single-family dwelling and Accessory Structures may be erected on any lot of record on the effective date of this ordinance notwithstanding its failure to meet the requirements of the zone for area.
2. A single-family dwelling on a non-conforming lot may be repaired, reconstructed or structurally altered provided the structural alteration does not increase the degree of non-conformity with yard, Setbacks, and area requirements. A multi-family building located on a non-conforming lot which does not meet the area requirements may be repaired and may be remodeled to a lesser number of units but shall not be reconstructed or structurally altered. **See Figure 02 appended to this Ordinance.**
3. If two (2) or more contiguous non-conforming lots or portions thereof become owned by a common owner, the land involved shall be deemed a single parcel for the purposes of this ordinance and no portion of said parcel shall be sold or used in a manner which diminishes compliance with lot width and area requirements.

D. Non-conforming Use.

1. No existing structure devoted to a use not permitted by this ordinance in the zone in which it is located shall be enlarged, reconstructed, moved or structurally altered as provided herein.
2. No non-conforming use may be extended through additional parts of a building nor to occupy any land outside such building.
3. A non-conforming use may be changed only to a use permitted in the same or higher zone. For the purposes of this section, the same zone means the most restrictive zone in which the non-conforming use is a permitted use; a higher zone means a zone which is more restrictive than the most restrictive zone in which the non-conforming use is a permitted use. If it is changed to a higher or conforming use, it may not resume the prior non-conforming use.
4. Any structure devoted to a non-conforming use which has been destroyed or damaged by fire, explosion, act of God or by a public enemy to the extent of fifty percent (50%) or more of its value, shall thereafter conform to the provisions of this ordinance. Where the damage is less than fifty percent (50%), such structure may be restored to the same non-conforming use as existed before such damage.
5. Any non-conforming use of land may not be extended to occupy a greater area of land than was owned on the effective date of the ordinance nor may additional structures be erected in connection with such non-conforming use of land.

6. Any non-conforming use of land or buildings which has ceased by discontinuance or abandonment for a period of three months shall thereafter conform to the provisions of this ordinance.
7. Any driveways, parking spaces, or parking areas in place and in use as of December 1, 2008, that comprise more than one-third (1/3) of the Front Setback may continue to be used if they are constructed of asphaltic concrete, Portland cement concrete, manufactured paving material such as brick, or similar permanent, dust-free surface material. Such non-conforming driveways, parking spaces, or parking areas may be repaired or replaced with like material, but they may not be enlarged. **See Figure 02 appended to this Ordinance.**
8. Any driveways, parking spaces, or parking areas in place and in use as of December 1, 2008, that comprise one-third (1/3) or less of the Front Setback may continue to be used if they are constructed of loose gravel, rock, or stone; or compacted gravel, rock, or stone; or crushed rock or chip seal surfaces. Such non-conforming driveways, parking spaces, or parking areas may be repaired or replaced with like material, but they may not be enlarged. **See Figure 02 appended to this Ordinance.**
9. Any driveways, parking spaces, or parking areas in place and in use as of December 1, 2008, that project into a Rear Yard may continue to be used if they lead to or provide access to a Garage with a door or opening large enough to admit automobiles; and if the door or opening faces the Rear Yard; and if the door or opening was in place as of December 1, 2008; and if they are constructed of asphaltic concrete, Portland cement concrete, manufactured paving material such as brick, or similar permanent, dust-free surface material. Such non-conforming driveways, parking spaces, or parking areas may be repaired or replaced, but they may not be enlarged. In the event the Garage door or opening that faces the Rear Yard is ever closed off or otherwise abandoned, the non-conforming driveways, parking spaces, or parking areas must be removed and the Rear Yard shall thereafter conform to the provisions of this ordinance. **See Figure 01 appended to this Ordinance.**
10. Any open terrace, patio, or concrete slab (collectively "projections") permitted by Section 8(G) to be located in the Rear Yard of a lot adjacent to the east side of Olive Court that is in place and in use as of February 1, 2013, may continue to be used only as follows:
 - A. If the projection itself comprises an area that is more than one-third (1/3) of the Rear Setback, it may continue to be used only under the following conditions:
 - i) it is not used for parking motor vehicles; and
 - ii) it is constructed of asphaltic concrete, Portland cement concrete, manufactured paving material such as brick, or similar permanent, dust-free surface material.
 - B. If the square footage of the projection plus the square footage of any parking spaces and driveway located in the

same yard comprise an area that is more than one-third (1/3) of the Rear Setback, the projection may continue to be used only under the following conditions:

- i) it is not used for parking motor vehicles;
- ii) it is constructed of asphaltic concrete, Portland cement concrete, manufactured paving material such as brick, or similar permanent, dust-free surface material; and
- iii) the line between it and the parking spaces and/or driveway is marked or otherwise demarcated to designate clearly the area where parking is not permitted.

C. Such non-conforming terraces, patios, or concrete slabs may be repaired or replaced with like material, but they may not be enlarged.

See Figure 01 and Figure 02 appended to this Ordinance.

E. Non-conforming Buildings.

1. Any building that contains a conforming use but could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, Building Height, yards, Setbacks, its location on the lot or other requirements concerning the structure, may continue subject to the following conditions:
 - a) Any non-conforming building which has been destroyed or damaged by fire, explosion, act of God or by a public enemy to any extent may be restored to the same degree of non-conformity as existed before such damage.
 - b) No building may be structurally altered in a way which increases or extends its non-conformity; however, it may be structurally altered in a way which will not affect or which will decrease its non-conformity; provided, however, that in the R-1 Single-Family Residential Zone, the exterior side walls of the principal dwelling that do not meet the Side Setback may be extended (parallel to the side lot line but not closer to that line) as part of an addition or expansion of the principal dwelling.

See Figure 02 and Figure 03 appended to this Ordinance.

Section 17. Abandonment. Whenever a non-conforming use has been abandoned or discontinued for a period of at least Three months, such use shall not thereafter be re-established and any future use shall be in conformity with the provisions of this ordinance.

Section 18. Amendments to this Ordinance. The boundaries of districts as now established and the regulations thereof may be amended, supplemented, changed, modified, or repealed by the City Council from time to time, either upon its own

motion, or upon a petition therefore, or upon recommendation of the Zoning Commission as hereinafter provided:

1. Any petition for a proposed amendment, supplement, change, modification or repeal of any section of this zoning ordinance shall be filed with the City Clerk with four (4) duplicate copies and the Clerk shall deliver the same to the Zoning Commission for its recommendations and report. If the Zoning Commission makes no report within 45 days from the date of filing of the petition, it shall be considered to have made a report approving the proposed amendment, supplement, change, modification or repeal.
2. The Zoning Commission shall file its recommendations and report to the City Clerk and the Council shall, before enacting any proposed amendment, supplement, change, modification, or repeal, hold a public hearing in relation thereto. Notice of the time and place of such hearing shall be given at least seven (7) but not more than twenty (20) days in advance by publication in a newspaper having a general circulation in the City of University Heights and by mail to the party requesting the amendment, to the owner of the property that is the subject of the amendment, and to the owners of property located within two hundred (200) feet of the exterior boundaries of that property. If requested by the City, the applicant or the party appealing shall cause a sign, placard, or other notice in a form and at a time specified by the City to be posted at the property and maintained through the date of the hearing. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice.
3. If the Zoning Commission recommends against, or if a protest against such proposal, amendment, supplement, change, modification, or repeal shall be presented in writing to the City Clerk, duly signed by the owners of twenty percent 20% or more of the area of the lots included in the proposed change or repeal or by the owners of twenty percent (20%) or more of the property which is located within two hundred (200) feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of three-fourths (3/4ths) of all the members of the Council. The protest, if filed, must be filed before or at the public hearing.

Section 19. Penalty. Any violation of this Ordinance may be cited and enforced as a municipal infraction. The Chief of Police, Building Official, Housing Official, City Administrator, or City Clerk is authorized to enforce this Ordinance and may issue a civil citation to anyone who violates any section or provision of this Ordinance. A violation of this Ordinance is punishable by a civil penalty of \$250.00 for a first offense and a civil penalty of \$500.00 for each repeat offense. Each day that a violation is permitted to exist after notice shall constitute a separate offense.

Section 20. Repealer. Ordinances Numbers 35, 54, and 62, and all other ordinances or parts of ordinances in conflict with the provisions of this ordinance, are hereby repealed.

Section 21. Saving Clause. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 22. Building Fees and Uniform Building Code. Nothing in this Ordinance is to be construed as invalidating anything in the Building Fees and Uniform Building Code Ordinance.

Section 23. Effective Date. This Ordinance shall become effective upon its passage and publication as provided by law.

Passed by the City Council on January 12, 1982, and approved January 12, 1982.

s/Chan F. Coulter, MAYOR

Attest: s/Lloyd A. Knowles, CITY CLERK

Published in the Iowa City Press Citizen January 20, 1982.

*The signed original ordinance is on file with the University Heights City Attorney.

Amendment adding Section 3(23) and Section 9(C) passed and approved March 10, 1998, and published in the Iowa City Press Citizen on March 24, 1998. See attached amendment following this amended version.

Amendment adding Section 6(C)(8) passed and approved June 9, 1998, and published in the Iowa City Press Citizen on June 9, 1998. Amendment provided as follows:

Catering businesses. These businesses are permitted to sell products for off-premises consumption. They also are permitted to have seating for no more than 20 persons and to sell products for on-premises consumption to this limited extent.

Ordinance No. 113, amending Section 6(C)(8) and Section 7 and adding Section 6(C)(9) was passed and approved October 10, 2000, and published in the Iowa City Press-Citizen on January 12, 2001. The amendment deletes text following "Catering businesses" (Section 6(C)(8)), adds Section 6(C)(9), and adds language to the height restrictions (Section 7).

Ordinance No. 130, amending Section 5(A)(5), Section 6(E), and Section 11, and deleting Section 9(C), was passed and approved on June 10, 2003, and published June 26, 2003. The amendment adds an additional zone, the PUD Planned Unit Development Zone and specified uses for that zone. The amendment removes prior lot regulations regarding the University Athletic Club Subdivision. The amendment also creates a Planned Unit Development regulations for that property, and renumbers former sections 11-19 to be known as sections 12-20.

Ordinance No. 133, amending Section 6(B) and Section 12 Multiple-Family Planned Unit Development, was passed and approved March 9, 2004, and published in the Iowa City Press-Citizen on April 17, 2004. The Amendment adds an additional use for property in the R-3 Multiple-Family Residential Zone (Section 6(B)(3)) and creates Multiple-Family Planned Unit Development regulations (Section 12). It also renumbers former Sections 12-20.

Ordinance No. 134, amending Section 12(B)(5) and Section 12(B)(6), was passed and approved May 11, 2004, and published in the Iowa City Press-Citizen on May 25,

2004. The amendment revises green space and set back requirements for Multiple-Family Planned Unit Development projects.

Ordinance No. 146, amending Section 12(B) and adding Section 12(C), was passed and approved April 12, 2005, and published in the Iowa City Press-Citizen on May 6, 2005. The amendment reorganizes Section 12 (B) into (1) Alternative 1 - Vertical Concept and (2) Alternative 2 - Horizontal Concept. It renumbers former Sections 12(B)(5), 12(B)(6) and 12(B)(7) as Sections 12(C)(1), 12(C)(2) and 12(C)(3). Zoning Ordinance Subsections 12(C) to 12(E) are renumbered as Subsections 12(D) to 12(F). The amendment adds zoning guidelines for multiple family Planned Unit Development.

Ordinance No. 150, amending Section 12 (B)(1) and 12 (B)(2), was passed and approved June 14, 2005 and published in the Iowa City Press-Citizen on January 29, 2005. The amendment renumbers former Sections 12 (C)(1), (2) and (3) to be known as Section 12 (B)(1)(E), (F) and (G). It adds Sections 12 (B)(2)(E), (F) and (G). The amendment also renumbers former Section 12 (C)(3) as Section 12(B)(2)(h). The amendment adds eave and building projection limitations on lot lines along Marietta Avenue, George and Sunset Streets, and parking spaces for multi-family planned unit development projects.

Ordinance No. 152 amending Section 12 (B)(2), was passed and approved August 9, 2005 and published in the Iowa City Press-Citizen on July 22, 2005. The amendment changes the building height for multiple-family planned unit development projects from 35 to 39 feet in height.

Ordinance No. 156 amending Section 3 (14), was passed and approved on March 13, 2007 and published in the Iowa City Press Citizen on May 12, 2007. The amendment adds language defining the front yard for Horn Elementary School.

Ordinance No. 171 amending Section 8 (D), Section 10(B) and (D), and Section 11 (B)(4) and adding Section 14 (3)(d), Section 15 (D)(7) and 15 (D)(8), was passed and approved on March 10, 2009 and published in the Iowa City Press-Citizen on March 18, 2009. Ordinance No. 171 amends Section 8(d) to provide that terraces, patios, and concrete slabs projecting into required yards may not be used for parking of motor vehicles. It amends Section 10(b) to provide that off-street parking spaces must be constructed of asphalt, cement, or another permanent, dust-free material but not constructed of dirt, gravel, rock, or stone. It amends Section 10(D) to provide that two-thirds of required front yards in the R-1 zone must remain free of parking. It amended Section 11(b)(4) to change the name of "Quarterback Court" to "Birkdale Court". It amends Section 14(3)(d) to empower the Board of Adjustment to hear appeals concerning fences as provided in Ordinance No. 105. Finally, it adds Section 15(d)(7) and (8) to provide for certain non-conforming driveways, parking spaces, or parking areas.

Ordinance No. 173 adding Section 15(D)(9), was passed and approved on December 8, 2009 and published in the Iowa City Press-Citizen on December 17, 2009. The amendment adds language regarding driveways, parking spaces, or parking areas that project into a rear yard.

Ordinance No. 180 amending Section 5(A)(6), adding Section 6(F), and a new Section 13 - Multiple-Family Commercial PUD, was passed and approved on December 14, 2010 and published in the Iowa City Press-Citizen on March 4, 2011. The amendment creates the "Multiple-Family Commercial" zoning district, defined the permitted uses in that district, and provided a process for considering a Multiple-Family Commercial PUD application. It renumbered former sections 13 - 22 as sections 14 - 23.

Ordinance No. 183 amending Section 3(14), Section 8(D), Section 10(D)(1), and adding Section 16(D)(10), was passed and approved on May 14, 2013 and published in the Iowa City Press-Citizen on July 22, 2014. The amendment restricts pavement in yards throughout the City and sets forth particular pavement and parking restrictions in rear yards of lots adjacent to the east side of Olive Court; it also permits certain pre-existing, nonconforming uses.

Ordinance No. 187 amending Section 3, Section 5, Section 6, Section 7, Section 8, Section 9, Section 10, Section 11, Section 12, Section 13, Section 15, Section 16, Section 18 and adding Figures 01, 02, and 03 in an Appendix, was passed and approved on March 10, 2015 and published in the Iowa City Press-Citizen on March 27, 2015. The amendment makes many changes, including, but not limited to these: changed or added definitions in Section 3 (3)-(36), including the definition and calculation of height restrictions (Section 7); makes changes to yard regulations, including Accessory Structures, sheds, open terraces, patios and concrete slabs (Section 8); changes off-street parking regulations (Section 10); changes public hearing notice requirements (Section 18); and adds diagrams depicting certain building and lot features defined in the ordinance (Appendix).

Ordinance No. 188 amending Section 13(B)(2) and Section 13(B)(6) was passed and approved on April 14, 2015 and published in the Iowa City Press-Citizen on June 1, 2015. The amendment increases the maximum number of dwelling units and the maximum number of above-ground parking spaces in a Multiple-Family Commercial PUD.

Ordinance No. 194 amending Section, Section 15(2), and Section 19 was passed and approved on November 15, 2016 and published in the Iowa City Press-Citizen on November 26, 2016. The amendment requires building permits for certain paving, changes notice and fees for applications to the Board of Adjustment, and changes notice for further amendments to the Zoning Ordinance itself.

Ordinance No. 208 amending Section 5(A)(7), adding Section 6(G), and a new Section 14A - CH Commercial Hotel PUD, was passed and approved on September 12, 2017, and published in the Iowa City Press-Citizen on October 20, 2017. The amendment creates the "CH Commercial Hotel" zoning district, defined the permitted uses in that district, and provided a process for considering a CH Commercial Hotel PUD application.

Ordinance No. 209 amending Section 3, Section 6, and Section 9 was passed and approved on December 12, 2017 and published in the Iowa City Press-Citizen on December 16, 2017. The amendments establish maximum Building Coverage on certain lots.

Ordinance No. 217 amending Section 3, Section 5, Section 6, Section 11, Section 13, and Section 15 was passed and approved on December 12, 2017, and published in the Iowa City Press-Citizen on January 9, 2018. The amendment prohibits "Rooming Houses" in certain zones, deletes occupancy restrictions based upon familial status, provides that all persons occupying property in certain zones must do so as a single housekeeping unit, and authorizes the Board of Adjustment to consider applications for special exceptions to minimum area (square footage) requirements for bedrooms.

Ordinance No. 220 amending Section 14A(B)(5) was passed and approved on December 21, 2017 and published in the Iowa City Press-Citizen on January 9, 2018. The amendment reduces required setbacks in the CH Commercial Hotel Zone.

Ordinance No. 225 adding Section 15(3)(f) was passed and approved on April 18, 2018 and published in the Iowa City Press-Citizen on April 27, 2018. The amendment provides the authority for the Board of Adjustment to hear and decide

appeals from the denial of an application for a certificate of structure compliance of a rental permit.

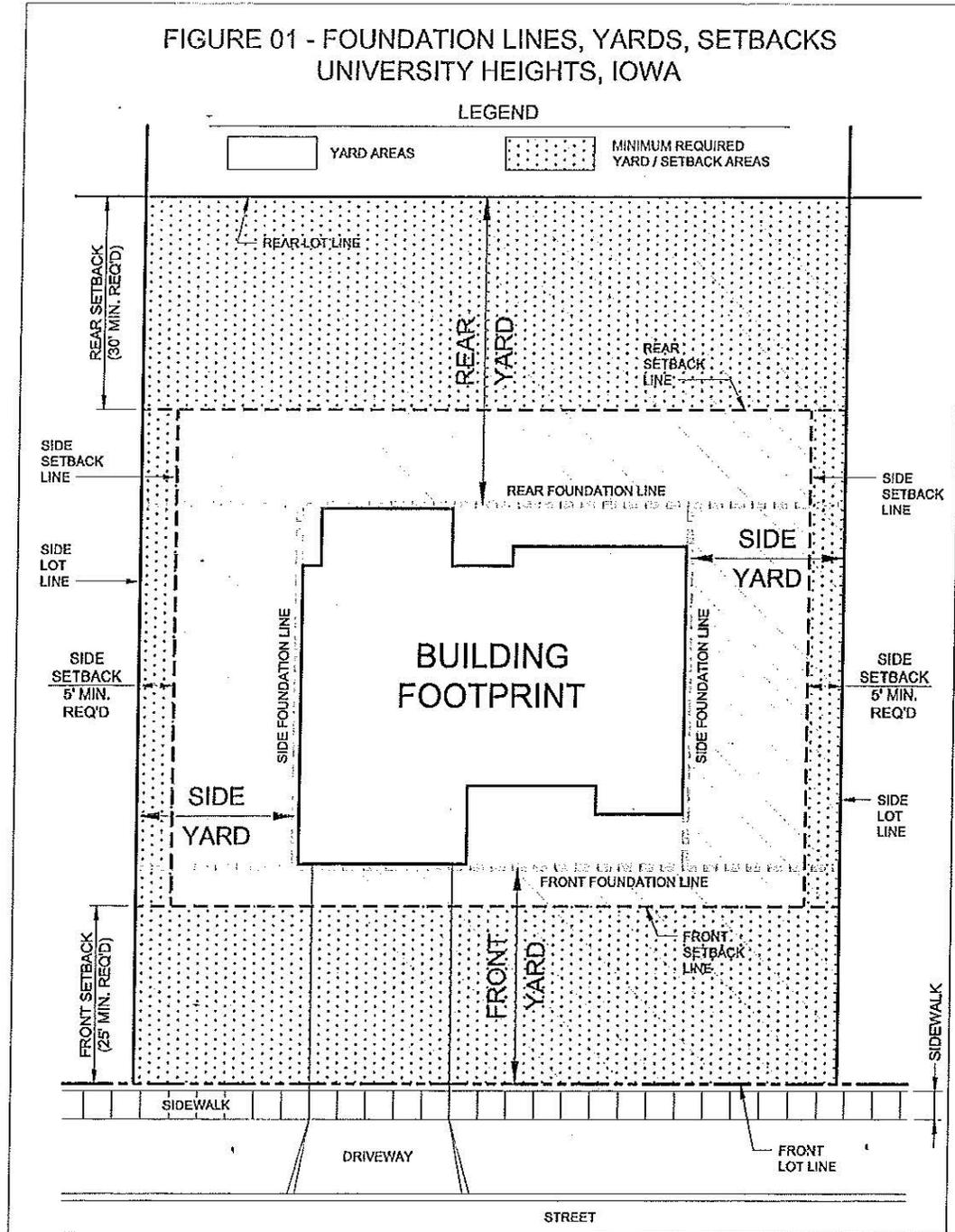
Ordinance No. 226 amending Section 14A(B)(3) and Section 14A(B)(4) and adding a new Section 14B - Agreement to Reimburse Fees and Expenses, was passed and approved on April 18, 2018 and published in the Iowa City Press-Citizen on April 27, 2018. The amendment increases the Maximum Structure Height of the hotel building and increases the number of off-street parking spaces in the Commercial Hotel PUD, and provides for the reimbursement of fees and expenses incurred by the City related to a development proposal.

Ordinance No. 249 amending Section 14A(B)(3) was passed and approved on November 10, 2020 and published in the Iowa City Press-Citizen on November 27, 2020. The amendment adds that portion of hotel exceeding sixty-five feet can also be used for conference and meeting space.

Ordinance No. 253 amending Section 14A(B)(4) was passed and approved on September 12, 2023, and published in the Iowa City Press-Citizen on October 26, 2023. The amendment changes "no more than" to "no less than" 196 off-street parking spaces required and adds that any proposals for more than 196 parking spaces must be approved by Council with the exception Game Day parking.

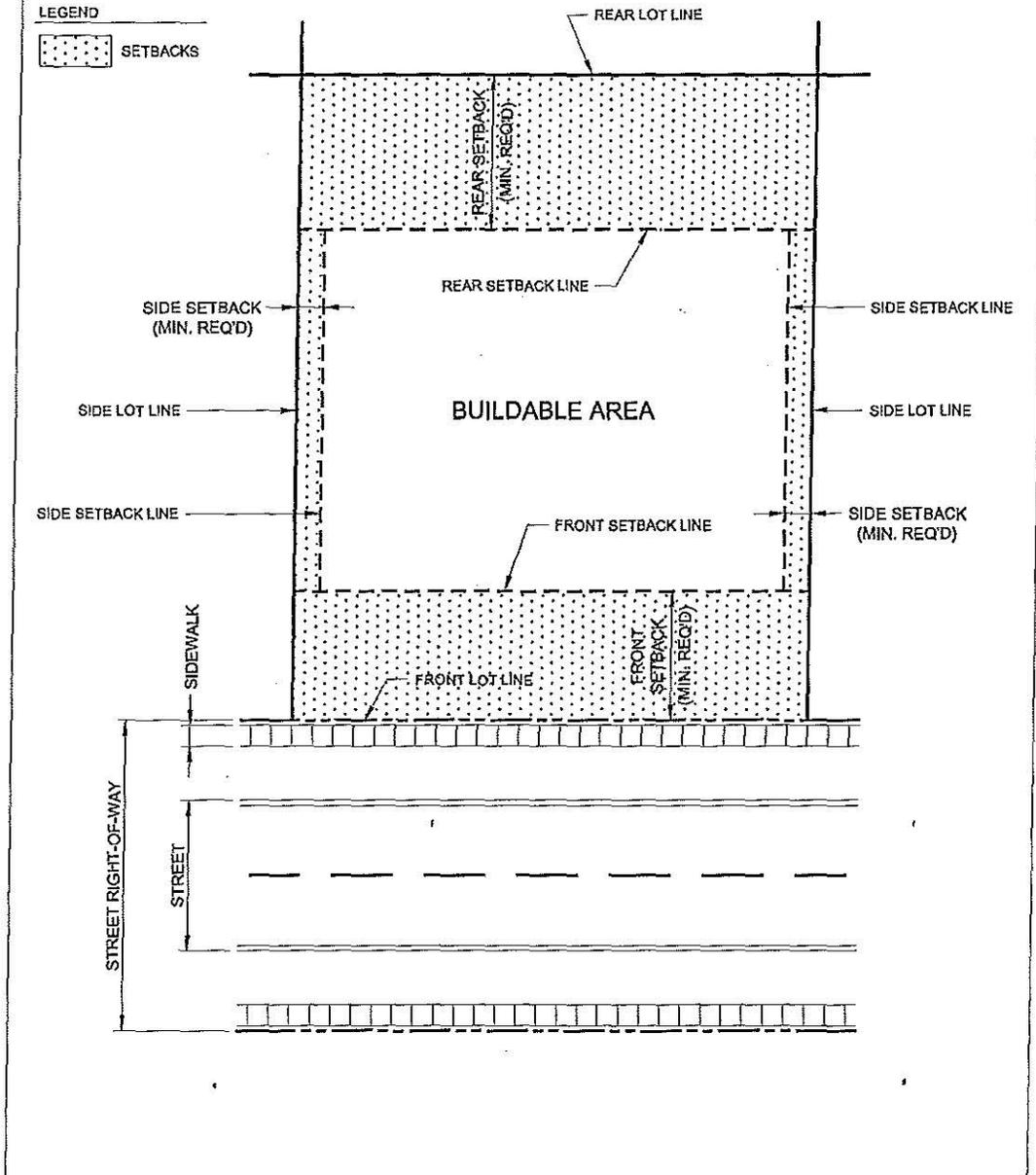
Ordinance No. 255 amending Sections 3, 6,8,16, and 19, was passed and approved on December 10, 2024 and published in the Iowa City Press-Citizen on February 18, 2025. The amendment modifies the definition of "Temporary Structures" and restricts their use, defines "Game Day", creates the Public and Civic Zone; clarifies size restrictions of garages extending into rear setbacks and enlarges the portion of rear yards that may be used as open terraces or patios; permits enlargement of certain non-conforming structures; and provides for enforcement by municipal infraction.

Steve/UH/Ordinances/Ordinance 079 Amended by 146,150,152,156,171,173, 180, 183, 187, 188, 194, 208, 209, 217, 220, 225, 226, 249, 253, 255



* If the depictions in the Figures set forth in this Appendix differ or are contrary to the text of the Ordinance, the text of the Ordinance itself controls; any ambiguity in construction and interpretation of the Ordinance shall be resolved by reference to the text of the Ordinance itself and not to the Figures.

FIGURE 02 - BUILDABLE AREA AND SETBACK LINES
UNIVERSITY HEIGHTS, IOWA



**FIGURE 03 - BUILDING HEIGHT AND MAXIMUM STRUCTURE HEIGHT
UNIVERSITY HEIGHTS, IOWA**

